

By Senator Lynn

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1 A bill to be entitled
2 An act relating to the Streamlined Sales and Use Tax
3 Agreement; amending s. 212.02, F.S.; revising
4 definitions; amending s. 212.03, F.S.; specifying
5 certain facilities that are exempt from the transient
6 rentals tax; amending ss. 212.0306, 212.04, and
7 212.0506, F.S.; deleting the application of brackets
8 for the calculation of sales and use taxes; amending
9 s. 212.05, F.S.; deleting criteria establishing
10 circumstances under which taxes on the lease or rental
11 of a motor vehicle are due; revising criteria
12 establishing circumstances under which taxes on the
13 sale of a prepaid calling arrangement are due;
14 deleting the application of brackets for the
15 calculation of sales and use taxes; amending s.
16 212.054, F.S.; limiting the \$5,000 cap on
17 discretionary sales surtax to the sale of motor
18 vehicles, aircraft, boats, motor homes, manufactured
19 homes, modular homes, and mobile homes; specifying the
20 time at which changes in surtaxes may take effect;
21 providing criteria to determine the situs of certain
22 sales; providing for databases to identify taxing
23 jurisdictions; providing criteria to hold purchasers
24 harmless for failure to pay the correct amount of tax;
25 holding sellers harmless for failing to collect a tax
26 at a new rate under certain circumstances; amending s.
27 212.06, F.S.; defining terms; deleting provisions
28 relating to mail-order sales to conform; requiring
29 purchasers of direct mail to use direct mail forms;

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30 providing criteria for determining the location of
31 transactions involving tangible personal property,
32 digital goods, or services and for the lease or rental
33 of tangible personal property; amending s. 212.07,
34 F.S.; providing for the creation of a taxability
35 matrix; providing immunity from liability for acts in
36 reliance of the taxability matrix; amending s. 212.08,
37 F.S.; revising exemptions from sales and use tax for
38 food and medical products; creating s. 212.094, F.S.;
39 providing a procedure for a purchaser to obtain a
40 refund of tax collected by a dealer; amending s.
41 212.12, F.S.; authorizing collection allowances for
42 certified service providers in accordance with the
43 Streamlined Sales and Use Tax Agreement; providing for
44 the computation of taxes due based on rounding instead
45 of brackets; amending s. 212.17, F.S.; providing
46 additional criteria for a dealer to claim a credit for
47 taxes paid relating to worthless accounts; amending s.
48 212.18, F.S.; authorizing the Department of Revenue to
49 waive the dealer registration fee for applications
50 submitted through the central electronic registration
51 system provided by member states of the Streamlined
52 Sales and Use Tax Agreement; amending s. 212.20, F.S.;
53 deleting procedures for refunds of tax paid on mail-
54 order sales; creating s. 213.052, F.S.; providing for
55 notice of state sales or use tax changes; creating s.
56 213.0521, F.S.; providing the effective date for state
57 sales and use tax changes; creating 213.215, F.S.;

58 providing amnesty for uncollected or unpaid sales and

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59 use taxes for sellers who register under the
60 Streamlined Sales and Use Tax Agreement; providing
61 exceptions to the amnesty; amending s. 213.256, F.S.;
62 providing definitions; providing for entry into
63 agreements with other states to simplify and
64 facilitate compliance with sales tax laws; providing
65 for certification of compliance with agreements;
66 creating s. 213.2562, F.S.; providing for the
67 department to review software submitted to the
68 governing board for certification as a certified
69 automated system; creating s. 213.2567, F.S.;
70 providing for the registration of sellers, the
71 certification of a person as a certified service
72 provider, and the certification of a software program
73 as a certified automated system by the governing board
74 under the Streamlined Sales and Use Tax Agreement;
75 declaring legislative intent; providing for the
76 adoption of emergency rules; amending ss. 11.45,
77 196.012, 202.18, 203.01, 212.031, 212.055, 212.15,
78 213.015, 218.245, 218.65, 288.1045, 288.1169, 551.102,
79 and 790.0655, F.S.; conforming cross-references;
80 repealing s. 212.0596, F.S., relating to provisions
81 pertaining to the taxation of mail-order sales;
82 providing an effective date.

83

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

85

86 Section 1. Section 212.02, Florida Statutes, is amended to
87 read:

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88 212.02 Definitions.—The following terms and phrases when
89 used in this chapter have the meanings ascribed to them in this
90 section, except where the context clearly indicates a different
91 meaning. The term:

92 (1) ~~The term~~ "Admissions" means and includes the net sum of
93 money after deduction of any federal taxes for admitting a
94 person or vehicle or persons to any place of amusement, sport,
95 or recreation or for the privilege of entering or staying in any
96 place of amusement, sport, or recreation, including, but not
97 limited to, theaters, outdoor theaters, shows, exhibitions,
98 games, races, or any place where charge is made by way of sale
99 of tickets, gate charges, seat charges, box charges, season pass
100 charges, cover charges, greens fees, participation fees,
101 entrance fees, or other fees or receipts of anything of value
102 measured on an admission or entrance or length of stay or seat
103 box accommodations in any place where there is any exhibition,
104 amusement, sport, or recreation, and all dues and fees paid to
105 private clubs and membership clubs providing recreational or
106 physical fitness facilities, including, but not limited to,
107 golf, tennis, swimming, yachting, boating, athletic, exercise,
108 and fitness facilities, except physical fitness facilities owned
109 or operated by any hospital licensed under chapter 395.

110 (2) "Agricultural commodity" means horticultural,
111 aquacultural, poultry and farm products, and livestock and
112 livestock products.

113 (3) "Agricultural production" means the production of
114 plants and animals useful to humans, including the preparation,
115 planting, cultivating, or harvesting of these products or any
116 other practices necessary to accomplish production through the

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117 harvest phase, which includes aquaculture, horticulture,
118 floriculture, viticulture, forestry, dairy, livestock, poultry,
119 bees, and all other forms of farm products and farm production.

120 (4) "Bundled transaction" means the retail sale of two or
121 more products, except real property and services to real
122 property, in which the products are otherwise distinct and
123 identifiable and the products are sold for one non-itemized
124 price. A bundled transaction does not include the sale of any
125 products in which the sales price varies, or is negotiable,
126 based on the selection by the purchaser of the products included
127 in the transaction.

128 (a) As used in this subsection, the term:

129 1. "Distinct and identifiable products" does not include:

130 a. Packaging, such as containers, boxes, sacks, bags, and
131 bottles or other materials, such as wrapping, labels, tags, and
132 instruction guides, which accompany the retail sale of the
133 products and are incidental or immaterial to the retail sale of
134 the products. Examples of packing that is incidental or
135 immaterial include grocery sacks, shoeboxes, dry cleaning
136 garment bags, and express delivery envelopes and boxes.

137 b. A product provided free of charge with the required
138 purchase of another product. A product is provided free of
139 charge if the sales price of the product purchased does not vary
140 depending on the inclusion of the product provided free of
141 charge.

142 2. "One non-itemized price" does not include a price that
143 is separately identified by product on binding sales or other
144 supporting sales-related documentation made available to the
145 customer in paper or electronic form, including, but not limited

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146 to, an invoice, bill of sale, receipt, contract, service
147 agreement, lease agreement, periodic notice of rates and
148 services, rate card, or price list.

149 3. "De minimis" means that the seller's purchase price or
150 sales price of the taxable products is 10 percent or less of the
151 total purchase price or sales price of the bundled products.

152 a. Sellers shall use the purchase price or sales price of
153 the products to determine if the taxable products are de
154 minimus. Sellers may not use a combination of the purchase price
155 and sales price of the products to determine if the taxable
156 products are de minimus.

157 b. Sellers shall use the full term of a service contract to
158 determine if the taxable products are de minimis.

159 (b)1. A transaction that otherwise satisfies the definition
160 of a bundled transaction, as defined in this subsection, is not
161 a bundled transaction if it is:

162 a. The retail sale of tangible personal property and a
163 service in which the tangible personal property is essential to
164 the use of the service, is provided exclusively in connection
165 with the service, and the true object of the transaction is the
166 service;

167 b. The retail sale of services in which one service is
168 provided which is essential to the use or receipt of a second
169 service and the first service is provided exclusively in
170 connection with the second service and the true object of the
171 transaction is the second service;

172 c. A transaction that includes taxable products and
173 nontaxable products and the purchase price or sales price of the
174 taxable products is de minimis; or

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175 d. The retail sale of exempt tangible personal property and
176 taxable personal property in which:

177 (I) The transaction includes food and food ingredients,
178 drugs, durable medical equipment, mobility-enhancing equipment,
179 over-the-counter drugs, prosthetic devices, or medical supplies;
180 and

181 (II) The seller's purchase price or sales price of the
182 taxable tangible personal property is 50 percent or less of the
183 total purchase price or sales price of the bundled tangible
184 personal property. Sellers may not use a combination of the
185 purchase price and sales price of the tangible personal property
186 to make the determination required in this paragraph.

187 2.a. Sellers shall use the purchase price or sales price of
188 the products to determine if the taxable products are de
189 minimus. Sellers may not use a combination of the purchase price
190 and sales price of the products to determine if the taxable
191 products are de minimus.

192 b. Sellers shall use the full term of a service contract to
193 determine if the taxable products are de minimis.

194 (5)-(2) "Business" means any activity engaged in by any
195 person, or caused to be engaged in by him or her, with the
196 object of private or public gain, benefit, or advantage, either
197 direct or indirect. Except for the sales of any aircraft, boat,
198 mobile home, or motor vehicle, the term "business" shall not be
199 construed in this chapter to include occasional or isolated
200 sales or transactions involving tangible personal property or
201 services by a person who does not hold himself or herself out as
202 engaged in business or sales of unclaimed tangible personal
203 property under s. 717.122, but includes other charges for the

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204 sale or rental of tangible personal property, sales of services
205 taxable under this chapter, sales of or charges of admission,
206 communication services, all rentals and leases of living
207 quarters, other than low-rent housing operated under chapter
208 421, sleeping or housekeeping accommodations in hotels,
209 apartment houses, roominghouses, tourist or trailer camps, and
210 all rentals of or licenses in real property, other than low-rent
211 housing operated under chapter 421, all leases or rentals of or
212 licenses in parking lots or garages for motor vehicles, docking
213 or storage spaces for boats in boat docks or marinas as defined
214 in this chapter and made subject to a tax imposed by this
215 chapter. The term "business" shall not be construed in this
216 chapter to include the leasing, subleasing, or licensing of real
217 property by one corporation to another if all of the stock of
218 both such corporations is owned, directly or through one or more
219 wholly owned subsidiaries, by a common parent corporation; the
220 property was in use prior to July 1, 1989, title to the property
221 was transferred after July 1, 1988, and before July 1, 1989,
222 between members of an affiliated group, as defined in s. 1504(a)
223 of the Internal Revenue Code of 1986, which group included both
224 such corporations and there is no substantial change in the use
225 of the property following the transfer of title; the leasing,
226 subleasing, or licensing of the property was required by an
227 unrelated lender as a condition of providing financing to one or
228 more members of the affiliated group; and the corporation to
229 which the property is leased, subleased, or licensed had sales
230 subject to the tax imposed by this chapter of not less than \$667
231 million during the most recent 12-month period ended June 30.
232 Any tax on such sales, charges, rentals, admissions, or other

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233 transactions made subject to the tax imposed by this chapter
234 shall be collected by the state, county, municipality, any
235 political subdivision, agency, bureau, or department, or other
236 state or local governmental instrumentality in the same manner
237 as other dealers, unless specifically exempted by this chapter.

238 (6) "Certified service provider" has the same meaning as
239 provided in s. 213.256.

240 (7)-(3) The terms "cigarettes," "tobacco," or "tobacco
241 products" referred to in this chapter include all such products
242 as are defined or may be hereafter defined by the laws of the
243 state.

244 (8) "Coin-operated amusement machine" means any machine
245 operated by coin, slug, token, coupon, or similar device for the
246 purposes of entertainment or amusement. The term includes, but
247 is not limited to, coin-operated pinball machines, music
248 machines, juke boxes, mechanical games, video games, arcade
249 games, billiard tables, moving picture viewers, shooting
250 galleries, and all other similar amusement devices.

251 (9) "Computer" means an electronic device that accepts
252 information in digital or similar form and manipulates such
253 information for a result based on a sequence of instructions.

254 (10) "Computer software" means a set of coded instructions
255 designed to cause a computer or automatic data processing
256 equipment to perform a task.

257 (11)-(4) "Cost price" means the actual cost of articles of
258 tangible personal property without any deductions therefrom on
259 account of the cost of materials used, labor or service costs,
260 transportation charges, or any expenses whatsoever.

261 (12) "Delivery charges" means charges by the seller of

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262 personal property or services for preparation and delivery to a
263 location designated by the purchaser of such property or
264 services, including, but not limited to, transportation,
265 shipping, postage, handling, crating, and packing. The term does
266 not include the charges for delivery of direct mail if the
267 charges are separately stated on an invoice or similar billing
268 document given to the purchaser. If a shipment includes exempt
269 property and taxable property, the seller shall tax only the
270 percentage of the delivery charge allocated to the taxable
271 property. The seller may allocate the delivery charge by using:

272 (a) A percentage based on the total sales price of the
273 taxable property compared to the sales price of all property in
274 the shipment; or

275 (b) A percentage based on the total weight of the taxable
276 property compared to the total weight of all property in the
277 shipment.

278 (13) ~~(5)~~ The term "Department" means the Department of
279 Revenue.

280 (14) "Diesel fuel" means any liquid product, gas product,
281 or any combination thereof, which is used in an internal
282 combustion engine or motor to propel any form of vehicle,
283 machine, or mechanical contrivance. The term includes, but is
284 not limited to, all forms of fuel commonly or commercially known
285 or sold as diesel fuel or kerosene. However, the term does not
286 include butane gas, propane gas, or any other form of liquefied
287 petroleum gas or compressed natural gas.

288 (15) "Direct mail" means printed material delivered or
289 distributed by the United States Postal Service or other
290 delivery service to a mass audience or to addressees on a

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291 mailing list provided by the purchaser or at the direction of
292 the purchaser when the cost of the items are not billed directly
293 to the recipients. The term includes tangible personal property
294 supplied directly or indirectly by the purchaser to the direct
295 mail seller for inclusion in the package containing the printed
296 material. The term does not include multiple items of printed
297 material delivered to a single address.

298 (16) "Electronic" means relating to technology having
299 electrical, digital, magnetic, wireless, optical,
300 electromagnetic, or similar capabilities.

301 (17)~~(6)~~ "Enterprise zone" means an area of the state
302 designated pursuant to s. 290.0065. This subsection expires on
303 the date specified in s. 290.016 for the expiration of the
304 Florida Enterprise Zone Act.

305 (18)~~(7)~~ "Factory-built building" means a structure
306 manufactured in a manufacturing facility for installation or
307 erection as a finished building; "factory-built building"
308 includes, but is not limited to, residential, commercial,
309 institutional, storage, and industrial structures.

310 (19) "Farmer" means a person who is directly engaged in the
311 business of producing crops, livestock, or other agricultural
312 commodities. The term includes, but is not limited to, horse
313 breeders, nurserymen, dairy farmers, poultry farmers, cattle
314 ranchers, apiarists, and persons raising fish.

315 (20) "Forest" means the land stocked by trees of any size
316 used in the production of forest products, or formerly having
317 such tree cover, and not currently developed for nonforest use.

318 (21)~~(8)~~ "In this state" or "in the state" means within the
319 state boundaries of Florida as defined in s. 1, Art. II of the

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320 State Constitution and includes all territory within these
321 limits owned by or ceded to the United States.

322 (22) ~~(9)~~ The term "Intoxicating beverages" or "alcoholic
323 beverages" referred to in this chapter includes all such
324 beverages as are so defined or may be hereafter defined by the
325 laws of the state.

326 (23) ~~(10)~~ "Lease," "let," or "rental" means leasing or
327 renting of living quarters or sleeping or housekeeping
328 accommodations in hotels, apartment houses, roominghouses,
329 tourist or trailer camps and real property, the same being
330 defined as follows:

331 (a) Every building or other structure kept, used,
332 maintained, or advertised as, or held out to the public to be, a
333 place where sleeping accommodations are supplied for pay to
334 transient or permanent guests or tenants, in which 10 or more
335 rooms are furnished for the accommodation of such guests, and
336 having one or more dining rooms or cafes where meals or lunches
337 are served to such transient or permanent guests; such sleeping
338 accommodations and dining rooms or cafes being conducted in the
339 same building or buildings in connection therewith, shall, for
340 the purpose of this chapter, be deemed a hotel.

341 (b) Any building, or part thereof, where separate
342 accommodations for two or more families living independently of
343 each other are supplied to transient or permanent guests or
344 tenants shall for the purpose of this chapter be deemed an
345 apartment house.

346 (c) Every house, boat, vehicle, motor court, trailer court,
347 or other structure or any place or location kept, used,
348 maintained, or advertised as, or held out to the public to be, a

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349 place where living quarters or sleeping or housekeeping
350 accommodations are supplied for pay to transient or permanent
351 guests or tenants, whether in one or adjoining buildings, shall
352 for the purpose of this chapter be deemed a roominghouse.

353 (d) In all hotels, apartment houses, and roominghouses
354 within the meaning of this chapter, the parlor, dining room,
355 sleeping porches, kitchen, office, and sample rooms shall be
356 construed to mean "rooms."

357 (e) A "tourist camp" is a place where two or more tents,
358 tent houses, or camp cottages are located and offered by a
359 person or municipality for sleeping or eating accommodations,
360 most generally to the transient public for either a direct money
361 consideration or an indirect benefit to the lessor or owner in
362 connection with a related business.

363 (f) A "trailer camp," "mobile home park," or "recreational
364 vehicle park" is a place where space is offered, with or without
365 service facilities, by any persons or municipality to the public
366 for the parking and accommodation of two or more automobile
367 trailers, mobile homes, or recreational vehicles which are used
368 for lodging, for either a direct money consideration or an
369 indirect benefit to the lessor or owner in connection with a
370 related business, such space being hereby defined as living
371 quarters, and the rental price thereof shall include all service
372 charges paid to the lessor.

373 (g) 1. "Lease," "let," or "rental" also means any transfer
374 of possession or control of tangible personal property for a
375 fixed or indeterminate term for consideration. A clause for a
376 future option to purchase or to extend an agreement does not
377 preclude an agreement from being a lease or rental. This

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378 definition shall be used for purposes of the sales and use tax
379 regardless of whether a transaction is characterized as a lease
380 or rental under generally accepted accounting principles, the
381 Internal Revenue Code, the Uniform Commercial Code, or any other
382 provisions of federal, state, or local law. These terms include
383 agreements covering motor vehicles and trailers if the amount of
384 consideration may be increased or decreased by reference to the
385 amount realized upon sale or disposition of the property as
386 provided in 26 U.S.C. s. 7701(h) (1). These terms do not include:

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

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

394 or

395 c. The provision of tangible personal property along with
396 an operator for a fixed or indeterminate period of time. A
397 condition of this exclusion is that the operator is necessary
398 for the equipment to perform as designed. For the purpose of
399 this sub-subparagraph, an operator must do more than maintain,
400 inspect, or set up the tangible personal property ~~the leasing or~~
401 rental of tangible personal property and the possession or use
402 thereof by the lessee or rentee for a consideration, without
403 transfer of the title of such property, except as expressly
404 provided to the contrary herein.

405 2. ~~The term~~ "Lease," "let," or "rental" does not include
406 ~~mean~~ hourly, daily, or mileage charges, to the extent that such

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407 charges are subject to the jurisdiction of the United States
408 Interstate Commerce Commission, if ~~when~~ such charges are paid by
409 reason of the presence of railroad cars owned by another on the
410 tracks of the taxpayer, or charges made pursuant to car service
411 agreements.

412 3. ~~The term~~ "Lease," "let," "rental," or "license" does not
413 include payments made to an owner of high-voltage bulk
414 transmission facilities in connection with the possession or
415 control of such facilities by a regional transmission
416 organization, independent system operator, or similar entity
417 under the jurisdiction of the Federal Energy Regulatory
418 Commission. However, where two taxpayers, in connection with the
419 interchange of facilities, rent or lease property, each to the
420 other, for use in providing or furnishing any of the services
421 mentioned in s. 166.231, the term "lease or rental" means only
422 the net amount of rental involved.

423 (h) "Real property" means the surface land, improvements
424 thereto, and fixtures, and is synonymous with "realty" and "real
425 estate."

426 (i) "License," ~~as used in this chapter~~ with reference to
427 the use of real property, means the granting of a privilege to
428 use or occupy a building or a parcel of real property for any
429 purpose.

430 (j) Privilege, franchise, or concession fees, or fees for a
431 license to do business, paid to an airport are not payments for
432 leasing, letting, renting, or granting a license for the use of
433 real property.

434 (24) "Livestock" includes all animals of the equine,
435 bovine, or swine class, including goats, sheep, mules, horses,

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436 hogs, cattle, ostriches, and other grazing animals raised for
437 commercial purposes. The term also includes fish raised for
438 commercial purposes.

439 (25) (a) "Model 1 seller" has the same meaning as provided
440 in s. 213.256.

441 (b) "Model 2 seller" has the same meaning as provided in s.
442 213.256.

443 (c) "Model 3 seller" has the same meaning as provided in s.
444 213.256.

445 (26)~~(11)~~ "Motor fuel" means and includes what is commonly
446 known and sold as gasoline and fuels containing a mixture of
447 gasoline and other products.

448 (27)~~(12)~~ "Person" includes any individual, firm,
449 copartnership, joint adventure, association, corporation,
450 estate, trust, business trust, receiver, syndicate, or other
451 group or combination acting as a unit and also includes any
452 political subdivision, municipality, state agency, bureau, or
453 department and includes the plural as well as the singular
454 number.

455 (28) "Power farm equipment" means moving or stationary
456 equipment that contains within itself the means for its own
457 propulsion or power and moving or stationary equipment that is
458 dependent upon an external power source to perform its
459 functions.

460 (29) "Prewritten computer software" means computer
461 software, including prewritten upgrades, which is not designed
462 and developed by the author or other creator to the
463 specifications of a specific purchaser. The combining of two or
464 more prewritten computer software programs or prewritten

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465 portions of such programs does not cause the combination to be
466 other than prewritten computer software. Prewritten computer
467 software includes software designed and developed by the author
468 or other creator to the specifications of a specific purchaser
469 when such software is sold to a person other than the specific
470 purchaser. Where a person modifies or enhances computer software
471 of which the person is not the author or creator, the person
472 shall be deemed to be the author or creator only of such
473 person's modifications or enhancements. Prewritten computer
474 software or a prewritten portion of such software which is
475 modified or enhanced to any degree, if such modification or
476 enhancement is designed and developed to the specifications of a
477 specific purchaser, remains prewritten computer software.
478 However, prewritten computer software does not include software
479 that has been modified or enhanced for a particular purchaser if
480 the charge for the enhancement is reasonable and separately
481 stated on the invoice or other statement of price given to the
482 purchaser.

483 (30) "Product transferred electronically" means a product,
484 except computer software, which was obtained by a purchaser by
485 means other than the purchase of tangible storage media.

486 (31) "Qualified aircraft" means any aircraft having a
487 maximum certified takeoff weight of less than 10,000 pounds and
488 equipped with twin turbofan engines that meet Stage IV noise
489 requirements which is used by a business operating as an on-
490 demand air carrier under Federal Aviation Administration
491 Regulation Title 14, chapter I, part 135, Code of Federal
492 Regulations, which owns or leases and operates a fleet of at
493 least 25 of such aircraft in this state.

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494 (32)~~(13)~~ "Retailer" means and includes every person engaged
495 in the business of making sales at retail or for distribution,
496 or use, or consumption, or storage to be used or consumed in
497 this state.

498 (33)~~(14)~~(a) "Retail sale" or a "sale at retail" means a
499 sale to a consumer or to any person for any purpose other than
500 for resale in the form of tangible personal property or services
501 taxable under this chapter, and includes all such transactions
502 that may be made in lieu of retail sales or sales at retail. A
503 sale for resale includes a sale of qualifying property. As used
504 in this paragraph, the term "qualifying property" means tangible
505 personal property, other than electricity, which is used or
506 consumed by a government contractor in the performance of a
507 qualifying contract as defined in s. 212.08(17)(c), to the
508 extent that the cost of the property is allocated or charged as
509 a direct item of cost to such contract, title to which property
510 vests in or passes to the government under the contract. The
511 term "government contractor" includes prime contractors and
512 subcontractors. As used in this paragraph, a cost is a "direct
513 item of cost" if it is a "direct cost" as defined in 48 C.F.R.
514 s. 9904.418-30(a)(2), or similar successor provisions, including
515 costs identified specifically with a particular contract.

516 (b) ~~The terms~~ "Retail sales," "sales at retail," "use,"
517 "storage," and "consumption" include the sale, use, storage, or
518 consumption of all tangible advertising materials imported or
519 caused to be imported into this state. Tangible advertising
520 material includes displays, display containers, brochures,
521 catalogs, price lists, point-of-sale advertising, and technical
522 manuals or any tangible personal property which does not

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523 accompany the product to the ultimate consumer.

524 (c) "Retail sales," "sale at retail," "use," "storage," and
525 "consumption" do not include materials, containers, labels,
526 sacks, bags, or similar items intended to accompany a product
527 sold to a customer without which delivery of the product would
528 be impracticable because of the character of the contents and be
529 used one time only for packaging tangible personal property for
530 sale or for the convenience of the customer or for packaging in
531 the process of providing a service taxable under this chapter.
532 When a separate charge for packaging materials is made, the
533 charge shall be considered part of the sales price or rental
534 charge for purposes of determining the applicability of tax. The
535 terms do not include the sale, use, storage, or consumption of
536 industrial materials, including chemicals and fuels except as
537 provided herein, for future processing, manufacture, or
538 conversion into articles of tangible personal property for
539 resale when such industrial materials, including chemicals and
540 fuels except as provided herein, become a component or
541 ingredient of the finished product. However, the terms include
542 the sale, use, storage, or consumption of tangible personal
543 property, including machinery and equipment or parts thereof,
544 purchased electricity, and fuels used to power machinery, when
545 such items are used and dissipated in fabricating, converting,
546 or processing tangible personal property for sale, even though
547 they may become ingredients or components of the tangible
548 personal property for sale through accident, wear, tear,
549 erosion, corrosion, or similar means. The terms do not include
550 the sale of materials to a registered repair facility for use in
551 repairing a motor vehicle, airplane, or boat, when such

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552 materials are incorporated into and sold as part of the repair.
553 Such a sale shall be deemed a purchase for resale by the repair
554 facility, even though every material is not separately stated or
555 separately priced on the repair invoice.

556 (d) "Gross sales" means the sum total of all sales of
557 tangible personal property as defined herein, without any
558 deduction whatsoever of any kind or character, except as
559 provided in this chapter.

560 ~~(e) The term "Retail sale" includes a mail order sale, as~~
561 ~~defined in s. 212.0596(1).~~

562 (34) ~~(15)~~ "Sale" means and includes:

563 (a) Any transfer of title or possession, or both, exchange,
564 barter, license, lease, or rental, conditional or otherwise, in
565 any manner or by any means whatsoever, of tangible personal
566 property for a consideration.

567 (b) The rental of living quarters or sleeping or
568 housekeeping accommodations in hotels, apartment houses or
569 roominghouses, or tourist or trailer camps, as hereinafter
570 defined in this chapter.

571 (c) The producing, fabricating, processing, printing, or
572 imprinting of tangible personal property for a consideration for
573 consumers who furnish either directly or indirectly the
574 materials used in the producing, fabricating, processing,
575 printing, or imprinting.

576 (d) The furnishing, preparing, or serving for a
577 consideration of any tangible personal property for consumption
578 on or off the premises of the person furnishing, preparing, or
579 serving such tangible personal property which includes the sale
580 of meals or prepared food by an employer to his or her

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581 employees.

582 (e) A transaction whereby the possession of property is
583 transferred but the seller retains title as security for the
584 payment of the price.

585 (35) (a) ~~(16)~~ "Sales price" applies to the measure subject to
586 the tax imposed by this chapter and means the total amount of
587 consideration, including cash, credit, property, and services,
588 for which tangible personal property or personal services are
589 sold, leased, or rented, valued in money, whether received in
590 money or otherwise, without any deduction for the following:

591 1. The seller's cost of the property sold;

592 2. The cost of materials used, labor or service cost,
593 interest, losses, all costs of transportation to the seller, all
594 taxes imposed on the seller, and any other expense of the
595 seller;

596 3. Charges by the seller for any services necessary to
597 complete the sale, other than delivery and installation charges;

598 4. Delivery charges; or

599 5. Installation charges.

600 (b) "Sales price" does not include:

601 1. Trade-ins allowed and taken at the time of sale if the
602 amount is separately stated on the invoice, bill of sale, or
603 similar document given to the purchaser;

604 2. Discounts, including cash, term, or coupons, which are
605 not reimbursed by a third party, are allowed by a seller, and
606 taken by a purchaser at the time of sale;

607 3. Interest, financing, and carrying charges from credit
608 extended on the sale of personal property or services, if the
609 amount is separately stated on the invoice, bill of sale, or

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610 similar document given to the purchaser;

611 4. Any taxes legally imposed directly on the consumer which
612 are separately stated on the invoice, bill of sale, or similar
613 document given to the purchaser; or means the total amount paid
614 for tangible personal property, including any services that are
615 a part of the sale, valued in money, whether paid in money or
616 otherwise, and includes any amount for which credit is given to
617 the purchaser by the seller, without any deduction therefrom on
618 account of the cost of the property sold, the cost of materials
619 used, labor or service cost, interest charged, losses, or any
620 other expense whatsoever. "Sales price" also includes the
621 consideration for a transaction which requires both labor and
622 material to alter, remodel, maintain, adjust, or repair tangible
623 personal property. Trade-ins or discounts allowed and taken at
624 the time of sale shall not be included within the purview of
625 this subsection. "Sales price" also includes the full face value
626 of any coupon used by a purchaser to reduce the price paid to a
627 retailer for an item of tangible personal property; where the
628 retailer will be reimbursed for such coupon, in whole or in
629 part, by the manufacturer of the item of tangible personal
630 property; or whenever it is not practicable for the retailer to
631 determine, at the time of sale, the extent to which
632 reimbursement for the coupon will be made. The term "sales
633 price" does not include federal excise taxes imposed upon the
634 retailer on the sale of tangible personal property. The term
635 "sales price" does include federal manufacturers' excise taxes,
636 even if the federal tax is listed as a separate item on the
637 invoice. To the extent required by federal law, the term "sales
638 price" does not include

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639 5. Charges for Internet access services which are not
640 itemized on the customer's bill, but which can be reasonably
641 identified from the selling dealer's books and records kept in
642 the regular course of business. The dealer may support the
643 allocation of charges with books and records kept in the regular
644 course of business covering the dealer's entire service area,
645 including territories outside this state.

646 (36) "Sea trial" means a voyage for the purpose of testing
647 repair or modification work, which is in length and scope
648 reasonably necessary to test repairs or modifications, or a
649 voyage for the purpose of ascertaining the seaworthiness of a
650 vessel. If the sea trial is to test repair or modification work,
651 the owner or repair facility shall certify, in a form required
652 by the department, what repairs have been tested. The owner and
653 the repair facility may also be required to certify that the
654 length and scope of the voyage were reasonably necessary to test
655 the repairs or modifications.

656 (37) "Seller" means a person making sales, leases, or
657 rentals of personal property or services.

658 (38) "Solar energy system" means the equipment and
659 requisite hardware that provide and are used for collecting,
660 transferring, converting, storing, or using incident solar
661 energy for water heating, space heating, cooling, or other
662 applications that would otherwise require the use of a
663 conventional source of energy such as petroleum products,
664 natural gas, manufactured gas, or electricity.

665 (39) "Space flight" means any flight designed for
666 suborbital, orbital, or interplanetary travel of a space
667 vehicle, satellite, or station of any kind.

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668 (40) "Spaceport activities" means activities directed or
669 sponsored by Space Florida on spaceport territory pursuant to
670 its powers and responsibilities under the Space Florida Act.

671 ~~(17) "Diesel fuel" means any liquid product, gas product,~~
672 ~~or combination thereof used in an internal combustion engine or~~
673 ~~motor to propel any form of vehicle, machine, or mechanical~~
674 ~~contrivance. This term includes, but is not limited to, all~~
675 ~~forms of fuel commonly or commercially known or sold as diesel~~
676 ~~fuel or kerosene. However, the term "diesel fuel" does not~~
677 ~~include butane gas, propane gas, or any other form of liquefied~~
678 ~~petroleum gas or compressed natural gas.~~

679 ~~(41)-(18)~~ "Storage" means and includes any keeping or
680 retention in this state of tangible personal property for use or
681 consumption in this state or for any purpose other than sale at
682 retail in the regular course of business.

683 (42) "Streamlined Sales and Use Tax Agreement" has the same
684 meaning as in s. 213.256.

685 ~~(43)-(19)~~ "Tangible personal property" means and includes
686 personal property which may be seen, weighed, measured, or
687 touched or is in any manner perceptible to the senses, including
688 electric power or energy, water, gas, steam, prewritten computer
689 software, boats, motor vehicles and mobile homes as defined in
690 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all
691 other types of vehicles. The term "tangible personal property"
692 does not include stocks, bonds, notes, insurance, ~~or~~ other
693 obligations or securities, any product transferred
694 electronically, or pari-mutuel tickets sold or issued under the
695 racing laws of the state.

696 ~~(44)-(20)~~ "Use" means and includes the exercise of any right

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697 or power over tangible personal property incident to the
698 ownership thereof, or interest therein, except that it does not
699 include the sale at retail of that property in the regular
700 course of business. The term "use" does not include:

701 (a) The loan of an automobile by a motor vehicle dealer to
702 a high school for use in its driver education and safety
703 program. ~~The term "use" does not include; or~~

704 (b) A contractor's use of "qualifying property" as defined
705 by paragraph (33) (a) ~~paragraph (14) (a)~~.

706 ~~(45) (21)~~ The term "Use tax" referred to in this chapter
707 includes the use, the consumption, the distribution, and the
708 storage as herein defined.

709 (46) "Voluntary seller" or "volunteer seller" means a
710 seller that is not required to register in this state to collect
711 the tax imposed by this chapter.

712 ~~(22) "Spaceport activities" means activities directed or~~
713 ~~sponsored by Space Florida on spaceport territory pursuant to~~
714 ~~its powers and responsibilities under the Space Florida Act.~~

715 ~~(23) "Space flight" means any flight designed for~~
716 ~~suborbital, orbital, or interplanetary travel of a space~~
717 ~~vehicle, satellite, or station of any kind.~~

718 ~~(24) "Coin-operated amusement machine" means any machine~~
719 ~~operated by coin, slug, token, coupon, or similar device for the~~
720 ~~purposes of entertainment or amusement. The term includes, but~~
721 ~~is not limited to, coin-operated pinball machines, music~~
722 ~~machines, juke boxes, mechanical games, video games, arcade~~
723 ~~games, billiard tables, moving picture viewers, shooting~~
724 ~~galleries, and all other similar amusement devices.~~

725 ~~(25) "Sea trial" means a voyage for the purpose of testing~~

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726 ~~repair or modification work, which is in length and scope~~
727 ~~reasonably necessary to test repairs or modifications, or a~~
728 ~~voyage for the purpose of ascertaining the seaworthiness of a~~
729 ~~vessel. If the sea trial is to test repair or modification work,~~
730 ~~the owner or repair facility shall certify, in a form required~~
731 ~~by the department, what repairs have been tested. The owner and~~
732 ~~the repair facility may also be required to certify that the~~
733 ~~length and scope of the voyage were reasonably necessary to test~~
734 ~~the repairs or modifications.~~

735 ~~(26) "Solar energy system" means the equipment and~~
736 ~~requisite hardware that provide and are used for collecting,~~
737 ~~transferring, converting, storing, or using incident solar~~
738 ~~energy for water heating, space heating, cooling, or other~~
739 ~~applications that would otherwise require the use of a~~
740 ~~conventional source of energy such as petroleum products,~~
741 ~~natural gas, manufactured gas, or electricity.~~

742 ~~(27) "Agricultural commodity" means horticultural,~~
743 ~~aquacultural, poultry and farm products, and livestock and~~
744 ~~livestock products.~~

745 ~~(28) "Farmer" means a person who is directly engaged in the~~
746 ~~business of producing crops, livestock, or other agricultural~~
747 ~~commodities. The term includes, but is not limited to, horse~~
748 ~~breeders, nurserymen, dairy farmers, poultry farmers, cattle~~
749 ~~ranchers, apiarists, and persons raising fish.~~

750 ~~(29) "Livestock" includes all animals of the equine,~~
751 ~~bovine, or swine class, including goats, sheep, mules, horses,~~
752 ~~hogs, cattle, ostriches, and other grazing animals raised for~~
753 ~~commercial purposes. The term "livestock" shall also include~~
754 ~~fish raised for commercial purposes.~~

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755 ~~(30) "Power farm equipment" means moving or stationary~~
756 ~~equipment that contains within itself the means for its own~~
757 ~~propulsion or power and moving or stationary equipment that is~~
758 ~~dependent upon an external power source to perform its~~
759 ~~functions.~~

760 ~~(31) "Forest" means the land stocked by trees of any size~~
761 ~~used in the production of forest products, or formerly having~~
762 ~~such tree cover, and not currently developed for nonforest use.~~

763 ~~(32) "Agricultural production" means the production of~~
764 ~~plants and animals useful to humans, including the preparation,~~
765 ~~planting, cultivating, or harvesting of these products or any~~
766 ~~other practices necessary to accomplish production through the~~
767 ~~harvest phase, and includes aquaculture, horticulture,~~
768 ~~floriculture, viticulture, forestry, dairy, livestock, poultry,~~
769 ~~bees, and any and all forms of farm products and farm~~
770 ~~production.~~

771 ~~(33) "Qualified aircraft" means any aircraft having a~~
772 ~~maximum certified takeoff weight of less than 10,000 pounds and~~
773 ~~equipped with twin turbofan engines that meet Stage IV noise~~
774 ~~requirements that is used by a business operating as an on-~~
775 ~~demand air carrier under Federal Aviation Administration~~
776 ~~Regulation Title 14, chapter I, part 135, Code of Federal~~
777 ~~Regulations, that owns or leases and operates a fleet of at~~
778 ~~least 25 of such aircraft in this state.~~

779 Section 2. Paragraph (c) of subsection (7) of section
780 212.03, Florida Statutes, is amended to read:

781 212.03 Transient rentals tax; rate, procedure, enforcement,
782 exemptions.-

783 (7)

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784 (c) The rental of facilities in a trailer camp, mobile home
785 park, or recreational vehicle park facilities, as defined in s.
786 212.02(23) ~~s. 212.02(10)(f)~~, which are intended primarily for
787 rental as a principal or permanent place of residence is exempt
788 from the tax imposed by this chapter. The rental of such
789 facilities that primarily serve transient guests is not exempt
790 by this subsection. In the application of this law, or in making
791 any determination against the exemption, the department shall
792 consider the facility as primarily serving transient guests
793 unless the facility owner makes a verified declaration on a form
794 prescribed by the department that more than half of the total
795 rental units available are occupied by tenants who have a
796 continuous residence in excess of 3 months. The owner of a
797 facility declared to be exempt by this paragraph must make a
798 determination of the taxable status of the facility at the end
799 of the owner's accounting year using any consecutive 3-month
800 period at least one month of which is in the accounting year.
801 The owner must use a selected consecutive 3-month period during
802 each annual redetermination. In the event that an exempt
803 facility no longer qualifies for exemption by this paragraph,
804 the owner must notify the department on a form prescribed by the
805 department by the 20th day of the first month of the owner's
806 next succeeding accounting year that the facility no longer
807 qualifies for such exemption. The tax levied by this section
808 shall apply to the rental of facilities that no longer qualify
809 for exemption under this paragraph beginning the first day of
810 the owner's next succeeding accounting year. The provisions of
811 this paragraph do not apply to mobile home lots regulated under
812 chapter 723.

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813 Section 3. Subsection (6) of section 212.0306, Florida
814 Statutes, is amended to read:

815 212.0306 Local option food and beverage tax; procedure for
816 levying; authorized uses; administration.—

817 (6) Any county levying a tax authorized by this section
818 must locally administer the tax using the powers and duties
819 enumerated for local administration of the tourist development
820 tax by s. 125.0104, 1992 Supplement to the Florida Statutes
821 1991. ~~The county's ordinance shall also provide for brackets~~
822 ~~applicable to taxable transactions.~~

823 Section 4. Paragraph (b) of subsection (1) of section
824 212.04, Florida Statutes, is amended to read:

825 212.04 Admissions tax; rate, procedure, enforcement.—

826 (1)

827 (b) For the exercise of such privilege, a tax is levied at
828 the rate of 6 percent of sales price, or the actual value
829 received from such admissions, which 6 percent shall be added to
830 and collected with all such admissions from the purchaser
831 thereof, and such tax shall be paid for the exercise of the
832 privilege as defined in the preceding paragraph. Each ticket
833 must show on its face the actual sales price of the admission,
834 or each dealer selling the admission must prominently display at
835 the box office or other place where the admission charge is made
836 a notice disclosing the price of the admission, and the tax
837 shall be computed and collected on the basis of the actual price
838 of the admission charged by the dealer. The sale price or actual
839 value of admission shall, for the purpose of this chapter, be
840 that price remaining after deduction of federal taxes and state
841 or locally imposed or authorized seat surcharges, taxes, or

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842 fees, if any, imposed upon such admission. The sale price or
843 actual value does not include separately stated ticket service
844 charges that are imposed by a facility ticket office or a
845 ticketing service and added to a separately stated, established
846 ticket price. ~~The rate of tax on each admission shall be~~
847 ~~according to the brackets established by s. 212.12(9).~~

848 Section 5. Subsections (6), (7), (8), (9), (10), and (11)
849 of section 212.0506, Florida Statutes, are amended to read:

850 212.0506 Taxation of service warranties.—

851 ~~(6) This tax shall be due and payable according to the~~
852 ~~brackets set forth in s. 212.12.~~

853 (6)~~(7)~~ This tax shall not apply to any portion of the
854 consideration received by any person in connection with the
855 issuance of any service warranty contract upon which such person
856 is required to pay any premium tax imposed under the Florida
857 Insurance Code or under s. 634.313(1).

858 (7)~~(8)~~ If a transaction involves both the issuance of a
859 service warranty that is subject to such tax and the issuance of
860 a warranty, guaranty, extended warranty or extended guaranty,
861 contract, agreement, or other written promise that is not
862 subject to such tax, the consideration shall be separately
863 identified and stated with respect to the taxable and nontaxable
864 portions of the transaction. If the consideration is separately
865 apportioned and identified in good faith, such tax shall apply
866 to the transaction to the extent that the consideration received
867 or to be received in connection with the transaction is payment
868 for a service warranty subject to such tax. If the consideration
869 is not apportioned in good faith, the department may reform the
870 contract; such reformation by the department is to be considered

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871 prima facie correct, and the burden to show the contrary rests
872 upon the dealer. If the consideration for such a transaction is
873 not separately identified and stated, the entire transaction is
874 taxable.

875 (8)~~(9)~~ Any claim which arises under a service warranty
876 taxable under this section, which claim is paid directly by the
877 person issuing such warranty, is not subject to any tax imposed
878 under this chapter.

879 (9)~~(10)~~ Materials and supplies used in the performance of a
880 factory or manufacturer's warranty are exempt if the contract is
881 furnished at no extra charge with the equipment guaranteed
882 thereunder and such materials and supplies are paid for by the
883 factory or manufacturer.

884 (10)~~(11)~~ Any duties imposed by this chapter upon dealers of
885 tangible personal property with respect to collecting and
886 remitting taxes; making returns; keeping books, records, and
887 accounts; and complying with the rules and regulations of the
888 department apply to all dealers as defined in s. 212.06(2)(1).

889 Section 6. Section 212.05, Florida Statutes, is amended to
890 read:

891 212.05 Sales, storage, use tax.—It is ~~hereby~~ declared to be
892 the legislative intent that every person is exercising a taxable
893 privilege who engages in the business of selling tangible
894 personal property at retail in this state, ~~including the~~
895 ~~business of making mail order sales, or~~ who rents or furnishes
896 any of the things or services taxable under this chapter, or who
897 stores for use or consumption in this state any item or article
898 of tangible personal property as defined herein and who leases
899 or rents such property within the state.

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

903 (a)1.a. At the rate of 6 percent of the sales price of each
904 item or article of tangible personal property when sold at
905 retail in this state, computed on each taxable sale for the
906 purpose of remitting the amount of tax due the state, and
907 including each and every retail sale.

908 b. Each occasional or isolated sale of an aircraft, boat,
909 mobile home, or motor vehicle of a class or type which is
910 required to be registered, licensed, titled, or documented in
911 this state or by the United States Government shall be subject
912 to tax at the rate provided in this paragraph. The department
913 shall by rule adopt any nationally recognized publication for
914 valuation of used motor vehicles as the reference price list for
915 any used motor vehicle which is required to be licensed pursuant
916 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
917 party to an occasional or isolated sale of such a vehicle
918 reports to the tax collector a sales price which is less than 80
919 percent of the average loan price for the specified model and
920 year of such vehicle as listed in the most recent reference
921 price list, the tax levied under this paragraph shall be
922 computed by the department on such average loan price unless the
923 parties to the sale have provided to the tax collector an
924 affidavit signed by each party, or other substantial proof,
925 stating the actual sales price. Any party to such sale who
926 reports a sales price less than the actual sales price commits
927 ~~is guilty of~~ a misdemeanor of the first degree, punishable as
928 provided in s. 775.082 or s. 775.083. The department shall

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929 collect or attempt to collect from such party any delinquent
930 sales taxes. In addition, such party shall pay any tax due and
931 any penalty and interest assessed plus a penalty equal to twice
932 the amount of the additional tax owed. Notwithstanding any other
933 provision of law, the Department of Revenue may waive or
934 compromise any penalty imposed pursuant to this subparagraph.

935 2. This paragraph does not apply to the sale of a boat or
936 aircraft by or through a registered dealer under this chapter to
937 a purchaser who, at the time of taking delivery, is a
938 nonresident of this state, does not make his or her permanent
939 place of abode in this state, and is not engaged in carrying on
940 in this state any employment, trade, business, or profession in
941 which the boat or aircraft will be used in this state, or is a
942 corporation none of the officers or directors of which is a
943 resident of, or makes his or her permanent place of abode in,
944 this state, or is a noncorporate entity that has no individual
945 vested with authority to participate in the management,
946 direction, or control of the entity's affairs who is a resident
947 of, or makes his or her permanent abode in, this state. For
948 purposes of this exemption, either a registered dealer acting on
949 his or her own behalf as seller, a registered dealer acting as
950 broker on behalf of a seller, or a registered dealer acting as
951 broker on behalf of the purchaser may be deemed to be the
952 selling dealer. This exemption shall not be allowed unless:

953 a. The purchaser removes a qualifying boat, as described in
954 sub-subparagraph f., from the state within 90 days after the
955 date of purchase or extension, or the purchaser removes a
956 nonqualifying boat or an aircraft from this state within 10 days
957 after the date of purchase or, when the boat or aircraft is

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958 repaired or altered, within 20 days after completion of the
959 repairs or alterations;

960 b. The purchaser, within 30 days from the date of
961 departure, shall provide the department with written proof that
962 the purchaser licensed, registered, titled, or documented the
963 boat or aircraft outside the state. If such written proof is
964 unavailable, within 30 days the purchaser shall provide proof
965 that the purchaser applied for such license, title,
966 registration, or documentation. The purchaser shall forward to
967 the department proof of title, license, registration, or
968 documentation upon receipt;

969 c. The purchaser, within 10 days of removing the boat or
970 aircraft from Florida, shall furnish the department with proof
971 of removal in the form of receipts for fuel, dockage, slippage,
972 tie-down, or hangaring from outside of Florida. The information
973 so provided must clearly and specifically identify the boat or
974 aircraft;

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

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

982 f. Unless the nonresident purchaser of a boat of 5 net tons
983 of admeasurement or larger intends to remove the boat from this
984 state within 10 days after the date of purchase or when the boat
985 is repaired or altered, within 20 days after completion of the
986 repairs or alterations, the nonresident purchaser shall apply to

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987 the selling dealer for a decal which authorizes 90 days after
988 the date of purchase for removal of the boat. The nonresident
989 purchaser of a qualifying boat may apply to the selling dealer
990 within 60 days after the date of purchase for an extension decal
991 that authorizes the boat to remain in this state for an
992 additional 90 days, but not more than a total of 180 days,
993 before the nonresident purchaser is required to pay the tax
994 imposed by this chapter. The department is authorized to issue
995 decals in advance to dealers. The number of decals issued in
996 advance to a dealer shall be consistent with the volume of the
997 dealer's past sales of boats which qualify under this sub-
998 subparagraph. The selling dealer or his or her agent shall mark
999 and affix the decals to qualifying boats in the manner
1000 prescribed by the department, prior to delivery of the boat.

1001 (I) The department is hereby authorized to charge dealers a
1002 fee sufficient to recover the costs of decals issued, except the
1003 extension decal shall cost \$425.

1004 (II) The proceeds from the sale of decals will be deposited
1005 into the administrative trust fund.

1006 (III) Decals shall display information to identify the boat
1007 as a qualifying boat under this sub-subparagraph, including, but
1008 not limited to, the decal's date of expiration.

1009 (IV) The department is authorized to require dealers who
1010 purchase decals to file reports with the department and may
1011 prescribe all necessary records by rule. All such records are
1012 subject to inspection by the department.

1013 (V) Any dealer or his or her agent who issues a decal
1014 falsely, fails to affix a decal, mismarks the expiration date of
1015 a decal, or fails to properly account for decals will be

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1016 considered prima facie to have committed a fraudulent act to
1017 evade the tax and will be liable for payment of the tax plus a
1018 mandatory penalty of 200 percent of the tax, and shall be liable
1019 for fine and punishment as provided by law for a conviction of a
1020 misdemeanor of the first degree, as provided in s. 775.082 or s.
1021 775.083.

1022 (VI) Any nonresident purchaser of a boat who removes a
1023 decal prior to permanently removing the boat from the state, or
1024 defaces, changes, modifies, or alters a decal in a manner
1025 affecting its expiration date prior to its expiration, or who
1026 causes or allows the same to be done by another, will be
1027 considered prima facie to have committed a fraudulent act to
1028 evade the tax and will be liable for payment of the tax plus a
1029 mandatory penalty of 200 percent of the tax, and shall be liable
1030 for fine and punishment as provided by law for a conviction of a
1031 misdemeanor of the first degree, as provided in s. 775.082 or s.
1032 775.083.

1033 (VII) The department is authorized to adopt rules necessary
1034 to administer and enforce this subparagraph and to publish the
1035 necessary forms and instructions.

1036 (VIII) The department is hereby authorized to adopt
1037 emergency rules pursuant to s. 120.54(4) to administer and
1038 enforce the provisions of this subparagraph.

1039
1040 If the purchaser fails to remove the qualifying boat from this
1041 state within the maximum 180 days after purchase or a
1042 nonqualifying boat or an aircraft from this state within 10 days
1043 after purchase or, when the boat or aircraft is repaired or
1044 altered, within 20 days after completion of such repairs or

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1045 alterations, or permits the boat or aircraft to return to this
1046 state within 6 months from the date of departure, or if the
1047 purchaser fails to furnish the department with any of the
1048 documentation required by this subparagraph within the
1049 prescribed time period, the purchaser shall be liable for use
1050 tax on the cost price of the boat or aircraft and, in addition
1051 thereto, payment of a penalty to the Department of Revenue equal
1052 to the tax payable. This penalty shall be in lieu of the penalty
1053 imposed by s. 212.12(2) and is mandatory and shall not be waived
1054 by the department. The maximum 180-day period following the sale
1055 of a qualifying boat tax-exempt to a nonresident may not be
1056 tolled for any reason. Notwithstanding other provisions of this
1057 paragraph to the contrary, an aircraft purchased in this state
1058 under the provisions of this paragraph may be returned to this
1059 state for repairs within 6 months after the date of its
1060 departure without being in violation of the law and without
1061 incurring liability for the payment of tax or penalty on the
1062 purchase price of the aircraft if the aircraft is removed from
1063 this state within 20 days after the completion of the repairs
1064 and if such removal can be demonstrated by invoices for fuel,
1065 tie-down, hangar charges issued by out-of-state vendors or
1066 suppliers, or similar documentation.

1067 (b) At the rate of 6 percent of the cost price of each item
1068 or article of tangible personal property when the same is not
1069 sold but is used, consumed, distributed, or stored for use or
1070 consumption in this state; however, for tangible property
1071 originally purchased exempt from tax for use exclusively for
1072 lease and which is converted to the owner's own use, tax may be
1073 paid on the fair market value of the property at the time of

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1074 conversion. If the fair market value of the property cannot be
1075 determined, use tax at the time of conversion shall be based on
1076 the owner's acquisition cost. Under no circumstances may the
1077 aggregate amount of sales tax from leasing the property and use
1078 tax due at the time of conversion be less than the total sales
1079 tax that would have been due on the original acquisition cost
1080 paid by the owner.

1081 (c) At the rate of 6 percent of the gross proceeds derived
1082 from the lease or rental of tangible personal property, as
1083 defined herein, ~~however, the following special provisions apply~~
1084 ~~to the lease or rental of motor vehicles:~~

1085 ~~1. When a motor vehicle is leased or rented for a period of~~
1086 ~~less than 12 months:~~

1087 ~~a. If the motor vehicle is rented in Florida, the entire~~
1088 ~~amount of such rental is taxable, even if the vehicle is dropped~~
1089 ~~off in another state.~~

1090 ~~b. If the motor vehicle is rented in another state and~~
1091 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

1092 ~~2. Except as provided in subparagraph 3., for the lease or~~
1093 ~~rental of a motor vehicle for a period of not less than 12~~
1094 ~~months, sales tax is due on the lease or rental payments if the~~
1095 ~~vehicle is registered in this state; provided, however, that no~~
1096 ~~tax shall be due if the taxpayer documents use of the motor~~
1097 ~~vehicle outside this state and tax is being paid on the lease or~~
1098 ~~rental payments in another state.~~

1099 ~~3. The tax imposed by this chapter does not apply to the~~
1100 ~~lease or rental of a commercial motor vehicle as defined in s.~~
1101 ~~316.003(66)(a) to one lessee or rentee for a period of not less~~
1102 ~~than 12 months when tax was paid on the purchase price of such~~

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1103 ~~vehicle by the lessor. To the extent tax was paid with respect~~
1104 ~~to the purchase of such vehicle in another state, territory of~~
1105 ~~the United States, or the District of Columbia, the Florida tax~~
1106 ~~payable shall be reduced in accordance with the provisions of s.~~
1107 ~~212.06(7). This subparagraph shall only be available when the~~
1108 ~~lease or rental of such property is an established business or~~
1109 ~~part of an established business or the same is incidental or~~
1110 ~~germane to such business.~~

1111 (d) At the rate of 6 percent of the lease or rental price
1112 paid by a lessee or rentee, or contracted or agreed to be paid
1113 by a lessee or rentee, to the owner of the tangible personal
1114 property.

1115 (e)

1116 1. At the rate of 6 percent on charges for:

1117 a. Prepaid calling arrangements. The tax on charges for
1118 prepaid calling arrangements shall be collected at the time of
1119 sale and remitted by the selling dealer.

1120 (I) "Prepaid calling arrangement" means the separately
1121 stated retail sale by advance payment of communications services
1122 that consist exclusively of telephone calls originated by using
1123 an access number, authorization code, or other means that may be
1124 manually, electronically, or otherwise entered and that are sold
1125 in predetermined units or dollars whose number declines with use
1126 in a known amount.

1127 (II) The sale or recharge of the prepaid calling
1128 arrangement is deemed to take place in accordance with s.
1129 212.06(17) (d). ~~If the sale or recharge of the prepaid calling~~
1130 ~~arrangement does not take place at the dealer's place of~~
1131 ~~business, it shall be deemed to take place at the customer's~~

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1132 ~~shipping address or, if no item is shipped, at the customer's~~
1133 ~~address or the location associated with the customer's mobile~~
1134 ~~telephone number.~~

1135 (III) The sale or recharge of a prepaid calling arrangement
1136 shall be treated as a sale of tangible personal property for
1137 purposes of this chapter, whether or not a tangible item
1138 evidencing such arrangement is furnished to the purchaser, and
1139 such sale within this state subjects the selling dealer to the
1140 jurisdiction of this state for purposes of this subsection.

1141 b. The installation of telecommunication and telegraphic
1142 equipment.

1143 c. Electrical power or energy, except that the tax rate for
1144 charges for electrical power or energy is 7 percent.

1145 2. The provisions of s. 212.17(3), regarding credit for tax
1146 paid on charges subsequently found to be worthless, shall be
1147 equally applicable to any tax paid under the provisions of this
1148 section on charges for prepaid calling arrangements,
1149 telecommunication or telegraph services, or electric power
1150 subsequently found to be uncollectible. The word "charges" in
1151 this paragraph does not include any excise or similar tax levied
1152 by the Federal Government, any political subdivision of the
1153 state, or any municipality upon the purchase, sale, or recharge
1154 of prepaid calling arrangements or upon the purchase or sale of
1155 telecommunication, television system program, or telegraph
1156 service or electric power, which tax is collected by the seller
1157 from the purchaser.

1158 (f) At the rate of 6 percent on the sale, rental, use,
1159 consumption, or storage for use in this state of machines and
1160 equipment, and parts and accessories therefor, used in

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1161 manufacturing, processing, compounding, producing, mining, or
1162 quarrying personal property for sale or to be used in furnishing
1163 communications, transportation, or public utility services.

1164 (g)1. At the rate of 6 percent on the retail price of
1165 newspapers and magazines sold or used in Florida.

1166 2. Notwithstanding other provisions of this chapter,
1167 inserts of printed materials which are distributed with a
1168 newspaper or magazine are a component part of the newspaper or
1169 magazine, and neither the sale nor use of such inserts is
1170 subject to tax when:

1171 a. Printed by a newspaper or magazine publisher or
1172 commercial printer and distributed as a component part of a
1173 newspaper or magazine, which means that the items after being
1174 printed are delivered directly to a newspaper or magazine
1175 publisher by the printer for inclusion in editions of the
1176 distributed newspaper or magazine;

1177 b. Such publications are labeled as part of the designated
1178 newspaper or magazine publication into which they are to be
1179 inserted; and

1180 c. The purchaser of the insert presents a resale
1181 certificate to the vendor stating that the inserts are to be
1182 distributed as a component part of a newspaper or magazine.

1183 (h)1. A tax is imposed at the rate of 4 percent on the
1184 charges for the use of coin-operated amusement machines. The tax
1185 shall be calculated by dividing the gross receipts from such
1186 charges for the applicable reporting period by a divisor,
1187 determined as provided in this subparagraph, to compute gross
1188 taxable sales, and then subtracting gross taxable sales from
1189 gross receipts to arrive at the amount of tax due. For counties

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1190 that do not impose a discretionary sales surtax, the divisor is
1191 equal to 1.04; for counties that impose a 0.5 percent
1192 discretionary sales surtax, the divisor is equal to 1.045; for
1193 counties that impose a 1 percent discretionary sales surtax, the
1194 divisor is equal to 1.050; and for counties that impose a 2
1195 percent sales surtax, the divisor is equal to 1.060. If a county
1196 imposes a discretionary sales surtax that is not listed in this
1197 subparagraph, the department shall make the applicable divisor
1198 available in an electronic format or otherwise. Additional
1199 divisors shall bear the same mathematical relationship to the
1200 next higher and next lower divisors as the new surtax rate bears
1201 to the next higher and next lower surtax rates for which
1202 divisors have been established. When a machine is activated by a
1203 slug, token, coupon, or any similar device which has been
1204 purchased, the tax is on the price paid by the user of the
1205 device for such device.

1206 2. As used in this paragraph, the term "operator" means any
1207 person who possesses a coin-operated amusement machine for the
1208 purpose of generating sales through that machine and who is
1209 responsible for removing the receipts from the machine.

1210 a. If the owner of the machine is also the operator of it,
1211 he or she shall be liable for payment of the tax without any
1212 deduction for rent or a license fee paid to a location owner for
1213 the use of any real property on which the machine is located.

1214 b. If the owner or lessee of the machine is also its
1215 operator, he or she shall be liable for payment of the tax on
1216 the purchase or lease of the machine, as well as the tax on
1217 sales generated through the machine.

1218 c. If the proprietor of the business where the machine is

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1219 located does not own the machine, he or she shall be deemed to
1220 be the lessee and operator of the machine and is responsible for
1221 the payment of the tax on sales, unless such responsibility is
1222 otherwise provided for in a written agreement between him or her
1223 and the machine owner.

1224 3.a. An operator of a coin-operated amusement machine may
1225 not operate or cause to be operated in this state any such
1226 machine until the operator has registered with the department
1227 and has conspicuously displayed an identifying certificate
1228 issued by the department. The identifying certificate shall be
1229 issued by the department upon application from the operator. The
1230 identifying certificate shall include a unique number, and the
1231 certificate shall be permanently marked with the operator's
1232 name, the operator's sales tax number, and the maximum number of
1233 machines to be operated under the certificate. An identifying
1234 certificate shall not be transferred from one operator to
1235 another. The identifying certificate must be conspicuously
1236 displayed on the premises where the coin-operated amusement
1237 machines are being operated.

1238 b. The operator of the machine must obtain an identifying
1239 certificate before the machine is first operated in the state
1240 and by July 1 of each year thereafter. The annual fee for each
1241 certificate shall be based on the number of machines identified
1242 on the application times \$30 and is due and payable upon
1243 application for the identifying device. The application shall
1244 contain the operator's name, sales tax number, business address
1245 where the machines are being operated, and the number of
1246 machines in operation at that place of business by the operator.
1247 No operator may operate more machines than are listed on the

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1248 certificate. A new certificate is required if more machines are
1249 being operated at that location than are listed on the
1250 certificate. The fee for the new certificate shall be based on
1251 the number of additional machines identified on the application
1252 form times \$30.

1253 c. A penalty of \$250 per machine is imposed on the operator
1254 for failing to properly obtain and display the required
1255 identifying certificate. A penalty of \$250 is imposed on the
1256 lessee of any machine placed in a place of business without a
1257 proper current identifying certificate. Such penalties shall
1258 apply in addition to all other applicable taxes, interest, and
1259 penalties.

1260 d. Operators of coin-operated amusement machines must
1261 obtain a separate sales and use tax certificate of registration
1262 for each county in which such machines are located. One sales
1263 and use tax certificate of registration is sufficient for all of
1264 the operator's machines within a single county.

1265 4. The provisions of this paragraph do not apply to coin-
1266 operated amusement machines owned and operated by churches or
1267 synagogues.

1268 5. In addition to any other penalties imposed by this
1269 chapter, a person who knowingly and willfully violates any
1270 provision of this paragraph commits a misdemeanor of the second
1271 degree, punishable as provided in s. 775.082 or s. 775.083.

1272 6. The department may adopt rules necessary to administer
1273 the provisions of this paragraph.

1274 (i)1. At the rate of 6 percent on charges for all:

1275 a. Detective, burglar protection, and other protection
1276 services (NAICS National Numbers 561611, 561612, 561613, and

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1277 561621). Any law enforcement officer, as defined in s. 943.10,
1278 who is performing approved duties as determined by his or her
1279 local law enforcement agency in his or her capacity as a law
1280 enforcement officer, and who is subject to the direct and
1281 immediate command of his or her law enforcement agency, and in
1282 the law enforcement officer's uniform as authorized by his or
1283 her law enforcement agency, is performing law enforcement and
1284 public safety services and is not performing detective, burglar
1285 protection, or other protective services, if the law enforcement
1286 officer is performing his or her approved duties in a
1287 geographical area in which the law enforcement officer has
1288 arrest jurisdiction. Such law enforcement and public safety
1289 services are not subject to tax irrespective of whether the duty
1290 is characterized as "extra duty," "off-duty," or "secondary
1291 employment," and irrespective of whether the officer is paid
1292 directly or through the officer's agency by an outside source.
1293 The term "law enforcement officer" includes full-time or part-
1294 time law enforcement officers, and any auxiliary law enforcement
1295 officer, when such auxiliary law enforcement officer is working
1296 under the direct supervision of a full-time or part-time law
1297 enforcement officer.

1298 b. Nonresidential cleaning and nonresidential pest control
1299 services (NAICS National Numbers 561710 and 561720).

1300 2. As used in this paragraph, "NAICS" means those
1301 classifications contained in the North American Industry
1302 Classification System, as published in 2007 by the Office of
1303 Management and Budget, Executive Office of the President.

1304 3. Charges for detective, burglar protection, and other
1305 protection security services performed in this state but used

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1306 outside this state are exempt from taxation. Charges for
1307 detective, burglar protection, and other protection security
1308 services performed outside this state and used in this state are
1309 subject to tax.

1310 4. If a transaction involves both the sale or use of a
1311 service taxable under this paragraph and the sale or use of a
1312 service or any other item not taxable under this chapter, the
1313 consideration paid must be separately identified and stated with
1314 respect to the taxable and exempt portions of the transaction or
1315 the entire transaction shall be presumed taxable. The burden
1316 shall be on the seller of the service or the purchaser of the
1317 service, whichever applicable, to overcome this presumption by
1318 providing documentary evidence as to which portion of the
1319 transaction is exempt from tax. The department is authorized to
1320 adjust the amount of consideration identified as the taxable and
1321 exempt portions of the transaction; however, a determination
1322 that the taxable and exempt portions are inaccurately stated and
1323 that the adjustment is applicable must be supported by
1324 substantial competent evidence.

1325 5. Each seller of services subject to sales tax pursuant to
1326 this paragraph shall maintain a monthly log showing each
1327 transaction for which sales tax was not collected because the
1328 services meet the requirements of subparagraph 3. for out-of-
1329 state use. The log must identify the purchaser's name, location
1330 and mailing address, and federal employer identification number,
1331 if a business, or the social security number, if an individual,
1332 the service sold, the price of the service, the date of sale,
1333 the reason for the exemption, and the sales invoice number. The
1334 monthly log shall be maintained pursuant to the same

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1335 requirements and subject to the same penalties imposed for the
1336 keeping of similar records pursuant to this chapter.

1337 (j)1. Notwithstanding any other provision of this chapter,
1338 there is ~~hereby~~ levied a tax on the sale, use, consumption, or
1339 storage for use in this state of any coin or currency, whether
1340 in circulation or not, when such coin or currency:

1341 a. Is not legal tender;

1342 b. If legal tender, is sold, exchanged, or traded at a rate
1343 in excess of its face value; or

1344 c. Is sold, exchanged, or traded at a rate based on its
1345 precious metal content.

1346 2. Such tax shall be at a rate of 6 percent of the price at
1347 which the coin or currency is sold, exchanged, or traded, except
1348 that, with respect to a coin or currency which is legal tender
1349 of the United States and which is sold, exchanged, or traded,
1350 such tax shall not be levied.

1351 3. There are exempt from this tax exchanges of coins or
1352 currency which are in general circulation in, and legal tender
1353 of, one nation for coins or currency which are in general
1354 circulation in, and legal tender of, another nation when
1355 exchanged solely for use as legal tender and at an exchange rate
1356 based on the relative value of each as a medium of exchange.

1357 4. With respect to any transaction that involves the sale
1358 of coins or currency taxable under this paragraph in which the
1359 taxable amount represented by the sale of such coins or currency
1360 exceeds \$500, the entire amount represented by the sale of such
1361 coins or currency is exempt from the tax imposed under this
1362 paragraph. The dealer must maintain proper documentation, as
1363 prescribed by rule of the department, to identify that portion

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1364 of a transaction which involves the sale of coins or currency
1365 and is exempt under this subparagraph.

1366 (k) At the rate of 6 percent of the sales price of each
1367 gallon of diesel fuel not taxed under chapter 206 purchased for
1368 use in a vessel.

1369 (l) Florists located in this state are liable for sales tax
1370 on sales to retail customers regardless of where or by whom the
1371 items sold are to be delivered. Florists located in this state
1372 are not liable for sales tax on payments received from other
1373 florists for items delivered to customers in this state.

1374 (m) Operators of game concessions or other concessionaires
1375 who customarily award tangible personal property as prizes may,
1376 in lieu of paying tax on the cost price of such property, pay
1377 tax on 25 percent of the gross receipts from such concession
1378 activity.

1379 (2) The tax shall be collected by the dealer, as defined
1380 herein, and remitted by the dealer to the state at the time and
1381 in the manner as hereinafter provided.

1382 (3) The tax so levied is in addition to all other taxes,
1383 whether levied in the form of excise, license, or privilege
1384 taxes, and in addition to all other fees and taxes levied.

1385 ~~(4) The tax imposed pursuant to this chapter shall be due~~
1386 ~~and payable according to the brackets set forth in s. 212.12.~~

1387 Section 7. Section 212.054, Florida Statutes, is amended to
1388 read:

1389 212.054 Discretionary sales surtax; limitations,
1390 administration, and collection.-

1391 (1) A ~~No~~ general excise tax on sales may not ~~shall~~ be
1392 levied by the governing body of any county unless specifically

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1393 authorized in s. 212.055. Any general excise tax on sales
1394 authorized pursuant to said section shall be administered and
1395 collected exclusively as provided in this section.

1396 (2) (a) The tax imposed by the governing body of any county
1397 authorized to so levy pursuant to s. 212.055 shall be a
1398 discretionary surtax on all transactions occurring in the county
1399 which transactions are subject to the state tax imposed on
1400 sales, use, services, rentals, admissions, and other
1401 transactions by this chapter and communications services as
1402 defined for purposes of chapter 202. The surtax, if levied,
1403 shall be computed as the applicable rate or rates authorized
1404 pursuant to s. 212.055 times the amount of taxable sales and
1405 taxable purchases representing such transactions. If the surtax
1406 is levied on the sale of an item of tangible personal property
1407 or on the sale of a service, the surtax shall be computed by
1408 multiplying the rate imposed by the county within which the sale
1409 occurs by the amount of the taxable sale. The sale of an item of
1410 tangible personal property or the sale of a service is not
1411 subject to the surtax if the property, the service, or the
1412 tangible personal property representing the service is delivered
1413 within a county that does not impose a discretionary sales
1414 surtax.

1415 (b) However:

1416 1. The sales amount above \$5,000 on a motor vehicle,
1417 aircraft, boat, manufactured home, modular home, or mobile home
1418 is any item of tangible personal property shall not be subject
1419 to the surtax. However, charges for prepaid calling
1420 arrangements, as defined in s. 212.05(1)(c)1.a., shall be
1421 subject to the surtax. For purposes of administering the \$5,000

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1422 ~~limitation on an item of tangible personal property, if two or~~
1423 ~~more taxable items of tangible personal property are sold to the~~
1424 ~~same purchaser at the same time and, under generally accepted~~
1425 ~~business practice or industry standards or usage, are normally~~
1426 ~~sold in bulk or are items that, when assembled, comprise a~~
1427 ~~working unit or part of a working unit, such items must be~~
1428 ~~considered a single item for purposes of the \$5,000 limitation~~
1429 ~~when supported by a charge ticket, sales slip, invoice, or other~~
1430 ~~tangible evidence of a single sale or rental.~~

1431 2. In the case of utility services covering a period
1432 starting before and ending after the effective date of the
1433 surtax, the rate applies as follows:

1434 a. In the case of a rate adoption or increase, the new rate
1435 applies to the first billing period starting on or after the
1436 effective date of the surtax adoption or increase.

1437 b. In the case of a rate decrease or termination, the new
1438 rate applies to bills rendered on or after the effective date of
1439 the rate change billed on or after the effective date of any
1440 such surtax, the entire amount of the charge for utility
1441 services shall be subject to the surtax. In the case of utility
1442 services billed after the last day the surtax is in effect, the
1443 entire amount of the charge on said items shall not be subject
1444 to the surtax. "Utility service," as used in this section, does
1445 not include any communications services as defined in chapter
1446 202.

1447 3. In the case of written contracts which are signed prior
1448 to the effective date of any such surtax for the construction of
1449 improvements to real property or for remodeling of existing
1450 structures, the surtax shall be paid by the contractor

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1451 responsible for the performance of the contract. However, the
1452 contractor may apply for one refund of any such surtax paid on
1453 materials necessary for the completion of the contract. Any
1454 application for refund shall be made no later than 15 months
1455 following initial imposition of the surtax in that county. The
1456 application for refund shall be in the manner prescribed by the
1457 department by rule. A complete application shall include proof
1458 of the written contract and of payment of the surtax. The
1459 application shall contain a sworn statement, signed by the
1460 applicant or its representative, attesting to the validity of
1461 the application. The department shall, within 30 days after
1462 approval of a complete application, certify to the county
1463 information necessary for issuance of a refund to the applicant.
1464 Counties are hereby authorized to issue refunds for this purpose
1465 and shall set aside from the proceeds of the surtax a sum
1466 sufficient to pay any refund lawfully due. Any person who
1467 fraudulently obtains or attempts to obtain a refund pursuant to
1468 this subparagraph, in addition to being liable for repayment of
1469 any refund fraudulently obtained plus a mandatory penalty of 100
1470 percent of the refund, is guilty of a felony of the third
1471 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1472 775.084.

1473 4. In the case of any vessel, railroad, or motor vehicle
1474 common carrier entitled to partial exemption from tax imposed
1475 under this chapter pursuant to s. 212.08(4), (8), or (9), the
1476 basis for imposition of surtax shall be the same as provided in
1477 s. 212.08 and the ratio shall be applied each month to total
1478 purchases in this state of property qualified for proration
1479 which is delivered or sold in the taxing county to establish the

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1480 portion used and consumed in intracounty movement and subject to
1481 surtax.

1482 (3) Except as otherwise provided in this section, a surtax
1483 applies to a retail sale, lease, or rental of tangible personal
1484 property, a digital good, or a service when, under s. 212.06(3),
1485 the transaction occurs in a county that imposes a surtax under
1486 s. 212.055.

1487 (4)-~~(3)~~ To determine whether a transaction occurs in a
1488 county imposing a surtax, the following provisions apply ~~For the~~
1489 ~~purpose of this section, a transaction shall be deemed to have~~
1490 ~~occurred in a county imposing the surtax when:~~

1491 (a)~~1~~. The retail sale of a modular or manufactured home,
1492 not including a mobile home, occurs in the county to which the
1493 house is delivered ~~includes an item of tangible personal~~
1494 ~~property, a service, or tangible personal property representing~~
1495 ~~a service, and the item of tangible personal property, the~~
1496 ~~service, or the tangible personal property representing the~~
1497 ~~service is delivered within the county. If there is no~~
1498 ~~reasonable evidence of delivery of a service, the sale of a~~
1499 ~~service is deemed to occur in the county in which the purchaser~~
1500 ~~accepts the bill of sale.~~

1501 (b)~~2~~. The retail sale, excluding a lease or rental, of any
1502 motor vehicle that does not qualify as transportation equipment,
1503 as defined in s. 212.06(17) (g), or the retail sale of a ~~of any~~
1504 ~~motor vehicle or mobile home of a class or type that which is~~
1505 ~~required to be registered in this state or in any other state is~~
1506 ~~shall be deemed to occur~~ have occurred only in the county
1507 identified from ~~as~~ the ~~residence~~ address of the purchaser on the
1508 registration or title document for the ~~such~~ property.

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1509 (c)~~(b)~~ Admission charged for an event occurs ~~The event for~~
1510 ~~which an admission is charged is located~~ in the county in which
1511 the event is held.

1512 (d)~~(e)~~ A lease or rental of real property occurs in the
1513 county in which the real property is located. ~~The consumer of~~
1514 ~~utility services is located in the county.~~

1515 (e)~~(d)~~1. The retail sale, excluding a lease or rental, of
1516 any aircraft that does not qualify as transportation equipment,
1517 as defined in s. 212.06(17) (g), or of any boat of a class or
1518 type that is required to be registered, licensed, titled, or
1519 documented in this state or by the United States Government
1520 occurs in the county to which the aircraft or boat is delivered.

1521 2. The user of any aircraft or boat of a class or type that
1522 ~~which~~ is required to be registered, licensed, titled, or
1523 documented in this state or by the United States Government
1524 imported into the county for use, consumption, distribution, or
1525 storage to be used or consumed occurs in the county in which the
1526 user is located ~~in the county.~~

1527 3.2. ~~However,~~ it shall be presumed that such items used
1528 outside the county imposing the surtax for 6 months or longer
1529 before being imported into the county were not purchased for use
1530 in the county, except as provided in s. 212.06(8) (b).

1531 4.3. ~~This paragraph does not apply to the use or~~
1532 ~~consumption of items upon which a like tax of equal or greater~~
1533 ~~amount has been lawfully imposed and paid outside the county.~~

1534 (f)~~(e)~~ The purchase ~~purchaser~~ of any motor vehicle or
1535 mobile home of a class or type that ~~which~~ is required to be
1536 registered in this state occurs in the county identified from
1537 the residential address of the purchaser ~~is a resident of the~~

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1538 ~~taxing county as determined by the address appearing on or to be~~
1539 ~~reflected on the registration document for the ~~such~~ property.~~

1540 (g) ~~(f)~~ 1. The use, consumption, distribution, or storage of
1541 a ~~Any~~ motor vehicle or mobile home of a class or type that ~~which~~
1542 is required to be registered in this state and that is imported
1543 from another state occurs in the county to which it is imported
1544 ~~into the taxing county by a user residing therein for the~~
1545 ~~purpose of use, consumption, distribution, or storage in the~~
1546 ~~taxing county.~~

1547 2. However, it shall be presumed that such items used
1548 outside the taxing county for 6 months or longer before being
1549 imported into the county were not purchased for use in the
1550 county.

1551 ~~(g) The real property which is leased or rented is located~~
1552 ~~in the county.~~

1553 (h) A ~~The~~ transient rental transaction occurs in the county
1554 in which the rental property is located.

1555 ~~(i) The delivery of any aircraft or boat of a class or type~~
1556 ~~which is required to be registered, licensed, titled, or~~
1557 ~~documented in this state or by the United States Government is~~
1558 ~~to a location in the county. However, this paragraph does not~~
1559 ~~apply to the use or consumption of items upon which a like tax~~
1560 ~~of equal or greater amount has been lawfully imposed and paid~~
1561 ~~outside the county.~~

1562 (i) ~~(j)~~ A transaction occurs in a county imposing the surtax
1563 if the dealer owing a use tax on purchases or leases is located
1564 in that ~~the~~ county.

1565 ~~(k) The delivery of tangible personal property other than~~
1566 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~

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1567 ~~is made to a location outside the county, but the property is~~
1568 ~~brought into the county within 6 months after delivery, in which~~
1569 ~~event, the owner must pay the surtax as a use tax.~~

1570 (j)~~(l)~~ The coin-operated amusement or vending machine is
1571 located in the county.

1572 (k)~~(m)~~ An ~~The florist taking the original order to sell~~
1573 ~~tangible personal property~~ taken by a florist occurs ~~is located~~
1574 ~~in the county in which the florist taking the order is located,~~
1575 ~~notwithstanding any other provision of this section.~~

1576 (5)~~(4)~~ (a) The department shall administer, collect, and
1577 enforce the tax authorized under s. 212.055 pursuant to the same
1578 procedures used in the administration, collection, and
1579 enforcement of the general state sales tax imposed under the
1580 provisions of this chapter, except as provided in this section.
1581 The provisions of this chapter regarding interest and penalties
1582 on delinquent taxes shall apply to the surtax. Discretionary
1583 sales surtaxes shall not be included in the computation of
1584 estimated taxes pursuant to s. 212.11. Notwithstanding any other
1585 provision of law, a dealer need not separately state the amount
1586 of the surtax on the charge ticket, sales slip, invoice, or
1587 other tangible evidence of sale. For the purposes of this
1588 section and s. 212.055, the "proceeds" of any surtax means all
1589 funds collected and received by the department pursuant to a
1590 specific authorization and levy under s. 212.055, including any
1591 interest and penalties on delinquent surtaxes.

1592 (b) The proceeds of a discretionary sales surtax collected
1593 by the selling dealer located in a county which imposes the
1594 surtax shall be returned, less the cost of administration, to
1595 the county where the selling dealer is located. The proceeds

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1596 shall be transferred to the Discretionary Sales Surtax Clearing
1597 Trust Fund. A separate account shall be established in such
1598 trust fund for each county imposing a discretionary surtax. The
1599 amount deducted for the costs of administration shall not exceed
1600 3 percent of the total revenue generated for all counties
1601 levying a surtax authorized in s. 212.055. The amount deducted
1602 for the costs of administration shall be used only for those
1603 costs which are solely and directly attributable to the surtax.
1604 The total cost of administration shall be prorated among those
1605 counties levying the surtax on the basis of the amount collected
1606 for a particular county to the total amount collected for all
1607 counties. No later than March 1 of each year, the department
1608 shall submit a written report which details the expenses and
1609 amounts deducted for the costs of administration to the
1610 President of the Senate, the Speaker of the House of
1611 Representatives, and the governing authority of each county
1612 levying a surtax. The department shall distribute the moneys in
1613 the trust fund each month to the appropriate counties, unless
1614 otherwise provided in s. 212.055.

1615 (c)1. Any dealer located in a county that does not impose a
1616 discretionary sales surtax but who collects the surtax due to
1617 sales of tangible personal property or services delivered
1618 outside the county shall remit monthly the proceeds of the
1619 surtax to the department to be deposited into an account in the
1620 Discretionary Sales Surtax Clearing Trust Fund which is separate
1621 from the county surtax collection accounts. The department shall
1622 distribute funds in this account using a distribution factor
1623 determined for each county that levies a surtax and multiplied
1624 by the amount of funds in the account and available for

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1625 distribution. The distribution factor for each county equals the
1626 product of:

1627 a. The county's latest official population determined
1628 pursuant to s. 186.901;

1629 b. The county's rate of surtax; and

1630 c. The number of months the county has levied a surtax
1631 during the most recent distribution period;

1632

1633 divided by the sum of all such products of the counties levying
1634 the surtax during the most recent distribution period.

1635 2. The department shall compute distribution factors for
1636 eligible counties once each quarter and make appropriate
1637 quarterly distributions.

1638 3. A county that fails to timely provide the information
1639 required by this section to the department authorizes the
1640 department, by such action, to use the best information
1641 available to it in distributing surtax revenues to the county.
1642 If this information is unavailable to the department, the
1643 department may partially or entirely disqualify the county from
1644 receiving surtax revenues under this paragraph. A county that
1645 fails to provide timely information waives its right to
1646 challenge the department's determination of the county's share,
1647 if any, of revenues provided under this paragraph.

1648 ~~(5) No discretionary sales surtax or increase or decrease~~
1649 ~~in the rate of any discretionary sales surtax shall take effect~~
1650 ~~on a date other than January 1. No discretionary sales surtax~~
1651 ~~shall terminate on a day other than December 31.~~

1652 (6) The governing body of any county levying a
1653 discretionary sales surtax shall enact an ordinance levying the

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1654 surtax in accordance with the procedures described in s.
1655 125.66(2).

1656 (7) (a) Any adoption, repeal, or rate change of the surtax
1657 by the governing body of any county levying a discretionary
1658 sales surtax or the school board of any county levying the
1659 school capital outlay surtax authorized by s. 212.055(6) is
1660 effective on April 1. A county or school board adopting,
1661 repealing, or changing the rate of such surtax shall notify the
1662 department within 10 days after final adoption by ordinance or
1663 referendum of an adoption, repeal, imposition, termination, or
1664 rate change of the surtax, but no later than October 20
1665 immediately preceding such April 1 ~~November 16~~ prior to the
1666 ~~effective date~~. The notice must specify the time period during
1667 which the surtax will be in effect and the rate and must include
1668 a copy of the ordinance and such other information as the
1669 department requires by rule. Failure to timely provide such
1670 notification to the department shall result in the delay of the
1671 effective date for a period of 1 year.

1672 (b) In addition to the notification required by paragraph
1673 (a), the governing body of any county proposing to levy a
1674 discretionary sales surtax or the school board of any county
1675 proposing to levy the school capital outlay surtax authorized by
1676 s. 212.055(6) shall notify the department by October 1 if the
1677 referendum or consideration of the ordinance that would result
1678 in imposition, termination, or rate change of the surtax is
1679 scheduled to occur on or after October 1 of that year. Failure
1680 to timely provide such notification to the department shall
1681 result in the delay of the effective date for a period of 1
1682 year.

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1683 (c) The department shall provide notice of the adoption,
1684 repeal, or rate change of the surtax to affected sellers by
1685 February 1 immediately preceding the April 1 effective date.

1686 (d) Notwithstanding the date set in an ordinance for the
1687 termination of a surtax, a surtax terminates only on March 31. A
1688 surtax imposed before January 1, 2011, for which an ordinance
1689 provides a different termination date, also terminates on the
1690 March 31 following the termination date established in the
1691 ordinance.

1692 (8) With respect to any motor vehicle or mobile home of a
1693 class or type which is required to be registered in this state,
1694 the tax due on a transaction occurring in the taxing county as
1695 herein provided shall be collected from the purchaser or user
1696 incident to the titling and registration of such property,
1697 irrespective of whether such titling or registration occurs in
1698 the taxing county.

1699 (9) The department may certify vendor databases and
1700 purchase, or otherwise make available, a database, or databases,
1701 singly or in combination, which describe boundary changes for
1702 all taxing jurisdictions, including a description of the change
1703 and the effective date of a boundary change; provide all sales
1704 and use tax rates by jurisdiction; assign to each five-digit and
1705 nine-digit zip code the proper rate and jurisdiction and apply
1706 the lowest combined rate imposed in the zip code area, if the
1707 area includes more than one tax rate in any level of taxing
1708 jurisdiction; and use address-based boundary database records
1709 for assigning taxing jurisdictions and associated tax rates.

1710 (a) A seller or certified service provider that collects
1711 and remits the state tax and any local tax imposed by this

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1712 chapter shall be held harmless from any tax, interest, and
1713 penalties due solely as a result of relying on erroneous data on
1714 tax rates, boundaries, or taxing jurisdiction assignments
1715 provided by the state if the seller or certified service
1716 provider exercises due diligence in applying one or more of the
1717 following methods to determine the taxing jurisdiction and tax
1718 rate for a transaction:

1719 1. Employing an electronic database provided by the
1720 department under this subsection; or

1721 2. Employing a state-certified database.

1722 (b) If a seller or certified service provider is unable to
1723 determine the applicable rate and jurisdiction using an address-
1724 based database record after exercising due diligence, the seller
1725 or certified service provider may apply the nine-digit zip code
1726 designation applicable to a purchaser.

1727 (c) If a nine-digit zip code designation is not available
1728 for a street address or if a seller or certified service
1729 provider is unable to determine the nine-digit zip code
1730 designation applicable to a purchase after exercising due
1731 diligence to determine the designation, the seller or certified
1732 service provider may apply the rate for the five-digit zip code
1733 area.

1734 (d) There is a rebuttable presumption that a seller or
1735 certified service provider has exercised due diligence if the
1736 seller or certified service provider has attempted to determine
1737 the tax rate and jurisdiction by using state-certified software
1738 that makes this assignment from the address and zip code
1739 information applicable to the purchase.

1740 (e) There is a rebuttable presumption that a seller or

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1741 certified service provider has exercised due diligence if the
1742 seller has attempted to determine the nine-digit zip code
1743 designation by using state-certified software that makes this
1744 designation from the street address and the five-digit zip code
1745 applicable to a purchase.

1746 (f) If a seller or certified service provider does not use
1747 one of the methods specified in paragraph (a), the seller or
1748 certified service provider may be held liable to the department
1749 for tax, interest, and penalties that are due for charging and
1750 collecting the incorrect amount of tax.

1751 (10) A purchaser shall be held harmless from tax, interest,
1752 and penalties for having failed to pay the correct amount of
1753 sales or use tax due solely as a result of any of the following
1754 circumstances:

1755 (a) The seller or certified service provider relied on
1756 erroneous data on tax rates, boundaries, or taxing jurisdiction
1757 assignments provided by the department;

1758 (b) A purchaser holding a direct-pay permit relied on
1759 erroneous data on tax rates, boundaries, or taxing jurisdiction
1760 assignments provided by the department; or

1761 (c) A purchaser relied on erroneous data supplied in a
1762 database described in paragraph (9) (a).

1763 (11) A seller is not liable for failing to collect tax at
1764 the new tax rate if:

1765 (a) The new rate takes effect within 30 days after the new
1766 rate is enacted;

1767 (b) The seller collected the tax at the preceding rate;

1768 (c) The seller's failure to collect the tax at the new rate
1769 does not extend beyond 30 days after the enactment of the new

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1770 rate; and

1771 (d) The seller did not fraudulently fail to collect at the
1772 new rate or solicit purchasers based on the preceding rate.

1773 Section 8. Paragraph (c) of subsection (2) and subsections
1774 (3) and (5) of section 212.06, Florida Statutes, are amended,
1775 and subsection (17) is added to that section, to read:

1776 212.06 Sales, storage, use tax; collectible from dealers;
1777 "dealer" defined; dealers to collect from purchasers;
1778 legislative intent as to scope of tax.-

1779 (2)

1780 (c) The term "dealer" is further defined to mean every
1781 person, as used in this chapter, who sells at retail or who
1782 offers for sale at retail, or who has in his or her possession
1783 for sale at retail; or for use, consumption, or distribution; or
1784 for storage to be used or consumed in this state, tangible
1785 personal property as defined herein, ~~including a retailer who~~
1786 ~~transacts a mail order sale.~~

1787 (3) (a) Except as provided in paragraph (b), every dealer
1788 making sales, whether within or outside the state, of tangible
1789 personal property for distribution, storage, or use or other
1790 consumption, in this state, shall, at the time of making sales,
1791 collect the tax imposed by this chapter from the purchaser.

1792 (b)1. Notwithstanding subsection (17), a purchaser of
1793 direct mail which is not a holder of a direct-pay permit shall
1794 provide to the seller in conjunction with the purchase a direct-
1795 mail form or information to show the jurisdictions to which the
1796 direct mail is delivered to recipients. Upon receipt of the
1797 direct-mail form, the seller is relieved of all obligations to
1798 collect, pay, or remit the applicable tax, and the purchaser is

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1799 obligated to pay or remit the applicable tax on a direct-pay
1800 basis. A direct-mail form remains in effect for all future sales
1801 of direct mail by the seller to the purchaser until it is
1802 revoked in writing.

1803 2. Upon receipt of information from the purchaser showing
1804 the jurisdictions to which the direct mail is delivered to
1805 recipients, the seller shall collect the tax according to the
1806 delivery information provided by the purchaser. In the absence
1807 of bad faith, the seller is relieved of any further obligation
1808 to collect tax on any transaction for which the seller has
1809 collected tax pursuant to the delivery information provided by
1810 the purchaser.

1811 3. If the purchaser of direct mail does not have a direct-
1812 pay permit and does not provide the seller with a direct-mail
1813 form or delivery information as required by subparagraph 1., the
1814 seller shall collect the tax according to subparagraph (17)(d)5.
1815 This paragraph does not limit a purchaser's obligation to remit
1816 sales or use tax to any state to which the direct mail is
1817 delivered.

1818 4. If a purchaser of direct mail provides the seller with
1819 documentation of direct-pay authority, the purchaser is not
1820 required to provide a direct-mail form or delivery information
1821 to the seller. A purchaser of printed materials shall have sole
1822 responsibility for the taxes imposed by this chapter on those
1823 materials when the printer of the materials delivers them to the
1824 United States Postal Service for mailing to persons other than
1825 the purchaser located within and outside this state. Printers of
1826 materials delivered by mail to persons other than the purchaser
1827 located within and outside this state shall have no obligation

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1828 ~~or responsibility for the payment or collection of any taxes~~
1829 ~~imposed under this chapter on those materials. However, printers~~
1830 ~~are obligated to collect the taxes imposed by this chapter on~~
1831 ~~printed materials when all, or substantially all, of the~~
1832 ~~materials will be mailed to persons located within this state.~~
1833 ~~For purposes of the printer's tax collection obligation, there~~
1834 ~~is a rebuttable presumption that all materials printed at a~~
1835 ~~facility are mailed to persons located within the same state as~~
1836 ~~that in which the facility is located. A certificate provided by~~
1837 ~~the purchaser to the printer concerning the delivery of the~~
1838 ~~printed materials for that purchase or all purchases shall be~~
1839 ~~sufficient for purposes of rebutting the presumption created~~
1840 ~~herein.~~

1841 5.2. The Department of Revenue is authorized to adopt rules
1842 and forms to implement the provisions of this paragraph.

1843 (5) (a) ~~1. Except as provided in subparagraph 2., It is not~~
1844 ~~the intention of This chapter does not to levy a tax upon~~
1845 ~~tangible personal property imported, produced, or manufactured~~
1846 ~~in this state for export if, provided that tangible personal~~
1847 ~~property may not be considered as being imported, produced, or~~
1848 ~~manufactured for export unless the importer, producer, or~~
1849 ~~manufacturer:~~

1850 1. Delivers the tangible personal property ~~same~~ to a
1851 licensed exporter for exporting or to a common carrier for
1852 shipment outside the state or mails the same by United States
1853 mail to a destination outside the state; ~~or, in the case of~~
1854 ~~aircraft being exported under their own power to a destination~~
1855 ~~outside the continental limits of the United States, by~~
1856 ~~submission~~

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1857 2. Submits to the department of a duly signed and validated
1858 United States customs declaration, showing the departure of an
1859 ~~the~~ aircraft from the continental United States and; ~~and further~~
1860 ~~with respect to aircraft,~~ the canceled United States registry of
1861 the said aircraft for an aircraft that is exported under its own
1862 power to a destination outside of the continental United States;
1863 ~~or in the case of~~

1864 3. Submits documentation as required by rule to the
1865 department showing the departure of an aircraft of foreign
1866 registry from the continental United States on which parts and
1867 equipment have been installed on aircraft of foreign registry,
1868 ~~by submission to the department of documentation, the extent of~~
1869 ~~which shall be provided by rule, showing the departure of the~~
1870 ~~aircraft from the continental United States; or nor is it the~~
1871 ~~intention of this chapter to levy a tax on any sale which~~

1872 4. The state is prohibited from taxing the sale under the
1873 Constitution or laws of the United States.

1874
1875 Every retail sale made to a person physically present at the
1876 time of sale shall be presumed to have been delivered in this
1877 state.

1878 ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~
1879 ~~each sale of tangible personal property to be transported to a~~
1880 ~~cooperating state as defined in sub-subparagraph c., at the rate~~
1881 ~~specified in sub-subparagraph d. However, a Florida dealer will~~
1882 ~~be relieved from the requirements of collecting taxes pursuant~~
1883 ~~to this subparagraph if the Florida dealer obtains from the~~
1884 ~~purchaser an affidavit setting forth the purchaser's name,~~
1885 ~~address, state taxpayer identification number, and a statement~~

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1886 ~~that the purchaser is aware of his or her state's use tax laws,~~
1887 ~~is a registered dealer in Florida or another state, or is~~
1888 ~~purchasing the tangible personal property for resale or is~~
1889 ~~otherwise not required to pay the tax on the transaction. The~~
1890 ~~department may, by rule, provide a form to be used for the~~
1891 ~~purposes set forth herein.~~

1892 ~~b. For purposes of this subparagraph, "a cooperating state"~~
1893 ~~is one determined by the executive director of the department to~~
1894 ~~cooperate satisfactorily with this state in collecting taxes on~~
1895 ~~mail order sales. No state shall be so determined unless it~~
1896 ~~meets all the following minimum requirements:~~

1897 ~~(I) It levies and collects taxes on mail order sales of~~
1898 ~~property transported from that state to persons in this state,~~
1899 ~~as described in s. 212.0596, upon request of the department.~~

1900 ~~(II) The tax so collected shall be at the rate specified in~~
1901 ~~s. 212.05, not including any local option or tourist or~~
1902 ~~convention development taxes collected pursuant to s. 125.0104~~
1903 ~~or this chapter.~~

1904 ~~(III) Such state agrees to remit to the department all~~
1905 ~~taxes so collected no later than 30 days from the last day of~~
1906 ~~the calendar quarter following their collection.~~

1907 ~~(IV) Such state authorizes the department to audit dealers~~
1908 ~~within its jurisdiction who make mail order sales that are the~~
1909 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~
1910 ~~the department for auditing them with its own personnel.~~

1911 ~~(V) Such state agrees to provide to the department records~~
1912 ~~obtained by it from retailers or dealers in such state showing~~
1913 ~~delivery of tangible personal property into this state upon~~
1914 ~~which no sales or use tax has been paid in a manner similar to~~

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1915 ~~that provided in sub-subparagraph g.~~

1916 ~~e. For purposes of this subparagraph, "sales of tangible~~
1917 ~~personal property to be transported to a cooperating state"~~
1918 ~~means mail order sales to a person who is in the cooperating~~
1919 ~~state at the time the order is executed, from a dealer who~~
1920 ~~receives that order in this state.~~

1921 ~~d. The tax levied by sub-subparagraph a. shall be at the~~
1922 ~~rate at which such a sale would have been taxed pursuant to the~~
1923 ~~cooperating state's tax laws if consummated in the cooperating~~
1924 ~~state by a dealer and a purchaser, both of whom were physically~~
1925 ~~present in that state at the time of the sale.~~

1926 ~~e. The tax levied by sub-subparagraph a., when collected,~~
1927 ~~shall be held in the State Treasury in trust for the benefit of~~
1928 ~~the cooperating state and shall be paid to it at a time agreed~~
1929 ~~upon between the department, acting for this state, and the~~
1930 ~~cooperating state or the department or agency designated by it~~
1931 ~~to act for it; however, such payment shall in no event be made~~
1932 ~~later than 30 days from the last day of the calendar quarter~~
1933 ~~after the tax was collected. Funds held in trust for the benefit~~
1934 ~~of a cooperating state shall not be subject to the service~~
1935 ~~charges imposed by s. 215.20.~~

1936 ~~f. The department is authorized to perform such acts and to~~
1937 ~~provide such cooperation to a cooperating state with reference~~
1938 ~~to the tax levied by sub-subparagraph a. as is required of the~~
1939 ~~cooperating state by sub-subparagraph b.~~

1940 ~~g. In furtherance of this act, dealers selling tangible~~
1941 ~~personal property for delivery in another state shall make~~
1942 ~~available to the department, upon request of the department,~~
1943 ~~records of all tangible personal property so sold. Such records~~

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1944 ~~shall include a description of the property, the name and~~
1945 ~~address of the purchaser, the name and address of the person to~~
1946 ~~whom the property was sent, the purchase price of the property,~~
1947 ~~information regarding whether sales tax was paid in this state~~
1948 ~~on the purchase price, and such other information as the~~
1949 ~~department may by rule prescribe.~~

1950 (b)1. Notwithstanding the provisions of paragraph (a), it
1951 is not the intention of this chapter to levy a tax on the sale
1952 of tangible personal property to a nonresident dealer who does
1953 not hold a Florida sales tax registration, provided such
1954 nonresident dealer furnishes the seller a statement declaring
1955 that the tangible personal property will be transported outside
1956 this state by the nonresident dealer for resale and for no other
1957 purpose. The statement shall include, but not be limited to, the
1958 nonresident dealer's name, address, applicable passport or visa
1959 number, arrival-departure card number, and evidence of authority
1960 to do business in the nonresident dealer's home state or
1961 country, such as his or her business name and address,
1962 occupational license number, if applicable, or any other
1963 suitable requirement. The statement shall be signed by the
1964 nonresident dealer and shall include the following sentence:
1965 "Under penalties of perjury, I declare that I have read the
1966 foregoing, and the facts alleged are true to the best of my
1967 knowledge and belief."

1968 2. The burden of proof of subparagraph 1. rests with the
1969 seller, who must retain the proper documentation to support the
1970 exempt sale. The exempt transaction is subject to verification
1971 by the department.

1972 (c) Notwithstanding the provisions of paragraph (a), it is

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1973 not the intention of this chapter to levy a tax on the sale by a
1974 printer to a nonresident print purchaser of material printed by
1975 that printer for that nonresident print purchaser when the print
1976 purchaser does not furnish the printer a resale certificate
1977 containing a sales tax registration number but does furnish to
1978 the printer a statement declaring that such material will be
1979 resold by the nonresident print purchaser.

1980 (17) This subsection shall be used to determine the
1981 location where a transaction occurs for purposes of applying the
1982 tax imposed by this chapter.

1983 (a) For purposes of this subsection, the terms "receive"
1984 and "receipt" mean:

- 1985 1. Taking possession of tangible personal property;
1986 2. Making first use of services; or
1987 3. Taking possession or making first use of digital goods,
1988 whichever occurs first.

1989
1990 The terms do not include possession by a shipping company on
1991 behalf of the purchaser.

1992 (b) For purposes of this subsection, the term "product"
1993 means tangible personal property, a digital good, or a service.

1994 (c) This section does not apply to the sales or use taxes
1995 levied on:

- 1996 1. The retail sale or transfer of a boat, modular home,
1997 manufactured home, or mobile home.
1998 2. The retail sale, excluding a lease or rental, of a motor
1999 vehicle or aircraft that does not qualify as transportation
2000 equipment, as defined in paragraph (g). The lease or rental of
2001 these items shall be deemed to have occurred in accordance with

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2002 paragraph (f).

2003 3. The retail sale of tangible personal property by a
2004 florist.

2005
2006 Such retail sales are deemed to take place at the location
2007 determined under s. 212.054(4).

2008 (d) The retail sale of a product, excluding a lease or
2009 rental, shall be deemed to take place:

2010 1. When the product is received by the purchaser at a
2011 business location of the seller, at that business location;

2012 2. When the product is not received by the purchaser at a
2013 business location of the seller, at the location where receipt
2014 by the purchaser, or the purchaser's donee, designated as such
2015 by the purchaser, including the location indicated by
2016 instructions for delivery to the purchaser or donee, known to
2017 the seller;

2018 3. When subparagraphs 1. and 2. do not apply, at the
2019 location indicated by an address for the purchaser which is
2020 available from the business records of the seller which are
2021 maintained in the ordinary course of the seller's business, if
2022 use of this address does not constitute bad faith;

2023 4. When subparagraphs 1., 2., and 3. do not apply, at the
2024 location indicated by an address for the purchaser obtained
2025 during the consummation of the sale, including the address of a
2026 purchaser's payment instrument, if no other address is
2027 available, if use of this address does not constitute bad faith;
2028 or

2029 5. When subparagraphs 1., 2., 3., and 4. do not apply,
2030 including when the seller is without sufficient information to

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2031 apply the previous paragraphs, the address from which tangible
2032 personal property was shipped, from which the digital good or
2033 the computer software delivered electronically was first
2034 available for transmission by the seller, or from which the
2035 service was provided, disregarding any location that merely
2036 provided the digital transfer of the product sold.

2037 (e) The lease or rental of tangible personal property,
2038 other than property identified in paragraphs (f) and (g), shall
2039 be deemed to have occurred as follows:

2040 1. For a lease or rental that requires recurring periodic
2041 payments, the first periodic payment is deemed to take place in
2042 accordance with paragraph (d), notwithstanding the exclusion of
2043 lease or rental in paragraph (d). Subsequent periodic payments
2044 are deemed to have occurred at the primary property location for
2045 each period covered by the payment. The primary property
2046 location is determined by an address for the property provided
2047 by the lessee which is available to the lessor from its records
2048 maintained in the ordinary course of business, if use of this
2049 address does not constitute bad faith. The property location is
2050 not altered by intermittent use of the property at different
2051 locations, such as use of business property that accompanies
2052 employees on business trips and service calls.

2053 2. For a lease or rental that does not require recurring
2054 periodic payments, the payment is deemed to take place in
2055 accordance with paragraph (d), notwithstanding the exclusion of
2056 a lease or rental in paragraph (d).

2057 3. This paragraph does not affect the imposition or
2058 computation of sales or use tax on leases or rentals based on a
2059 lump sum or accelerated basis or on the acquisition of property

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2060 for lease.

2061 (f) The lease or rental of a motor vehicle or aircraft that
2062 does not qualify as transportation equipment, as defined in
2063 paragraph (g), shall be sourced as follows:

2064 1. For a lease or rental that requires recurring periodic
2065 payments, each periodic payment is deemed to take place at the
2066 primary property location. The primary property location shall
2067 be determined by an address for the property provided by the
2068 lessee which is available to the lessor from its records
2069 maintained in the ordinary course of business, if use of this
2070 address does not constitute bad faith. This location may not be
2071 altered by intermittent use at different locations.

2072 2. For a lease or rental that does not require recurring
2073 periodic payments, the payment is deemed to take place in
2074 accordance with paragraph (d), notwithstanding the exclusion of
2075 a lease or rental in paragraph (d).

2076 3. This paragraph does not affect the imposition or
2077 computation of sales or use tax on leases or rentals based on a
2078 lump sum or accelerated basis or on the acquisition of property
2079 for lease.

2080 (g) The retail sale, including a lease or rental, of
2081 transportation equipment shall be deemed to take place in
2082 accordance with paragraph (d), notwithstanding the exclusion of
2083 a lease or rental in paragraph (d). The term "transportation
2084 equipment" means:

2085 1. Locomotives and rail cars that are used for the carriage
2086 of persons or property in interstate commerce;

2087 2. Trucks and truck tractors with a Gross Vehicle Weight
2088 Rating (GVWR) of 10,001 pounds or greater, trailers,

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2089 semitrailers, or passenger buses that are registered through the
2090 International Registration Plan and operated under authority of
2091 a carrier authorized and certificated by the United States
2092 Department of Transportation or another federal authority to
2093 engage in the carriage of persons or property in interstate
2094 commerce;

2095 3. Aircraft that are operated by air carriers authorized
2096 and certificated by the United States Department of
2097 Transportation or another federal or a foreign authority to
2098 engage in the carriage of persons or property in interstate or
2099 foreign commerce; or

2100 4. Containers designed for use on and component parts
2101 attached or secured on the items set forth in subparagraphs 1.
2102 through 3.

2103 Section 9. Paragraph (c) of subsection (1) of section
2104 212.07, Florida Statutes, is amended, and subsection (10) is
2105 added that section, to read:

2106 212.07 Sales, storage, use tax; tax added to purchase
2107 price; dealer not to absorb; liability of purchasers who cannot
2108 prove payment of the tax; penalties; general exemptions.-

2109 (1)

2110 (c) Unless the purchaser of tangible personal property that
2111 is incorporated into tangible personal property manufactured,
2112 produced, compounded, processed, or fabricated for one's own use
2113 and subject to the tax imposed under s. 212.06(1)(b) or is
2114 purchased for export under s. 212.06(5)(a) ~~s. 212.06(5)(a)1.~~
2115 extends a certificate in compliance with the rules of the
2116 department, the dealer shall himself or herself be liable for
2117 and pay the tax.

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2118 (10) (a) The executive director is authorized to maintain
2119 and publish a taxability matrix in a downloadable format that
2120 has been approved by the governing board of the Streamlined
2121 Sales and Use Tax Agreement.

2122 (b) The state shall provide notice of changes to the
2123 taxability of the products or services listed in the taxability
2124 matrix.

2125 (c) A seller or certified service provider who collects and
2126 remits the state and local tax imposed by this chapter shall be
2127 held harmless from tax, interest, and penalties for having
2128 charged and collected the incorrect amount of sales or use tax
2129 due solely as a result of relying on erroneous data provided by
2130 the state in the taxability matrix.

2131 (d) A purchaser shall be held harmless from penalties for
2132 having failed to pay the correct amount of sales or use tax due
2133 solely as a result of any of the following circumstances:

2134 1. The seller or certified service provider relied on
2135 erroneous data provided by the state in the taxability matrix
2136 completed by the state;

2137 2. A purchaser relied on erroneous data provided by the
2138 state in the taxability matrix completed by the state; or

2139 3. A purchaser holding a direct-pay permit relied on
2140 erroneous data provided by the state in the taxability matrix
2141 completed by the state.

2142 (e) A purchaser shall be held harmless from tax and
2143 interest for having failed to pay the correct amount of sales or
2144 use tax due solely as a result of the state's erroneous
2145 classification in the taxability matrix of terms included in the
2146 library of definitions as "taxable" or "exempt," "included in

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2147 sales price" or "excluded from sales price," or "included in the
2148 definition" or "excluded from the definition."

2149 Section 10. Subsections (1) and (2) and paragraphs (b) and
2150 (c) of subsection (17) of section 212.08, Florida Statutes, are
2151 amended to read:

2152 212.08 Sales, rental, use, consumption, distribution, and
2153 storage tax; specified exemptions.—The sale at retail, the
2154 rental, the use, the consumption, the distribution, and the
2155 storage to be used or consumed in this state of the following
2156 are hereby specifically exempt from the tax imposed by this
2157 chapter.

2158 (1) EXEMPTIONS; GENERAL GROCERIES.—

2159 (a) Food and food ingredients ~~products~~ for human
2160 consumption are exempt from the tax imposed by this chapter.

2161 (b) For the purpose of this chapter, as used in this
2162 subsection, the term "food and food ingredients ~~products~~" means
2163 substances, whether in liquid, concentrated, solid, frozen,
2164 dried, or dehydrated form, which are sold for ingestion or
2165 chewing by humans and are consumed for their taste or
2166 nutritional value ~~edible commodities, whether processed, cooked,~~
2167 ~~raw, canned, or in any other form, which are generally regarded~~
2168 ~~as food~~. This includes, but is not limited to, all of the
2169 following:

2170 1. ~~Cereals and cereal products, baked goods, oleomargarine,~~
2171 ~~meat and meat products, fish and seafood products, frozen foods~~
2172 ~~and dinners, poultry, eggs and egg products, vegetables and~~
2173 ~~vegetable products, fruit and fruit products, spices, salt,~~
2174 ~~sugar and sugar products, milk and dairy products, and products~~
2175 ~~intended to be mixed with milk.~~

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2176 ~~2. Natural fruit or vegetable juices or their concentrates~~
2177 ~~or reconstituted natural concentrated fruit or vegetable juices,~~
2178 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
2179 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
2180 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~
2181 ~~unless it is sold in a liquid form.~~

2182 ~~1.3.~~ Bakery products sold by bakeries, pastry shops, or
2183 like establishments, if sold without eating utensils. For
2184 purposes of this subparagraph, bakery products include bread,
2185 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,
2186 danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and
2187 tortillas that do not have eating facilities.

2188 2. Dietary supplements. The term "dietary supplements"
2189 means any product, other than tobacco, intended to supplement
2190 the diet which contains one or more of the following dietary
2191 ingredients: a vitamin; a mineral; an herb or other botanical;
2192 an amino acid; a dietary substance for use by humans to
2193 supplement the diet by increasing the total dietary intake; or a
2194 concentrate, metabolite, constituent, extract, or combination of
2195 any ingredient described in this subparagraph which is intended
2196 for ingestion in tablet, capsule, powder, softgel, gelcap, or
2197 liquid form or, if not intended for ingestion in such a form, is
2198 not represented as conventional food and is not represented for
2199 use as a sole item of a meal or of the diet, and which is
2200 required to be labeled as a dietary supplement, identifiable by
2201 the supplemental facts panel found on the label and as required
2202 pursuant to 21 C.F.R. s. 101.36.

2203 (c) The exemption provided by this subsection does not
2204 apply:

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2205 ~~1. When the food products are sold as meals for consumption~~
2206 ~~on or off the premises of the dealer.~~

2207 ~~2. When the food products are furnished, prepared, or~~
2208 ~~served for consumption at tables, chairs, or counters or from~~
2209 ~~trays, glasses, dishes, or other tableware, whether provided by~~
2210 ~~the dealer or by a person with whom the dealer contracts to~~
2211 ~~furnish, prepare, or serve food products to others.~~

2212 ~~3. When the food products are ordinarily sold for immediate~~
2213 ~~consumption on the seller's premises or near a location at which~~
2214 ~~parking facilities are provided primarily for the use of patrons~~
2215 ~~in consuming the products purchased at the location, even though~~
2216 ~~such products are sold on a "take out" or "to go" order and are~~
2217 ~~actually packaged or wrapped and taken from the premises of the~~
2218 ~~dealer.~~

2219 ~~4. To sandwiches sold ready for immediate consumption on or~~
2220 ~~off the seller's premises.~~

2221 ~~5. When the food products are sold ready for immediate~~
2222 ~~consumption within a place, the entrance to which is subject to~~
2223 ~~an admission charge.~~

2224 1.6. To food and food ingredients sold as prepared food.

2225 The term "prepared food" means:

2226 a. Food sold in a heated state or heated by the seller;

2227 b. Two or more food ingredients mixed or combined by the
2228 seller for sale as a single item; or

2229 c. Food sold with eating utensils provided by the seller,
2230 including plates, knives, forks, spoons, glasses, cups, napkins,
2231 or straws. A plate does not include a container or packaging
2232 used to transport food. Prepared food does not include food that
2233 is only cut, repackaged, or pasteurized by the seller, eggs,

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2234 fish, meat, poultry, and foods containing these raw animal foods
2235 requiring cooking by the consumer as recommended by the Food and
2236 Drug Administration in chapter 3, part 4011 of its food code so
2237 as to prevent food-borne illness. ~~When the food products are~~
2238 ~~sold as hot prepared food products.~~

2239 ~~2.7. To soft drinks, which include, but are not limited to,~~
2240 ~~any nonalcoholic beverage, any preparation or beverage commonly~~
2241 ~~referred to as a "soft drink," or any noncarbonated drink made~~
2242 ~~from milk derivatives or tea, when sold in cans or similar~~
2243 ~~containers.~~ The term "soft drinks" means nonalcoholic beverages
2244 that contain natural or artificial sweeteners. Soft drinks do
2245 not include beverages that contain milk or milk products, soy,
2246 rice, or similar milk substitutes, or greater than 50 percent of
2247 vegetable or fruit juice by volume.

2248 ~~8. To ice cream, frozen yogurt, and similar frozen dairy or~~
2249 ~~nondairy products in cones, small cups, or pints, popsicles,~~
2250 ~~frozen fruit bars, or other novelty items, whether or not sold~~
2251 ~~separately.~~

2252 ~~9. To food prepared, whether on or off the premises, and~~
2253 ~~sold for immediate consumption. This does not apply to food~~
2254 ~~prepared off the premises and sold in the original sealed~~
2255 ~~container, or the slicing of products into smaller portions.~~

2256 ~~3.10. When the food and food ingredients products are sold~~
2257 ~~through a vending machine, pushcart, motor vehicle, or any other~~
2258 ~~form of vehicle.~~

2259 ~~4.11. To candy and any similar product regarded as candy or~~
2260 ~~confection, based on its normal use, as indicated on the label~~
2261 ~~or advertising thereof.~~ The term "candy" means a preparation of
2262 sugar, honey, or other natural or artificial sweeteners in

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2263 combination with chocolate, fruits, nuts, or other ingredients
2264 or flavorings in the form of bars, drops, or pieces. Candy does
2265 not include any preparation that contains flour and does not
2266 require refrigeration.

2267 5. To tobacco.

2268 ~~12. To bakery products sold by bakeries, pastry shops, or~~
2269 ~~like establishments that have eating facilities, except when~~
2270 ~~sold for consumption off the seller's premises.~~

2271 ~~13. When food products are served, prepared, or sold in or~~
2272 ~~by restaurants, lunch counters, cafeterias, hotels, taverns, or~~
2273 ~~other like places of business.~~

2274 ~~(d) As used in this subsection, the term:~~

2275 ~~1. "For consumption off the seller's premises" means that~~
2276 ~~the food or drink is intended by the customer to be consumed at~~
2277 ~~a place away from the dealer's premises.~~

2278 ~~2. "For consumption on the seller's premises" means that~~
2279 ~~the food or drink sold may be immediately consumed on the~~
2280 ~~premises where the dealer conducts his or her business. In~~
2281 ~~determining whether an item of food is sold for immediate~~
2282 ~~consumption, there shall be considered the customary consumption~~
2283 ~~practices prevailing at the selling facility.~~

2284 ~~3. "Premises" shall be construed broadly, and means, but is~~
2285 ~~not limited to, the lobby, aisle, or auditorium of a theater;~~
2286 ~~the seating, aisle, or parking area of an arena, rink, or~~
2287 ~~stadium; or the parking area of a drive-in or outdoor theater.~~
2288 ~~The premises of a caterer with respect to catered meals or~~
2289 ~~beverages shall be the place where such meals or beverages are~~
2290 ~~served.~~

2291 ~~4. "Hot prepared food products" means those products,~~

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2292 ~~items, or components which have been prepared for sale in a~~
 2293 ~~heated condition and which are sold at any temperature that is~~
 2294 ~~higher than the air temperature of the room or place where they~~
 2295 ~~are sold. "Hot prepared food products," for the purposes of this~~
 2296 ~~subsection, includes a combination of hot and cold food items or~~
 2297 ~~components where a single price has been established for the~~
 2298 ~~combination and the food products are sold in such combination,~~
 2299 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~
 2300 ~~sandwich or hot pizza, including cold components or side items.~~

2301 (d)~~(e)~~1. Food or drinks not exempt under paragraphs (a),
 2302 (b), and (c), ~~and (d)~~ shall be exempt, notwithstanding those
 2303 paragraphs, when purchased with food coupons or Special
 2304 Supplemental Food Program for Women, Infants, and Children
 2305 vouchers issued under authority of federal law.

2306 2. This paragraph is effective only while federal law
 2307 prohibits a state's participation in the federal food coupon
 2308 program or Special Supplemental Food Program for Women, Infants,
 2309 and Children if there is an official determination that state or
 2310 local sales taxes are collected within that state on purchases
 2311 of food or drinks with such coupons.

2312 3. This paragraph does ~~shall~~ not apply to any food or
 2313 drinks on which federal law permits ~~shall permit~~ sales taxes
 2314 without penalty, such as termination of the state's
 2315 participation.

2316 (e) Dietary supplements that are sold as prepared food are
 2317 not exempt.

2318 (2) EXEMPTIONS; MEDICAL.—

2319 (a) There shall be exempt from the tax imposed by this
 2320 chapter:

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- 2321 1. Drugs.
- 2322 2. Durable medical equipment, mobility-enhancing equipment,
 2323 or prosthetic devices ~~any medical products and supplies or~~
 2324 ~~medicine~~ dispensed according to an individual prescription or
 2325 prescriptions. ~~written by a prescriber authorized by law to~~
 2326 ~~prescribe medicinal drugs;~~
- 2327 3. Hypodermic needles. ~~hypodermic syringes;~~
- 2328 4. Chemical compounds and test kits used for the diagnosis
 2329 or treatment of human disease, illness, or injury and intended
 2330 for one-time use. ~~;~~
- 2331 5. Over-the-counter drugs ~~and common household remedies~~
 2332 ~~recommended and generally sold for internal or external use in~~
 2333 ~~the cure, mitigation, treatment, or prevention of illness or~~
 2334 ~~disease in human beings, but not including grooming and hygiene~~
 2335 ~~products.~~
- 2336 6. Band-aids, gauze, bandages, and adhesive tape.
- 2337 7. Funerals. However, tangible personal property used by
 2338 funeral directors in their business is taxable. ~~cosmetics or~~
 2339 ~~toilet articles, notwithstanding the presence of medicinal~~
 2340 ~~ingredients therein, according to a list prescribed and approved~~
 2341 ~~by the Department of Health, which list shall be certified to~~
 2342 ~~the Department of Revenue from time to time and included in the~~
 2343 ~~rules promulgated by the Department of Revenue. There shall also~~
 2344 ~~be exempt from the tax imposed by this chapter artificial eyes~~
 2345 ~~and limbs; orthopedic shoes; prescription eyeglasses and items~~
 2346 ~~incidental thereto or which become a part thereof; dentures;~~
 2347 ~~hearing aids; crutches; prosthetic and orthopedic appliances;~~
 2348 ~~and funerals. In addition, any~~
- 2349 8. Items intended for one-time use which transfer essential

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2350 optical characteristics to contact lenses. ~~shall be exempt from~~
2351 ~~the tax imposed by this chapter;~~ However, this exemption applies
2352 ~~shall apply only~~ after \$100,000 of the tax imposed by this
2353 chapter on such items has been paid in any calendar year by a
2354 taxpayer who claims the exemption in such year. ~~Funeral~~
2355 ~~directors shall pay tax on all tangible personal property used~~
2356 ~~by them in their business.~~

2357 (b) For the purposes of this subsection, the term:

2358 1. "Drug" means a compound, substance, or preparation, and
2359 any component of a compound, substance, or preparation, other
2360 than food and food ingredients, dietary supplements, and
2361 alcoholic beverages, which is:

2362 a. Recognized in the official United States Pharmacopoeia,
2363 official Homeopathic Pharmacopoeia of the United States, or
2364 official National Formulary, or the supplement to any of them;

2365 b. Intended for use in the diagnosis, cure, mitigation,
2366 treatment, or prevention of disease; or

2367 c. Intended to affect the structure or any function of the
2368 body.

2369 2. "Durable medical equipment" means equipment, including
2370 repair and replacement parts to such equipment, but excluding
2371 mobility-enhancing equipment, which can withstand repeated use,
2372 is primarily and customarily used to serve a medical purpose,
2373 generally is not useful to a person in the absence of illness or
2374 injury, and is not worn on or in the body.

2375 3. "Mobility-enhancing equipment" means equipment,
2376 including repair and replacement parts to such equipment, but
2377 excluding durable medical equipment, which:

2378 a. Is primarily and customarily used to provide or increase

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2379 the ability to move from one place to another and which is
2380 appropriate for use in a home or a motor vehicle.

2381 b. Is not generally used by persons with normal mobility.

2382 c. Does not include any motor vehicle or any equipment on a
2383 motor vehicle normally provided by a motor vehicle manufacturer.

2384 4. "Prosthetic device" means a replacement, corrective, or
2385 supportive device, including repair or replacement parts to such
2386 equipment, which is worn on or in the body to:

2387 a. Artificially replace a missing portion of the body;

2388 b. Prevent or correct physical deformity or malfunction; or

2389 c. Support a weak or deformed portion of the body.

2390 5. "Grooming and hygiene products" mean soaps and cleaning
2391 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and
2392 suntan lotions and screens, regardless of whether the items meet
2393 the definition of an over-the-counter drug.

2394 6. "Over-the-counter drug" means a drug the packaging for
2395 which contains a label that identifies the product as a drug as
2396 required by 21 C.F.R. s. 201.66. The over-the-counter drug label
2397 includes a drug-facts panel or a statement of the active
2398 ingredients, with a list of those ingredients contained in the
2399 compound, substance, or preparation. ~~"Prosthetic and orthopedic~~
2400 appliances" means any apparatus, instrument, device, or
2401 equipment used to replace or substitute for any missing part of
2402 the body, to alleviate the malfunction of any part of the body,
2403 or to assist any disabled person in leading a normal life by
2404 facilitating such person's mobility. Such apparatus, instrument,
2405 device, or equipment shall be exempted according to an
2406 individual prescription or prescriptions written by a physician
2407 licensed under chapter 458, chapter 459, chapter 460, chapter

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2408 ~~461, or chapter 466, or according to a list prescribed and~~
2409 ~~approved by the Department of Health, which list shall be~~
2410 ~~certified to the Department of Revenue from time to time and~~
2411 ~~included in the rules promulgated by the Department of Revenue.~~

2412 ~~2. "Cosmetics" means articles intended to be rubbed,~~
2413 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
2414 ~~applied to the human body for cleansing, beautifying, promoting~~
2415 ~~attractiveness, or altering the appearance and also means~~
2416 ~~articles intended for use as a compound of any such articles,~~
2417 ~~including, but not limited to, cold creams, suntan lotions,~~
2418 ~~makeup, and body lotions.~~

2419 ~~3. "Toilet articles" means any article advertised or held~~
2420 ~~out for sale for grooming purposes and those articles that are~~
2421 ~~customarily used for grooming purposes, regardless of the name~~
2422 ~~by which they may be known, including, but not limited to, soap,~~
2423 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~
2424 ~~shampoo, deodorant, and mouthwash.~~

2425 7.4. "Prescription" means an order, formula, or recipe
2426 issued in any form of oral, written, electronic, or other means
2427 of transmission by a practitioner licensed under chapter 458,
2428 chapter 459, chapter 460, chapter 461, or chapter 466. The term
2429 also includes an orally transmitted order by the lawfully
2430 designated agent of such practitioner. The term also includes an
2431 order written or transmitted by a practitioner licensed to
2432 practice in a jurisdiction other than this state, but only if
2433 the pharmacist called upon to dispense the order determines, in
2434 the exercise of his or her professional judgment, that the order
2435 is valid and necessary for the treatment of a chronic or
2436 recurrent illness. ~~includes any order for drugs or medicinal~~

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2437 ~~supplies written or transmitted by any means of communication by~~
2438 ~~a duly licensed practitioner authorized by the laws of the state~~
2439 ~~to prescribe such drugs or medicinal supplies and intended to be~~
2440 ~~dispensed by a pharmacist. The term also includes an orally~~
2441 ~~transmitted order by the lawfully designated agent of such~~
2442 ~~practitioner. The term also includes an order written or~~
2443 ~~transmitted by a practitioner licensed to practice in a~~
2444 ~~jurisdiction other than this state, but only if the pharmacist~~
2445 ~~called upon to dispense such order determines, in the exercise~~
2446 ~~of his or her professional judgment, that the order is valid and~~
2447 ~~necessary for the treatment of a chronic or recurrent illness.~~
2448 ~~The term also includes a pharmacist's order for a product~~
2449 ~~selected from the formulary created pursuant to s. 465.186. A~~
2450 ~~prescription may be retained in written form, or the pharmacist~~
2451 ~~may cause it to be recorded in a data processing system,~~
2452 ~~provided that such order can be produced in printed form upon~~
2453 ~~lawful request.~~

2454 (c) Chlorine is ~~shall~~ not be exempt from the tax imposed by
2455 this chapter when used for the treatment of water in swimming
2456 pools.

2457 ~~(d) Lithotripters are exempt.~~

2458 ~~(d)-(e)~~ Human organs are exempt.

2459 ~~(f) Sales of drugs to or by physicians, dentists,~~
2460 ~~veterinarians, and hospitals in connection with medical~~
2461 ~~treatment are exempt.~~

2462 ~~(g) Medical products and supplies used in the cure,~~
2463 ~~mitigation, alleviation, prevention, or treatment of injury,~~
2464 ~~disease, or incapacity which are temporarily or permanently~~
2465 ~~incorporated into a patient or client by a practitioner of the~~

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2466 ~~healing arts licensed in the state are exempt.~~

2467 ~~(h) The purchase by a veterinarian of commonly recognized~~
 2468 ~~substances possessing curative or remedial properties which are~~
 2469 ~~ordered and dispensed as treatment for a diagnosed health~~
 2470 ~~disorder by or on the prescription of a duly licensed~~
 2471 ~~veterinarian, and which are applied to or consumed by animals~~
 2472 ~~for alleviation of pain or the cure or prevention of sickness,~~
 2473 ~~disease, or suffering are exempt. Also exempt are the purchase~~
 2474 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~
 2475 ~~bandages, lotions, vitamins, and worm remedies.~~

2476 ~~(i) X-ray opaques, also known as opaque drugs and~~
 2477 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~
 2478 ~~when used in connection with medical X rays for treatment of~~
 2479 ~~bodies of humans and animals, are exempt.~~

2480 ~~(e)-(j)~~ Parts, special attachments, special lettering, and
 2481 other like items that are added to or attached to tangible
 2482 personal property so that a handicapped person can use them are
 2483 exempt when such items are purchased by a person pursuant to an
 2484 individual prescription.

2485 ~~(f)-(k)~~ This subsection shall be strictly construed and
 2486 enforced.

2487 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

2488 (b) As used in this subsection, the term "overhead
 2489 materials" means all tangible personal property, other than
 2490 qualifying property as defined in s. 212.02(33)(a) ~~s.~~
 2491 ~~212.02(14)(a)~~ and electricity, which is used or consumed in the
 2492 performance of a qualifying contract, title to which property
 2493 vests in or passes to the government under the contract.

2494 (c) As used in this subsection and in s. 212.02(33)(a) ~~s.~~

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2495 ~~212.02(14)(a)~~, the term "qualifying contract" means a contract
2496 with the United States Department of Defense or the National
2497 Aeronautics and Space Administration, or a subcontract
2498 thereunder, but does not include a contract or subcontract for
2499 the repair, alteration, improvement, or construction of real
2500 property, except to the extent that purchases under such a
2501 contract would otherwise be exempt from the tax imposed by this
2502 chapter.

2503 Section 11. Section 212.094, Florida Statutes, is created
2504 to read:

2505 212.094 Purchaser requests for refunds from dealers.-

2506 (1) If a purchaser seeks from a dealer a refund of or
2507 credit against a tax collected under this chapter by that
2508 dealer, the purchaser shall submit a written request for the
2509 refund or credit to the dealer in accordance with this section.
2510 The request must contain all the information necessary for the
2511 dealer to determine the validity of the purchaser's request.

2512 (2) The purchaser may not take any other action against the
2513 dealer with respect to the requested refund or credit until the
2514 dealer has had 60 days following receipt of a completed request
2515 in which to respond.

2516 (3) This section does not affect a person's standing to
2517 claim a refund.

2518 (4) This section does not apply to refunds resulting from
2519 merchandise returned by a customer to a dealer.

2520 Section 12. Section 212.12, Florida Statutes, is amended to
2521 read:

2522 212.12 Dealer's credit for collecting tax; penalties for
2523 noncompliance; powers of Department of Revenue in dealing with

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2524 delinquents; ~~brackets applicable to taxable transactions;~~
2525 records required.-

2526 (1) Notwithstanding any other provision of law and for the
2527 purpose of compensating persons granting licenses for and the
2528 lessors of real and personal property taxed hereunder, for the
2529 purpose of compensating dealers in tangible personal property,
2530 for the purpose of compensating dealers providing communication
2531 services and taxable services, for the purpose of compensating
2532 owners of places where admissions are collected, and for the
2533 purpose of compensating remitters of any taxes or fees reported
2534 on the same documents utilized for the sales and use tax, as
2535 compensation for the keeping of prescribed records, filing
2536 timely tax returns, and the proper accounting and remitting of
2537 taxes by them, such seller, person, lessor, dealer, owner, and
2538 remitter ~~(except dealers who make mail order sales)~~ shall be
2539 allowed 2.5 percent of the amount of the tax due and accounted
2540 for and remitted to the department, in the form of a deduction
2541 in submitting his or her report and paying the amount due by him
2542 or her; the department shall allow such deduction of 2.5 percent
2543 of the amount of the tax to the person paying the same for
2544 remitting the tax and making of tax returns in the manner herein
2545 provided, for paying the amount due to be paid by him or her,
2546 and as further compensation to dealers in tangible personal
2547 property for the keeping of prescribed records and for
2548 collection of taxes and remitting the same. However, if the
2549 amount of the tax due and remitted to the department for the
2550 reporting period exceeds \$1,200, no allowance shall be allowed
2551 for all amounts in excess of \$1,200. ~~The executive director of~~
2552 ~~the department is authorized to negotiate a collection~~

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2553 ~~allowance, pursuant to rules promulgated by the department, with~~
2554 ~~a dealer who makes mail order sales. The rules of the department~~
2555 ~~shall provide guidelines for establishing the collection~~
2556 ~~allowance based upon the dealer's estimated costs of collecting~~
2557 ~~the tax, the volume and value of the dealer's mail order sales~~
2558 ~~to purchasers in this state, and the administrative and legal~~
2559 ~~costs and likelihood of achieving collection of the tax absent~~
2560 ~~the cooperation of the dealer. However, in no event shall the~~
2561 ~~collection allowance negotiated by the executive director exceed~~
2562 ~~10 percent of the tax remitted for a reporting period.~~

2563 (a) The Department of Revenue may deny the collection
2564 allowance if a taxpayer files an incomplete return or if the
2565 required tax return or tax is delinquent at the time of payment.

2566 1. An "incomplete return" is, for purposes of this chapter,
2567 a return which is lacking such uniformity, completeness, and
2568 arrangement that the physical handling, verification, review of
2569 the return, or determination of other taxes and fees reported on
2570 the return may not be readily accomplished.

2571 2. The department shall adopt rules requiring such
2572 information as it may deem necessary to ensure that the tax
2573 levied hereunder is properly collected, reviewed, compiled,
2574 reported, and enforced, including, but not limited to: the
2575 amount of gross sales; the amount of taxable sales; the amount
2576 of tax collected or due; the amount of lawful refunds,
2577 deductions, or credits claimed; the amount claimed as the
2578 dealer's collection allowance; the amount of penalty and
2579 interest; the amount due with the return; and such other
2580 information as the Department of Revenue may specify. The
2581 department shall require that transient rentals and agricultural

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2582 equipment transactions be separately shown. Sales made through
2583 vending machines as defined in s. 212.0515 must be separately
2584 shown on the return. Sales made through coin-operated amusement
2585 machines as defined by s. 212.02 and the number of machines
2586 operated must be separately shown on the return or on a form
2587 prescribed by the department. If a separate form is required,
2588 the same penalties for late filing, incomplete filing, or
2589 failure to file as provided for the sales tax return shall apply
2590 to said form.

2591 (b) The collection allowance and other credits or
2592 deductions provided in this chapter shall be applied
2593 proportionally to any taxes or fees reported on the same
2594 documents used for the sales and use tax.

2595 (c)1. A dealer entitled to the collection allowance
2596 provided in this section may elect to forego the collection
2597 allowance and direct that said amount be transferred into the
2598 Educational Enhancement Trust Fund. Such an election must be
2599 made with the timely filing of a return and may not be rescinded
2600 once made. If a dealer who makes such an election files a
2601 delinquent return, underpays the tax, or files an incomplete
2602 return, the amount transferred into the Educational Enhancement
2603 Trust Fund shall be the amount of the collection allowance
2604 remaining after resolution of liability for all of the tax,
2605 interest, and penalty due on that return or underpayment of tax.
2606 The Department of Education shall distribute the remaining
2607 amount from the trust fund to the school districts that have
2608 adopted resolutions stating that those funds will be used to
2609 ensure that up-to-date technology is purchased for the
2610 classrooms in the district and that teachers are trained in the

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2611 use of that technology. Revenues collected in districts that do
2612 not adopt such a resolution shall be equally distributed to
2613 districts that have adopted such resolutions.

2614 2. This paragraph applies to all taxes, surtaxes, and any
2615 local option taxes administered under this chapter and remitted
2616 directly to the department. This paragraph does not apply to any
2617 locally imposed and self-administered convention development
2618 tax, tourist development tax, or tourist impact tax administered
2619 under this chapter.

2620 3. Revenues from the dealer-collection allowances shall be
2621 transferred quarterly from the General Revenue Fund to the
2622 Educational Enhancement Trust Fund. The Department of Revenue
2623 shall provide to the Department of Education quarterly
2624 information about such revenues by county to which the
2625 collection allowance was attributed.

2626
2627 Notwithstanding any provision of chapter 120 to the contrary,
2628 the Department of Revenue may adopt rules to carry out the
2629 amendment made by chapter 2006-52, Laws of Florida, to this
2630 section.

2631 (d) Notwithstanding paragraphs (a) and (b), a Model 1
2632 seller under the Streamlined Sales and Use Tax Agreement is not
2633 entitled to the collection allowance described in paragraphs (a)
2634 and (b).

2635 (e)1. In addition to any collection allowance that may be
2636 provided under this subsection, the department may provide the
2637 monetary allowances required to be provided by the state to
2638 certified service providers and voluntary sellers pursuant to
2639 Article VI of the Streamlined Sales and Use Tax Agreement, as

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2640 amended.

2641 2. Such monetary allowances must be in the form of
2642 collection allowances that certified service providers or
2643 voluntary sellers are permitted to retain from the tax revenues
2644 collected on remote sales to be remitted to the state pursuant
2645 to this chapter.

2646 3. For purposes of this paragraph, the term "voluntary
2647 seller" or "volunteer seller" means a seller that is not
2648 required to register in this state to collect a tax. The term
2649 "remote sales" means revenues generated by such a seller for
2650 this state for which the seller is not required to register to
2651 collect the tax imposed by this chapter.

2652 (2) (a) When any person required hereunder to make any
2653 return or to pay any tax or fee imposed by this chapter either
2654 fails to timely file such return or fails to pay the tax or fee
2655 shown due on the return within the time required hereunder, in
2656 addition to all other penalties provided herein and by the laws
2657 of this state in respect to such taxes or fees, a specific
2658 penalty shall be added to the tax or fee in the amount of 10
2659 percent of either the tax or fee shown on the return that is not
2660 timely filed or any tax or fee not paid timely. The penalty may
2661 not be less than \$50 for failure to timely file a tax return
2662 required by s. 212.11(1) or timely pay the tax or fee shown due
2663 on the return except as provided in s. 213.21(10). If a person
2664 fails to timely file a return required by s. 212.11(1) and to
2665 timely pay the tax or fee shown due on the return, only one
2666 penalty of 10 percent, which may not be less than \$50, shall be
2667 imposed.

2668 (b) When any person required under this section to make a

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2669 return or to pay a tax or fee imposed by this chapter fails to
2670 disclose the tax or fee on the return within the time required,
2671 excluding a noncompliant filing event generated by situations
2672 covered in paragraph (a), in addition to all other penalties
2673 provided in this section and by the laws of this state in
2674 respect to such taxes or fees, a specific penalty shall be added
2675 to the additional tax or fee owed in the amount of 10 percent of
2676 any such unpaid tax or fee not paid timely if the failure is for
2677 not more than 30 days, with an additional 10 percent of any such
2678 unpaid tax or fee for each additional 30 days, or fraction
2679 thereof, while the failure continues, not to exceed a total
2680 penalty of 50 percent, in the aggregate, of any unpaid tax or
2681 fee.

2682 (c) Any person who knowingly and with a willful intent to
2683 evade any tax imposed under this chapter fails to file six
2684 consecutive returns as required by law commits a felony of the
2685 third degree, punishable as provided in s. 775.082 or s.
2686 775.083.

2687 (d) Any person who makes a false or fraudulent return with
2688 a willful intent to evade payment of any tax or fee imposed
2689 under this chapter; any person who, after the department's
2690 delivery of a written notice to the person's last known address
2691 specifically alerting the person of the requirement to register
2692 the person's business as a dealer, intentionally fails to
2693 register the business; and any person who, after the
2694 department's delivery of a written notice to the person's last
2695 known address specifically alerting the person of the
2696 requirement to collect tax on specific transactions,
2697 intentionally fails to collect such tax, shall, in addition to

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2698 the other penalties provided by law, be liable for a specific
2699 penalty of 100 percent of any unreported or any uncollected tax
2700 or fee and, upon conviction, for fine and punishment as provided
2701 in s. 775.082, s. 775.083, or s. 775.084. Delivery of written
2702 notice may be made by certified mail, or by the use of such
2703 other method as is documented as being necessary and reasonable
2704 under the circumstances. The civil and criminal penalties
2705 imposed herein for failure to comply with a written notice
2706 alerting the person of the requirement to register the person's
2707 business as a dealer or to collect tax on specific transactions
2708 shall not apply if the person timely files a written challenge
2709 to such notice in accordance with procedures established by the
2710 department by rule or the notice fails to clearly advise that
2711 failure to comply with or timely challenge the notice will
2712 result in the imposition of the civil and criminal penalties
2713 imposed herein.

2714 1. If the total amount of unreported or uncollected taxes
2715 or fees is less than \$300, the first offense resulting in
2716 conviction is a misdemeanor of the second degree, the second
2717 offense resulting in conviction is a misdemeanor of the first
2718 degree, and the third and all subsequent offenses resulting in
2719 conviction is a misdemeanor of the first degree, and the third
2720 and all subsequent offenses resulting in conviction are felonies
2721 of the third degree.

2722 2. If the total amount of unreported or uncollected taxes
2723 or fees is \$300 or more but less than \$20,000, the offense is a
2724 felony of the third degree.

2725 3. If the total amount of unreported or uncollected taxes
2726 or fees is \$20,000 or more but less than \$100,000, the offense

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2727 is a felony of the second degree.

2728 4. If the total amount of unreported or uncollected taxes
2729 or fees is \$100,000 or more, the offense is a felony of the
2730 first degree.

2731 (e) A person who willfully attempts in any manner to evade
2732 any tax, surcharge, or fee imposed under this chapter or the
2733 payment thereof is, in addition to any other penalties provided
2734 by law, liable for a specific penalty in the amount of 100
2735 percent of the tax, surcharge, or fee, and commits a felony of
2736 the third degree, punishable as provided in s. 775.082, s.
2737 775.083, or s. 775.084.

2738 (f) When any person, firm, or corporation fails to timely
2739 remit the proper estimated payment required under s. 212.11, a
2740 specific penalty shall be added in an amount equal to 10 percent
2741 of any unpaid estimated tax. Beginning with January 1, 1985,
2742 returns, the department, upon a showing of reasonable cause, is
2743 authorized to waive or compromise penalties imposed by this
2744 paragraph. However, other penalties and interest shall be due
2745 and payable if the return on which the estimated payment was due
2746 was not timely or properly filed.

2747 (g) A dealer who files a consolidated return pursuant to s.
2748 212.11(1)(e) is subject to the penalty established in paragraph
2749 (e) unless the dealer has paid the required estimated tax for
2750 his or her consolidated return as a whole without regard to each
2751 location. If the dealer fails to pay the required estimated tax
2752 for his or her consolidated return as a whole, each filing
2753 location shall stand on its own with respect to calculating
2754 penalties pursuant to paragraph (f).

2755 (3) When any dealer, or other person charged herein, fails

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2756 to remit the tax, or any portion thereof, on or before the day
2757 when such tax is required by law to be paid, there shall be
2758 added to the amount due interest at the rate of 1 percent per
2759 month of the amount due from the date due until paid. Interest
2760 on the delinquent tax shall be calculated beginning on the 21st
2761 day of the month following the month for which the tax is due,
2762 except as otherwise provided in this chapter.

2763 (4) All penalties and interest imposed by this chapter
2764 shall be payable to and collectible by the department in the
2765 same manner as if they were a part of the tax imposed. The
2766 department may settle or compromise any such interest or
2767 penalties pursuant to s. 213.21.

2768 (5) (a) The department is authorized to audit or inspect the
2769 records and accounts of dealers defined herein, ~~including audits~~
2770 ~~or inspections of dealers who make mail order sales to the~~
2771 ~~extent permitted by another state,~~ and to correct by credit any
2772 overpayment of tax, and, in the event of a deficiency, an
2773 assessment shall be made and collected. No administrative
2774 finding of fact is necessary prior to the assessment of any tax
2775 deficiency.

2776 (b) In the event any dealer or other person charged herein
2777 fails or refuses to make his or her records available for
2778 inspection so that no audit or examination has been made of the
2779 books and records of such dealer or person, fails or refuses to
2780 register as a dealer, fails to make a report and pay the tax as
2781 provided by this chapter, makes a grossly incorrect report or
2782 makes a report that is false or fraudulent, then, in such event,
2783 it shall be the duty of the department to make an assessment
2784 from an estimate based upon the best information then available

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2785 to it for the taxable period of retail sales of such dealer, the
2786 gross proceeds from rentals, the total admissions received,
2787 amounts received from leases of tangible personal property by
2788 such dealer, or of the cost price of all articles of tangible
2789 personal property imported by the dealer for use or consumption
2790 or distribution or storage to be used or consumed in this state,
2791 or of the sales or cost price of all services the sale or use of
2792 which is taxable under this chapter, together with interest,
2793 plus penalty, if such have accrued, as the case may be. Then the
2794 department shall proceed to collect such taxes, interest, and
2795 penalty on the basis of such assessment which shall be
2796 considered prima facie correct, and the burden to show the
2797 contrary shall rest upon the dealer, seller, owner, or lessor,
2798 as the case may be.

2799 (6) (a) The department is given the power to prescribe the
2800 records to be kept by all persons subject to taxes imposed by
2801 this chapter. It shall be the duty of every person required to
2802 make a report and pay any tax under this chapter, every person
2803 receiving rentals or license fees, and owners of places of
2804 admission, to keep and preserve suitable records of the sales,
2805 leases, rentals, license fees, admissions, or purchases, as the
2806 case may be, taxable under this chapter; such other books of
2807 account as may be necessary to determine the amount of the tax
2808 due hereunder; and other information as may be required by the
2809 department. It shall be the duty of every such person so charged
2810 with such duty, moreover, to keep and preserve as long as
2811 required by s. 213.35 all invoices and other records of goods,
2812 wares, and merchandise; records of admissions, leases, license
2813 fees and rentals; and records of all other subjects of taxation

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2814 under this chapter. All such books, invoices, and other records
2815 shall be open to examination at all reasonable hours to the
2816 department or any of its duly authorized agents.

2817 (b) For the purpose of this subsection, if a dealer does
2818 not have adequate records of his or her retail sales or
2819 purchases, the department may, upon the basis of a test or
2820 sampling of the dealer's available records or other information
2821 relating to the sales or purchases made by such dealer for a
2822 representative period, determine the proportion that taxable
2823 retail sales bear to total retail sales or the proportion that
2824 taxable purchases bear to total purchases. This subsection does
2825 not affect the duty of the dealer to collect, or the liability
2826 of any consumer to pay, any tax imposed by or pursuant to this
2827 chapter.

2828 (c)1. If the records of a dealer are adequate but
2829 voluminous in nature and substance, the department may sample
2830 such records and project the audit findings derived therefrom
2831 over the entire audit period to determine the proportion that
2832 taxable retail sales bear to total retail sales or the
2833 proportion that taxable purchases bear to total purchases. In
2834 order to conduct such a sample, the department must first make a
2835 good faith effort to reach an agreement with the dealer, which
2836 agreement provides for the means and methods to be used in the
2837 sampling process. In the event that no agreement is reached, the
2838 dealer is entitled to a review by the executive director. In the
2839 case of fixed assets, a dealer may agree in writing with the
2840 department for adequate but voluminous records to be
2841 statistically sampled. Such an agreement shall provide for the
2842 methodology to be used in the statistical sampling process. The

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2843 audit findings derived therefrom shall be projected over the
2844 period represented by the sample in order to determine the
2845 proportion that taxable purchases bear to total purchases. Once
2846 an agreement has been signed, it is final and conclusive with
2847 respect to the method of sampling fixed assets, and the
2848 department may not conduct a detailed audit of fixed assets, and
2849 the taxpayer may not request a detailed audit after the
2850 agreement is reached.

2851 2. For the purposes of sampling pursuant to subparagraph
2852 1., the department shall project any deficiencies and
2853 overpayments derived therefrom over the entire audit period. In
2854 determining the dealer's compliance, the department shall reduce
2855 any tax deficiency as derived from the sample by the amount of
2856 any overpayment derived from the sample. In the event the
2857 department determines from the sample results that the dealer
2858 has a net tax overpayment, the department shall provide the
2859 findings of this overpayment to the Chief Financial Officer for
2860 repayment of funds paid into the State Treasury through error
2861 pursuant to s. 215.26.

2862 3.a. A taxpayer is entitled, both in connection with an
2863 audit and in connection with an application for refund filed
2864 independently of any audit, to establish the amount of any
2865 refund or deficiency through statistical sampling when the
2866 taxpayer's records are adequate but voluminous. In the case of
2867 fixed assets, a dealer may agree in writing with the department
2868 for adequate but voluminous records to be statistically sampled.
2869 Such an agreement shall provide for the methodology to be used
2870 in the statistical sampling process. The audit findings derived
2871 therefrom shall be projected over the period represented by the

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2872 sample in order to determine the proportion that taxable
2873 purchases bear to total purchases. Once an agreement has been
2874 signed, it is final and conclusive with respect to the method of
2875 sampling fixed assets, and the department may not conduct a
2876 detailed audit of fixed assets, and the taxpayer may not request
2877 a detailed audit after the agreement is reached.

2878 b. Alternatively, a taxpayer is entitled to establish any
2879 refund or deficiency through any other sampling method agreed
2880 upon by the taxpayer and the department when the taxpayer's
2881 records, other than those regarding fixed assets, are adequate
2882 but voluminous. Whether done through statistical sampling or any
2883 other sampling method agreed upon by the taxpayer and the
2884 department, the completed sample must reflect both overpayments
2885 and underpayments of taxes due. The sample shall be conducted
2886 through:

2887 (I) A taxpayer request to perform the sampling through the
2888 certified audit program pursuant to s. 213.285;

2889 (II) Attestation by a certified public accountant as to the
2890 adequacy of the sampling method utilized and the results reached
2891 using such sampling method; or

2892 (III) A sampling method that has been submitted by the
2893 taxpayer and approved by the department before a refund claim is
2894 submitted. This sub-sub-subparagraph does not prohibit a
2895 taxpayer from filing a refund claim prior to approval by the
2896 department of the sampling method; however, a refund claim
2897 submitted before the sampling method has been approved by the
2898 department cannot be a complete refund application pursuant to
2899 s. 213.255 until the sampling method has been approved by the
2900 department.

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2901 c. The department shall prescribe by rule the procedures to
2902 be followed under each method of sampling. Such procedures shall
2903 follow generally accepted auditing procedures for sampling. The
2904 rule shall also set forth other criteria regarding the use of
2905 sampling, including, but not limited to, training requirements
2906 that must be met before a sampling method may be utilized and
2907 the steps necessary for the department and the taxpayer to reach
2908 agreement on a sampling method submitted by the taxpayer for
2909 approval by the department.

2910 (7) In the event the dealer has imported tangible personal
2911 property and he or she fails to produce an invoice showing the
2912 cost price of the articles, as defined in this chapter, which
2913 are subject to tax, or the invoice does not reflect the true or
2914 actual cost price as defined herein, then the department shall
2915 ascertain, in any manner feasible, the true cost price, and
2916 assess and collect the tax thereon with interest plus penalties,
2917 if such have accrued on the true cost price as assessed by it.
2918 The assessment so made shall be considered prima facie correct,
2919 and the duty shall be on the dealer to show to the contrary.

2920 (8) In the case of the lease or rental of tangible personal
2921 property, or other rentals or license fees as herein defined and
2922 taxed, if the consideration given or reported by the lessor,
2923 person receiving rental or license fee, or dealer does not, in
2924 the judgment of the department, represent the true or actual
2925 consideration, then the department is authorized to ascertain
2926 the same and assess and collect the tax thereon in the same
2927 manner as above provided, with respect to imported tangible
2928 property, together with interest, plus penalties, if such have
2929 accrued.

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2930 (9) Taxes imposed by this chapter upon the privilege of the
2931 use, consumption, storage for consumption, or sale of tangible
2932 personal property, admissions, license fees, rentals,
2933 communication services, and upon the sale or use of services as
2934 herein taxed shall be collected upon the basis of an addition of
2935 the tax imposed by this chapter to the total price of such
2936 admissions, license fees, rentals, communication or other
2937 services, or sale price of such article or articles that are
2938 purchased, sold, or leased at any one time by or to a customer
2939 or buyer; the dealer, or person charged herein, is required to
2940 pay a privilege tax in the amount of the tax imposed by this
2941 chapter on the total of his or her gross sales of tangible
2942 personal property, admissions, license fees, rentals, and
2943 communication services or to collect a tax upon the sale or use
2944 of services, and such person or dealer shall add the tax imposed
2945 by this chapter to the price, license fee, rental, or
2946 admissions, and communication or other services and collect the
2947 total sum from the purchaser, admittee, licensee, lessee, or
2948 consumer. In computing the tax due or to be collected as the
2949 result of any transaction, the seller may elect to compute the
2950 tax due on a transaction on a per-item basis or on an invoice
2951 basis. The tax rate shall be the sum of the applicable state and
2952 local rates, if any, and the tax computation shall be carried to
2953 the third decimal place. Whenever the third decimal place is
2954 greater than four, the tax shall be rounded to the next whole
2955 cent. ~~The department shall make available in an electronic~~
2956 ~~format or otherwise the tax amounts and the following brackets~~
2957 ~~applicable to all transactions taxable at the rate of 6 percent:~~
2958 (a) ~~On single sales of less than 10 cents, no tax shall be~~

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2959 added.

2960 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~
2961 ~~both inclusive, 1 cent shall be added for taxes.~~

2962 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~
2963 ~~inclusive, 2 cents shall be added for taxes.~~

2964 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~
2965 ~~inclusive, 3 cents shall be added for taxes.~~

2966 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~
2967 ~~inclusive, 4 cents shall be added for taxes.~~

2968 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~
2969 ~~inclusive, 5 cents shall be added for taxes.~~

2970 ~~(g) On sales in amounts from 84 cents to \$1, both~~
2971 ~~inclusive, 6 cents shall be added for taxes.~~

2972 ~~(h) On sales in amounts of more than \$1, 6 percent shall be~~
2973 ~~charged upon each dollar of price, plus the appropriate bracket~~
2974 ~~charge upon any fractional part of a dollar.~~

2975 ~~(10) In counties which have adopted a discretionary sales~~
2976 ~~surtax at the rate of 1 percent, the department shall make~~
2977 ~~available in an electronic format or otherwise the tax amounts~~
2978 ~~and the following brackets applicable to all taxable~~
2979 ~~transactions that would otherwise have been transactions taxable~~
2980 ~~at the rate of 6 percent:~~

2981 ~~(a) On single sales of less than 10 cents, no tax shall be~~
2982 ~~added.~~

2983 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~
2984 ~~both inclusive, 1 cent shall be added for taxes.~~

2985 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~
2986 ~~inclusive, 2 cents shall be added for taxes.~~

2987 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~

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2988 ~~inclusive, 3 cents shall be added for taxes.~~

2989 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~
2990 ~~inclusive, 4 cents shall be added for taxes.~~

2991 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~
2992 ~~inclusive, 5 cents shall be added for taxes.~~

2993 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~
2994 ~~inclusive, 6 cents shall be added for taxes.~~

2995 ~~(h) On sales in amounts from 86 cents to \$1, both~~
2996 ~~inclusive, 7 cents shall be added for taxes.~~

2997 ~~(i) On sales in amounts from \$1 up to, and including, the~~
2998 ~~first \$5,000 in price, 7 percent shall be charged upon each~~
2999 ~~dollar of price, plus the appropriate bracket charge upon any~~
3000 ~~fractional part of a dollar.~~

3001 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~
3002 ~~percent shall be added upon the first \$5,000 in price, and 6~~
3003 ~~percent shall be added upon each dollar of price in excess of~~
3004 ~~the first \$5,000 in price, plus the bracket charges upon any~~
3005 ~~fractional part of a dollar as provided for in subsection (9).~~

3006 ~~(11) The department shall make available in an electronic~~
3007 ~~format or otherwise the tax amounts and brackets applicable to~~
3008 ~~all taxable transactions that occur in counties that have a~~
3009 ~~surtax at a rate other than 1 percent which transactions would~~
3010 ~~otherwise have been transactions taxable at the rate of 6~~
3011 ~~percent. Likewise, the department shall make available in an~~
3012 ~~electronic format or otherwise the tax amounts and brackets~~
3013 ~~applicable to transactions taxable at 7 percent pursuant to s.~~
3014 ~~212.05(1)(e) and on transactions which would otherwise have been~~
3015 ~~so taxable in counties which have adopted a discretionary sales~~
3016 ~~surtax.~~

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3017 (10)~~(12)~~ It is hereby declared to be the legislative intent
3018 that, whenever in the construction, administration, or
3019 enforcement of this chapter there may be any question respecting
3020 a duplication of the tax, the end consumer, or last retail sale,
3021 be the sale intended to be taxed and insofar as may be
3022 practicable there be no duplication or pyramiding of the tax.

3023 (11)~~(13)~~ In order to aid the administration and enforcement
3024 of the provisions of this chapter with respect to the rentals
3025 and license fees, each lessor or person granting the use of any
3026 hotel, apartment house, roominghouse, tourist or trailer camp,
3027 real property, or any interest therein, or any portion thereof,
3028 inclusive of owners; property managers; lessors; landlords;
3029 hotel, apartment house, and roominghouse operators; and all
3030 licensed real estate agents within the state leasing, granting
3031 the use of, or renting such property, shall be required to keep
3032 a record of each and every such lease, license, or rental
3033 transaction which is taxable under this chapter, in such a
3034 manner and upon such forms as the department may prescribe, and
3035 to report such transaction to the department or its designated
3036 agents, and to maintain such records as long as required by s.
3037 213.35, subject to the inspection of the department and its
3038 agents. Upon the failure by such owner; property manager;
3039 lessor; landlord; hotel, apartment house, roominghouse, tourist
3040 or trailer camp operator; or real estate agent to keep and
3041 maintain such records and to make such reports upon the forms
3042 and in the manner prescribed, such owner; property manager;
3043 lessor; landlord; hotel, apartment house, roominghouse, tourist
3044 or trailer camp operator; receiver of rent or license fees; or
3045 real estate agent commits ~~is guilty of~~ a misdemeanor of the

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3046 second degree, punishable as provided in s. 775.082 or s.
3047 775.083, for the first offense; for subsequent offenses, ~~they~~
3048 ~~are each~~ is ~~guilty of~~ a misdemeanor of the first degree,
3049 punishable as provided in s. 775.082 or s. 775.083. If, however,
3050 any subsequent offense involves intentional destruction of such
3051 records with an intent to evade payment of or deprive the state
3052 of any tax revenues, such subsequent offense is ~~shall be~~ a
3053 felony of the third degree, punishable as provided in s. 775.082
3054 or s. 775.083.

3055 ~~(14) If it is determined upon audit that a dealer has~~
3056 ~~collected and remitted taxes by applying the applicable tax rate~~
3057 ~~to each transaction as described in subsection (9) and rounding~~
3058 ~~the tax due to the nearest whole cent rather than applying the~~
3059 ~~appropriate bracket system provided by law or department rule,~~
3060 ~~the dealer shall not be held liable for additional tax, penalty,~~
3061 ~~and interest resulting from such failure if:~~

3062 ~~(a) The dealer acted in a good faith belief that rounding~~
3063 ~~to the nearest whole cent was the proper method of determining~~
3064 ~~the amount of tax due on each taxable transaction.~~

3065 ~~(b) The dealer timely reported and remitted all taxes~~
3066 ~~collected on each taxable transaction.~~

3067 ~~(c) The dealer agrees in writing to future compliance with~~
3068 ~~the laws and rules concerning brackets applicable to the~~
3069 ~~dealer's transactions.~~

3070 Section 13. Subsection (3) of section 212.17, Florida
3071 Statutes, is amended to read:

3072 212.17 Credits for returned goods, rentals, or admissions;
3073 goods acquired for dealer's own use and subsequently resold;
3074 additional powers of department.-

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3075 (3) A dealer who has paid the tax imposed by this chapter
3076 on tangible personal property or services may take a credit or
3077 obtain a refund for any tax paid by the dealer on the unpaid
3078 balance due on worthless accounts within 12 months following the
3079 month in which the bad debt has been charged off for federal
3080 income tax purposes. A dealer that has paid the tax imposed by
3081 this chapter on tangible personal property or services and that
3082 is not required to file federal income tax returns may take a
3083 credit against or obtain a refund for any tax paid by the dealer
3084 on the unpaid balance due on worthless accounts within 12 months
3085 following the month in which the bad debt is written off as
3086 uncollectible in the dealer's books and records and would be
3087 eligible for a bad-debt deduction for federal income tax
3088 purposes if the dealer was required to file a federal income tax
3089 return.

3090 (a) A dealer that is taking a credit against or obtaining a
3091 refund on worthless accounts shall base the bad-debt-recovery
3092 calculation in accordance with 26 U.S.C. s. 166.

3093 (b) When the amount of bad debt exceeds the amount of
3094 taxable sales for the period during which the bad debt is
3095 written off, a refund claim must be filed, notwithstanding s.
3096 215.26(2), within 3 years after the due date of the return on
3097 which the bad debt could first be claimed.

3098 (c) If any accounts so charged off for which a credit or
3099 refund has been obtained are thereafter in whole or in part paid
3100 to the dealer, the amount so paid shall be included in the first
3101 return filed after such collection and the tax paid accordingly.

3102 (d) If filing responsibilities have been assumed by a
3103 certified service provider, the certified service provider shall

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3104 claim, on behalf of the seller, any bad-debt allowance provided
3105 by this subsection. The certified service provider shall credit
3106 or refund to the seller the full amount of any bad-debt
3107 allowance or refund received.

3108 (e) For the purposes of reporting a payment received on a
3109 previously claimed bad debt, any payments made on a debt or
3110 account shall first be applied proportionally to the taxable
3111 price of the property or service and the sales tax on such
3112 property, and second to any interest, service charges, and any
3113 other charges.

3114 (f) In situations in which the books and records of the
3115 party claiming the bad-debt allowance support an allocation of
3116 the bad debts among states that are members of the Streamlined
3117 Sales and Use Tax Agreement, the allocation is permitted among
3118 those states.

3119 Section 14. Paragraph (a) of subsection (3) of section
3120 212.18, Florida Statutes, is amended to read:

3121 212.18 Administration of law; registration of dealers;
3122 rules.—

3123 (3) (a) Every person desiring to engage in or conduct
3124 business in this state as a dealer, as defined in this chapter,
3125 or to lease, rent, or let or grant licenses in living quarters
3126 or sleeping or housekeeping accommodations in hotels, apartment
3127 houses, roominghouses, or tourist or trailer camps that are
3128 subject to tax under s. 212.03, or to lease, rent, or let or
3129 grant licenses in real property, as defined in this chapter, and
3130 every person who sells or receives anything of value by way of
3131 admissions, must file with the department an application for a
3132 certificate of registration for each place of business, showing

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3133 the names of the persons who have interests in such business and
3134 their residences, the address of the business, and such other
3135 data as the department may reasonably require. However, owners
3136 and operators of vending machines or newspaper rack machines are
3137 required to obtain only one certificate of registration for each
3138 county in which such machines are located. The department, by
3139 rule, may authorize a dealer that uses independent sellers to
3140 sell its merchandise to remit tax on the retail sales price
3141 charged to the ultimate consumer in lieu of having the
3142 independent seller register as a dealer and remit the tax. The
3143 department may appoint the county tax collector as the
3144 department's agent to accept applications for registrations. The
3145 application must be made to the department before the person,
3146 firm, copartnership, or corporation may engage in such business,
3147 and it must be accompanied by a registration fee of \$5. ~~However,~~
3148 ~~a registration fee is not required to accompany an application~~
3149 ~~to engage in or conduct business to make mail order sales.~~ The
3150 department may waive the registration fee for applications
3151 submitted through the department's Internet registration process
3152 or central electronic registration system provided by member
3153 states of the Streamlined Sales and Use Tax Agreement.

3154 Section 15. Section 212.20, Florida Statutes, is amended to
3155 read:

3156 212.20 Funds collected, disposition; additional powers of
3157 department; operational expense; refund of taxes adjudicated
3158 unconstitutionally collected.—

3159 (1) The department shall pay over to the Chief Financial
3160 Officer of the state all funds received and collected by it
3161 under the provisions of this chapter, to be credited to the

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3162 account of the General Revenue Fund of the state.

3163 (2) The department is authorized to employ all necessary
3164 assistants to administer this chapter properly and is also
3165 authorized to purchase all necessary supplies and equipment
3166 which may be required for this purpose.

3167 (3) The estimated amount of money needed for the
3168 administration of this chapter shall be included by the
3169 department in its annual legislative budget request for the
3170 operation of its office.

3171 ~~(4) When there has been a final adjudication that any tax~~
3172 ~~pursuant to s. 212.0596 was levied, collected, or both, contrary~~
3173 ~~to the Constitution of the United States or the State~~
3174 ~~Constitution, the department shall, in accordance with rules,~~
3175 ~~determine, based upon claims for refund and other evidence and~~
3176 ~~information, who paid such tax or taxes, and refund to each such~~
3177 ~~person the amount of tax paid. For purposes of this subsection,~~
3178 ~~a "final adjudication" is a decision of a court of competent~~
3179 ~~jurisdiction from which no appeal can be taken or from which the~~
3180 ~~official or officials of this state with authority to make such~~
3181 ~~decisions has or have decided not to appeal.~~

3182 (4)~~(5)~~ For the purposes of this section, the term:

3183 (a) "Proceeds" means all tax or fee revenue collected or
3184 received by the department, including interest and penalties.

3185 (b) "Reallocate" means reduction of the accounts of initial
3186 deposit and redeposit into the indicated account.

3187 (5)~~(6)~~ Distribution of all proceeds under this chapter and
3188 s. 202.18(1)(b) and (2)(b) shall be as follows:

3189 (a) Proceeds from the convention development taxes
3190 authorized under s. 212.0305 shall be reallocated to the

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3191 Convention Development Tax Clearing Trust Fund.

3192 (b) Proceeds from discretionary sales surtaxes imposed
3193 pursuant to ss. 212.054 and 212.055 shall be reallocated to the
3194 Discretionary Sales Surtax Clearing Trust Fund.

3195 (c) Proceeds from the fees imposed under ss. 212.05(1)(h)3.
3196 and 212.18(3) shall remain with the General Revenue Fund.

3197 (d) The proceeds of all other taxes and fees imposed
3198 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
3199 and (2)(b) shall be distributed as follows:

3200 1. In any fiscal year, the greater of \$500 million, minus
3201 an amount equal to 4.6 percent of the proceeds of the taxes
3202 collected pursuant to chapter 201, or 5.2 percent of all other
3203 taxes and fees imposed pursuant to this chapter or remitted
3204 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
3205 monthly installments into the General Revenue Fund.

3206 2. After the distribution under subparagraph 1., 8.814
3207 percent of the amount remitted by a sales tax dealer located
3208 within a participating county pursuant to s. 218.61 shall be
3209 transferred into the Local Government Half-cent Sales Tax
3210 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
3211 transferred shall be reduced by 0.1 percent, and the department
3212 shall distribute this amount to the Public Employees Relations
3213 Commission Trust Fund less \$5,000 each month, which shall be
3214 added to the amount calculated in subparagraph 3. and
3215 distributed accordingly.

3216 3. After the distribution under subparagraphs 1. and 2.,
3217 0.095 percent shall be transferred to the Local Government Half-
3218 cent Sales Tax Clearing Trust Fund and distributed pursuant to
3219 s. 218.65.

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3220 4. After the distributions under subparagraphs 1., 2., and
3221 3., 2.0440 percent of the available proceeds shall be
3222 transferred monthly to the Revenue Sharing Trust Fund for
3223 Counties pursuant to s. 218.215.

3224 5. After the distributions under subparagraphs 1., 2., and
3225 3., 1.3409 percent of the available proceeds shall be
3226 transferred monthly to the Revenue Sharing Trust Fund for
3227 Municipalities pursuant to s. 218.215. If the total revenue to
3228 be distributed pursuant to this subparagraph is at least as
3229 great as the amount due from the Revenue Sharing Trust Fund for
3230 Municipalities and the former Municipal Financial Assistance
3231 Trust Fund in state fiscal year 1999-2000, no municipality shall
3232 receive less than the amount due from the Revenue Sharing Trust
3233 Fund for Municipalities and the former Municipal Financial
3234 Assistance Trust Fund in state fiscal year 1999-2000. If the
3235 total proceeds to be distributed are less than the amount
3236 received in combination from the Revenue Sharing Trust Fund for
3237 Municipalities and the former Municipal Financial Assistance
3238 Trust Fund in state fiscal year 1999-2000, each municipality
3239 shall receive an amount proportionate to the amount it was due
3240 in state fiscal year 1999-2000.

3241 6. Of the remaining proceeds:

3242 a. In each fiscal year, the sum of \$29,915,500 shall be
3243 divided into as many equal parts as there are counties in the
3244 state, and one part shall be distributed to each county. The
3245 distribution among the several counties must begin each fiscal
3246 year on or before January 5th and continue monthly for a total
3247 of 4 months. If a local or special law required that any moneys
3248 accruing to a county in fiscal year 1999-2000 under the then-

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3249 existing provisions of s. 550.135 be paid directly to the
3250 district school board, special district, or a municipal
3251 government, such payment must continue until the local or
3252 special law is amended or repealed. The state covenants with
3253 holders of bonds or other instruments of indebtedness issued by
3254 local governments, special districts, or district school boards
3255 before July 1, 2000, that it is not the intent of this
3256 subparagraph to adversely affect the rights of those holders or
3257 relieve local governments, special districts, or district school
3258 boards of the duty to meet their obligations as a result of
3259 previous pledges or assignments or trusts entered into which
3260 obligated funds received from the distribution to county
3261 governments under then-existing s. 550.135. This distribution
3262 specifically is in lieu of funds distributed under s. 550.135
3263 before July 1, 2000.

3264 b. The department shall distribute \$166,667 monthly
3265 pursuant to s. 288.1162 to each applicant that has been
3266 certified as a "facility for a new professional sports
3267 franchise" or a "facility for a retained professional sports
3268 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
3269 distributed monthly by the department to each applicant that has
3270 been certified as a "facility for a retained spring training
3271 franchise" pursuant to s. 288.1162; however, not more than
3272 \$416,670 may be distributed monthly in the aggregate to all
3273 certified facilities for a retained spring training franchise.
3274 Distributions must begin 60 days following such certification
3275 and shall continue for not more than 30 years. This paragraph
3276 may not be construed to allow an applicant certified pursuant to
3277 s. 288.1162 to receive more in distributions than actually

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3278 expended by the applicant for the public purposes provided for
3279 in s. 288.1162(6).

3280 c. Beginning 30 days after notice by the Office of Tourism,
3281 Trade, and Economic Development to the Department of Revenue
3282 that an applicant has been certified as the professional golf
3283 hall of fame pursuant to s. 288.1168 and is open to the public,
3284 \$166,667 shall be distributed monthly, for up to 300 months, to
3285 the applicant.

3286 d. Beginning 30 days after notice by the Office of Tourism,
3287 Trade, and Economic Development to the Department of Revenue
3288 that the applicant has been certified as the International Game
3289 Fish Association World Center facility pursuant to s. 288.1169,
3290 and the facility is open to the public, \$83,333 shall be
3291 distributed monthly, for up to 168 months, to the applicant.
3292 This distribution is subject to reduction pursuant to s.
3293 288.1169. A lump sum payment of \$999,996 shall be made, after
3294 certification and before July 1, 2000.

3295 7. All other proceeds must remain in the General Revenue
3296 Fund.

3297 Section 16. Section 213.052, Florida Statutes, is created
3298 to read:

3299 213.052 Notice of state sales and use tax rate changes.-

3300 (1) A sales or use tax rate change imposed under chapter
3301 212 is effective on January 1, April 1, July 1, or October 1.
3302 The Department of Revenue shall provide notice of such rate
3303 change to all affected sellers 60 days before the effective date
3304 of the rate change.

3305 (2) Failure of a seller to receive notice does not relieve
3306 the seller of its obligation to collect sales or use tax.

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3307 Section 17. Section 213.0521, Florida Statutes, is created
3308 to read:

3309 213.0521 Effective date of state sales and use tax rate
3310 changes.—The effective date for services covering a period
3311 starting before and ending after the statutory effective date is
3312 as follows:

3313 (1) For a rate increase, the new rate applies to the first
3314 billing period starting on or after the effective date.

3315 (2) For a rate decrease, the new rate applies to bills
3316 rendered on or after the effective date.

3317 Section 18. Section 213.215, Florida Statutes, is created
3318 to read:

3319 213.215 Sales and use tax amnesty upon registration in
3320 accordance with Streamlined Sales and Use Tax Agreement.—

3321 (1) Amnesty shall be provided for uncollected or unpaid
3322 sales or use tax to a seller who registers to pay or to collect
3323 and remit applicable sales or use tax in accordance with the
3324 terms of the Streamlined Sales and Use Tax Agreement authorized
3325 under s. 213.256, if the seller was not registered with the
3326 Department of Revenue in the 12-month period preceding the
3327 effective date of participation in the agreement by this state.

3328 (2) The amnesty precludes assessment for uncollected or
3329 unpaid sales or use tax, together with penalty or interest for
3330 sales made during the period the seller was not registered with
3331 the Department of Revenue, if registration occurs within 12
3332 months after the effective date of this state's participation in
3333 the agreement.

3334 (3) The amnesty is not available to a seller with respect
3335 to any matter for which the seller received notice of the

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3336 commencement of an audit if the audit is not yet finally
3337 resolved, including any related administrative and judicial
3338 processes.

3339 (4) The amnesty is not available for sales or use taxes
3340 already paid or remitted to the state or to taxes collected by
3341 the seller.

3342 (5) The amnesty is fully effective, absent the seller's
3343 fraud or intentional misrepresentation of a material fact, as
3344 long as the seller continues registration and continues payment
3345 or collection and remittance of applicable sales or use taxes
3346 for at least 36 months.

3347 (6) The amnesty applies only to sales or use taxes due from
3348 a seller in its capacity as a seller and not to sales or use
3349 taxes due from a seller in its capacity as a buyer.

3350 Section 19. Subsections (1) and (2) of section 213.256,
3351 Florida Statutes, are amended to read:

3352 213.256 Simplified Sales and Use Tax Administration Act.—

3353 (1) As used in this section and s. 213.2567, the term:

3354 (a) "Agent" means, for purposes of carrying out the
3355 responsibilities placed on a dealer, a person appointed by the
3356 seller to represent the seller before the department.

3357 ~~"Department" means the Department of Revenue.~~

3358 (b) ~~"Agreement" means the Streamlined Sales and Use Tax~~
3359 ~~Agreement as amended and adopted on January 27, 2001, by the~~
3360 ~~Executive Committee of the National Conference of State~~
3361 ~~Legislatures.~~

3362 (c) "Certified automated system" means software certified
3363 jointly by the state ~~states that are signatories to the~~
3364 agreement to calculate the tax imposed by each jurisdiction on a

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3365 transaction, determine the amount of tax to remit to the
3366 appropriate state, and maintain a record of the transaction.

3367 (d) "Certified service provider" means an agent certified
3368 ~~jointly by the states that are signatories to the agreement to~~
3369 perform all of the seller's sales tax functions other than the
3370 seller's obligation to remit tax on its own purchases.

3371 (e) "Department" means the Department of Revenue.

3372 (f) "Governing board" means the governing board of the
3373 agreement.

3374 (g)1. "Model 1 seller" means a seller that has selected a
3375 certified service provider as the seller's agent to perform all
3376 of the seller's sales and use tax functions other than the
3377 seller's obligation to remit tax on the seller's purchases.

3378 2. "Model 2 seller" means a seller that has selected a
3379 certified automated system to perform part of the seller's sales
3380 and use tax functions, but retains responsibility for remitting
3381 the tax.

3382 3. "Model 3 seller" means a seller that has sales in at
3383 least five member states, has total annual sales revenue of at
3384 least \$500 million, has a proprietary system that calculates the
3385 amount of tax due each jurisdiction, and has entered into a
3386 performance agreement with the member states which establishes a
3387 tax performance standard for the seller. As used in this
3388 paragraph, a seller includes an affiliated group of sellers
3389 using the same proprietary system.

3390 (h)~~(e)~~ "Person" means an individual, trust, estate,
3391 fiduciary, partnership, limited liability company, limited
3392 liability partnership, corporation, or any other legal entity.

3393 (i) "Registered under this agreement" means registration by

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3394 a seller with the member states under the central registration
3395 system.

3396 (j)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

3397 (k)~~(g)~~ "Seller" means any person making sales, leases, or
3398 rentals of personal property or services.

3399 (l)~~(h)~~ "State" means any state of the United States and the
3400 District of Columbia.

3401 (m)~~(i)~~ "Use tax" means the tax levied under chapter 212.

3402 (2) (a) The executive director of the department is
3403 authorized to shall enter into an agreement ~~the Streamlined~~
3404 ~~Sales and Use Tax Agreement~~ with one or more states to simplify
3405 and modernize sales and use tax administration in order to
3406 substantially reduce the burden of tax compliance for all
3407 sellers and for all types of commerce. In furtherance of the
3408 agreement, the executive director of the department or his or
3409 her designee shall act jointly with other states that are
3410 members of the agreement to establish standards for
3411 certification of a certified service provider and certified
3412 automated systems ~~system~~ and central registration systems
3413 ~~establish performance standards for multistate sellers.~~

3414 (b) The executive director of the department or his or her
3415 designee shall take other actions reasonably required to
3416 administer this section. Other actions authorized by this
3417 section include, but are not limited to, the adoption of rules
3418 and the joint procurement, with other member states, of goods
3419 and services in furtherance of the cooperative agreement.

3420 (c) The executive director of the department or his or her
3421 designee may represent this state before the other states that
3422 are signatories to the agreement.

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3423 (d) The executive director of the department or his or her
3424 designee is authorized to prepare and submit from time to time
3425 such reports and certifications as may be determined necessary
3426 according to the terms of an agreement and to enter into such
3427 other agreements with the governing board, member states, and
3428 service providers as are determined by the executive director to
3429 facilitate the administration of the tax laws of this state.

3430 Section 20. Section 213.2562, Florida Statutes, is created
3431 to read:

3432 213.2562 Approval of software to calculate tax.—The
3433 department shall review software submitted to the governing
3434 board for certification as a certified automated system. If the
3435 software accurately reflects the taxability of product
3436 categories included in the program, the department shall certify
3437 the approval of the software to the governing board.

3438 Section 21. Section 213.2567, Florida Statutes, is created
3439 to read:

3440 213.2567 Simplified Sales and Use Tax registration,
3441 certification, liability, and audit.—

3442 (1) A seller that registers under the agreement agrees to
3443 collect and remit sales and use taxes for all taxable sales into
3444 the member states, including member states joining after the
3445 seller's registration. Withdrawal or revocation of this state
3446 does not relieve a seller of its responsibility to remit taxes
3447 previously or subsequently collected on behalf of the state.

3448 (a) When registering, the seller may select a model 1,
3449 model 2, or model 3 method of remittance or other method allowed
3450 by state law to remit the taxes collected.

3451 (b) A seller may be registered by an agent. Such an

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3452 appointment must be in writing and submitted to a member state.

3453 (2) (a) A certified service provider is the agent of a model
3454 1 seller with whom the certified service provider has contracted
3455 for the collection and remittance of sales and use taxes. As the
3456 model 1 seller's agent, the certified service provider is liable
3457 for sales and use tax due this state on all sales transactions
3458 it processes for the model 1 seller, except as set out in
3459 paragraph (b).

3460 (b) A model 1 seller is not liable to the state for sales
3461 or use tax due on transactions processed by the certified
3462 service provider unless the model 1 seller has misrepresented
3463 the type of items it sells or has committed fraud. In the
3464 absence of probable cause to believe that the model 1 seller has
3465 committed fraud or made a material misrepresentation, the model
3466 1 seller is not subject to audit on the transactions processed
3467 by the certified service provider. A model 1 seller is subject
3468 to audit for transactions that have not been processed by the
3469 certified service provider. The member states acting jointly may
3470 perform a system check of the model 1 seller and review the
3471 model 1 seller's procedures to determine if the certified
3472 service provider's system is functioning properly and to
3473 determine the extent to which the model 1 seller's transactions
3474 are being processed by the certified service provider.

3475 (3) A model 2 seller that uses a certified automated system
3476 remains responsible and is liable to this state for reporting
3477 and remitting tax. However, a model 2 seller is not responsible
3478 for errors in reliance on a certified automated system.

3479 (4) A model 3 seller is liable for the failure of the
3480 proprietary system to meet the performance standard.

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3481 (5) A person that provides a certified automated system is
3482 not liable for errors contained in software that was approved by
3483 the department and certified to the governing board. However,
3484 such person:

3485 (a) Is responsible for the proper functioning of that
3486 system;

3487 (b) Is liable to this state for underpayments of tax
3488 attributable to errors in the functioning of the certified
3489 automated system; and

3490 (c) Is liable for the misclassification of an item or
3491 transaction that is not corrected within 10 days following the
3492 receipt of notice from the department.

3493 (6) The executive director of the department or his or her
3494 designee may certify a person as a certified service provider if
3495 the person meets all of the following requirements:

3496 (a) Uses a certified automated system;

3497 (b) Integrates its certified automated system with the
3498 system of a seller for whom the person collects tax so that the
3499 tax due on a sale is determined at the time of the sale;

3500 (c) Agrees to remit the taxes it collects at the time and
3501 in the manner specified by chapter 212;

3502 (d) Agrees to file returns on behalf of the sellers for
3503 whom it collects tax;

3504 (e) Agrees to protect the privacy of tax information it
3505 obtains in accordance with s. 213.053; and

3506 (f) Enters into a contract with the department and agrees
3507 to comply with the terms of the contract.

3508 (7) The department shall review software submitted to the
3509 governing board for certification as a certified automated

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3510 system. The executive director of the department shall certify
3511 the approval of the software to the governing board if the
3512 software:

3513 (a) Determines the applicable state and local sales and use
3514 tax rate for a transaction in accordance with s. 212.06(3) and
3515 (4);

3516 (b) Determines whether an item is exempt from tax;

3517 (c) Determines the amount of tax to be remitted for each
3518 taxpayer for a reporting period; and

3519 (d) Can generate reports and returns as required by the
3520 governing board.

3521 (8) The department may by rule establish one or more sales
3522 tax performance standards for model 3 sellers.

3523 (9) Disclosure of information necessary under this section
3524 must be made according to a written agreement between the
3525 executive director of the department or his or her designee and
3526 the certified service provider. The certified service provider
3527 is bound by the same requirements of confidentiality as the
3528 department employees. Breach of confidentiality is a misdemeanor
3529 of the first degree, punishable as provided in s. 775.082 or s.
3530 775.083.

3531 Section 22. It is the intent of the Legislature to urge the
3532 United States Congress to consider adequate protections for
3533 small businesses engaging in both offline and online
3534 transactions from added costs, administrative burdens, and
3535 requirements imposed on intermediaries relating to the
3536 collection and remittance of sales and use tax.

3537 Section 23. The executive director of the Department of
3538 Revenue may adopt emergency rules to implement this act.

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3539 Notwithstanding any other law, the emergency rules shall remain
3540 effective for 6 months after the date of adoption and may be
3541 renewed during the pendency of procedures to adopt rules
3542 addressing the subject of the emergency rules.

3543 Section 24. Paragraph (a) of subsection (5) of section
3544 11.45, Florida Statutes, is amended to read:

3545 11.45 Definitions; duties; authorities; reports; rules.—

3546 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

3547 (a) The Legislative Auditing Committee shall direct the
3548 Auditor General to make an audit of any municipality whenever
3549 petitioned to do so by at least 20 percent of the registered
3550 electors in the last general election of that municipality
3551 pursuant to this subsection. The supervisor of elections of the
3552 county in which the municipality is located shall certify
3553 whether or not the petition contains the signatures of at least
3554 20 percent of the registered electors of the municipality. After
3555 the completion of the audit, the Auditor General shall determine
3556 whether the municipality has the fiscal resources necessary to
3557 pay the cost of the audit. The municipality shall pay the cost
3558 of the audit within 90 days after the Auditor General's
3559 determination that the municipality has the available resources.
3560 If the municipality fails to pay the cost of the audit, the
3561 Department of Revenue shall, upon certification of the Auditor
3562 General, withhold from that portion of the distribution pursuant
3563 to s. 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ which is distributable to
3564 such municipality, a sum sufficient to pay the cost of the audit
3565 and shall deposit that sum into the General Revenue Fund of the
3566 state.

3567 Section 25. Subsection (6) of section 196.012, Florida

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3568 Statutes, is amended to read:

3569 196.012 Definitions.—For the purpose of this chapter, the
3570 following terms are defined as follows, except where the context
3571 clearly indicates otherwise:

3572 (6) Governmental, municipal, or public purpose or function
3573 shall be deemed to be served or performed when the lessee under
3574 any leasehold interest created in property of the United States,
3575 the state or any of its political subdivisions, or any
3576 municipality, agency, special district, authority, or other
3577 public body corporate of the state is demonstrated to perform a
3578 function or serve a governmental purpose which could properly be
3579 performed or served by an appropriate governmental unit or which
3580 is demonstrated to perform a function or serve a purpose which
3581 would otherwise be a valid subject for the allocation of public
3582 funds. For purposes of the preceding sentence, an activity
3583 undertaken by a lessee which is permitted under the terms of its
3584 lease of real property designated as an aviation area on an
3585 airport layout plan which has been approved by the Federal
3586 Aviation Administration and which real property is used for the
3587 administration, operation, business offices and activities
3588 related specifically thereto in connection with the conduct of
3589 an aircraft full service fixed base operation which provides
3590 goods and services to the general aviation public in the
3591 promotion of air commerce shall be deemed an activity which
3592 serves a governmental, municipal, or public purpose or function.
3593 Any activity undertaken by a lessee which is permitted under the
3594 terms of its lease of real property designated as a public
3595 airport as defined in s. 332.004(14) by municipalities,
3596 agencies, special districts, authorities, or other public bodies

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3597 corporate and public bodies politic of the state, a spaceport as
3598 defined in s. 331.303, or which is located in a deepwater port
3599 identified in s. 403.021(9)(b) and owned by one of the foregoing
3600 governmental units, subject to a leasehold or other possessory
3601 interest of a nongovernmental lessee that is deemed to perform
3602 an aviation, airport, aerospace, maritime, or port purpose or
3603 operation shall be deemed an activity that serves a
3604 governmental, municipal, or public purpose. The use by a lessee,
3605 licensee, or management company of real property or a portion
3606 thereof as a convention center, visitor center, sports facility
3607 with permanent seating, concert hall, arena, stadium, park, or
3608 beach is deemed a use that serves a governmental, municipal, or
3609 public purpose or function when access to the property is open
3610 to the general public with or without a charge for admission. If
3611 property deeded to a municipality by the United States is
3612 subject to a requirement that the Federal Government, through a
3613 schedule established by the Secretary of the Interior, determine
3614 that the property is being maintained for public historic
3615 preservation, park, or recreational purposes and if those
3616 conditions are not met the property will revert back to the
3617 Federal Government, then such property shall be deemed to serve
3618 a municipal or public purpose. The term "governmental purpose"
3619 also includes a direct use of property on federal lands in
3620 connection with the Federal Government's Space Exploration
3621 Program or spaceport activities as defined in s. 212.02 ~~s.~~
3622 ~~212.02(22)~~. Real property and tangible personal property owned
3623 by the Federal Government or Space Florida and used for defense
3624 and space exploration purposes or which is put to a use in
3625 support thereof shall be deemed to perform an essential national

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3626 governmental purpose and shall be exempt. "Owned by the lessee"
3627 as used in this chapter does not include personal property,
3628 buildings, or other real property improvements used for the
3629 administration, operation, business offices and activities
3630 related specifically thereto in connection with the conduct of
3631 an aircraft full service fixed based operation which provides
3632 goods and services to the general aviation public in the
3633 promotion of air commerce provided that the real property is
3634 designated as an aviation area on an airport layout plan
3635 approved by the Federal Aviation Administration. For purposes of
3636 determination of "ownership," buildings and other real property
3637 improvements which will revert to the airport authority or other
3638 governmental unit upon expiration of the term of the lease shall
3639 be deemed "owned" by the governmental unit and not the lessee.
3640 Providing two-way telecommunications services to the public for
3641 hire by the use of a telecommunications facility, as defined in
3642 s. 364.02 ~~s. 364.02(15)~~, and for which a certificate is required
3643 under chapter 364 does not constitute an exempt use for purposes
3644 of s. 196.199, unless the telecommunications services are
3645 provided by the operator of a public-use airport, as defined in
3646 s. 332.004, for the operator's provision of telecommunications
3647 services for the airport or its tenants, concessionaires, or
3648 licensees, or unless the telecommunications services are
3649 provided by a public hospital.

3650 Section 26. Paragraph (b) of subsection (1) and paragraph
3651 (b) of subsection (2) of section 202.18, Florida Statutes, are
3652 amended to read:

3653 202.18 Allocation and disposition of tax proceeds.—The
3654 proceeds of the communications services taxes remitted under

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3655 this chapter shall be treated as follows:

3656 (1) The proceeds of the taxes remitted under s.
3657 202.12(1)(a) shall be divided as follows:

3658 (b) The remaining portion shall be distributed according to
3659 s. 212.20(5) ~~s. 212.20(6)~~.

3660 (2) The proceeds of the taxes remitted under s.
3661 202.12(1)(b) shall be divided as follows:

3662 (b) Sixty-three percent of the remainder shall be allocated
3663 to the state and distributed pursuant to s. 212.20(5)(d)2. ~~s.~~
3664 ~~212.20(6)~~, except that the proceeds allocated pursuant to s.
3665 212.20(5)(d)2. ~~s. 212.20(6)(d)2.~~ shall be prorated to the
3666 participating counties in the same proportion as that month's
3667 collection of the taxes and fees imposed pursuant to chapter 212
3668 and paragraph (1)(b).

3669 Section 27. Paragraphs (f), (g), (h), and (i) of subsection
3670 (1) of section 203.01, Florida Statutes, are amended to read:

3671 203.01 Tax on gross receipts for utility and communications
3672 services.—

3673 (1)

3674 (f) Any person who imports into this state electricity,
3675 natural gas, or manufactured gas, or severs natural gas, for
3676 that person's own use or consumption as a substitute for
3677 purchasing utility, transportation, or delivery services taxable
3678 under this chapter and who cannot demonstrate payment of the tax
3679 imposed by this chapter must register with the Department of
3680 Revenue and pay into the State Treasury each month an amount
3681 equal to the cost price of such electricity, natural gas, or
3682 manufactured gas times the rate set forth in paragraph (b),
3683 reduced by the amount of any like tax lawfully imposed on and

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3684 paid by the person from whom the electricity, natural gas, or
3685 manufactured gas was purchased or any person who provided
3686 delivery service or transportation service in connection with
3687 the electricity, natural gas, or manufactured gas. For purposes
3688 of this paragraph, the term "cost price" has the meaning
3689 ascribed in s. 212.02 ~~s. 212.02(4)~~. The methods of demonstrating
3690 proof of payment and the amount of such reductions in tax shall
3691 be made according to rules of the Department of Revenue.

3692 (g) Electricity produced by cogeneration or by small power
3693 producers which is transmitted and distributed by a public
3694 utility between two locations of a customer of the utility
3695 pursuant to s. 366.051 is subject to the tax imposed by this
3696 section. The tax shall be applied to the cost price of such
3697 electricity as provided in s. 212.02 ~~s. 212.02(4)~~ and shall be
3698 paid each month by the producer of such electricity.

3699 (h) Electricity produced by cogeneration or by small power
3700 producers during the 12-month period ending June 30 of each year
3701 which is in excess of nontaxable electricity produced during the
3702 12-month period ending June 30, 1990, is subject to the tax
3703 imposed by this section. The tax shall be applied to the cost
3704 price of such electricity as provided in s. 212.02 ~~s. 212.02(4)~~
3705 and shall be paid each month, beginning with the month in which
3706 total production exceeds the production of nontaxable
3707 electricity for the 12-month period ending June 30, 1990. For
3708 purposes of this paragraph, "nontaxable electricity" means
3709 electricity produced by cogeneration or by small power producers
3710 which is not subject to tax under paragraph (g). Taxes paid
3711 pursuant to paragraph (g) may be credited against taxes due
3712 under this paragraph. Electricity generated as part of an

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3713 industrial manufacturing process which manufactures products
3714 from phosphate rock, raw wood fiber, paper, citrus, or any
3715 agricultural product shall not be subject to the tax imposed by
3716 this paragraph. "Industrial manufacturing process" means the
3717 entire process conducted at the location where the process takes
3718 place.

3719 (i) Any person other than a cogenerator or small power
3720 producer described in paragraph (h) who produces for his or her
3721 own use electrical energy which is a substitute for electrical
3722 energy produced by an electric utility as defined in s. 366.02
3723 is subject to the tax imposed by this section. The tax shall be
3724 applied to the cost price of such electrical energy as provided
3725 in s. 212.02 ~~s. 212.02(4)~~ and shall be paid each month. The
3726 provisions of this paragraph do not apply to any electrical
3727 energy produced and used by an electric utility.

3728 Section 28. Paragraph (a) of subsection (1) of section
3729 212.031, Florida Statutes, is amended to read:

3730 212.031 Tax on rental or license fee for use of real
3731 property.—

3732 (1) (a) It is declared to be the legislative intent that
3733 every person is exercising a taxable privilege who engages in
3734 the business of renting, leasing, letting, or granting a license
3735 for the use of any real property unless such property is:

3736 1. Assessed as agricultural property under s. 193.461.

3737 2. Used exclusively as dwelling units.

3738 3. Property subject to tax on parking, docking, or storage
3739 spaces under s. 212.03(6).

3740 4. Recreational property or the common elements of a
3741 condominium when subject to a lease between the developer or

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3742 owner thereof and the condominium association in its own right
3743 or as agent for the owners of individual condominium units or
3744 the owners of individual condominium units. However, only the
3745 lease payments on such property shall be exempt from the tax
3746 imposed by this chapter, and any other use made by the owner or
3747 the condominium association shall be fully taxable under this
3748 chapter.

3749 5. A public or private street or right-of-way and poles,
3750 conduits, fixtures, and similar improvements located on such
3751 streets or rights-of-way, occupied or used by a utility or
3752 provider of communications services, as defined by s. 202.11,
3753 for utility or communications or television purposes. For
3754 purposes of this subparagraph, the term "utility" means any
3755 person providing utility services as defined in s. 203.012. This
3756 exception also applies to property, wherever located, on which
3757 the following are placed: towers, antennas, cables, accessory
3758 structures, or equipment, not including switching equipment,
3759 used in the provision of mobile communications services as
3760 defined in s. 202.11. For purposes of this chapter, towers used
3761 in the provision of mobile communications services, as defined
3762 in s. 202.11, are considered to be fixtures.

3763 6. A public street or road which is used for transportation
3764 purposes.

3765 7. Property used at an airport exclusively for the purpose
3766 of aircraft landing or aircraft taxiing or property used by an
3767 airline for the purpose of loading or unloading passengers or
3768 property onto or from aircraft or for fueling aircraft.

3769 8.a. Property used at a port authority, as defined in s.
3770 315.02(2), exclusively for the purpose of oceangoing vessels or

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3771 tugs docking, or such vessels mooring on property used by a port
3772 authority for the purpose of loading or unloading passengers or
3773 cargo onto or from such a vessel, or property used at a port
3774 authority for fueling such vessels, or to the extent that the
3775 amount paid for the use of any property at the port is based on
3776 the charge for the amount of tonnage actually imported or
3777 exported through the port by a tenant.

3778 b. The amount charged for the use of any property at the
3779 port in excess of the amount charged for tonnage actually
3780 imported or exported shall remain subject to tax except as
3781 provided in sub-subparagraph a.

3782 9. Property used as an integral part of the performance of
3783 qualified production services. As used in this subparagraph, the
3784 term "qualified production services" means any activity or
3785 service performed directly in connection with the production of
3786 a qualified motion picture, as defined in s. 212.06(1)(b), and
3787 includes:

3788 a. Photography, sound and recording, casting, location
3789 managing and scouting, shooting, creation of special and optical
3790 effects, animation, adaptation (language, media, electronic, or
3791 otherwise), technological modifications, computer graphics, set
3792 and stage support (such as electricians, lighting designers and
3793 operators, greensmen, prop managers and assistants, and grips),
3794 wardrobe (design, preparation, and management), hair and makeup
3795 (design, production, and application), performing (such as
3796 acting, dancing, and playing), designing and executing stunts,
3797 coaching, consulting, writing, scoring, composing,
3798 choreographing, script supervising, directing, producing,
3799 transmitting dailies, dubbing, mixing, editing, cutting,

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3800 looping, printing, processing, duplicating, storing, and
3801 distributing;

3802 b. The design, planning, engineering, construction,
3803 alteration, repair, and maintenance of real or personal property
3804 including stages, sets, props, models, paintings, and facilities
3805 principally required for the performance of those services
3806 listed in sub-subparagraph a.; and

3807 c. Property management services directly related to
3808 property used in connection with the services described in sub-
3809 subparagraphs a. and b.

3810
3811 This exemption will inure to the taxpayer upon presentation of
3812 the certificate of exemption issued to the taxpayer under the
3813 provisions of s. 288.1258.

3814 10. Leased, subleased, licensed, or rented to a person
3815 providing food and drink concessionaire services within the
3816 premises of a convention hall, exhibition hall, auditorium,
3817 stadium, theater, arena, civic center, performing arts center,
3818 publicly owned recreational facility, or any business operated
3819 under a permit issued pursuant to chapter 550. A person
3820 providing retail concessionaire services involving the sale of
3821 food and drink or other tangible personal property within the
3822 premises of an airport shall be subject to tax on the rental of
3823 real property used for that purpose, but shall not be subject to
3824 the tax on any license to use the property. For purposes of this
3825 subparagraph, the term "sale" shall not include the leasing of
3826 tangible personal property.

3827 11. Property occupied pursuant to an instrument calling for
3828 payments which the department has declared, in a Technical

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3829 Assistance Advisement issued on or before March 15, 1993, to be
3830 nontaxable pursuant to rule 12A-1.070(19)(c), Florida
3831 Administrative Code; provided that this subparagraph shall only
3832 apply to property occupied by the same person before and after
3833 the execution of the subject instrument and only to those
3834 payments made pursuant to such instrument, exclusive of renewals
3835 and extensions thereof occurring after March 15, 1993.

3836 12. Rented, leased, subleased, or licensed to a
3837 concessionaire by a convention hall, exhibition hall,
3838 auditorium, stadium, theater, arena, civic center, performing
3839 arts center, or publicly owned recreational facility, during an
3840 event at the facility, to be used by the concessionaire to sell
3841 souvenirs, novelties, or other event-related products. This
3842 subparagraph applies only to that portion of the rental, lease,
3843 or license payment which is based on a percentage of sales and
3844 not based on a fixed price. This subparagraph is repealed July
3845 1, 2009.

3846 13. Property used or occupied predominantly for space
3847 flight business purposes. As used in this subparagraph, "space
3848 flight business" means the manufacturing, processing, or
3849 assembly of a space facility, space propulsion system, space
3850 vehicle, satellite, or station of any kind possessing the
3851 capacity for space flight, as defined by s. 212.02 ~~s.~~
3852 ~~212.02(23)~~, or components thereof, and also means the following
3853 activities supporting space flight: vehicle launch activities,
3854 flight operations, ground control or ground support, and all
3855 administrative activities directly related thereto. Property
3856 shall be deemed to be used or occupied predominantly for space
3857 flight business purposes if more than 50 percent of the

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3858 property, or improvements thereon, is used for one or more space
3859 flight business purposes. Possession by a landlord, lessor, or
3860 licensor of a signed written statement from the tenant, lessee,
3861 or licensee claiming the exemption shall relieve the landlord,
3862 lessor, or licensor from the responsibility of collecting the
3863 tax, and the department shall look solely to the tenant, lessee,
3864 or licensee for recovery of such tax if it determines that the
3865 exemption was not applicable.

3866 Section 29. Paragraph (c) of subsection (2) and paragraph
3867 (c) of subsection (3) of section 212.055, Florida Statutes, are
3868 amended to read:

3869 212.055 Discretionary sales surtaxes; legislative intent;
3870 authorization and use of proceeds.—It is the legislative intent
3871 that any authorization for imposition of a discretionary sales
3872 surtax shall be published in the Florida Statutes as a
3873 subsection of this section, irrespective of the duration of the
3874 levy. Each enactment shall specify the types of counties
3875 authorized to levy; the rate or rates which may be imposed; the
3876 maximum length of time the surtax may be imposed, if any; the
3877 procedure which must be followed to secure voter approval, if
3878 required; the purpose for which the proceeds may be expended;
3879 and such other requirements as the Legislature may provide.
3880 Taxable transactions and administrative procedures shall be as
3881 provided in s. 212.054.

3882 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

3883 (c) Pursuant to s. 212.054 ~~s. 212.054(4)~~, the proceeds of
3884 the surtax levied under this subsection shall be distributed to
3885 the county and the municipalities within such county in which
3886 the surtax was collected, according to:

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3887 1. An interlocal agreement between the county governing
3888 authority and the governing bodies of the municipalities
3889 representing a majority of the county's municipal population,
3890 which agreement may include a school district with the consent
3891 of the county governing authority and the governing bodies of
3892 the municipalities representing a majority of the county's
3893 municipal population; or

3894 2. If there is no interlocal agreement, according to the
3895 formula provided in s. 218.62.

3896

3897 Any change in the distribution formula must take effect on the
3898 first day of any month that begins at least 60 days after
3899 written notification of that change has been made to the
3900 department.

3901 (3) SMALL COUNTY SURTAX.—

3902 (c) Pursuant to s. 212.054 ~~s. 212.054(4)~~, the proceeds of
3903 the surtax levied under this subsection shall be distributed to
3904 the county and the municipalities within the county in which the
3905 surtax was collected, according to:

3906 1. An interlocal agreement between the county governing
3907 authority and the governing bodies of the municipalities
3908 representing a majority of the county's municipal population,
3909 which agreement may include a school district with the consent
3910 of the county governing authority and the governing bodies of
3911 the municipalities representing a majority of the county's
3912 municipal population; or

3913 2. If there is no interlocal agreement, according to the
3914 formula provided in s. 218.62.

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3916 Any change in the distribution formula shall take effect on the
3917 first day of any month that begins at least 60 days after
3918 written notification of that change has been made to the
3919 department.

3920 Section 30. Subsection (3) of section 212.13, Florida
3921 Statutes, is amended to read:

3922 212.13 Records required to be kept; power to inspect; audit
3923 procedure.—

3924 (3) For the purpose of enforcement of this chapter, every
3925 manufacturer and seller of tangible personal property or
3926 services licensed within this state is required to permit the
3927 department to examine his or her books and records at all
3928 reasonable hours, and, upon his or her refusal, the department
3929 may require him or her to permit such examination by resort to
3930 the circuit courts of this state, subject however to the right
3931 of removal of the cause to the judicial circuit wherein such
3932 person's business is located or wherein such person's books and
3933 records are kept, provided further that such person's books and
3934 records are kept within the state. When the dealer has made an
3935 allocation or attribution pursuant to the definition of sales
3936 price in s. 212.02 ~~s. 212.02(16)~~, the department may prescribe
3937 by rule the books and records that must be made available during
3938 an audit of the dealer's books and records and examples of
3939 methods for determining the reasonableness thereof. Books and
3940 records kept in the regular course of business include, but are
3941 not limited to, general ledgers, price lists, cost records,
3942 customer billings, billing system reports, tariffs, and other
3943 regulatory filings and rules of regulatory authorities. Such
3944 record may be required to be made available to the department in

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3945 an electronic format when so kept by the dealer. The dealer may
3946 support the allocation of charges with books and records kept in
3947 the regular course of business covering the dealer's entire
3948 service area, including territories outside this state. During
3949 an audit, the department may reasonably require production of
3950 any additional books and records found necessary to assist in
3951 its determination.

3952 Section 31. Subsection (1) of section 212.15, Florida
3953 Statutes, is amended to read:

3954 212.15 Taxes declared state funds; penalties for failure to
3955 remit taxes; due and delinquent dates; judicial review.—

3956 (1) The taxes imposed by this chapter shall, ~~except as~~
3957 ~~provided in s. 212.06(5)(a)2.e.,~~ become state funds at the
3958 moment of collection and shall for each month be due to the
3959 department on the first day of the succeeding month and be
3960 delinquent on the 21st day of such month. All returns postmarked
3961 after the 20th day of such month are delinquent.

3962 Section 32. Subsection (3) of section 213.015, Florida
3963 Statutes, is amended to read:

3964 213.015 Taxpayer rights.—There is created a Florida
3965 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
3966 and property of Florida taxpayers are adequately safeguarded and
3967 protected during tax assessment, collection, and enforcement
3968 processes administered under the revenue laws of this state. The
3969 Taxpayer's Bill of Rights compiles, in one document, brief but
3970 comprehensive statements which explain, in simple, nontechnical
3971 terms, the rights and obligations of the Department of Revenue
3972 and taxpayers. Section 192.0105 provides additional rights
3973 afforded to payors of property taxes and assessments. The rights

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3974 afforded taxpayers to ensure that their privacy and property are
 3975 safeguarded and protected during tax assessment and collection
 3976 are available only insofar as they are implemented in other
 3977 parts of the Florida Statutes or rules of the Department of
 3978 Revenue. The rights so guaranteed Florida taxpayers in the
 3979 Florida Statutes and the departmental rules are:

3980 (3) The right to be represented or advised by counsel or
 3981 other qualified representatives at any time in administrative
 3982 interactions with the department, the right to procedural
 3983 safeguards with respect to recording of interviews during tax
 3984 determination or collection processes conducted by the
 3985 department, the right to be treated in a professional manner by
 3986 department personnel, and the right to have audits, inspections
 3987 of records, and interviews conducted at a reasonable time and
 3988 place except in criminal and internal investigations (see ss.
 3989 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3),
 3990 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (11) ~~(13)~~,
 3991 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

3992 Section 33. Subsection (3) of section 218.245, Florida
 3993 Statutes, is amended to read:

3994 218.245 Revenue sharing; apportionment.—

3995 (3) Revenues attributed to the increase in distribution to
 3996 the Revenue Sharing Trust Fund for Municipalities pursuant to s.
 3997 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ from 1.0715 percent to 1.3409
 3998 percent provided in chapter 2003-402, Laws of Florida, shall be
 3999 distributed to each eligible municipality and any unit of local
 4000 government that is consolidated as provided by s. 9, Art. VIII
 4001 of the State Constitution of 1885, as preserved by s. 6(e), Art.
 4002 VIII, 1968 revised constitution, as follows: each eligible local

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4003 government's allocation shall be based on the amount it received
4004 from the half-cent sales tax under s. 218.61 in the prior state
4005 fiscal year divided by the total receipts under s. 218.61 in the
4006 prior state fiscal year for all eligible local governments.
4007 However, for the purpose of calculating this distribution, the
4008 amount received from the half-cent sales tax under s. 218.61 in
4009 the prior state fiscal year by a unit of local government which
4010 is consolidated as provided by s. 9, Art. VIII of the State
4011 Constitution of 1885, as amended, and as preserved by s. 6(e),
4012 Art. VIII, of the Constitution as revised in 1968, shall be
4013 reduced by 50 percent for such local government and for the
4014 total receipts. For eligible municipalities that began
4015 participating in the allocation of half-cent sales tax under s.
4016 218.61 in the previous state fiscal year, their annual receipts
4017 shall be calculated by dividing their actual receipts by the
4018 number of months they participated, and the result multiplied by
4019 12.

4020 Section 34. Subsections (5), (6), and (7) of section
4021 218.65, Florida Statutes, are amended to read:

4022 218.65 Emergency distribution.—

4023 (5) At the beginning of each fiscal year, the Department of
4024 Revenue shall calculate a base allocation for each eligible
4025 county equal to the difference between the current per capita
4026 limitation times the county's population, minus prior year
4027 ordinary distributions to the county pursuant to ss.
4028 212.20(5)(d)2. ~~212.20(6)(d)2.~~, 218.61, and 218.62. If moneys
4029 deposited into the Local Government Half-cent Sales Tax Clearing
4030 Trust Fund pursuant to s. 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~,
4031 excluding moneys appropriated for supplemental distributions

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4032 pursuant to subsection (8), for the current year are less than
4033 or equal to the sum of the base allocations, each eligible
4034 county shall receive a share of the appropriated amount
4035 proportional to its base allocation. If the deposited amount
4036 exceeds the sum of the base allocations, each county shall
4037 receive its base allocation, and the excess appropriated amount,
4038 less any amounts distributed under subsection (6), shall be
4039 distributed equally on a per capita basis among the eligible
4040 counties.

4041 (6) If moneys deposited in the Local Government Half-cent
4042 Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3. ~~s.~~
4043 ~~212.20(6)(d)3.~~ exceed the amount necessary to provide the base
4044 allocation to each eligible county, the moneys in the trust fund
4045 may be used to provide a transitional distribution, as specified
4046 in this subsection, to certain counties whose population has
4047 increased. The transitional distribution shall be made available
4048 to each county that qualified for a distribution under
4049 subsection (2) in the prior year but does not, because of the
4050 requirements of paragraph (2)(a), qualify for a distribution in
4051 the current year. Beginning on July 1 of the year following the
4052 year in which the county no longer qualifies for a distribution
4053 under subsection (2), the county shall receive two-thirds of the
4054 amount received in the prior year, and beginning July 1 of the
4055 second year following the year in which the county no longer
4056 qualifies for a distribution under subsection (2), the county
4057 shall receive one-third of the amount it received in the last
4058 year it qualified for the distribution under subsection (2). If
4059 insufficient moneys are available in the Local Government Half-
4060 cent Sales Tax Clearing Trust Fund to fully provide such a

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4061 transitional distribution to each county that meets the
4062 eligibility criteria in this section, each eligible county shall
4063 receive a share of the available moneys proportional to the
4064 amount it would have received had moneys been sufficient to
4065 fully provide such a transitional distribution to each eligible
4066 county.

4067 (7) There is hereby annually appropriated from the Local
4068 Government Half-cent Sales Tax Clearing Trust Fund the
4069 distribution provided in s. 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~ to
4070 be used for emergency and supplemental distributions pursuant to
4071 this section.

4072 Section 35. Paragraph (s) of subsection (1) of section
4073 288.1045, Florida Statutes, is amended to read:

4074 288.1045 Qualified defense contractor and space flight
4075 business tax refund program.—

4076 (1) DEFINITIONS.—As used in this section:

4077 (s) "Space flight business" means the manufacturing,
4078 processing, or assembly of space flight technology products,
4079 space flight facilities, space flight propulsion systems, or
4080 space vehicles, satellites, or stations of any kind possessing
4081 the capability for space flight, as defined by s. 212.02 ~~s.~~
4082 ~~212.02(23)~~, or components thereof, and includes, in supporting
4083 space flight, vehicle launch activities, flight operations,
4084 ground control or ground support, and all administrative
4085 activities directly related to such activities. The term does
4086 not include products that are designed or manufactured for
4087 general commercial aviation or other uses even if those products
4088 may also serve an incidental use in space flight applications.

4089 Section 36. Subsection (6) of section 288.1169, Florida

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4090 Statutes, is amended to read:

4091 288.1169 International Game Fish Association World Center
4092 facility.—

4093 (6) The Department of Commerce must recertify every 10
4094 years that the facility is open, that the International Game
4095 Fish Association World Center continues to be the only
4096 international administrative headquarters, fishing museum, and
4097 Hall of Fame in the United States recognized by the
4098 International Game Fish Association, and that the project is
4099 meeting the minimum projections for attendance or sales tax
4100 revenues as required at the time of original certification. If
4101 the facility is not recertified during this 10-year review as
4102 meeting the minimum projections, then funding shall be abated
4103 until certification criteria are met. If the project fails to
4104 generate \$1 million of annual revenues pursuant to paragraph
4105 (2) (e), the distribution of revenues pursuant to s.
4106 212.02 (5) (d) 6.d. ~~s. 212.02 (6) (d) 6.d.~~ shall be reduced to an
4107 amount equal to \$83,333 multiplied by a fraction, the numerator
4108 of which is the actual revenues generated and the denominator of
4109 which is \$1 million. Such reduction remains in effect until
4110 revenues generated by the project in a 12-month period equal or
4111 exceed \$1 million.

4112 Section 37. Subsection (8) of section 551.102, Florida
4113 Statutes, is amended to read:

4114 551.102 Definitions.—As used in this chapter, the term:

4115 (8) "Slot machine" means any mechanical or electrical
4116 contrivance, terminal that may or may not be capable of
4117 downloading slot games from a central server system, machine, or
4118 other device that, upon insertion of a coin, bill, ticket,

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4119 token, or similar object or upon payment of any consideration
4120 whatsoever, including the use of any electronic payment system
4121 except a credit card or debit card, is available to play or
4122 operate, the play or operation of which, whether by reason of
4123 skill or application of the element of chance or both, may
4124 deliver or entitle the person or persons playing or operating
4125 the contrivance, terminal, machine, or other device to receive
4126 cash, billets, tickets, tokens, or electronic credits to be
4127 exchanged for cash or to receive merchandise or anything of
4128 value whatsoever, whether the payoff is made automatically from
4129 the machine or manually. The term includes associated equipment
4130 necessary to conduct the operation of the contrivance, terminal,
4131 machine, or other device. Slot machines may use spinning reels,
4132 video displays, or both. A slot machine is not a "coin-operated
4133 amusement machine" as defined in s. 212.02 ~~s. 212.02(24)~~ or an
4134 amusement game or machine as described in s. 849.161, and slot
4135 machines are not subject to the tax imposed by s. 212.05(1)(h).

4136 Section 38. Paragraph (a) of subsection (1) of section
4137 790.0655, Florida Statutes, is amended to read:

4138 790.0655 Purchase and delivery of handguns; mandatory
4139 waiting period; exceptions; penalties.—

4140 (1)(a) There shall be a mandatory 3-day waiting period,
4141 which shall be 3 days, excluding weekends and legal holidays,
4142 between the purchase and the delivery at retail of any handgun.
4143 "Purchase" means the transfer of money or other valuable
4144 consideration to the retailer. "Handgun" means a firearm capable
4145 of being carried and used by one hand, such as a pistol or
4146 revolver. "Retailer" means and includes every person engaged in
4147 the business of making sales at retail or for distribution, or

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4148 use, or consumption, or storage to be used or consumed in this
4149 state, as defined in s. 212.02 ~~s. 212.02(13)~~.

4150 Section 39. Section 212.0596, Florida Statutes, is
4151 repealed.

4152 Section 40. This act shall take effect January 1, 2011.