

By the Committee on Commerce and Tourism; and 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 s. 212.0306, F.S.; eliminating
7 the use of brackets in the calculation of sales and
8 use taxes; amending s. 212.031, F.S.; providing that
9 an exception relating to food and drink concessionaire
10 services from the tax on the license or rental fee for
11 the use of real property is limited to the space used
12 exclusively for selling and distributing food and
13 drinks; providing that the amendment to the exception
14 from the tax on the license or rental fee for the use
15 of real property is retroactive and remedial in
16 nature; amending s. 212.04, F.S.; eliminating the use
17 of brackets in the calculation of sales and use taxes;
18 limiting the application of an exemption from the
19 admissions tax to certain events sponsored by certain
20 educational institutions; amending s. 212.05, F.S.;
21 deleting a reference to mail-order sales to conform to
22 changes made by the act; deleting criteria
23 establishing circumstances under which taxes on the
24 lease or rental of a motor vehicle are due; revising
25 criteria establishing circumstances under which taxes
26 on the sale of a prepaid calling arrangement are due;
27 increasing the tax rate applicable to coin-operated
28 amusement machines; eliminating the use of brackets in
29 the calculation of sales and use taxes; amending s.

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30 212.0506, F.S.; eliminating the use of brackets in the
31 calculation of the tax on service warranties; amending
32 s. 212.054, F.S.; limiting the \$5,000 cap on
33 discretionary sales surtax to the sale of motor
34 vehicles, aircraft, boats, motor homes, manufactured
35 homes, modular homes, and mobile homes; specifying the
36 time at which changes in surtaxes may take effect;
37 providing criteria to determine the situs of certain
38 sales; requiring the Department of Revenue to notify
39 dealers of changes in surtax rates; providing for
40 databases to identify taxing jurisdictions; providing
41 criteria for holding purchasers harmless for failure
42 to pay the correct amount of tax; holding sellers
43 harmless for failing to collect a tax at a new rate
44 under certain circumstances; amending s. 212.055,
45 F.S.; deleting a provision providing for the emergency
46 fire rescue services and facilities surtax to be
47 initiated on a certain date after the approval of the
48 tax in a referendum; amending s. 212.06, F.S.;

49 deleting a reference to mail-order sales to conform to
50 changes made by the act; specifying procedures for the
51 sourcing of advertising and promotional direct mail;
52 specifying procedures for sourcing other direct mail;
53 providing definitions; providing that sales and use
54 taxes do not apply to transactions involving tangible
55 personal property that is exported from this state
56 under certain circumstances; amending s. 212.07, F.S.;

57 authorizing the Department of Revenue to use
58 electronic means to notify dealers of changes in the

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59 sales and use tax rates; authorizing the Department of
60 Revenue to create and maintain a taxability matrix;
61 providing immunity from liability for acts in reliance
62 on the taxability matrix; amending s. 212.08, F.S.;
63 revising exemptions from the sales and use tax for
64 food and medical products; limiting the exemption for
65 building materials used in the rehabilitation of real
66 property located in an enterprise zone to one
67 exemption per building; defining terms relating to the
68 exemption for building materials used in the
69 rehabilitation of real property located in an
70 enterprise zone; exempting certain charges relating to
71 railroad cars which are subject to the jurisdiction of
72 the United States Interstate Commerce Commission from
73 sales and use taxes; exempting certain payments
74 relating to a high-voltage bulk transmission facility
75 from sales and use taxes; deleting references to
76 "qualifying property" to conform to changes made by
77 the act; creating s. 212.094, F.S.; providing a
78 procedure for a purchaser to obtain a refund of tax
79 collected by a dealer; amending s. 212.12, F.S.;
80 authorizing collection allowances; setting
81 requirements for a collection allowance to be allowed;
82 authorizing collection allowances for certain remote
83 sellers; providing for a reduction; authorizing the
84 Department of Revenue to establish collection
85 allowances for certified service providers; deleting a
86 reference to mail-order sales to conform to changes
87 made by the act; providing for the computation of

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88 taxes based on rounding instead of brackets; amending
89 s. 212.15, F.S.; deleting a cross-reference relating
90 to a provision providing for the state to hold certain
91 tax revenues for the benefit of another state, to
92 conform to changes made by the act; amending s.
93 212.17, F.S.; providing additional criteria for a
94 dealer to claim a credit or refund for taxes paid
95 relating to bad debts; amending s. 212.18, F.S.;
96 authorizing the Department of Revenue to waive the
97 dealer registration fee for applications submitted
98 through a multistate electronic registration system;
99 deleting a reference to mail-order sales to conform to
100 changes made by the act; amending s. 212.20, F.S.;
101 deleting procedures for refunds of tax paid on mail
102 order sales; providing for reduction of the Local
103 Government Half-cent Sales Tax Clearing Trust Fund
104 beginning in 2012; creating s. 213.052, F.S.;
105 requiring the Department of Revenue to notify dealers
106 of changes in a sales and use tax rate; specifying
107 dates on which changes in sales and use tax rates may
108 take effect; creating s. 213.0521, F.S.; providing the
109 effective date for changes in the rate of state sales
110 and use taxes applying to services; creating s.
111 213.215, F.S.; providing amnesty for uncollected or
112 unpaid sales and use taxes for sellers who register
113 under the Streamlined Sales and Use Tax Agreement;
114 providing exceptions to the amnesty; amending s.
115 213.256, F.S.; defining terms; authorizing the
116 Department of Revenue to enter into agreements with

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117 other states to simplify and facilitate compliance
118 with sales tax laws; creating s. 213.2562, F.S.;
119 requiring the Department of Revenue to review software
120 submitted to the governing board for certification as
121 a certified automated system; creating s. 213.2567,
122 F.S.; providing for the registration of sellers, the
123 certification of a person as a certified service
124 provider, and the certification of a software program
125 as a certified automated system by the governing board
126 under the Streamlined Sales and Use Tax Agreement;
127 authorizing the Department of Revenue to adopt
128 emergency rules; requiring the President of the Senate
129 and Speaker of the House of Representatives to create
130 a joint select committee to study certain matters
131 related to state taxation; amending ss. 11.45,
132 196.012, 202.18, 203.01, 212.052, 212.081, 212.13,
133 218.245, 218.65, 288.1045, 288.11621, 288.1169,
134 551.102, and 790.0655, F.S.; conforming cross-
135 references to changes made by the act; repealing s.
136 212.0596, F.S., relating to provisions pertaining to
137 the taxation of mail-order sales; providing an
138 effective date.

139

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

141

142 Section 1. Section 212.02, Florida Statutes, is reordered
143 and amended to read:

144 212.02 Definitions.—The following terms and phrases when
145 used in this chapter have the meanings ascribed to them in this

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146 section, except where the context clearly indicates a different
147 meaning. The term or terms:

148 (1) ~~The term~~ "Admissions" means and includes the net sum of
149 money after deduction of any federal taxes for admitting a
150 person or vehicle or persons to any place of amusement, sport,
151 or recreation or for the privilege of entering or staying in any
152 place of amusement, sport, or recreation, including, but not
153 limited to, theaters, outdoor theaters, shows, exhibitions,
154 games, races, or any place where charge is made by way of sale
155 of tickets, gate charges, seat charges, box charges, season pass
156 charges, cover charges, greens fees, participation fees,
157 entrance fees, or other fees or receipts of anything of value
158 measured on an admission or entrance or length of stay or seat
159 box accommodations in any place where there is any exhibition,
160 amusement, sport, or recreation, and all dues and fees paid to
161 private clubs and membership clubs providing recreational or
162 physical fitness facilities, including, but not limited to,
163 golf, tennis, swimming, yachting, boating, athletic, exercise,
164 and fitness facilities, except physical fitness facilities owned
165 or operated by any hospital licensed under chapter 395.

166 (2) "Agricultural commodity" means horticultural and
167 aquacultural products, poultry and farm products, and livestock
168 and livestock products.

169 (4) "Bundled transaction" means the retail sale of two or
170 more products, except real property and services to real
171 property, in which the products are otherwise distinct and
172 identifiable and the products are sold for one non-itemized
173 price. A bundled transaction does not include the sale of any
174 products in which the sales price varies, or is negotiable,

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175 based on the selection by the purchaser of the products included
176 in the transaction.

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

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

179 a. Packaging, such as containers, boxes, sacks, bags, and
180 bottles or other materials, such as wrapping, labels, tags, and
181 instruction guides, which accompany the retail sale of the
182 products and are incidental or immaterial to the retail sale of
183 the products. Examples of packing that is incidental or
184 immaterial include grocery sacks, shoeboxes, dry cleaning
185 garment bags, and express delivery envelopes and boxes.

186 b. A product provided free of charge with the required
187 purchase of another product. A product is provided free of
188 charge if the sales price of the product purchased does not vary
189 depending on the inclusion of the product provided free of
190 charge.

191 c. Items included in the definition of sales price.

192 2. "One non-itemized price" does not include a price that
193 is separately identified by product on binding sales or other
194 supporting sales-related documentation made available to the
195 customer in paper or electronic form, including, but not limited
196 to, an invoice, bill of sale, receipt, contract, service
197 agreement, lease agreement, periodic notice of rates and
198 services, rate card, or price list.

199 3. "De minimis" means that the dealer's purchase price or
200 sales price of the taxable products is 10 percent or less of the
201 total purchase price or sales price of the bundled products.

202 a. Dealers must use the purchase price or sales price of
203 the products to determine if the taxable products are de

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204 minimis. Dealers may not use a combination of the purchase price
205 and sales price of the products to determine if the taxable
206 products are de minimis.

207 b. Dealers shall use the full term of a service contract to
208 determine if the taxable products are de minimis.

209 (b) A transaction that otherwise satisfies the definition
210 of a bundled transaction, as defined in this subsection, is not
211 a bundled transaction if it is:

212 1. The retail sale of tangible personal property and a
213 service in which the tangible personal property is essential to
214 the use of the service, is provided exclusively in connection
215 with the service, and the true object of the transaction is the
216 service;

217 2. The retail sale of services in which one service is
218 provided which is essential to the use or receipt of a second
219 service and the first service is provided exclusively in
220 connection with the second service and the true object of the
221 transaction is the second service;

222 3. A transaction that includes taxable products and
223 nontaxable products and the purchase price or sales price of the
224 taxable products is de minimis; or

225 4. The retail sale of exempt tangible personal property and
226 taxable personal property in which:

227 a. The transaction includes food and food ingredients,
228 drugs, durable medical equipment, mobility-enhancing equipment,
229 over-the-counter drugs, prosthetic devices, or medical supplies;
230 and

231 b. The dealer's purchase price or sales price of the
232 taxable tangible personal property is 50 percent or less of the

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233 total purchase price or sales price of the bundled tangible
234 personal property. Dealers may not use a combination of the
235 purchase price and sales price of the tangible personal property
236 to make the determination required in this sub-subparagraph.

237 (5)~~(2)~~ "Business" means any activity engaged in by any
238 person, or caused to be engaged in by him or her, with the
239 object of private or public gain, benefit, or advantage, either
240 direct or indirect. Except for the sales of any aircraft, boat,
241 mobile home, or motor vehicle, the term "business" shall not be
242 construed in this chapter to include occasional or isolated
243 sales or transactions involving tangible personal property or
244 services by a person who does not hold himself or herself out as
245 engaged in business or sales of unclaimed tangible personal
246 property under s. 717.122, but includes other charges for the
247 sale or rental of tangible personal property, sales of services
248 taxable under this chapter, sales of or charges of admission,
249 communication services, all rentals and leases of living
250 quarters, other than low-rent housing operated under chapter
251 421, sleeping or housekeeping accommodations in hotels,
252 apartment houses, roominghouses, tourist or trailer camps, and
253 all rentals of or licenses in real property, other than low-rent
254 housing operated under chapter 421, all leases or rentals of or
255 licenses in parking lots or garages for motor vehicles, docking
256 or storage spaces for boats in boat docks or marinas as defined
257 in this chapter and made subject to a tax imposed by this
258 chapter. The term "business" shall not be construed in this
259 chapter to include the leasing, subleasing, or licensing of real
260 property by one corporation to another if all of the stock of
261 both such corporations is owned, directly or through one or more

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262 wholly owned subsidiaries, by a common parent corporation; the
263 property was in use prior to July 1, 1989, title to the property
264 was transferred after July 1, 1988, and before July 1, 1989,
265 between members of an affiliated group, as defined in s. 1504(a)
266 of the Internal Revenue Code of 1986, which group included both
267 such corporations and there is no substantial change in the use
268 of the property following the transfer of title; the leasing,
269 subleasing, or licensing of the property was required by an
270 unrelated lender as a condition of providing financing to one or
271 more members of the affiliated group; and the corporation to
272 which the property is leased, subleased, or licensed had sales
273 subject to the tax imposed by this chapter of not less than \$667
274 million during the most recent 12-month period ended June 30.
275 Any tax on such sales, charges, rentals, admissions, or other
276 transactions made subject to the tax imposed by this chapter
277 shall be collected by the state, county, municipality, any
278 political subdivision, agency, bureau, or department, or other
279 state or local governmental instrumentality in the same manner
280 as other dealers, unless specifically exempted by this chapter.

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

283 (7) ~~(3)~~ ~~The terms~~ "Cigarettes," "tobacco," or "tobacco
284 products" referred to in this chapter include all such products
285 as are defined or may be hereafter defined by the laws of the
286 state.

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

290 (10) "Computer software" means a set of coded instructions

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291 designed to cause a computer or automatic data processing
292 equipment to perform a task.

293 (11)(4) "Cost price" means the actual cost of articles of
294 tangible personal property without any deductions whatsoever,
295 including, but not limited to, deductions for ~~therefrom on~~
296 ~~account of~~ the cost of materials used, labor or service costs,
297 transportation charges, or other any expenses whatsoever.

298 (12) "Delivery charges" means charges by the dealer of
299 personal property or services for preparation and delivery to a
300 location designated by the purchaser of such property or
301 services, including, but not limited to, transportation,
302 shipping, postage, handling, crating, and packing. The term does
303 not include the charges for delivery of direct mail if the
304 charges are separately stated on an invoice or similar billing
305 document given to the purchaser. If a shipment includes exempt
306 property and taxable property, the dealer shall tax only the
307 percentage of the delivery charge allocated to the taxable
308 property. The dealer may allocate the delivery charge by using:

309 (a) A percentage based on the total sales price of the
310 taxable property compared to the sales price of all property in
311 the shipment; or

312 (b) A percentage based on the total weight of the taxable
313 property compared to the total weight of all property in the
314 shipment.

315 (13)(5) ~~The term~~ "Department" means the Department of
316 Revenue.

317 (17)(6) "Enterprise zone" means an area of the state
318 designated pursuant to s. 290.0065. This subsection expires on
319 the date specified in s. 290.016 for the expiration of the

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320 Florida Enterprise Zone Act.

321 (18)~~(7)~~ "Factory-built building" means a structure
322 manufactured in a manufacturing facility for installation or
323 erection as a finished building and~~;~~ ~~"factory-built building"~~
324 includes, but is not limited to, residential, commercial,
325 institutional, storage, and industrial structures.

326 (22)~~(8)~~ "In this state" or "in the state" means within the
327 state boundaries of Florida as defined in s. 1, Art. II of the
328 State Constitution and includes all territory within these
329 limits owned by or ceded to the United States.

330 (23)~~(9)~~ ~~The term~~ "Intoxicating beverages" or "alcoholic
331 beverages" referred to in this chapter includes all such
332 beverages as are so defined or may be hereafter defined by the
333 laws of the state.

334 (24) (a)~~(10)~~ "Lease," "let," or "rental" means the leasing
335 or renting of living quarters or sleeping or housekeeping
336 accommodations in hotels, apartment houses, roominghouses,
337 tourist or trailer camps and real property, the same being
338 defined as follows:

339 1.~~(a)~~ Every building or other structure kept, used,
340 maintained, or advertised as, or held out to the public to be, a
341 place where sleeping accommodations are supplied for pay to
342 transient or permanent guests or tenants, in which 10 or more
343 rooms are furnished for the accommodation of such guests, and
344 having one or more dining rooms or cafes where meals or lunches
345 are served to such transient or permanent guests; such sleeping
346 accommodations and dining rooms or cafes being conducted in the
347 same building or buildings in connection therewith, shall, for
348 the purpose of this chapter, be deemed a hotel.

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349 2.~~(b)~~ Any building, or part thereof, where separate
350 accommodations for two or more families living independently of
351 each other are supplied to transient or permanent guests or
352 tenants shall for the purpose of this chapter be deemed an
353 apartment house.

354 3.~~(e)~~ Every house, boat, vehicle, motor court, trailer
355 court, or other structure or any place or location kept, used,
356 maintained, or advertised as, or held out to the public to be, a
357 place where living quarters or sleeping or housekeeping
358 accommodations are supplied for pay to transient or permanent
359 guests or tenants, whether in one or adjoining buildings, shall
360 for the purpose of this chapter be deemed a roominghouse.

361 4.~~(d)~~ In all hotels, apartment houses, and roominghouses
362 within the meaning of this chapter, the parlor, dining room,
363 sleeping porches, kitchen, office, and sample rooms shall be
364 construed to mean "rooms."

365 (b)~~(e)~~ The term or terms:

366 1. A "Tourist camp" means ~~is~~ a place where two or more
367 tents, tent houses, or camp cottages are located and offered by
368 a person or municipality for sleeping or eating accommodations,
369 most generally to the transient public for either a direct money
370 consideration or an indirect benefit to the lessor or owner in
371 connection with a related business.

372 2.~~(f)~~ A "Trailer camp," "mobile home park," or
373 "recreational vehicle park" means ~~is~~ a place where space is
374 offered, with or without service facilities, by any persons or
375 municipality to the public for the parking and accommodation of
376 two or more automobile trailers, mobile homes, or recreational
377 vehicles that ~~which~~ are used for lodging, for either a direct

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378 money consideration or an indirect benefit to the lessor or
379 owner in connection with a related business, such space being
380 hereby defined as living quarters, and the rental price thereof
381 shall include all service charges paid to the lessor.

382 ~~(g) "Lease," "let," or "rental" also means the leasing or~~
383 ~~rental of tangible personal property and the possession or use~~
384 ~~thereof by the lessee or rentee for a consideration, without~~
385 ~~transfer of the title of such property, except as expressly~~
386 ~~provided to the contrary herein. The term "Lease," "let," or~~
387 ~~"rental" does not mean hourly, daily, or mileage charges, to the~~
388 ~~extent that such charges are subject to the jurisdiction of the~~
389 ~~United States Interstate Commerce Commission, when such charges~~
390 ~~are paid by reason of the presence of railroad cars owned by~~
391 ~~another on the tracks of the taxpayer, or charges made pursuant~~
392 ~~to car service agreements. The term "Lease," "let," "rental," or~~
393 ~~"license" does not include payments made to an owner of high-~~
394 ~~voltage bulk transmission facilities in connection with the~~
395 ~~possession or control of such facilities by a regional~~
396 ~~transmission organization, independent system operator, or~~
397 ~~similar entity under the jurisdiction of the Federal Energy~~
398 ~~Regulatory Commission. However, where two taxpayers, in~~
399 ~~connection with the interchange of facilities, rent or lease~~
400 ~~property, each to the other, for use in providing or furnishing~~
401 ~~any of the services mentioned in s. 166.231, the term "lease or~~
402 ~~rental" means only the net amount of rental involved.~~

403 3.(h) "Real property" means the surface land, improvements
404 thereto, and fixtures, and is synonymous with "realty" and "real
405 estate."

406 4.(i) "License," as used in this chapter with reference to

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407 the use of real property, means the granting of a privilege to
408 use or occupy a building or a parcel of real property for any
409 purpose.

410 (c)~~(j)~~ Privilege, franchise, or concession fees, or fees
411 for a license to do business, paid to an airport are not
412 payments for leasing, letting, renting, or granting a license
413 for the use of real property.

414 (d) Any transfer of possession or control of tangible
415 personal property for a fixed or indeterminate term for
416 consideration. A clause for a future option to purchase or to
417 extend an agreement does not preclude an agreement from being a
418 lease or rental. This definition shall be used for purposes of
419 the sales and use tax regardless of whether a transaction is
420 characterized as a lease or rental under generally accepted
421 accounting principles, the Internal Revenue Code, the Uniform
422 Commercial Code, or any other provisions of federal, state, or
423 local law. These terms include agreements covering motor
424 vehicles and trailers if the amount of consideration may be
425 increased or decreased by reference to the amount realized upon
426 sale or disposition of the property as provided in 26 U.S.C. s.
427 7701(h) (1). These terms do not include:

428 1. A transfer of possession or control of property under a
429 security agreement or deferred payment plan that requires the
430 transfer of title upon completion of the required payments;

431 2. A transfer of possession or control of property under an
432 agreement that requires the transfer of title upon completion of
433 required payments and payment of an option price that does not
434 exceed the greater of \$100 or 1 percent of the total required
435 payments; or

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436 3. The provision of tangible personal property along with
437 an operator for a fixed or indeterminate period of time. As a
438 condition of this exclusion, the operator must be necessary for
439 the equipment to perform as designed. For the purpose of this
440 subparagraph, an operator must do more than maintain, inspect,
441 or set up the tangible personal property.

442 ~~(26)~~~~(11)~~ "Motor fuel" means and includes what is commonly
443 known and sold as gasoline and fuels containing a mixture of
444 gasoline and other products.

445 ~~(27)~~~~(12)~~ "Person" includes any individual, firm,
446 copartnership, joint adventure, association, corporation,
447 estate, trust, business trust, receiver, syndicate, or other
448 group or combination acting as a unit and also includes any
449 political subdivision, municipality, state agency, bureau, or
450 department and includes the plural as well as the singular
451 number.

452 ~~(33)~~~~(13)~~ "Retailer" means and includes every person engaged
453 in the business of making sales at retail or for distribution,
454 or use, or consumption, or storage to be used or consumed in
455 this state.

456 ~~(34)~~~~(14)~~ (a) "Retail sale" or a "sale at retail" means a
457 sale to a consumer or to any person for any purpose other than
458 for resale in the form of tangible personal property or services
459 taxable under this chapter, and includes all such transactions
460 that may be made in lieu of retail sales or sales at retail. A
461 sale for resale includes a sale of qualifying property. As used
462 in this paragraph, the term "qualifying property" means tangible
463 personal property, other than electricity, which is used or
464 consumed by a government contractor in the performance of a

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465 qualifying contract as defined in s. 212.08(17)(c), to the
466 extent that the cost of the property is allocated or charged as
467 a direct item of cost to such contract, title to which property
468 vests in or passes to the government under the contract. The
469 term "government contractor" includes prime contractors and
470 subcontractors. As used in this paragraph, a cost is a "direct
471 item of cost" if it is a "direct cost" as defined in 48 C.F.R.
472 s. 9904.418-30(a)(2), or similar successor provisions, including
473 costs identified specifically with a particular contract.

474 (b) ~~The terms~~ "Retail sales," "sales at retail," "use,"
475 "storage," and "consumption" include the sale, use, storage, or
476 consumption of all tangible advertising materials imported or
477 caused to be imported into this state. Tangible advertising
478 material includes displays, display containers, brochures,
479 catalogs, price lists, point-of-sale advertising, and technical
480 manuals or any tangible personal property that ~~which~~ does not
481 accompany the product to the ultimate consumer.

482 (c) "Retail sales," "sale at retail," "use," "storage," and
483 "consumption" do not include materials, containers, labels,
484 sacks, bags, or similar items intended to accompany a product
485 sold to a customer without which delivery of the product would
486 be impracticable because of the character of the contents and be
487 used one time only for packaging tangible personal property for
488 sale or for the convenience of the customer or for packaging in
489 the process of providing a service taxable under this chapter.
490 When a separate charge for packaging materials is made, the
491 charge shall be considered part of the sales price or rental
492 charge for purposes of determining the applicability of tax. The
493 terms do not include the sale, use, storage, or consumption of

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494 industrial materials, including chemicals and fuels except as
495 provided herein, for future processing, manufacture, or
496 conversion into articles of tangible personal property for
497 resale when such industrial materials, including chemicals and
498 fuels except as provided herein, become a component or
499 ingredient of the finished product. However, the terms include
500 the sale, use, storage, or consumption of tangible personal
501 property, including machinery and equipment or parts thereof,
502 purchased electricity, and fuels used to power machinery, when
503 such items are used and dissipated in fabricating, converting,
504 or processing tangible personal property for sale, even though
505 they may become ingredients or components of the tangible
506 personal property for sale through accident, wear, tear,
507 erosion, corrosion, or similar means. The terms do not include
508 the sale of materials to a registered repair facility for use in
509 repairing a motor vehicle, airplane, or boat, when such
510 materials are incorporated into and sold as part of the repair.
511 Such a sale shall be deemed a purchase for resale by the repair
512 facility, even though every material is not separately stated or
513 separately priced on the repair invoice.

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

518 ~~(c) The term "retail sale" includes a mail order sale, as~~
519 ~~defined in s. 212.0596(1).~~

520 (35) ~~(15)~~ "Sale" means and includes:

521 (a) Any transfer of title or possession, or both, exchange,
522 barter, license, lease, or rental, conditional or otherwise, in

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523 any manner or by any means whatsoever, of tangible personal
524 property for a consideration.

525 (b) The rental of living quarters or sleeping or
526 housekeeping accommodations in hotels, apartment houses or
527 roominghouses, or tourist or trailer camps, as ~~hereinafter~~
528 defined in this chapter.

529 (c) The producing, fabricating, processing, printing, or
530 imprinting of tangible personal property for a consideration for
531 consumers who furnish either directly or indirectly the
532 materials used in the producing, fabricating, processing,
533 printing, or imprinting.

534 (d) The furnishing, preparing, or serving for a
535 consideration of any tangible personal property for consumption
536 on or off the premises of the person furnishing, preparing, or
537 serving such tangible personal property which includes the sale
538 of meals or prepared food by an employer to his or her
539 employees.

540 (e) A transaction whereby the possession of property is
541 transferred but the seller retains title as security for the
542 payment of the price.

543 (36) (a) ~~(16)~~ "Sales price" applies to the amount subject to
544 the tax imposed by this chapter and means the total
545 consideration, including cash, credit, property, and services,
546 for which tangible personal property or services are sold,
547 leased, or rented, valued in money, whether received in money or
548 otherwise, without any deduction for the following:

- 549 1. The dealer's cost of the property sold;
550 2. The cost of materials used, labor or service cost,
551 interest, losses, all costs of transportation to the dealer, all

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552 taxes imposed on the dealer, and any other expense of the
553 dealer;

554 3. Charges by the dealer for any services necessary to
555 complete the sale, other than delivery and installation charges;

556 4. Delivery charges;

557 5. Installation charges; or

558 6. Charges by a dealer for a bundled transaction, which
559 includes a sale or use of a product that is taxable under this
560 chapter, unless otherwise provided in this chapter.

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

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

565 2. Discounts, including cash, term, or coupons, which are
566 not reimbursed by a third party, are allowed by a dealer, and
567 are taken by a purchaser at the time of sale;

568 3. Interest, financing, and carrying charges from credit
569 extended on the sale of personal property or services, if the
570 amount is separately stated on the invoice, bill of sale, or
571 similar document given to the purchaser;

572 4. Any taxes legally imposed directly on the consumer which
573 are separately stated on the invoice, bill of sale, or similar
574 document given to the purchaser; or ~~means the total amount paid~~
575 ~~for tangible personal property, including any services that are~~
576 ~~a part of the sale, valued in money, whether paid in money or~~
577 ~~otherwise, and includes any amount for which credit is given to~~
578 ~~the purchaser by the seller, without any deduction therefrom on~~
579 ~~account of the cost of the property sold, the cost of materials~~
580 ~~used, labor or service cost, interest charged, losses, or any~~

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581 ~~other expense whatsoever. "Sales price" also includes the~~
582 ~~consideration for a transaction which requires both labor and~~
583 ~~material to alter, remodel, maintain, adjust, or repair tangible~~
584 ~~personal property. Trade-ins or discounts allowed and taken at~~
585 ~~the time of sale shall not be included within the purview of~~
586 ~~this subsection. "Sales price" also includes the full face value~~
587 ~~of any coupon used by a purchaser to reduce the price paid to a~~
588 ~~retailer for an item of tangible personal property; where the~~
589 ~~retailer will be reimbursed for such coupon, in whole or in~~
590 ~~part, by the manufacturer of the item of tangible personal~~
591 ~~property; or whenever it is not practicable for the retailer to~~
592 ~~determine, at the time of sale, the extent to which~~
593 ~~reimbursement for the coupon will be made. The term "sales~~
594 ~~price" does not include federal excise taxes imposed upon the~~
595 ~~retailer on the sale of tangible personal property. The term~~
596 ~~"sales price" does include federal manufacturers' excise taxes,~~
597 ~~even if the federal tax is listed as a separate item on the~~
598 ~~invoice. To the extent required by federal law, the term "sales~~
599 ~~price" does not include~~

600 5. Charges for Internet access services that which are sold
601 separately or that are not itemized on the customer's bill, but
602 that which can be reasonably identified from the selling
603 dealer's books and records kept in the regular course of
604 business. The dealer may support the allocation of charges with
605 books and records kept in the regular course of business
606 covering the dealer's entire service area, including territories
607 outside this state.

608 (14)(17) "Diesel fuel" means any liquid product or, gas
609 product, or any combination thereof, which is used in an

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610 internal combustion engine or motor to propel any form of
611 vehicle, machine, or mechanical contrivance. The ~~This~~ term
612 includes, but is not limited to, all forms of fuel commonly or
613 commercially known or sold as diesel fuel or kerosene. However,
614 the term "~~diesel fuel~~" does not include butane gas, propane gas,
615 or any other form of liquefied petroleum gas or compressed
616 natural gas.

617 (15) "Direct mail" means printed material delivered or
618 distributed by the United States Postal Service or other
619 delivery service to a mass audience or to addressees on a
620 mailing list provided by the purchaser or at the direction of
621 the purchaser when the cost of the items is not billed directly
622 to the recipients. The term includes tangible personal property
623 supplied directly or indirectly by the purchaser to the direct-
624 mail dealer for inclusion in the package containing the printed
625 material. The term does not include multiple items of printed
626 material delivered to a single address.

627 (16) "Electronic" means relating to technology having
628 electrical, digital, magnetic, wireless, optical,
629 electromagnetic, or similar capabilities.

630 (41)(18) "Storage" means and includes any keeping or
631 retention in this state of tangible personal property for use or
632 consumption in this state or for any purpose other than sale at
633 retail in the regular course of business.

634 (42)(19) "Tangible personal property" means and includes
635 personal property that ~~which~~ may be seen, weighed, measured, or
636 touched or is in any manner perceptible to the senses, including
637 electric power or energy, water, gas, steam, prewritten computer
638 software, boats, motor vehicles and mobile homes as defined in

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639 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all
640 other types of vehicles. The term "tangible personal property"
641 does not include stocks, bonds, notes, insurance, or other
642 obligations or securities or pari-mutuel tickets sold or issued
643 under the racing laws of the state.

644 (43)~~(20)~~ "Use" means and includes the exercise of any right
645 or power over tangible personal property incident to the
646 ownership thereof, or interest therein, except that it does not
647 include the sale at retail of that property in the regular
648 course of business. The term "use" does not include:

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

652 (b) A contractor's use of "qualifying property" as defined
653 by paragraph (34) (a) ~~paragraph (14) (a)~~.

654 (44)~~(21)~~ The term "Use tax" referred to in this chapter
655 includes the use, the consumption, the distribution, and the
656 storage as herein defined.

657 (45) "Voluntary seller" or "volunteer seller" means a
658 dealer who is not required to register in this state to collect
659 the tax imposed by this chapter.

660 (40)~~(22)~~ "Spaceport activities" means activities directed
661 or sponsored by Space Florida on spaceport territory pursuant to
662 its powers and responsibilities under the Space Florida Act.

663 (39)~~(23)~~ "Space flight" means any flight designed for
664 suborbital, orbital, or interplanetary travel of a space
665 vehicle, satellite, or station of any kind.

666 (8)~~(24)~~ "Coin-operated amusement machine" means any machine
667 operated by coin, slug, token, coupon, or similar device for the

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668 purposes of entertainment or amusement. The term includes, but
669 is not limited to, coin-operated pinball machines, music
670 machines, juke boxes, mechanical games, video games, arcade
671 games, billiard tables, moving picture viewers, shooting
672 galleries, and all other similar amusement devices.

673 (37)~~(25)~~ "Sea trial" means a voyage for the purpose of
674 testing repair or modification work, which is in length and
675 scope reasonably necessary to test repairs or modifications, or
676 a voyage for the purpose of ascertaining the seaworthiness of a
677 vessel. If the sea trial is to test repair or modification work,
678 the owner or repair facility shall certify, on ~~in~~ a form
679 required by the department, the ~~what~~ repairs that have been
680 tested. The owner and the repair facility may also be required
681 to certify that the length and scope of the voyage were
682 reasonably necessary to test the repairs or modifications.

683 (38)~~(26)~~ "Solar energy system" means the equipment and
684 requisite hardware that provide and are used for collecting,
685 transferring, converting, storing, or using incident solar
686 energy for water heating, space heating, cooling, or other
687 applications that would otherwise require the use of a
688 conventional source of energy such as petroleum products,
689 natural gas, manufactured gas, or electricity.

690 ~~(27) "Agricultural commodity" means horticultural,~~
691 ~~aquacultural, poultry and farm products, and livestock and~~
692 ~~livestock products.~~

693 (19)~~(28)~~ "Farmer" means a person who is directly engaged in
694 the business of producing crops, livestock, or other
695 agricultural commodities. The term includes, but is not limited
696 to, horse breeders, nurserymen, dairy farmers, poultry farmers,

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697 cattle ranchers, apiarists, and persons raising fish.

698 ~~(25)-(29)~~ "Livestock" includes all animals of the equine,
699 bovine, or swine class, including goats, sheep, mules, horses,
700 hogs, cattle, ostriches, and other grazing animals raised for
701 commercial purposes. The term "livestock" shall also include
702 fish raised for commercial purposes.

703 ~~(28)-(30)~~ "Power farm equipment" means moving or stationary
704 equipment that contains within itself the means for its own
705 propulsion or power and moving or stationary equipment that is
706 dependent upon an external power source to perform its
707 functions.

708 (29) "Prewritten computer software" means computer
709 software, including prewritten upgrades, which is not designed
710 and developed by the author or other creator to the
711 specifications of a specific purchaser. The combining of two or
712 more prewritten computer software programs or prewritten
713 portions of such programs does not cause the combination to be
714 other than prewritten computer software. Prewritten computer
715 software includes software designed and developed by the author
716 or other creator to the specifications of a specific purchaser
717 when such software is sold to a person other than the specific
718 purchaser. Where a person modifies or enhances computer software
719 that he or she did not author or create, the person shall be
720 deemed to be the author or creator only of his or her
721 modifications or enhancements. Prewritten computer software or a
722 prewritten portion of such software that is modified or enhanced
723 to any degree, if such modification or enhancement is designed
724 and developed to the specifications of a specific purchaser,
725 remains prewritten computer software. However, prewritten

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726 computer software does not include software that has been
727 modified or enhanced for a particular purchaser if the charge
728 for the enhancement is reasonable and separately stated on the
729 invoice or other statement of price given to the purchaser.

730 (30) "Product" means tangible personal property, a digital
731 good, or a service. The term does not include real property and
732 services to real property.

733 (31) "Purchase price" means the measure subject to use tax
734 and has the same meaning as sales price.

735 (20)~~(31)~~ "Forest" means the land stocked by trees of any
736 size used in the production of forest products, or formerly
737 having such tree cover, and not currently developed for
738 nonforest use.

739 (3)~~(32)~~ "Agricultural production" means the production of
740 plants and animals useful to humans, including the preparation,
741 planting, cultivating, or harvesting of these products or any
742 other practices necessary to accomplish production through the
743 harvest phase, which ~~and~~ includes aquaculture, horticulture,
744 floriculture, viticulture, forestry, dairy, livestock, poultry,
745 bees, and ~~any~~ ~~and~~ all other forms of farm products and farm
746 production.

747 (32)~~(33)~~ "Qualified aircraft" means any aircraft that has
748 ~~having~~ a maximum certified takeoff weight of less than 10,000
749 pounds and equipped with twin turbofan engines that meet Stage
750 IV noise requirements that is used by a business that operates
751 ~~operating~~ as an on-demand air carrier under Federal Aviation
752 Administration Regulation Title 14, chapter I, part 135, Code of
753 Federal Regulations, that owns or leases and operates a fleet of
754 at least 25 ~~of~~ such aircraft in this state.

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755 ~~(21)-(34)~~ "Fractional aircraft ownership program" means a
756 program that meets the requirements of 14 C.F.R. part 91,
757 subpart K, relating to fractional ownership operations, except
758 that the program must include a minimum of 25 aircraft owned or
759 leased by the program manager and used in the program.

760 Section 2. Paragraph (c) of subsection (7) of section
761 212.03, Florida Statutes, is amended to read:

762 212.03 Transient rentals tax; rate, procedure, enforcement,
763 exemptions.—

764 (7)

765 (c) The rental of facilities in a trailer camp, mobile home
766 park, or recreational vehicle park facilities, as defined in s.
767 212.02(24) ~~s. 212.02(10)(f)~~, which are intended primarily for
768 rental as a principal or permanent place of residence is exempt
769 from the tax imposed by this chapter. The rental of such
770 facilities that primarily serve transient guests is not exempt
771 by this subsection. In the application of this law, or in making
772 any determination against the exemption, the department shall
773 consider the facility as primarily serving transient guests
774 unless the facility owner makes a verified declaration on a form
775 prescribed by the department that more than half of the total
776 rental units available are occupied by tenants who have a
777 continuous residence in excess of 3 months. The owner of a
778 facility declared to be exempt by this paragraph must make a
779 determination of the taxable status of the facility at the end
780 of the owner's accounting year using any consecutive 3-month
781 period, at least one month of which is in the accounting year.
782 The owner must use a selected consecutive 3-month period during
783 each annual redetermination. In the event that an exempt

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784 facility no longer qualifies for exemption by this paragraph,
785 the owner must notify the department on a form prescribed by the
786 department by the 20th day of the first month of the owner's
787 next succeeding accounting year that the facility no longer
788 qualifies for such exemption. The tax levied by this section
789 shall apply to the rental of facilities that no longer qualify
790 for exemption under this paragraph beginning the first day of
791 the owner's next succeeding accounting year. The provisions of
792 this paragraph do not apply to mobile home lots regulated under
793 chapter 723.

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

796 212.0306 Local option food and beverage tax; procedure for
797 levying; authorized uses; administration.—

798 (6) Any county levying a tax authorized by this section
799 must locally administer the tax using the powers and duties
800 enumerated for local administration of the tourist development
801 tax by s. 125.0104, 1992 Supplement to the Florida Statutes
802 1991. ~~The county's ordinance shall also provide for brackets~~
803 ~~applicable to taxable transactions.~~

804 Section 4. Subsection (1) of section 212.031, Florida
805 Statutes, is amended to read:

806 212.031 Tax on rental or license fee for use of real
807 property.—

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

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

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- 813 2. Used exclusively as dwelling units.
- 814 3. Property subject to tax on parking, docking, or storage
815 spaces under s. 212.03(6).
- 816 4. Recreational property or the common elements of a
817 condominium when subject to a lease between the developer or
818 owner thereof and the condominium association in its own right
819 or as agent for the owners of individual condominium units or
820 the owners of individual condominium units. However, only the
821 lease payments on such property are ~~shall be~~ exempt from the tax
822 imposed by this chapter, and any other use made by the owner or
823 the condominium association is ~~shall be~~ fully taxable under this
824 chapter.
- 825 5. A public or private street or right-of-way and poles,
826 conduits, fixtures, and similar improvements located on such
827 streets or rights-of-way, occupied or used by a utility or
828 provider of communications services, as defined by s. 202.11,
829 for utility or communications or television purposes. For
830 purposes of this subparagraph, the term "utility" means any
831 person providing utility services as defined in s. 203.012. This
832 exception also applies to property, wherever located, on which
833 the following are placed: towers, antennas, cables, accessory
834 structures, or equipment, not including switching equipment,
835 used in the provision of mobile communications services as
836 defined in s. 202.11. For purposes of this chapter, towers used
837 in the provision of mobile communications services, as defined
838 in s. 202.11, are considered to be fixtures.
- 839 6. A public street or road that ~~which~~ is used for
840 transportation purposes.
- 841 7. Property used at an airport exclusively for the purpose

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842 of aircraft landing or aircraft taxiing or property used by an
843 airline for the purpose of loading or unloading passengers or
844 property onto or from aircraft or for fueling aircraft.

845 8.a. Property used at a port authority, as defined in s.
846 315.02(2), exclusively for the purpose of oceangoing vessels or
847 tugs docking, or such vessels mooring on property used by a port
848 authority for the purpose of loading or unloading passengers or
849 cargo onto or from such a vessel, or property used at a port
850 authority for fueling such vessels, or to the extent that the
851 amount paid for the use of any property at the port is based on
852 the charge for the amount of tonnage actually imported or
853 exported through the port by a tenant.

854 b. The amount charged for the use of any property at the
855 port in excess of the amount charged for tonnage actually
856 imported or exported remains ~~shall remain~~ subject to tax except
857 as provided in sub-subparagraph a.

858 9. Property used as an integral part of the performance of
859 qualified production services. As used in this subparagraph, the
860 term "qualified production services" means any activity or
861 service performed directly in connection with the production of
862 a qualified motion picture, as defined in s. 212.06(1)(b), and
863 includes:

864 a. Photography, sound and recording, casting, location
865 managing and scouting, shooting, creation of special and optical
866 effects, animation, adaptation (language, media, electronic, or
867 otherwise), technological modifications, computer graphics, set
868 and stage support (such as electricians, lighting designers and
869 operators, greensmen, prop managers and assistants, and grips),
870 wardrobe (design, preparation, and management), hair and makeup

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871 (design, production, and application), performing (such as
872 acting, dancing, and playing), designing and executing stunts,
873 coaching, consulting, writing, scoring, composing,
874 choreographing, script supervising, directing, producing,
875 transmitting dailies, dubbing, mixing, editing, cutting,
876 looping, printing, processing, duplicating, storing, and
877 distributing;

878 b. The design, planning, engineering, construction,
879 alteration, repair, and maintenance of real or personal property
880 including stages, sets, props, models, paintings, and facilities
881 principally required for the performance of those services
882 listed in sub-subparagraph a.; and

883 c. Property management services directly related to
884 property used in connection with the services described in sub-
885 subparagraphs a. and b.

886

887 This exemption inures ~~will inure~~ to the taxpayer upon
888 presentation of the certificate of exemption issued to the
889 taxpayer under the provisions of s. 288.1258.

890 10. Leased, subleased, licensed, or rented to a person
891 providing food and drink concessionaire services within the
892 premises of a convention hall, exhibition hall, auditorium,
893 stadium, theater, arena, civic center, performing arts center,
894 publicly owned recreational facility, or any business operated
895 under a permit issued pursuant to chapter 550. This exception to
896 the tax imposed by this section applies only to the space used
897 exclusively for selling and distributing food and drinks. A
898 person providing retail concessionaire services involving the
899 sale of food and drink or other tangible personal property

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900 within the premises of an airport is ~~shall be~~ subject to tax on
901 the rental of real property used for that purpose, but is ~~shall~~
902 not ~~be~~ subject to the tax on any license to use the property.
903 For purposes of this subparagraph, the term "sale" does ~~shall~~
904 not include the leasing of tangible personal property.

905 11. Property occupied pursuant to an instrument calling for
906 payments which the department has declared, in a Technical
907 Assistance Advisement issued on or before March 15, 1993, to be
908 nontaxable pursuant to rule 12A-1.070(19)(c), Florida
909 Administrative Code; provided that this subparagraph shall only
910 apply to property occupied by the same person before and after
911 the execution of the subject instrument and only to those
912 payments made pursuant to such instrument, exclusive of renewals
913 and extensions thereof occurring after March 15, 1993.

914 12. Property used or occupied predominantly for space
915 flight business purposes. As used in this subparagraph, "space
916 flight business" means the manufacturing, processing, or
917 assembly of a space facility, space propulsion system, space
918 vehicle, satellite, or station of any kind possessing the
919 capacity for space flight, as defined by s. 212.02 ~~s.~~
920 ~~212.02(23)~~, or components thereof, and also means the following
921 activities supporting space flight: vehicle launch activities,
922 flight operations, ground control or ground support, and all
923 administrative activities directly related thereto. Property is
924 ~~shall be~~ deemed to be used or occupied predominantly for space
925 flight business purposes if more than 50 percent of the
926 property, or improvements thereon, is used for one or more space
927 flight business purposes. Possession by a landlord, lessor, or
928 licensor of a signed written statement from the tenant, lessee,

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929 or licensee claiming the exemption relieves ~~shall relieve~~ the
930 landlord, lessor, or licensor from the responsibility of
931 collecting the tax, and the department shall look solely to the
932 tenant, lessee, or licensee for recovery of such tax if it
933 determines that the exemption was not applicable.

934 13. Rented, leased, subleased, or licensed to a person
935 providing telecommunications, data systems management, or
936 Internet services at a publicly or privately owned convention
937 hall, civic center, or meeting space at a public lodging
938 establishment as defined in s. 509.013. This subparagraph
939 applies only to that portion of the rental, lease, or license
940 payment that is based upon a percentage of sales, revenue
941 sharing, or royalty payments and not based upon a fixed price.
942 This subparagraph is intended to be clarifying and remedial in
943 nature and shall apply retroactively. This subparagraph does not
944 provide a basis for an assessment of any tax not paid, or create
945 a right to a refund of any tax paid, pursuant to this section
946 before July 1, 2010.

947 (b) If ~~When~~ a lease involves multiple use of real property
948 wherein a part of the real property is subject to the tax
949 herein, and a part of the property would be excluded from the
950 tax under subparagraph (a)1., subparagraph (a)2., subparagraph
951 (a)3., or subparagraph (a)5., the department shall determine,
952 from the lease or license and such other information as may be
953 available, that portion of the total rental charge which is
954 exempt from the tax imposed by this section. The portion of the
955 premises leased or rented by a for-profit entity providing a
956 residential facility for the aged will be exempt on the basis of
957 a pro rata portion calculated by combining the square footage of

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958 the areas used for residential units by the aged and for the
959 care of such residents and dividing the resultant sum by the
960 total square footage of the rented premises. For purposes of
961 this section, the term "residential facility for the aged" means
962 a facility that is licensed or certified in whole or in part
963 under chapter 400, chapter 429, or chapter 651; or that provides
964 residences to the elderly and is financed by a mortgage or loan
965 made or insured by the United States Department of Housing and
966 Urban Development under s. 202, s. 202 with a s. 8 subsidy, s.
967 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act;
968 or other such similar facility that provides residences
969 primarily for the elderly.

970 (c) For the exercise of such privilege, a tax is levied in
971 an amount equal to 6 percent of and on the total rent or license
972 fee charged for such real property by the person charging or
973 collecting the rental or license fee. The total rent or license
974 fee charged for such real property shall include payments for
975 the granting of a privilege to use or occupy real property for
976 any purpose and shall include base rent, percentage rents, or
977 similar charges. Such charges shall be included in the total
978 rent or license fee subject to tax under this section whether or
979 not they can be attributed to the ability of the lessor's or
980 licensor's property as used or operated to attract customers.
981 Payments for intrinsically valuable personal property such as
982 franchises, trademarks, service marks, logos, or patents are not
983 subject to tax under this section. In the case of a contractual
984 arrangement that provides for both payments taxable as total
985 rent or license fee and payments not subject to tax, the tax
986 shall be based on a reasonable allocation of such payments and

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987 does ~~shall~~ not apply to that portion that ~~which~~ is for the
988 nontaxable payments.

989 (d) If ~~When~~ the rental or license fee of any such real
990 property is paid by way of property, goods, wares, merchandise,
991 services, or other thing of value, the tax is ~~shall be~~ at the
992 rate of 6 percent of the value of the property, goods, wares,
993 merchandise, services, or other thing of value.

994 Section 5. The amendment to subparagraph 10. of paragraph
995 (a) of subsection (1) of section 212.031, Florida Statutes, made
996 by this act operates retroactively. However, the retroactive
997 operation of the amendment is remedial in nature and does not
998 create the right to a refund or require a refund by any
999 governmental entity of any tax, penalty, or interest remitted to
1000 the Department of Revenue before January 1, 2012.

1001 Section 6. Paragraph (b) of subsection (1) and paragraph
1002 (a) of subsection (2) of section 212.04, Florida Statutes, are
1003 amended to read:

1004 212.04 Admissions tax; rate, procedure, enforcement.—

1005 (1)

1006 (b) For the exercise of such privilege, a tax is levied at
1007 the rate of 6 percent of sales price, or the actual value
1008 received from such admissions. The, ~~which~~ 6 percent shall be
1009 added to and collected with all such admissions from the
1010 purchaser thereof, and such tax shall be paid for the exercise
1011 of the privilege as defined in the preceding paragraph. Each
1012 ticket must show on its face the actual sales price of the
1013 admission, or each dealer selling the admission must prominently
1014 display at the box office or other place where the admission
1015 charge is made a notice disclosing the price of the admission,

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1016 and the tax shall be computed and collected on the basis of the
1017 actual price of the admission charged by the dealer. The sale
1018 price or actual value of admission shall, for the purpose of
1019 this chapter, be that price remaining after deduction of federal
1020 taxes and state or locally imposed or authorized seat
1021 surcharges, taxes, or fees, if any, imposed upon such admission.
1022 The sale price or actual value does not include separately
1023 stated ticket service charges that are imposed by a facility
1024 ticket office or a ticketing service and added to a separately
1025 stated, established ticket price. ~~The rate of tax on each~~
1026 ~~admission shall be according to the brackets established by s.~~
1027 ~~212.12(9).~~

1028 (2) (a) 1. No tax shall be levied on admissions to athletic
1029 or other events sponsored by elementary schools, junior high
1030 schools, middle schools, high schools, community colleges,
1031 public or private colleges and universities, deaf and blind
1032 schools, facilities of the youth services programs of the
1033 Department of Children and Family Services, and state
1034 correctional institutions when only student, faculty, or inmate
1035 talent is used. However, this exemption shall not apply to
1036 admission to athletic events sponsored by a state university,
1037 and the proceeds of the tax collected on such admissions shall
1038 be retained and used by each institution to support women's
1039 athletics as provided in s. 1006.71(2)(c).

1040 2.a. No tax shall be levied on dues, membership fees, and
1041 admission charges imposed by not-for-profit sponsoring
1042 organizations. To receive this exemption, the sponsoring
1043 organization must qualify as a not-for-profit entity under the
1044 provisions of s. 501(c)(3) of the Internal Revenue Code of 1954,

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1045 as amended.

1046 b. A tax may not be levied on admission charges to an event
1047 sponsored by a state college, state university, or community
1048 college if the event is held in a convention hall, exhibition
1049 hall, auditorium, stadium, theater, arena, civic center,
1050 performing arts center, or publicly owned recreational facility
1051 if all of the risk of success or failure lies with the sponsor
1052 of the event, all of the funds at risk for the event belong to
1053 the sponsor, and student or faculty talent are not exclusively
1054 used. No tax shall be levied on admission charges to an event
1055 sponsored by a governmental entity, sports authority, or sports
1056 commission when held in a convention hall, exhibition hall,
1057 auditorium, stadium, theater, arena, civic center, performing
1058 arts center, or publicly owned recreational facility and when
1059 100 percent of the risk of success or failure lies with the
1060 sponsor of the event and 100 percent of the funds at risk for
1061 the event belong to the sponsor, and student or faculty talent
1062 is not exclusively used. As used in this sub-subparagraph, the
1063 terms "sports authority" and "sports commission" mean a
1064 nonprofit organization that is exempt from federal income tax
1065 under s. 501(c)(3) of the Internal Revenue Code and that
1066 contracts with a county or municipal government for the purpose
1067 of promoting and attracting sports tourism events to the
1068 community with which it contracts.

1069 3. No tax shall be levied on an admission paid by a
1070 student, or on the student's behalf, to any required place of
1071 sport or recreation if the student's participation in the sport
1072 or recreational activity is required as a part of a program or
1073 activity sponsored by, and under the jurisdiction of, the

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1074 student's educational institution, provided his or her
1075 attendance is as a participant and not as a spectator.

1076 4. No tax shall be levied on admissions to the National
1077 Football League championship game or Pro Bowl; on admissions to
1078 any semifinal game or championship game of a national collegiate
1079 tournament; on admissions to a Major League Baseball, National
1080 Basketball Association, or National Hockey League all-star game;
1081 on admissions to the Major League Baseball Home Run Derby held
1082 before the Major League Baseball All-Star Game; or on admissions
1083 to the National Basketball Association Rookie Challenge,
1084 Celebrity Game, 3-Point Shooting Contest, or Slam Dunk
1085 Challenge.

1086 5. A participation fee or sponsorship fee imposed by a
1087 governmental entity as described in s. 212.08(6) for an athletic
1088 or recreational program is exempt when the governmental entity
1089 by itself, or in conjunction with an organization exempt under
1090 s. 501(c)(3) of the Internal Revenue Code of 1954, as amended,
1091 sponsors, administers, plans, supervises, directs, and controls
1092 the athletic or recreational program.

1093 6. Also exempt from the tax imposed by this section to the
1094 extent provided in this subparagraph are admissions to live
1095 theater, live opera, or live ballet productions in this state
1096 which are sponsored by an organization that has received a
1097 determination from the Internal Revenue Service that the
1098 organization is exempt from federal income tax under s.
1099 501(c)(3) of the Internal Revenue Code of 1954, as amended, if
1100 the organization actively participates in planning and
1101 conducting the event, is responsible for the safety and success
1102 of the event, is organized for the purpose of sponsoring live

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1103 theater, live opera, or live ballet productions in this state,
1104 has more than 10,000 subscribing members and has among the
1105 stated purposes in its charter the promotion of arts education
1106 in the communities ~~which~~ it serves, and will receive at least 20
1107 percent of the net profits, if any, of the events sponsored by
1108 ~~which~~ the organization ~~sponsors~~ and will bear the risk of at
1109 least 20 percent of the losses, if any, from the events ~~which~~ it
1110 sponsors if the organization employs other persons as agents to
1111 provide services in connection with a sponsored event. Prior to
1112 March 1 of each year, such organization may apply to the
1113 department for a certificate of exemption for admissions to such
1114 events sponsored in this state by the organization during the
1115 immediately following state fiscal year. The application shall
1116 state the total dollar amount of admissions receipts collected
1117 by the organization or its agents from such events in this state
1118 sponsored by the organization or its agents in the year
1119 immediately preceding the year in which the organization applies
1120 for the exemption. Such organization shall receive the exemption
1121 only to the extent of \$1.5 million multiplied by the ratio that
1122 such receipts bear to the total of such receipts of all
1123 organizations applying for the exemption in such year; however,
1124 in no event shall such exemption granted to any organization
1125 exceed 6 percent of such admissions receipts collected by the
1126 organization or its agents in the year immediately preceding the
1127 year in which the organization applies for the exemption. Each
1128 organization receiving the exemption shall report each month to
1129 the department the total admissions receipts collected from such
1130 events sponsored by the organization during the preceding month
1131 and shall remit to the department an amount equal to 6 percent

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1132 of such receipts reduced by any amount remaining under the
1133 exemption. Tickets for such events sold by such organizations
1134 shall not reflect the tax otherwise imposed under this section.

1135 7. Also exempt from the tax imposed by this section are
1136 entry fees for participation in freshwater fishing tournaments.

1137 8. Also exempt from the tax imposed by this section are
1138 participation or entry fees charged to participants in a game,
1139 race, or other sport or recreational event if spectators are
1140 charged a taxable admission to such event.

1141 9. No tax shall be levied on admissions to any postseason
1142 collegiate football game sanctioned by the National Collegiate
1143 Athletic Association.

1144 Section 7. Section 212.05, Florida Statutes, is amended to
1145 read:

1146 212.05 Sales, storage, use tax.—It is ~~hereby~~ declared to be
1147 the legislative intent that every person is exercising a taxable
1148 privilege who engages in the business of selling tangible
1149 personal property at retail in this state, ~~including the~~
1150 ~~business of making mail order sales, or~~ who rents or furnishes
1151 any of the things or services taxable under this chapter, or who
1152 stores for use or consumption in this state any item or article
1153 of tangible personal property as defined herein and who leases
1154 or rents such property within the state.

1155 (1) For the exercise of such privilege, a tax is levied on
1156 each taxable transaction or incident, which tax is due and
1157 payable as follows:

1158 (a)1.a. At the rate of 6 percent of the sales price of each
1159 item or article of tangible personal property when sold at
1160 retail in this state, computed on each taxable sale for the

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1161 purpose of remitting the amount of tax due the state, and
1162 including each and every retail sale.

1163 b. Each occasional or isolated sale of an aircraft, boat,
1164 mobile home, or motor vehicle of a class or type which is
1165 required to be registered, licensed, titled, or documented in
1166 this state or by the United States Government shall be subject
1167 to tax at the rate provided in this paragraph. The department
1168 shall by rule adopt any nationally recognized publication for
1169 valuation of used motor vehicles as the reference price list for
1170 any used motor vehicle that ~~which~~ is required to be licensed
1171 pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9).
1172 If any party to an occasional or isolated sale of such a vehicle
1173 reports to the tax collector a sales price that ~~which~~ is less
1174 than 80 percent of the average loan price for the specified
1175 model and year of such vehicle as listed in the most recent
1176 reference price list, the tax levied under this paragraph shall
1177 be computed by the department on such average loan price unless
1178 the parties to the sale have provided to the tax collector an
1179 affidavit signed by each party, or other substantial proof,
1180 stating the actual sales price. Any party to such sale who
1181 reports a sales price less than the actual sales price commits
1182 ~~is guilty of~~ a misdemeanor of the first degree, punishable as
1183 provided in s. 775.082 or s. 775.083. The department shall
1184 collect or attempt to collect from such party any delinquent
1185 sales taxes. In addition, such party shall pay any tax due and
1186 any penalty and interest assessed plus a penalty equal to twice
1187 the amount of the additional tax owed. Notwithstanding any other
1188 provision of law, the Department of Revenue may waive or
1189 compromise any penalty imposed pursuant to this subparagraph.

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1190 2. This paragraph does not apply to the sale of a boat or
1191 aircraft by or through a registered dealer under this chapter to
1192 a purchaser who, at the time of taking delivery, is a
1193 nonresident of this state, does not make his or her permanent
1194 place of abode in this state, and is not engaged in carrying on
1195 in this state any employment, trade, business, or profession in
1196 which the boat or aircraft will be used in this state, or is a
1197 corporation none of the officers or directors of which is a
1198 resident of, or makes his or her permanent place of abode in,
1199 this state, or is a noncorporate entity that has no individual
1200 vested with authority to participate in the management,
1201 direction, or control of the entity's affairs who is a resident
1202 of, or makes his or her permanent abode in, this state. For
1203 purposes of this exemption, either a registered dealer acting on
1204 his or her own behalf as seller, a registered dealer acting as
1205 broker on behalf of a seller, or a registered dealer acting as
1206 broker on behalf of the purchaser may be deemed to be the
1207 selling dealer. This exemption shall not be allowed unless:

1208 a. The purchaser removes a qualifying boat, as described in
1209 sub-subparagraph f., from the state within 90 days after the
1210 date of purchase or extension, or the purchaser removes a
1211 nonqualifying boat or an aircraft from this state within 10 days
1212 after the date of purchase or, when the boat or aircraft is
1213 repaired or altered, within 20 days after completion of the
1214 repairs or alterations;

1215 b. The purchaser, within 30 days from the date of
1216 departure, shall provide the department with written proof that
1217 the purchaser licensed, registered, titled, or documented the
1218 boat or aircraft outside the state. If such written proof is

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1219 unavailable, within 30 days the purchaser shall provide proof
1220 that the purchaser applied for such license, title,
1221 registration, or documentation. The purchaser shall forward to
1222 the department proof of title, license, registration, or
1223 documentation upon receipt;

1224 c. The purchaser, within 10 days of removing the boat or
1225 aircraft from Florida, shall furnish the department with proof
1226 of removal in the form of receipts for fuel, dockage, slippage,
1227 tie-down, or hangaring from outside of Florida. The information
1228 so provided must clearly and specifically identify the boat or
1229 aircraft;

1230 d. The selling dealer, within 5 days of the date of sale,
1231 shall provide to the department a copy of the sales invoice,
1232 closing statement, bills of sale, and the original affidavit
1233 signed by the purchaser attesting that he or she has read the
1234 provisions of this section;

1235 e. The seller makes a copy of the affidavit a part of his
1236 or her record for as long as required by s. 213.35; and

1237 f. Unless the nonresident purchaser of a boat of 5 net tons
1238 of admeasurement or larger intends to remove the boat from this
1239 state within 10 days after the date of purchase or, when the
1240 boat is repaired or altered, within 20 days after completion of
1241 the repairs or alterations, the nonresident purchaser shall
1242 apply to the selling dealer for a decal that ~~which~~ authorizes 90
1243 days after the date of purchase for removal of the boat. The
1244 nonresident purchaser of a qualifying boat may apply to the
1245 selling dealer within 60 days after the date of purchase for an
1246 extension decal that authorizes the boat to remain in this state
1247 for an additional 90 days, but not more than a total of 180

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1248 days, before the nonresident purchaser is required to pay the
1249 tax imposed by this chapter. The department is authorized to
1250 issue decals in advance to dealers. The number of decals issued
1251 in advance to a dealer shall be consistent with the volume of
1252 the dealer's past sales of boats which qualify under this sub-
1253 subparagraph. The selling dealer or his or her agent shall mark
1254 and affix the decals to qualifying boats in the manner
1255 prescribed by the department, prior to delivery of the boat.

1256 (I) The department is hereby authorized to charge dealers a
1257 fee sufficient to recover the costs of decals issued, except the
1258 extension decal shall cost \$425.

1259 (II) The proceeds from the sale of decals will be deposited
1260 into the administrative trust fund.

1261 (III) Decals shall display information to identify the boat
1262 as a qualifying boat under this sub-subparagraph, including, but
1263 not limited to, the decal's date of expiration.

1264 (IV) The department is authorized to require dealers who
1265 purchase decals to file reports with the department and may
1266 prescribe all necessary records by rule. All such records are
1267 subject to inspection by the department.

1268 (V) Any dealer or his or her agent who issues a decal
1269 falsely, fails to affix a decal, mismarks the expiration date of
1270 a decal, or fails to properly account for decals will be
1271 considered prima facie to have committed a fraudulent act to
1272 evade the tax and will be liable for payment of the tax plus a
1273 mandatory penalty of 200 percent of the tax, and shall be liable
1274 for fine and punishment as provided by law for a conviction of a
1275 misdemeanor of the first degree, as provided in s. 775.082 or s.
1276 775.083.

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1277 (VI) Any nonresident purchaser of a boat who removes a
1278 decal prior to permanently removing the boat from the state, or
1279 defaces, changes, modifies, or alters a decal in a manner
1280 affecting its expiration date prior to its expiration, or who
1281 causes or allows the same to be done by another, will be
1282 considered prima facie to have committed a fraudulent act to
1283 evade the tax and will be liable for payment of the tax plus a
1284 mandatory penalty of 200 percent of the tax, and shall be liable
1285 for fine and punishment as provided by law for a conviction of a
1286 misdemeanor of the first degree, as provided in s. 775.082 or s.
1287 775.083.

1288 (VII) The department is authorized to adopt rules necessary
1289 to administer and enforce this subparagraph and to publish the
1290 necessary forms and instructions.

1291 (VIII) The department is hereby authorized to adopt
1292 emergency rules pursuant to s. 120.54(4) to administer and
1293 enforce the provisions of this subparagraph.

1294
1295 If the purchaser fails to remove the qualifying boat from this
1296 state within the maximum 180 days after purchase or a
1297 nonqualifying boat or an aircraft from this state within 10 days
1298 after purchase or, when the boat or aircraft is repaired or
1299 altered, within 20 days after completion of such repairs or
1300 alterations, or permits the boat or aircraft to return to this
1301 state within 6 months from the date of departure, except as
1302 provided in s. 212.08(7) (ggg), or if the purchaser fails to
1303 furnish the department with any of the documentation required by
1304 this subparagraph within the prescribed time period, the
1305 purchaser shall be liable for use tax on the cost price of the

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1306 boat or aircraft and, in addition thereto, payment of a penalty
1307 to the Department of Revenue equal to the tax payable. This
1308 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
1309 The maximum 180-day period following the sale of a qualifying
1310 boat tax-exempt to a nonresident may not be tolled for any
1311 reason.

1312 (b) At the rate of 6 percent of the cost price of each item
1313 or article of tangible personal property when the same is not
1314 sold but is used, consumed, distributed, or stored for use or
1315 consumption in this state; however, for tangible property
1316 originally purchased exempt from tax for use exclusively for
1317 lease and which is converted to the owner's own use, tax may be
1318 paid on the fair market value of the property at the time of
1319 conversion. If the fair market value of the property cannot be
1320 determined, use tax at the time of conversion shall be based on
1321 the owner's acquisition cost. Under no circumstances may the
1322 aggregate amount of sales tax from leasing the property and use
1323 tax due at the time of conversion be less than the total sales
1324 tax that would have been due on the original acquisition cost
1325 paid by the owner.

1326 (c) At the rate of 6 percent of the gross proceeds derived
1327 from the lease or rental of tangible personal property, as
1328 defined herein.; ~~however, the following special provisions apply
1329 to the lease or rental of motor vehicles:~~

1330 ~~1. When a motor vehicle is leased or rented for a period of
1331 less than 12 months:~~

1332 ~~a. If the motor vehicle is rented in Florida, the entire
1333 amount of such rental is taxable, even if the vehicle is dropped
1334 off in another state.~~

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1335 ~~b. If the motor vehicle is rented in another state and~~
1336 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

1337 ~~2. Except as provided in subparagraph 3., for the lease or~~
1338 ~~rental of a motor vehicle for a period of not less than 12~~
1339 ~~months, sales tax is due on the lease or rental payments if the~~
1340 ~~vehicle is registered in this state; provided, however, that no~~
1341 ~~tax shall be due if the taxpayer documents use of the motor~~
1342 ~~vehicle outside this state and tax is being paid on the lease or~~
1343 ~~rental payments in another state.~~

1344 ~~3. The tax imposed by this chapter does not apply to the~~
1345 ~~lease or rental of a commercial motor vehicle as defined in s.~~
1346 ~~316.003(66) (a) to one lessee or rentee for a period of not less~~
1347 ~~than 12 months when tax was paid on the purchase price of such~~
1348 ~~vehicle by the lessor. To the extent tax was paid with respect~~
1349 ~~to the purchase of such vehicle in another state, territory of~~
1350 ~~the United States, or the District of Columbia, the Florida tax~~
1351 ~~payable shall be reduced in accordance with the provisions of s.~~
1352 ~~212.06(7). This subparagraph shall only be available when the~~
1353 ~~lease or rental of such property is an established business or~~
1354 ~~part of an established business or the same is incidental or~~
1355 ~~germane to such business.~~

1356 (d) At the rate of 6 percent of the lease or rental price
1357 paid by a lessee or rentee, or contracted or agreed to be paid
1358 by a lessee or rentee, to the owner of the tangible personal
1359 property.

1360 (e)1. At the rate of 6 percent on charges for:

1361 a. Prepaid calling arrangements. The tax on charges for
1362 prepaid calling arrangements shall be collected at the time of
1363 sale and remitted by the selling dealer.

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1364 (I) "Prepaid calling arrangement" means the separately
1365 stated retail sale by advance payment of communications services
1366 that consist exclusively of telephone calls originated by using
1367 an access number, authorization code, or other means that may be
1368 manually, electronically, or otherwise entered and that are sold
1369 in predetermined units or dollars whose number declines with use
1370 in a known amount.

1371 (II) The sale or recharge of the prepaid calling
1372 arrangement is deemed to take place in accordance with s.
1373 212.054. ~~If the sale or recharge of the prepaid calling~~
1374 ~~arrangement does not take place at the dealer's place of~~
1375 ~~business, it shall be deemed to take place at the customer's~~
1376 ~~shipping address or, if no item is shipped, at the customer's~~
1377 ~~address or the location associated with the customer's mobile~~
1378 ~~telephone number.~~

1379 (III) The sale or recharge of a prepaid calling arrangement
1380 shall be treated as a sale of tangible personal property for
1381 purposes of this chapter, whether or not a tangible item
1382 evidencing such arrangement is furnished to the purchaser, and
1383 such sale within this state subjects the selling dealer to the
1384 jurisdiction of this state for purposes of this subsection.

1385 b. The installation of telecommunication and telegraphic
1386 equipment.

1387 c. Electrical power or energy, except that the tax rate for
1388 charges for electrical power or energy is 7 percent.

1389 2. The provisions of s. 212.17(3), regarding credit for tax
1390 paid on charges subsequently charged off as uncollectible on the
1391 dealer's books and records ~~found to be worthless, apply shall be~~
1392 ~~equally applicable~~ to any tax paid under the provisions of this

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1393 section on charges for prepaid calling arrangements,
1394 telecommunication or telegraph services, or electric power
1395 subsequently found to be uncollectible. The word "charges" in
1396 this paragraph does not include any excise or similar tax levied
1397 by the Federal Government, any political subdivision of the
1398 state, or any municipality upon the purchase, sale, or recharge
1399 of prepaid calling arrangements or upon the purchase or sale of
1400 telecommunication, television system program, or telegraph
1401 service or electric power, which tax is collected by the seller
1402 from the purchaser.

1403 (f) At the rate of 6 percent on the sale, rental, use,
1404 consumption, or storage for use in this state of machines and
1405 equipment, and parts and accessories therefor, used in
1406 manufacturing, processing, compounding, producing, mining, or
1407 quarrying personal property for sale or to be used in furnishing
1408 communications, transportation, or public utility services.

1409 (g)1. At the rate of 6 percent on the retail price of
1410 newspapers and magazines sold or used in Florida.

1411 2. Notwithstanding other provisions of this chapter,
1412 inserts of printed materials which are distributed with a
1413 newspaper or magazine are a component part of the newspaper or
1414 magazine, and neither the sale nor use of such inserts is
1415 subject to tax when:

1416 a. Printed by a newspaper or magazine publisher or
1417 commercial printer and distributed as a component part of a
1418 newspaper or magazine, which means that the items after being
1419 printed are delivered directly to a newspaper or magazine
1420 publisher by the printer for inclusion in editions of the
1421 distributed newspaper or magazine;

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1422 b. Such publications are labeled as part of the designated
1423 newspaper or magazine publication into which they are to be
1424 inserted; and

1425 c. The purchaser of the insert presents a resale
1426 certificate to the vendor stating that the inserts are to be
1427 distributed as a component part of a newspaper or magazine.

1428 (h)1. A tax is imposed at the rate of 6 ~~4~~ percent on the
1429 charges for the use of coin-operated amusement machines. The tax
1430 shall be calculated by dividing the gross receipts from such
1431 charges for the applicable reporting period by a divisor,
1432 determined as provided in this subparagraph, to compute gross
1433 taxable sales, and then subtracting gross taxable sales from
1434 gross receipts to arrive at the amount of tax due. For counties
1435 that do not impose a discretionary sales surtax, the divisor is
1436 equal to 1.06 ~~1.04~~; for counties that impose a 0.5 percent
1437 discretionary sales surtax, the divisor is equal to 1.065 ~~1.045~~;
1438 for counties that impose a 1 percent discretionary sales surtax,
1439 the divisor is equal to 1.07 ~~1.050~~; and for counties that impose
1440 a 2 percent sales surtax, the divisor is equal to 1.08 ~~1.060~~. If
1441 a county imposes a discretionary sales surtax that is not listed
1442 in this subparagraph, the department shall make the applicable
1443 divisor available in an electronic format or otherwise.
1444 Additional divisors shall bear the same mathematical
1445 relationship to the next higher and next lower divisors as the
1446 new surtax rate bears to the next higher and next lower surtax
1447 rates for which divisors have been established. When a machine
1448 is activated by a slug, token, coupon, or any similar device
1449 that ~~which~~ has been purchased, the tax is on the price paid by
1450 the user of the device for such device.

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1451 2. As used in this paragraph, the term "operator" means any
1452 person who possesses a coin-operated amusement machine for the
1453 purpose of generating sales through that machine and who is
1454 responsible for removing the receipts from the machine.

1455 a. If the owner of the machine is also the operator of it,
1456 he or she shall be liable for payment of the tax without any
1457 deduction for rent or a license fee paid to a location owner for
1458 the use of any real property on which the machine is located.

1459 b. If the owner or lessee of the machine is also its
1460 operator, he or she shall be liable for payment of the tax on
1461 the purchase or lease of the machine, as well as the tax on
1462 sales generated through the machine.

1463 c. If the proprietor of the business where the machine is
1464 located does not own the machine, he or she shall be deemed to
1465 be the lessee and operator of the machine and is responsible for
1466 the payment of the tax on sales, unless such responsibility is
1467 otherwise provided for in a written agreement between him or her
1468 and the machine owner.

1469 3.a. An operator of a coin-operated amusement machine may
1470 not operate or cause to be operated in this state any such
1471 machine until the operator has registered with the department
1472 and has conspicuously displayed an identifying certificate
1473 issued by the department. The identifying certificate shall be
1474 issued by the department upon application from the operator. The
1475 identifying certificate shall include a unique number, and the
1476 certificate shall be permanently marked with the operator's
1477 name, the operator's sales tax number, and the maximum number of
1478 machines to be operated under the certificate. An identifying
1479 certificate shall not be transferred from one operator to

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1480 another. The identifying certificate must be conspicuously
1481 displayed on the premises where the coin-operated amusement
1482 machines are being operated.

1483 b. The operator of the machine must obtain an identifying
1484 certificate before the machine is first operated in the state
1485 and by July 1 of each year thereafter. The annual fee for each
1486 certificate shall be based on the number of machines identified
1487 on the application times \$30 and is due and payable upon
1488 application for the identifying device. The application shall
1489 contain the operator's name, sales tax number, business address
1490 where the machines are being operated, and the number of
1491 machines in operation at that place of business by the operator.
1492 No operator may operate more machines than are listed on the
1493 certificate. A new certificate is required if more machines are
1494 being operated at that location than are listed on the
1495 certificate. The fee for the new certificate shall be based on
1496 the number of additional machines identified on the application
1497 form times \$30.

1498 c. A penalty of \$250 per machine is imposed on the operator
1499 for failing to properly obtain and display the required
1500 identifying certificate. A penalty of \$250 is imposed on the
1501 lessee of any machine placed in a place of business without a
1502 proper current identifying certificate. Such penalties shall
1503 apply in addition to all other applicable taxes, interest, and
1504 penalties.

1505 d. Operators of coin-operated amusement machines must
1506 obtain a separate sales and use tax certificate of registration
1507 for each county in which such machines are located. One sales
1508 and use tax certificate of registration is sufficient for all of

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1509 the operator's machines within a single county.

1510 4. The provisions of this paragraph do not apply to coin-
1511 operated amusement machines owned and operated by churches or
1512 synagogues.

1513 5. In addition to any other penalties imposed by this
1514 chapter, a person who knowingly and willfully violates any
1515 provision of this paragraph commits a misdemeanor of the second
1516 degree, punishable as provided in s. 775.082 or s. 775.083.

1517 6. The department may adopt rules necessary to administer
1518 the provisions of this paragraph.

1519 (i)1. At the rate of 6 percent on charges for all:

1520 a. Detective, burglar protection, and other protection
1521 services (NAICS National Numbers 561611, 561612, 561613, and
1522 561621). Any law enforcement officer, as defined in s. 943.10,
1523 who is performing approved duties as determined by his or her
1524 local law enforcement agency in his or her capacity as a law
1525 enforcement officer, and who is subject to the direct and
1526 immediate command of his or her law enforcement agency, and in
1527 the law enforcement officer's uniform as authorized by his or
1528 her law enforcement agency, is performing law enforcement and
1529 public safety services and is not performing detective, burglar
1530 protection, or other protective services, if the law enforcement
1531 officer is performing his or her approved duties in a
1532 geographical area in which the law enforcement officer has
1533 arrest jurisdiction. Such law enforcement and public safety
1534 services are not subject to tax irrespective of whether the duty
1535 is characterized as "extra duty," "off-duty," or "secondary
1536 employment," and irrespective of whether the officer is paid
1537 directly or through the officer's agency by an outside source.

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1538 The term "law enforcement officer" includes full-time or part-
1539 time law enforcement officers, and any auxiliary law enforcement
1540 officer, when such auxiliary law enforcement officer is working
1541 under the direct supervision of a full-time or part-time law
1542 enforcement officer.

1543 b. Nonresidential cleaning, excluding cleaning of the
1544 interiors of transportation equipment, and nonresidential
1545 building pest control services (NAICS National Numbers 561710
1546 and 561720).

1547 2. As used in this paragraph, "NAICS" means those
1548 classifications contained in the North American Industry
1549 Classification System, as published in 2007 by the Office of
1550 Management and Budget, Executive Office of the President.

1551 3. Charges for detective, burglar protection, and other
1552 protection security services performed in this state but used
1553 outside this state are exempt from taxation. Charges for
1554 detective, burglar protection, and other protection security
1555 services performed outside this state and used in this state are
1556 subject to tax.

1557 4. If a transaction involves both the sale or use of a
1558 service taxable under this paragraph and the sale or use of a
1559 service or any other item not taxable under this chapter, the
1560 consideration paid must be separately identified and stated with
1561 respect to the taxable and exempt portions of the transaction or
1562 the entire transaction shall be presumed taxable. The burden
1563 shall be on the seller of the service or the purchaser of the
1564 service, whichever applicable, to overcome this presumption by
1565 providing documentary evidence as to which portion of the
1566 transaction is exempt from tax. The department is authorized to

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1567 adjust the amount of consideration identified as the taxable and
1568 exempt portions of the transaction; however, a determination
1569 that the taxable and exempt portions are inaccurately stated and
1570 that the adjustment is applicable must be supported by
1571 substantial competent evidence.

1572 5. Each seller of services subject to sales tax pursuant to
1573 this paragraph shall maintain a monthly log showing each
1574 transaction for which sales tax was not collected because the
1575 services meet the requirements of subparagraph 3. for out-of-
1576 state use. The log must identify the purchaser's name, location
1577 and mailing address, and federal employer identification number,
1578 if a business, or the social security number, if an individual,
1579 the service sold, the price of the service, the date of sale,
1580 the reason for the exemption, and the sales invoice number. The
1581 monthly log shall be maintained pursuant to the same
1582 requirements and subject to the same penalties imposed for the
1583 keeping of similar records pursuant to this chapter.

1584 (j)1. Notwithstanding any other provision of this chapter,
1585 there is ~~hereby~~ levied a tax on the sale, use, consumption, or
1586 storage for use in this state of any coin or currency, whether
1587 in circulation or not, when such coin or currency:

1588 a. Is not legal tender;

1589 b. If legal tender, is sold, exchanged, or traded at a rate
1590 in excess of its face value; or

1591 c. Is sold, exchanged, or traded at a rate based on its
1592 precious metal content.

1593 2. Such tax shall be at a rate of 6 percent of the price at
1594 which the coin or currency is sold, exchanged, or traded, except
1595 that, with respect to a coin or currency that ~~which~~ is legal

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1596 tender of the United States and that ~~which~~ is sold, exchanged,
1597 or traded, such tax shall not be levied.

1598 3. ~~There are exempt from this tax~~ Exchanges of coins or
1599 currency that ~~which~~ are in general circulation in, and legal
1600 tender of, one nation for coins or currency that ~~which~~ are in
1601 general circulation in, and legal tender of, another nation when
1602 exchanged solely for use as legal tender and at an exchange rate
1603 based on the relative value of each as a medium of exchange are
1604 exempt from this tax.

1605 4. With respect to any transaction that involves the sale
1606 of coins or currency taxable under this paragraph in which the
1607 taxable amount represented by the sale of such coins or currency
1608 exceeds \$500, the entire amount represented by the sale of such
1609 coins or currency is exempt from the tax imposed under this
1610 paragraph. The dealer must maintain proper documentation, as
1611 prescribed by rule of the department, to identify that portion
1612 of a transaction which involves the sale of coins or currency
1613 and is exempt under this subparagraph.

1614 (k) At the rate of 6 percent of the sales price of each
1615 gallon of diesel fuel not taxed under chapter 206 purchased for
1616 use in a vessel.

1617 (l) Florists located in this state are liable for sales tax
1618 on sales to retail customers regardless of where or by whom the
1619 items sold are to be delivered. Florists located in this state
1620 are not liable for sales tax on payments received from other
1621 florists for items delivered to customers in this state.

1622 (m) Operators of game concessions or other concessionaires
1623 who customarily award tangible personal property as prizes may,
1624 in lieu of paying tax on the cost price of such property, pay

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1625 tax on 25 percent of the gross receipts from such concession
1626 activity.

1627 (2) The tax shall be collected by the dealer, as defined
1628 herein, and remitted by the dealer to the state at the time and
1629 in the manner as hereinafter provided.

1630 (3) The tax so levied is in addition to all other taxes,
1631 whether levied in the form of excise, license, or privilege
1632 taxes, and in addition to all other fees and taxes levied.

1633 ~~(4) The tax imposed pursuant to this chapter shall be due
1634 and payable according to the brackets set forth in s. 212.12.~~

1635 (4)~~(5)~~ Notwithstanding any other provision of this chapter,
1636 the maximum amount of tax imposed under this chapter and
1637 collected on each sale or use of a boat in this state may not
1638 exceed \$18,000.

1639 Section 8. Subsections (6), (7), (8), (9), (10), and (11)
1640 of section 212.0506, Florida Statutes, are amended to read:

1641 212.0506 Taxation of service warranties.—

1642 ~~(6) This tax shall be due and payable according to the
1643 brackets set forth in s. 212.12.~~

1644 (6)~~(7)~~ This tax shall not apply to any portion of the
1645 consideration received by any person in connection with the
1646 issuance of any service warranty contract upon which such person
1647 is required to pay any premium tax imposed under the Florida
1648 Insurance Code or under s. 634.313(1).

1649 (7)~~(8)~~ If a transaction involves both the issuance of a
1650 service warranty that is subject to such tax and the issuance of
1651 a warranty, guaranty, extended warranty or extended guaranty,
1652 contract, agreement, or other written promise that is not
1653 subject to such tax, the consideration shall be separately

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1654 identified and stated with respect to the taxable and nontaxable
1655 portions of the transaction. If the consideration is separately
1656 apportioned and identified in good faith, such tax shall apply
1657 to the transaction to the extent that the consideration received
1658 or to be received in connection with the transaction is payment
1659 for a service warranty subject to such tax. If the consideration
1660 is not apportioned in good faith, the department may reform the
1661 contract; such reformation by the department is to be considered
1662 prima facie correct, and the burden to show the contrary rests
1663 upon the dealer. If the consideration for such a transaction is
1664 not separately identified and stated, the entire transaction is
1665 taxable.

1666 (8)~~(9)~~ Any claim that ~~which~~ arises under a service warranty
1667 taxable under this section, which claim is paid directly by the
1668 person issuing such warranty, is not subject to any tax imposed
1669 under this chapter.

1670 (9)~~(10)~~ Materials and supplies used in the performance of a
1671 factory or manufacturer's warranty are exempt if the contract is
1672 furnished at no extra charge with the equipment guaranteed
1673 thereunder and such materials and supplies are paid for by the
1674 factory or manufacturer.

1675 (10)~~(11)~~ Any duties imposed by this chapter upon dealers of
1676 tangible personal property with respect to collecting and
1677 remitting taxes; making returns; keeping books, records, and
1678 accounts; and complying with the rules and regulations of the
1679 department apply to all dealers as defined in s. 212.06(2)(1).

1680 Section 9. Section 212.054, Florida Statutes, is amended to
1681 read:

1682 212.054 Discretionary sales surtax; limitations,

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1683 administration, and collection.—

1684 (1) ~~A~~ ~~Ne~~ general excise tax on sales may not ~~shall~~ be
1685 levied by the governing body of any county unless specifically
1686 authorized in s. 212.055. Any general excise tax on sales
1687 authorized pursuant to said section shall be administered and
1688 collected exclusively as provided in this section.

1689 (2) (a) The tax imposed by the governing body of any county
1690 authorized to so levy pursuant to s. 212.055 shall be a
1691 discretionary surtax on all transactions occurring in the county
1692 which transactions are subject to the state tax imposed on
1693 sales, use, services, rentals, admissions, and other
1694 transactions by this chapter and communications services as
1695 defined for purposes of chapter 202. The surtax, if levied,
1696 shall be computed as the applicable rate or rates authorized
1697 pursuant to s. 212.055 times the amount of taxable sales and
1698 taxable purchases representing such transactions. If the surtax
1699 is levied on the sale of an item of tangible personal property
1700 or on the sale of a service, the surtax shall be computed by
1701 multiplying the rate imposed by the county within which the sale
1702 occurs by the amount of the taxable sale. The sale of an item of
1703 tangible personal property or the sale of a service is not
1704 subject to the surtax if the property, the service, or the
1705 tangible personal property representing the service is delivered
1706 within a county that does not impose a discretionary sales
1707 surtax.

1708 (b) However:

1709 1. The sales amount above \$5,000 on a motor vehicle,
1710 aircraft, boat, manufactured home, modular home, or mobile home
1711 is any item of tangible personal property shall not be subject

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1712 to the surtax. However, ~~charges for prepaid calling~~
1713 ~~arrangements, as defined in s. 212.05(1)(c)1.a., shall be~~
1714 ~~subject to the surtax. For purposes of administering the \$5,000~~
1715 ~~limitation on an item of tangible personal property, if two or~~
1716 ~~more taxable items of tangible personal property are sold to the~~
1717 ~~same purchaser at the same time and, under generally accepted~~
1718 ~~business practice or industry standards or usage, are normally~~
1719 ~~sold in bulk or are items that, when assembled, comprise a~~
1720 ~~working unit or part of a working unit, such items must be~~
1721 ~~considered a single item for purposes of the \$5,000 limitation~~
1722 ~~when supported by a charge ticket, sales slip, invoice, or other~~
1723 ~~tangible evidence of a single sale or rental.~~

1724 2. In the case of utility services covering a period
1725 starting before and ending after the effective date of the
1726 surtax, the rate applies as follows:

1727 a. In the case of a rate adoption or increase, the new rate
1728 applies to the first billing period starting on or after the
1729 effective date of the surtax adoption or increase.

1730 b. In the case of a rate decrease or termination, the new
1731 rate applies to bills rendered on or after the effective date of
1732 the rate change billed on or after the effective date of any
1733 such surtax, the entire amount of the charge for utility
1734 services shall be subject to the surtax. In the case of utility
1735 services billed after the last day the surtax is in effect, the
1736 entire amount of the charge on said items shall not be subject
1737 to the surtax. "Utility service," as used in this section, does
1738 not include any communications services as defined in chapter
1739 202.

1740 3. In the case of written contracts that ~~which~~ are signed

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1741 prior to the effective date of any such surtax for the
1742 construction of improvements to real property or for remodeling
1743 of existing structures, the surtax shall be paid by the
1744 contractor responsible for the performance of the contract.
1745 However, the contractor may apply for one refund of any such
1746 surtax paid on materials necessary for the completion of the
1747 contract. Any application for refund shall be made no later than
1748 15 months following initial imposition of the surtax in that
1749 county. The application for refund shall be in the manner
1750 prescribed by the department by rule. A complete application
1751 shall include proof of the written contract and of payment of
1752 the surtax. The application shall contain a sworn statement,
1753 signed by the applicant or its representative, attesting to the
1754 validity of the application. The department shall, within 30
1755 days after approval of a complete application, certify to the
1756 county information necessary for issuance of a refund to the
1757 applicant. Counties are hereby authorized to issue refunds for
1758 this purpose and shall set aside from the proceeds of the surtax
1759 a sum sufficient to pay any refund lawfully due. Any person who
1760 fraudulently obtains or attempts to obtain a refund pursuant to
1761 this subparagraph, in addition to being liable for repayment of
1762 any refund fraudulently obtained plus a mandatory penalty of 100
1763 percent of the refund, is guilty of a felony of the third
1764 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1765 775.084.

1766 4. In the case of any vessel, railroad, or motor vehicle
1767 common carrier entitled to partial exemption from tax imposed
1768 under this chapter pursuant to s. 212.08(4), (8), or (9), the
1769 basis for imposition of surtax shall be the same as provided in

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1770 s. 212.08 and the ratio shall be applied each month to total
1771 purchases in this state of property qualified for proration
1772 which is delivered or sold in the taxing county to establish the
1773 portion used and consumed in intracounty movement and subject to
1774 surtax.

1775 (3) For the purpose of this section, a transaction shall be
1776 deemed to have occurred in a county imposing the surtax as
1777 follows ~~when~~:

1778 (a)1. Except as otherwise provided in this section, a
1779 retail sale subject to tax under this section, excluding a lease
1780 or rental, shall be deemed to take place:

1781 a. At the business location of the dealer, if the product
1782 is received by the purchaser at that business location;

1783 b. At the location where the product is received by the
1784 purchaser or the purchaser's designated agent, including the
1785 location indicated by instructions for delivery to the purchaser
1786 or agent, known to the dealer, if the product is not received by
1787 the purchaser or designated agent at a business location of the
1788 dealer;

1789 c. If sub-subparagraphs a. and b. do not apply, at the
1790 location identified as the address for the purchaser in the
1791 business records maintained by the dealer in the ordinary course
1792 of the dealer's business, if use of this address does not
1793 constitute bad faith;

1794 d. If sub-subparagraphs a., b., and c. do not apply, at the
1795 location indicated by an address for the purchaser obtained
1796 during the consummation of the sale, including the address on
1797 the purchaser's payment instrument, if no other address is
1798 available, if use of this address does not constitute bad faith;

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1799 or

1800 e. If sub-subparagraphs a., b., c., and d. do not apply,
1801 including instances in which the dealer does not have sufficient
1802 information to apply the previous paragraphs, the address from
1803 which tangible personal property was shipped, from which the
1804 digital good or the computer software delivered electronically
1805 was first available for transmission by the dealer, or from
1806 which the service was provided, disregarding any location that
1807 merely provided the digital transfer of the product sold.

1808 2. As used in this paragraph, the terms "receive" and
1809 "receipt" mean:

- 1810 a. Taking possession of tangible personal property;
1811 b. Making first use of the services; or
1812 c. Taking possession or making first use of digital goods,
1813 whichever occurs first.

1814
1815 The terms "receive" and "receipt" do not include possession by a
1816 shipping company on behalf of a purchaser.

1817 3. As used in this paragraph, the term "delivered
1818 electronically" means delivered to the purchaser by means other
1819 than tangible storage media.

1820 (b) The lease or rental of tangible personal property,
1821 other than property identified in paragraphs (c) and (d), shall
1822 be deemed to have occurred as follows:

- 1823 1. For a lease or rental that requires recurring periodic
1824 payments, the first periodic payment is deemed to take place in
1825 accordance with paragraph (a), notwithstanding the exclusion of
1826 a lease or rental in paragraph (a). Subsequent periodic payments
1827 are deemed to have occurred at the primary property location for

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1828 each period covered by the payment. The primary property
1829 location is determined by an address for the property provided
1830 by the lessee which is available to the lessor from its records
1831 maintained in the ordinary course of business, if use of this
1832 address does not constitute bad faith. The property location is
1833 not altered by intermittent use of the property at different
1834 locations, such as use of business property that accompanies
1835 employees on business trips and service calls.

1836 2. For a lease or rental that does not require recurring
1837 periodic payments, the payment is deemed to take place in
1838 accordance with paragraph (a), notwithstanding the exclusion of
1839 a lease or rental in paragraph (a).

1840 3. This paragraph does not affect the imposition or
1841 computation of sales or use tax on leases or rentals based on a
1842 lump sum or accelerated basis or on the acquisition of property
1843 for lease.

1844 (c) The lease or rental of a motor vehicle or aircraft that
1845 does not qualify as transportation equipment, as defined in
1846 paragraph (d), shall be sourced as follows:

1847 1. For a lease or rental that requires recurring periodic
1848 payments, each periodic payment is deemed to take place at the
1849 primary property location. The primary property location shall
1850 be determined by an address for the property provided by the
1851 lessee which is available to the lessor from its records
1852 maintained in the ordinary course of business, if use of this
1853 address does not constitute bad faith. This location is not
1854 altered by intermittent use at different locations.

1855 2. For a lease or rental that does not require recurring
1856 periodic payments, the payment is deemed to take place in

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1857 accordance with paragraph (a), notwithstanding the exclusion of
1858 a lease or rental in paragraph (a).

1859 3. This paragraph does not affect the imposition or
1860 computation of sales or use tax on leases or rentals based on a
1861 lump sum or accelerated basis or on the acquisition of property
1862 for lease.

1863 (d) The retail sale, including a lease or rental, of
1864 transportation equipment shall be deemed to take place in
1865 accordance with paragraph (a), notwithstanding the exclusion of
1866 a lease or rental in paragraph (a). The term "transportation
1867 equipment" means:

1868 1. Locomotives and rail cars that are used for the carriage
1869 of persons or property in interstate commerce;

1870 2. Trucks and truck tractors with a Gross Vehicle Weight
1871 Rating (GVWR) of 10,001 pounds or greater, trailers,
1872 semitrailers, or passenger buses that are registered through the
1873 International Registration Plan and operated under authority of
1874 a carrier authorized and certificated by the United States
1875 Department of Transportation or another federal authority to
1876 engage in the carriage of persons or property in interstate
1877 commerce;

1878 3. Aircraft that are operated by air carriers authorized
1879 and certificated by the United States Department of
1880 Transportation or another federal or a foreign authority to
1881 engage in the carriage of persons or property in interstate or
1882 foreign commerce; or

1883 4. Containers designed for use on and component parts
1884 attached or secured on the items set forth in subparagraphs 1.-
1885 3.

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1886 (e)(a)1. The retail sale of a modular or manufactured home,
1887 not including a mobile home, occurs in the county to which the
1888 house is delivered includes an item of tangible personal
1889 property, a service, or tangible personal property representing
1890 a service, and the item of tangible personal property, the
1891 service, or the tangible personal property representing the
1892 service is delivered within the county. If there is no
1893 reasonable evidence of delivery of a service, the sale of a
1894 service is deemed to occur in the county in which the purchaser
1895 accepts the bill of sale.

1896 (f)2. The retail sale, excluding a lease or rental, of any
1897 motor vehicle that does not qualify as transportation equipment,
1898 as defined in paragraph (d), or the retail sale of a ~~of any~~
1899 motor vehicle or mobile home of a class or type that ~~which~~ is
1900 required to be registered in this state or in any other state is
1901 shall be deemed to occur ~~have occurred only~~ in the county
1902 identified from ~~as~~ the residence address of the purchaser on the
1903 registration or title document for the ~~such~~ property.

1904 (g)(b) Admission charged for an event occurs ~~The event for~~
1905 ~~which an admission is charged is located~~ in the county in which
1906 the event is held.

1907 (h)(e) A lease or rental of real property occurs in the
1908 county in which the real property is located. ~~The consumer of~~
1909 utility services is located in the county.

1910 (i)(d)1. The retail sale, excluding a lease or rental, of
1911 any aircraft that does not qualify as transportation equipment,
1912 as defined in paragraph (d), or of any boat of a class or type
1913 that is required to be registered, licensed, titled, or
1914 documented in this state or by the United States Government

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1915 occurs in the county to which the aircraft or boat is delivered.

1916 2. The user of any aircraft or boat of a class or type that
1917 ~~which~~ is required to be registered, licensed, titled, or
1918 documented in this state or by the United States Government
1919 imported into the county for use, consumption, distribution, or
1920 storage to be used or consumed occurs in the county in which the
1921 user is located in the county.

1922 3.2. However, it shall be presumed that such items used
1923 outside the county imposing the surtax for 6 months or longer
1924 before being imported into the county were not purchased for use
1925 in the county, except as provided in s. 212.06(8)(b).

1926 4.3. This paragraph does not apply to the use or
1927 consumption of items upon which a like tax of equal or greater
1928 amount has been lawfully imposed and paid outside the county.

1929 (j)(e) The purchase purchaser of any motor vehicle or
1930 mobile home of a class or type that ~~which~~ is required to be
1931 registered in this state occurs in the county identified from
1932 the residential address of the purchaser is a resident of the
1933 ~~taxing county as determined by the address appearing on or to be~~
1934 ~~reflected~~ on the registration document for the such property.

1935 (k)(f)1. The use, consumption, distribution, or storage of
1936 a Any motor vehicle or mobile home of a class or type that ~~which~~
1937 is required to be registered in this state and that is imported
1938 from another state occurs in the county to which it is imported
1939 ~~into the taxing county by a user residing therein for the~~
1940 ~~purpose of use, consumption, distribution, or storage in the~~
1941 ~~taxing county.~~

1942 2. However, it shall be presumed that such items used
1943 outside the taxing county for 6 months or longer before being

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1944 imported into the county were not purchased for use in the
1945 county.

1946 ~~(g) The real property which is leased or rented is located~~
1947 ~~in the county.~~

1948 (l) (h) A The transient rental transaction occurs in the
1949 county in which the rental property is located.

1950 ~~(i) The delivery of any aircraft or boat of a class or type~~
1951 ~~which is required to be registered, licensed, titled, or~~
1952 ~~documented in this state or by the United States Government is~~
1953 ~~to a location in the county. However, this paragraph does not~~
1954 ~~apply to the use or consumption of items upon which a like tax~~
1955 ~~of equal or greater amount has been lawfully imposed and paid~~
1956 ~~outside the county.~~

1957 (m) (j) A transaction occurs in a county imposing the surtax
1958 if the dealer owing a use tax on purchases or leases is located
1959 in that the county.

1960 ~~(k) The delivery of tangible personal property other than~~
1961 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~
1962 ~~is made to a location outside the county, but the property is~~
1963 ~~brought into the county within 6 months after delivery, in which~~
1964 ~~event, the owner must pay the surtax as a use tax.~~

1965 (n) (l) The coin-operated amusement or vending machine is
1966 located in the county.

1967 (o) (m) An The florist taking the original order to sell
1968 tangible personal property taken by a florist occurs is located
1969 in the county in which the florist taking the order is located,
1970 ~~notwithstanding any other provision of this section.~~

1971 (4) (a) The department shall administer, collect, and
1972 enforce the tax authorized under s. 212.055 pursuant to the same

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1973 procedures used in the administration, collection, and
1974 enforcement of the general state sales tax imposed under the
1975 provisions of this chapter, except as provided in this section.
1976 The provisions of this chapter regarding interest and penalties
1977 on delinquent taxes shall apply to the surtax. Discretionary
1978 sales surtaxes shall not be included in the computation of
1979 estimated taxes pursuant to s. 212.11. Notwithstanding any other
1980 provision of law, a dealer need not separately state the amount
1981 of the surtax on the charge ticket, sales slip, invoice, or
1982 other tangible evidence of sale. For the purposes of this
1983 section and s. 212.055, the "proceeds" of any surtax means all
1984 funds collected and received by the department pursuant to a
1985 specific authorization and levy under s. 212.055, including any
1986 interest and penalties on delinquent surtaxes.

1987 (b) The proceeds of a discretionary sales surtax collected
1988 by the selling dealer located in a county imposing the surtax
1989 shall be returned, less the cost of administration, to the
1990 county where the selling dealer is located. The proceeds shall
1991 be transferred to the Discretionary Sales Surtax Clearing Trust
1992 Fund. A separate account shall be established in the trust fund
1993 for each county imposing a discretionary surtax. The amount
1994 deducted for the costs of administration may not exceed 3
1995 percent of the total revenue generated for all counties levying
1996 a surtax authorized in s. 212.055. The amount deducted for the
1997 costs of administration may be used only for costs that are
1998 solely and directly attributable to the surtax. The total cost
1999 of administration shall be prorated among those counties levying
2000 the surtax on the basis of the amount collected for a particular
2001 county to the total amount collected for all counties. The

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2002 department shall distribute the moneys in the trust fund to the
2003 appropriate counties each month, unless otherwise provided in s.
2004 212.055.

2005 (c)1. Any dealer located in a county that does not impose a
2006 discretionary sales surtax but who collects the surtax due to
2007 sales of tangible personal property or services delivered
2008 outside the county shall remit monthly the proceeds of the
2009 surtax to the department to be deposited into an account in the
2010 Discretionary Sales Surtax Clearing Trust Fund which is separate
2011 from the county surtax collection accounts. The department shall
2012 distribute funds in this account using a distribution factor
2013 determined for each county that levies a surtax and multiplied
2014 by the amount of funds in the account and available for
2015 distribution. The distribution factor for each county equals the
2016 product of:

2017 a. The county's latest official population determined
2018 pursuant to s. 186.901;

2019 b. The county's rate of surtax; and

2020 c. The number of months the county has levied a surtax
2021 during the most recent distribution period;

2022
2023 divided by the sum of all such products of the counties levying
2024 the surtax during the most recent distribution period.

2025 2. The department shall compute distribution factors for
2026 eligible counties once each quarter and make appropriate
2027 quarterly distributions.

2028 3. A county that fails to timely provide the information
2029 required by this section to the department authorizes the
2030 department, by such action, to use the best information

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2031 available to it in distributing surtax revenues to the county.
2032 If this information is unavailable to the department, the
2033 department may partially or entirely disqualify the county from
2034 receiving surtax revenues under this paragraph. A county that
2035 fails to provide timely information waives its right to
2036 challenge the department's determination of the county's share,
2037 if any, of revenues provided under this paragraph.

2038 ~~(5) No discretionary sales surtax or increase or decrease~~
2039 ~~in the rate of any discretionary sales surtax shall take effect~~
2040 ~~on a date other than January 1. No discretionary sales surtax~~
2041 ~~shall terminate on a day other than December 31.~~

2042 (5)~~(6)~~ The governing body of any county levying a
2043 discretionary sales surtax shall enact an ordinance levying the
2044 surtax in accordance with the procedures described in s.
2045 125.66(2).

2046 (6)~~(7)~~(a) Any adoption, repeal, or rate change of the
2047 surtax by the governing body of any county levying a
2048 discretionary sales surtax or the school board of any county
2049 levying the school capital outlay surtax authorized by s.
2050 212.055(6) is effective on April 1. A county or school board
2051 adopting, repealing, or changing the rate of such surtax shall
2052 notify the department within 10 days after final adoption by
2053 ordinance or referendum of an adoption, repeal, imposition,
2054 termination, or rate change of the surtax, but no later than
2055 October 20 immediately preceding the April 1 ~~November 16~~ ~~prior~~
2056 ~~to the~~ effective date. The notice must specify the time period
2057 during which the surtax will be in effect and the rate and must
2058 include a copy of the ordinance and such other information as
2059 the department requires by rule. Failure to timely provide such

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2060 notification to the department shall result in the delay of the
2061 effective date for a period of 1 year.

2062 (b) In addition to the notification required by paragraph
2063 (a), the governing body of any county proposing to levy a
2064 discretionary sales surtax or the school board of any county
2065 proposing to levy the school capital outlay surtax authorized by
2066 s. 212.055(6) shall notify the department by October 1 if the
2067 referendum or consideration of the ordinance that would result
2068 in imposition, termination, or rate change of the surtax is
2069 scheduled to occur on or after October 1 of that year. Failure
2070 to timely provide such notification to the department shall
2071 result in the delay of the effective date for a period of 1
2072 year.

2073 (c) The department shall provide notice of the adoption,
2074 repeal, or rate change of the surtax to affected dealers by
2075 February 1 immediately preceding the April 1 effective date.

2076 (d) Notwithstanding the date set in an ordinance for the
2077 termination of a surtax, a surtax terminates only on March 31. A
2078 surtax imposed before January 1, 2012, for which an ordinance
2079 provides a different termination date, also terminates on the
2080 March 31 following the termination date established in the
2081 ordinance.

2082 (7)~~(8)~~ With respect to any motor vehicle or mobile home of
2083 a class or type that ~~which~~ is required to be registered in this
2084 state, the tax due on a transaction occurring in the taxing
2085 county as herein provided shall be collected from the purchaser
2086 or user incident to the titling and registration of such
2087 property, irrespective of whether such titling or registration
2088 occurs in the taxing county.

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2089 (8) The department may certify vendor databases and
2090 purchase, or otherwise make available, a database, or databases,
2091 singly or in combination, which describe boundaries and boundary
2092 changes for all taxing jurisdictions, including a description
2093 and the effective date of a boundary change; provide all sales
2094 and use tax rates by jurisdiction; if the area includes more
2095 than one tax rate in any level of taxing jurisdiction, assign to
2096 each five-digit and nine-digit zip code the proper rate and
2097 jurisdiction and apply the lowest combined rate imposed in the
2098 zip code area; and may include address-based boundary database
2099 records for assigning taxing jurisdictions and associated tax
2100 rates.

2101 (a) A dealer or certified service provider that collects
2102 and remits the state tax and any local tax imposed by this
2103 chapter shall be held harmless from any tax, interest, and
2104 penalties due solely as a result of relying on erroneous data on
2105 tax rates, boundaries, or taxing jurisdiction assignments
2106 provided by the state if the dealer or certified service
2107 provider exercises due diligence in applying one or more of the
2108 following methods to determine the taxing jurisdiction and tax
2109 rate for a transaction:

2110 1. Employing an electronic database provided by the
2111 department under this subsection; or

2112 2. Employing a state-certified database.

2113 (b) If a dealer or certified service provider is unable to
2114 determine the applicable rate and jurisdiction using an address-
2115 based database record after exercising due diligence, the dealer
2116 or certified service provider may apply the nine-digit zip code
2117 designation applicable to a purchaser.

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2118 (c) If a nine-digit zip code designation is not available
2119 for a street address or if a dealer or certified service
2120 provider is unable to determine the nine-digit zip code
2121 designation applicable to a purchase after exercising due
2122 diligence to determine the designation, the dealer or certified
2123 service provider may apply the rate for the five-digit zip code
2124 area.

2125 (d) There is a rebuttable presumption that a dealer or
2126 certified service provider has exercised due diligence if the
2127 dealer or certified service provider has attempted to determine
2128 the tax rate and jurisdiction by using state-certified software
2129 that makes this assignment from the address and zip code
2130 information applicable to the purchase.

2131 (e) There is a rebuttable presumption that a dealer or
2132 certified service provider has exercised due diligence if the
2133 dealer has attempted to determine the nine-digit zip code
2134 designation by using state-certified software that makes this
2135 designation from the street address and the five-digit zip code
2136 applicable to a purchase.

2137 (f) If a dealer or certified service provider does not use
2138 one of the methods specified in paragraph (a), the dealer or
2139 certified service provider may be held liable to the department
2140 for tax, interest, and penalties that are due for charging and
2141 collecting the incorrect amount of tax.

2142 (9) A purchaser shall be held harmless from tax, interest,
2143 and penalties for failing to pay the correct amount of sales or
2144 use tax due solely as a result of any of the following
2145 circumstances:

2146 (a) The dealer or certified service provider relied on

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2147 erroneous data on tax rates, boundaries, or taxing jurisdiction
2148 assignments provided by the department;

2149 (b) A purchaser holding a direct-pay permit relied on
2150 erroneous data on tax rates, boundaries, or taxing jurisdiction
2151 assignments provided by the department; or

2152 (c) A purchaser relied on erroneous data supplied in a
2153 database described in paragraph (a).

2154 (10) A dealer is not liable for failing to collect tax at
2155 the new tax rate if:

2156 (a) The new rate takes effect within 30 days after the new
2157 rate is enacted;

2158 (b) The dealer collected the tax at the preceding rate;

2159 (c) The dealer's failure to collect the tax at the new rate
2160 does not extend beyond 30 days after the enactment of the new
2161 rate; and

2162 (d) The dealer did not fraudulently fail to collect at the
2163 new rate or solicit purchasers based on the preceding rate.

2164 Section 10. Paragraphs (i) and (j) of subsection (8) of
2165 section 212.055, Florida Statutes, are amended to read:

2166 212.055 Discretionary sales surtaxes; legislative intent;
2167 authorization and use of proceeds.—It is the legislative intent
2168 that any authorization for imposition of a discretionary sales
2169 surtax shall be published in the Florida Statutes as a
2170 subsection of this section, irrespective of the duration of the
2171 levy. Each enactment shall specify the types of counties
2172 authorized to levy; the rate or rates which may be imposed; the
2173 maximum length of time the surtax may be imposed, if any; the
2174 procedure which must be followed to secure voter approval, if
2175 required; the purpose for which the proceeds may be expended;

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2176 and such other requirements as the Legislature may provide.
2177 Taxable transactions and administrative procedures shall be as
2178 provided in s. 212.054.

2179 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.-

2180 ~~(i) Surtax collections shall be initiated on January 1 of~~
2181 ~~the year following a successful referendum in order to coincide~~
2182 ~~with s. 212.054(5).~~

2183 (i)~~(j)~~ Notwithstanding s. 212.054, if a multicounty
2184 independent special district created pursuant to chapter 67-764,
2185 Laws of Florida, levies ad valorem taxes on district property to
2186 fund emergency fire rescue services within the district and is
2187 required by s. 2, Art. VII of the State Constitution to maintain
2188 a uniform ad valorem tax rate throughout the district, the
2189 county may not levy the discretionary sales surtax authorized by
2190 this subsection within the boundaries of the district.

2191 Section 11. Paragraph (c) of subsection (2) and subsections
2192 (3) and (5) of section 212.06, Florida Statutes, are amended to
2193 read:

2194 212.06 Sales, storage, use tax; collectible from dealers;
2195 "dealer" defined; dealers to collect from purchasers;
2196 legislative intent as to scope of tax.-

2197 (2)

2198 (c) The term "dealer" is further defined to mean every
2199 person, as used in this chapter, who sells at retail or who
2200 offers for sale at retail, or who has in his or her possession
2201 for sale at retail; or for use, consumption, or distribution; or
2202 for storage to be used or consumed in this state, tangible
2203 personal property as defined herein, ~~including a retailer who~~
2204 ~~transacts a mail order sale.~~

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2205 (3) (a) Except as provided in paragraph (b), every dealer
2206 making sales, whether within or outside the state, of tangible
2207 personal property for distribution, storage, or use or other
2208 consumption, in this state, shall, at the time of making sales,
2209 collect the tax imposed by this chapter from the purchaser.

2210 (b)1. The following provisions apply to sales of
2211 advertising and promotional direct mail:

2212 a. A purchaser of advertising and promotional direct mail
2213 may provide the seller with:

2214 (I) A direct pay permit;

2215 (II) A certificate of exemption claiming direct mail; or

2216 (III) Information showing the jurisdictions to which the
2217 advertising and promotional direct mail is to be delivered to
2218 recipients.

2219 b. If the purchaser provides the permit or certificate
2220 referred to in sub-sub-subparagraph a.(I) or sub-sub-
2221 subparagraph a.(II), the seller, in the absence of bad faith, is
2222 relieved of all obligations to collect, pay, or remit any tax on
2223 any transaction involving advertising and promotional direct
2224 mail to which the permit, certificate, or statement applies. The
2225 purchaser shall source the sale to the jurisdictions to which
2226 the advertising and promotional direct mail is to be delivered
2227 to the recipients and shall report and pay any applicable tax
2228 due.

2229 c. If the purchaser provides the seller information showing
2230 the jurisdictions to which the advertising and promotional
2231 direct mail is to be delivered to recipients, the seller shall
2232 source the sale to the jurisdictions to which the advertising
2233 and promotional direct mail is to be delivered and shall collect

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2234 and remit the applicable tax. In the absence of bad faith, the
2235 seller is relieved of any further obligation to collect any
2236 additional tax on the sale of advertising and promotional direct
2237 mail if the seller has sourced the sale according to the
2238 delivery information provided by the purchaser.

2239 d. If the purchaser does not provide the seller with any of
2240 the items listed in sub-subparagraph a., the sale shall be
2241 sourced to the address from which the advertising and
2242 promotional direct mail was shipped. The state to which the
2243 advertising and promotional direct mail is delivered may
2244 disallow credit for tax paid on sales sourced pursuant to this
2245 subparagraph.

2246 2. The following provisions apply to sales of other direct
2247 mail.

2248 a. Except as otherwise provided in this subparagraph, sales
2249 of other direct mail are sourced to the location indicated by an
2250 address for the purchaser which is available from the business
2251 records of the seller which are maintained in the ordinary
2252 course of the seller's business if use of this address does not
2253 constitute bad faith.

2254 b. A purchaser of other direct mail may provide the seller
2255 with:

2256 (I) A direct pay permit; or

2257 (II) A certificate of exemption claiming direct mail.

2258 c. If the purchaser provides the permit or certificate
2259 referred to in sub-sub-subparagraph b.(I) or sub-sub-
2260 subparagraph b.(II), the seller, in the absence of bad faith, is
2261 relieved of all obligations to collect, pay, or remit any tax on
2262 any transaction involving other direct mail to which the permit,

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2263 certificate, or statement applies. Notwithstanding sub-
2264 subparagraph a., the sale shall be sourced to the jurisdictions
2265 to which the other direct mail is to be delivered to the
2266 recipients and the purchaser shall report and pay applicable tax
2267 due.

2268 3. As used in this paragraph, the term:

2269 a. "Advertising and promotional direct mail" means printed
2270 material that meets the definition of direct mail in s. 212.02
2271 and has the primary purpose of attracting public attention to a
2272 product, person, business, or organization, or to attempt to
2273 sell, popularize, or secure financial support for a product,
2274 person, business, or organization. As used in this sub-
2275 subparagraph, the word "product" means tangible personal
2276 property, a product transferred electronically, or a service.

2277 b. "Other direct mail" means any direct mail that is not
2278 advertising and promotional direct mail, regardless of whether
2279 advertising and promotional direct mail is included in the same
2280 mailing. The term includes, but is not limited to:

2281 (I) Transactional direct mail that contains personal
2282 information specific to the addressee, including, but not
2283 limited to, invoices, bills, statements of account, and payroll
2284 advices;

2285 (II) Any legally required mailings, including, but not
2286 limited to, privacy notices, tax reports, and stockholder
2287 reports; or

2288 (III) Other nonpromotional direct mail delivered to
2289 existing or former shareholders, customers, employees, or agents
2290 including, but not limited to, newsletters and informational
2291 pieces.

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2292

2293 The term "other direct mail" does not include the development of
2294 billing information or the provision of any nonincidental data
2295 processing service.

2296 4.a.(I) This subsection applies to a sale of services only
2297 if the service is an integral part of the production and
2298 distribution of printed material that meets the definition of
2299 direct mail.

2300 (II) This subsection does not apply to any transaction that
2301 includes the development of billing information or the provision
2302 of any data processing service that is more than incidental
2303 regardless of whether advertising and promotional direct mail is
2304 included in the same mailing.

2305 b. If a transaction is a bundled transaction that includes
2306 advertising and promotional direct mail, this subsection applies
2307 only if the primary purpose of the transaction is the sale of
2308 products or services that meet the definition of advertising and
2309 promotional direct mail.

2310 c. This subsection does not limit any purchaser's:

2311 (I) Obligation for sales or use tax to any state to which
2312 the direct mail is delivered;

2313 (II) Right under local, state, federal, or constitutional
2314 law to a credit for sales or use taxes legally due and paid to
2315 other jurisdictions; or

2316 (III) Right to a refund of sales or use taxes overpaid to
2317 any jurisdiction.

2318 d. This paragraph applies for purposes of uniformly
2319 sourcing direct mail transactions and does not impose
2320 requirements on states regarding the taxation of products that

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2321 meet the definition of direct mail and does not apply to sales
2322 for resale or other exemptions. ~~A purchaser of printed materials~~
2323 ~~shall have sole responsibility for the taxes imposed by this~~
2324 ~~chapter on those materials when the printer of the materials~~
2325 ~~delivers them to the United States Postal Service for mailing to~~
2326 ~~persons other than the purchaser located within and outside this~~
2327 ~~state. Printers of materials delivered by mail to persons other~~
2328 ~~than the purchaser located within and outside this state shall~~
2329 ~~have no obligation or responsibility for the payment or~~
2330 ~~collection of any taxes imposed under this chapter on those~~
2331 ~~materials. However, printers are obligated to collect the taxes~~
2332 ~~imposed by this chapter on printed materials when all, or~~
2333 ~~substantially all, of the materials will be mailed to persons~~
2334 ~~located within this state. For purposes of the printer's tax~~
2335 ~~collection obligation, there is a rebuttable presumption that~~
2336 ~~all materials printed at a facility are mailed to persons~~
2337 ~~located within the same state as that in which the facility is~~
2338 ~~located. A certificate provided by the purchaser to the printer~~
2339 ~~concerning the delivery of the printed materials for that~~
2340 ~~purchase or all purchases shall be sufficient for purposes of~~
2341 ~~rebutting the presumption created herein.~~

2342 5.2. The Department of Revenue is authorized to adopt rules
2343 and forms to administer ~~implement~~ the provisions of this
2344 paragraph.

2345 (5) (a) 1. ~~Except as provided in subparagraph 2., It is not~~
2346 ~~the intention of~~ This chapter does not ~~to~~ levy a tax upon
2347 tangible personal property imported, produced, or manufactured
2348 in this state for export if, ~~provided that~~ tangible personal
2349 property may not be considered as being imported, produced, or

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2350 ~~manufactured for export unless the importer, producer, or~~
2351 ~~manufacturer:~~

2352 a. Delivers the tangible personal property ~~same~~ to a
2353 licensed exporter for exporting or to a common carrier for
2354 shipment outside the state or mails the same by United States
2355 mail to a destination outside the state; ~~or, in the case of~~
2356 ~~aircraft being exported under their own power to a destination~~
2357 ~~outside the continental limits of the United States, by~~
2358 ~~submission~~

2359 b. Submits to the department ~~of~~ a duly signed and validated
2360 United States customs declaration, ~~showing the departure of an~~
2361 ~~the~~ aircraft from the continental United States and; ~~and further~~
2362 ~~with respect to aircraft,~~ the canceled United States registry of
2363 the said aircraft if the aircraft is exported under its own
2364 power to a destination outside the continental United States; or
2365 ~~in the case of~~

2366 c. Submits documentation as required by rule to the
2367 department showing the departure of an aircraft of foreign
2368 registry from the continental United States on which parts and
2369 equipment have been installed. ~~on aircraft of foreign registry,~~
2370 ~~by submission to the department of documentation, the extent of~~
2371 ~~which shall be provided by rule, showing the departure of the~~
2372 ~~aircraft from the continental United States; nor is it the~~
2373 ~~intention of this chapter to levy a tax on any sale which~~

2374 2. This chapter does not levy a tax on the sale or use of
2375 tangible personal property that the state is prohibited from
2376 taxing under the Constitution or laws of the United States.

2377
2378 Every retail sale made to a person physically present at the

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2379 time of sale shall be presumed to have been delivered in this
2380 state.

2381 ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~
2382 ~~each sale of tangible personal property to be transported to a~~
2383 ~~cooperating state as defined in sub-subparagraph c., at the rate~~
2384 ~~specified in sub-subparagraph d. However, a Florida dealer will~~
2385 ~~be relieved from the requirements of collecting taxes pursuant~~
2386 ~~to this subparagraph if the Florida dealer obtains from the~~
2387 ~~purchaser an affidavit setting forth the purchaser's name,~~
2388 ~~address, state taxpayer identification number, and a statement~~
2389 ~~that the purchaser is aware of his or her state's use tax laws,~~
2390 ~~is a registered dealer in Florida or another state, or is~~
2391 ~~purchasing the tangible personal property for resale or is~~
2392 ~~otherwise not required to pay the tax on the transaction. The~~
2393 ~~department may, by rule, provide a form to be used for the~~
2394 ~~purposes set forth herein.~~

2395 ~~b. For purposes of this subparagraph, "a cooperating state"~~
2396 ~~is one determined by the executive director of the department to~~
2397 ~~cooperate satisfactorily with this state in collecting taxes on~~
2398 ~~mail order sales. No state shall be so determined unless it~~
2399 ~~meets all the following minimum requirements:~~

2400 ~~(I) It levies and collects taxes on mail order sales of~~
2401 ~~property transported from that state to persons in this state,~~
2402 ~~as described in s. 212.0596, upon request of the department.~~

2403 ~~(II) The tax so collected shall be at the rate specified in~~
2404 ~~s. 212.05, not including any local option or tourist or~~
2405 ~~convention development taxes collected pursuant to s. 125.0104~~
2406 ~~or this chapter.~~

2407 ~~(III) Such state agrees to remit to the department all~~

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2408 ~~taxes so collected no later than 30 days from the last day of~~
2409 ~~the calendar quarter following their collection.~~

2410 ~~(IV) Such state authorizes the department to audit dealers~~
2411 ~~within its jurisdiction who make mail order sales that are the~~
2412 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~
2413 ~~the department for auditing them with its own personnel.~~

2414 ~~(V) Such state agrees to provide to the department records~~
2415 ~~obtained by it from retailers or dealers in such state showing~~
2416 ~~delivery of tangible personal property into this state upon~~
2417 ~~which no sales or use tax has been paid in a manner similar to~~
2418 ~~that provided in sub-subparagraph g.~~

2419 ~~e. For purposes of this subparagraph, "sales of tangible~~
2420 ~~personal property to be transported to a cooperating state"~~
2421 ~~means mail order sales to a person who is in the cooperating~~
2422 ~~state at the time the order is executed, from a dealer who~~
2423 ~~receives that order in this state.~~

2424 ~~d. The tax levied by sub-subparagraph a. shall be at the~~
2425 ~~rate at which such a sale would have been taxed pursuant to the~~
2426 ~~cooperating state's tax laws if consummated in the cooperating~~
2427 ~~state by a dealer and a purchaser, both of whom were physically~~
2428 ~~present in that state at the time of the sale.~~

2429 ~~e. The tax levied by sub-subparagraph a., when collected,~~
2430 ~~shall be held in the State Treasury in trust for the benefit of~~
2431 ~~the cooperating state and shall be paid to it at a time agreed~~
2432 ~~upon between the department, acting for this state, and the~~
2433 ~~cooperating state or the department or agency designated by it~~
2434 ~~to act for it; however, such payment shall in no event be made~~
2435 ~~later than 30 days from the last day of the calendar quarter~~
2436 ~~after the tax was collected. Funds held in trust for the benefit~~

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2437 ~~of a cooperating state shall not be subject to the service~~
2438 ~~charges imposed by s. 215.20.~~

2439 ~~f. The department is authorized to perform such acts and to~~
2440 ~~provide such cooperation to a cooperating state with reference~~
2441 ~~to the tax levied by sub-subparagraph a. as is required of the~~
2442 ~~cooperating state by sub-subparagraph b.~~

2443 ~~g. In furtherance of this act, dealers selling tangible~~
2444 ~~personal property for delivery in another state shall make~~
2445 ~~available to the department, upon request of the department,~~
2446 ~~records of all tangible personal property so sold. Such records~~
2447 ~~shall include a description of the property, the name and~~
2448 ~~address of the purchaser, the name and address of the person to~~
2449 ~~whom the property was sent, the purchase price of the property,~~
2450 ~~information regarding whether sales tax was paid in this state~~
2451 ~~on the purchase price, and such other information as the~~
2452 ~~department may by rule prescribe.~~

2453 (b)1. Notwithstanding the provisions of paragraph (a), it
2454 is not the intention of this chapter to levy a tax on the sale
2455 of tangible personal property to a nonresident dealer who does
2456 not hold a Florida sales tax registration, provided such
2457 nonresident dealer furnishes the seller a statement declaring
2458 that the tangible personal property will be transported outside
2459 this state by the nonresident dealer for resale and for no other
2460 purpose. The statement shall include, but not be limited to, the
2461 nonresident dealer's name, address, applicable passport or visa
2462 number, arrival-departure card number, and evidence of authority
2463 to do business in the nonresident dealer's home state or
2464 country, such as his or her business name and address,
2465 occupational license number, if applicable, or any other

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2466 suitable requirement. The statement shall be signed by the
2467 nonresident dealer and shall include the following sentence:
2468 "Under penalties of perjury, I declare that I have read the
2469 foregoing, and the facts alleged are true to the best of my
2470 knowledge and belief."

2471 2. The burden of proof of subparagraph 1. rests with the
2472 seller, who must retain the proper documentation to support the
2473 exempt sale. The exempt transaction is subject to verification
2474 by the department.

2475 (c) Notwithstanding the provisions of paragraph (a), it is
2476 not the intention of this chapter to levy a tax on the sale by a
2477 printer to a nonresident print purchaser of material printed by
2478 that printer for that nonresident print purchaser when the print
2479 purchaser does not furnish the printer a resale certificate
2480 containing a sales tax registration number but does furnish to
2481 the printer a statement declaring that such material will be
2482 resold by the nonresident print purchaser.

2483 Section 12. Paragraph (c) of subsection (1) and subsection
2484 (2) of section 212.07, Florida Statutes, are amended, and
2485 subsection (10) is added to that section, to read:

2486 212.07 Sales, storage, use tax; tax added to purchase
2487 price; dealer not to absorb; liability of purchasers who cannot
2488 prove payment of the tax; penalties; general exemptions.—

2489 (1)

2490 (c) Unless the purchaser of tangible personal property that
2491 is incorporated into tangible personal property manufactured,
2492 produced, compounded, processed, or fabricated for one's own use
2493 and subject to the tax imposed under s. 212.06(1)(b) or is
2494 purchased for export under s. 212.06(5)(a) ~~s. 212.06(5)(a)1.~~

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2495 extends a certificate in compliance with the rules of the
2496 department, the dealer shall himself or herself be liable for
2497 and pay the tax.

2498 (2) A dealer shall, as far as practicable, add the amount
2499 of the tax imposed under this chapter to the sale price, and the
2500 amount of the tax shall be separately stated as Florida tax on
2501 any charge ticket, sales slip, invoice, or other tangible
2502 evidence of sale. Such tax constitutes ~~shall constitute~~ a part
2503 of the ~~such~~ price, charge, or proof of sale and is ~~which shall~~
2504 ~~be~~ a debt from the purchaser or consumer to the dealer, until
2505 paid. This debt is, ~~and shall be~~ recoverable at law in the same
2506 manner as other debts. If ~~Where~~ it is impracticable, due to the
2507 nature of the business practices within an industry, to
2508 separately state Florida tax on any charge ticket, sales slip,
2509 invoice, or other tangible evidence of sale, the department may
2510 establish by rule a remittance ~~an effective~~ tax rate for such
2511 industry. The department may also amend this ~~effective tax~~ rate
2512 as the industry's pricing or practices change. In addition to
2513 other methods, the department may use telephone, electronic
2514 mail, facsimile, or other electronic means to provide notice of
2515 such rate and any change. Except as otherwise specifically
2516 provided, any dealer who neglects, fails, or refuses to collect
2517 the tax herein provided upon a ~~any, every, and all~~ retail sale
2518 of tangible personal property ~~sales~~ made by the dealer or the
2519 dealer's agent ~~agents~~ or employee ~~is~~ ~~employees of~~ tangible
2520 ~~personal property or services which are subject to the tax~~
2521 ~~imposed by this chapter shall be~~ liable for and shall pay the
2522 tax himself or herself.

2523 (10) (a) The executive director is authorized to maintain

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2524 and publish a taxability matrix in a downloadable format.

2525 (b) The state shall provide notice of changes to the
2526 taxability of the products or services listed in the taxability
2527 matrix. In addition to other methods, the department may use
2528 telephone, electronic mail, facsimile, or other electronic means
2529 to provide notice of such changes.

2530 (c) A dealer or certified service provider who collects and
2531 remits the state and local tax imposed by this chapter shall be
2532 held harmless from tax, interest, and penalties for having
2533 charged and collected the incorrect amount of sales or use tax
2534 due solely as a result of relying on erroneous data provided by
2535 the state in the taxability matrix.

2536 (d) A purchaser shall be held harmless from penalties for
2537 having failed to pay the correct amount of sales or use tax due
2538 solely as a result of any of the following circumstances:

2539 1. The dealer or certified service provider relied on
2540 erroneous data provided by the state in the taxability matrix
2541 completed by the state;

2542 2. A purchaser relied on erroneous data provided by the
2543 state in the taxability matrix completed by the state; or

2544 3. A purchaser holding a direct-pay permit relied on
2545 erroneous data provided by the state in the taxability matrix
2546 completed by the state.

2547 (e) A purchaser shall be held harmless from tax and
2548 interest for having failed to pay the correct amount of sales or
2549 use tax due solely as a result of the state's erroneous
2550 classification in the taxability matrix of terms included in the
2551 Streamlined Sales and Use Tax Agreement's library of definitions
2552 as "taxable" or "exempt," "included in sales price" or "excluded

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2553 from sales price," or "included in the definition" or "excluded
2554 from the definition."

2555 Section 13. Subsections (1) and (2), paragraph (g) of
2556 subsection (5), subsection (14), and paragraphs (b) and (c) of
2557 subsection (17) of section 212.08, Florida Statutes, are amended
2558 to read:

2559 212.08 Sales, rental, use, consumption, distribution, and
2560 storage tax; specified exemptions.—The sale at retail, the
2561 rental, the use, the consumption, the distribution, and the
2562 storage to be used or consumed in this state of the following
2563 are hereby specifically exempt from the tax imposed by this
2564 chapter.

2565 (1) EXEMPTIONS; GENERAL GROCERIES.—

2566 (a) Food and food ingredients ~~products~~ for human
2567 consumption are exempt from the tax imposed by this chapter.

2568 (b) For the purpose of this chapter, as used in this
2569 subsection, the term "food and food ingredients products" means
2570 substances, whether in liquid, concentrated, solid, frozen,
2571 dried, or dehydrated form, which are sold for ingestion or
2572 chewing by humans and are consumed for their taste or
2573 nutritional value ~~edible commodities, whether processed, cooked,~~
2574 ~~raw, canned, or in any other form, which are generally regarded~~
2575 ~~as food~~. This includes, but is not limited to, all of the
2576 following:

2577 1. ~~Cereals and cereal products, baked goods, oleomargarine,~~
2578 ~~meat and meat products, fish and seafood products, frozen foods~~
2579 ~~and dinners, poultry, eggs and egg products, vegetables and~~
2580 ~~vegetable products, fruit and fruit products, spices, salt,~~
2581 ~~sugar and sugar products, milk and dairy products, and products~~

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2582 ~~intended to be mixed with milk.~~

2583 ~~2. Natural fruit or vegetable juices or their concentrates~~
2584 ~~or reconstituted natural concentrated fruit or vegetable juices,~~
2585 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
2586 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
2587 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~
2588 ~~unless it is sold in a liquid form.~~

2589 ~~1.3.~~ Bakery products sold by bakeries, pastry shops, or
2590 like establishments, if sold without eating utensils. For
2591 purposes of this subparagraph, bakery products include bread,
2592 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,
2593 Danish pastries, cakes, tortes, pies, tarts, muffins, bars,
2594 cookies, and tortillas that do not have eating facilities.

2595 2. Dietary supplements. The term "dietary supplements"
2596 means any nontobacco product intended to supplement the diet
2597 which contains one or more of the following dietary ingredients:
2598 a vitamin; a mineral; an herb or other botanical; an amino acid;
2599 a dietary substance for use by humans to supplement the diet by
2600 increasing the total dietary intake; or a concentrate,
2601 metabolite, constituent, extract, or combination of any
2602 ingredient described in this subparagraph which is intended for
2603 ingestion in tablet, capsule, powder, softgel, gelcap, or liquid
2604 form or, if not intended for ingestion in such a form, is not
2605 represented as conventional food and is not represented for use
2606 as a sole item of a meal or of the diet, and which is required
2607 to be labeled as a dietary supplement, identifiable by the
2608 supplemental facts panel found on the label and as required
2609 pursuant to 21 C.F.R. s. 101.36.

2610 3. Bottled water. As used in this subparagraph, the term

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2611 "bottled water" means water that is placed in a safety-sealed
2612 container or package for human consumption. Bottled water is
2613 calorie free and does not contain sweeteners or other additives,
2614 except that it may contain:

2615 a. Antimicrobial agents;

2616 b. Fluoride;

2617 c. Carbonation;

2618 d. Vitamins, minerals, and electrolytes;

2619 e. Oxygen;

2620 f. Preservatives; and

2621 g. Only those flavors, extracts, or essences derived from a
2622 spice or fruit.

2623
2624 The term "bottled water" includes water that is delivered to the
2625 purchaser in a reusable container that is not sold with the
2626 water.

2627 (c) The exemption provided by this subsection does not
2628 apply to:

2629 ~~1. Food products sold as meals for consumption on or off~~
2630 ~~the premises of the dealer.~~

2631 ~~2. Food products furnished, prepared, or served for~~
2632 ~~consumption at tables, chairs, or counters or from trays,~~
2633 ~~glasses, dishes, or other tableware, whether provided by the~~
2634 ~~dealer or by a person with whom the dealer contracts to furnish,~~
2635 ~~prepare, or serve food products to others.~~

2636 ~~3. Food products ordinarily sold for immediate consumption~~
2637 ~~on the seller's premises or near a location at which parking~~
2638 ~~facilities are provided primarily for the use of patrons in~~
2639 ~~consuming the products purchased at the location, even though~~

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2640 ~~such products are sold on a "take out" or "to go" order and are~~
2641 ~~actually packaged or wrapped and taken from the premises of the~~
2642 ~~dealer.~~

2643 ~~4. Sandwiches sold ready for immediate consumption on or~~
2644 ~~off the seller's premises.~~

2645 ~~5. Food products sold ready for immediate consumption~~
2646 ~~within a place, the entrance to which is subject to an admission~~
2647 ~~charge.~~

2648 1.6. Food and food ingredients sold as prepared food. The
2649 term "prepared food" means:

2650 a. Food sold in a heated state or heated by the dealer;

2651 b. Two or more food ingredients mixed or combined by the
2652 dealer for sale as a single item; or

2653 c. Food sold with eating utensils provided by the dealer,
2654 including plates, knives, forks, spoons, glasses, cups, napkins,
2655 or straws. A plate does not include a container or packaging
2656 used to transport food. Prepared food does not include food that
2657 is only cut, repackaged, or pasteurized by the dealer, eggs,
2658 fish, meat, poultry, and foods that contain these raw animal
2659 foods and require cooking by the consumer, as recommended by the
2660 Food and Drug Administration in chapter 3, part 4011 of its food
2661 code, to prevent food-borne illness. ~~Food products sold as hot~~
2662 ~~prepared food products.~~

2663 2.7. Soft drinks, including, but not limited to, any
2664 nonalcoholic beverage, any preparation or beverage commonly
2665 referred to as a "soft drink," or any noncarbonated drink made
2666 from milk derivatives or tea, if sold in cans or similar
2667 containers. The term "soft drinks" means nonalcoholic beverages
2668 that contain natural or artificial sweeteners. Soft drinks do

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2669 not include beverages that contain milk or milk products, soy,
2670 rice, or similar milk substitutes, or greater than 50 percent of
2671 vegetable or fruit juice by volume.

2672 ~~8. Ice cream, frozen yogurt, and similar frozen dairy or~~
2673 ~~nondairy products in cones, small cups, or pints, popsicles,~~
2674 ~~frozen fruit bars, or other novelty items, whether or not sold~~
2675 ~~separately.~~

2676 ~~9. Food that is prepared, whether on or off the premises,~~
2677 ~~and sold for immediate consumption. This does not apply to food~~
2678 ~~prepared off the premises and sold in the original sealed~~
2679 ~~container, or the slicing of products into smaller portions.~~

2680 ~~3.10. Food and food ingredients products sold through a~~
2681 ~~vending machine, pushcart, motor vehicle, or any other form of~~
2682 ~~vehicle.~~

2683 ~~4.11. Candy and any similar product regarded as candy or~~
2684 ~~confection, based on its normal use, as indicated on the label~~
2685 ~~or advertising thereof. The term "candy" means a preparation of~~
2686 ~~sugar, honey, or other natural or artificial sweeteners in~~
2687 ~~combination with chocolate, fruits, nuts, or other ingredients~~
2688 ~~or flavorings in the form of bars, drops, or pieces. Candy does~~
2689 ~~not include any preparation that contains flour and does not~~
2690 ~~require refrigeration.~~

2691 5. Tobacco.

2692 ~~12. Bakery products sold by bakeries, pastry shops, or like~~
2693 ~~establishments having eating facilities, except when sold for~~
2694 ~~consumption off the seller's premises.~~

2695 ~~13. Food products served, prepared, or sold in or by~~
2696 ~~restaurants, lunch counters, cafeterias, hotels, taverns, or~~
2697 ~~other like places of business.~~

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2698 ~~(d) As used in this subsection, the term:~~

2699 ~~1. "For consumption off the seller's premises" means that~~
2700 ~~the food or drink is intended by the customer to be consumed at~~
2701 ~~a place away from the dealer's premises.~~

2702 ~~2. "For consumption on the seller's premises" means that~~
2703 ~~the food or drink sold may be immediately consumed on the~~
2704 ~~premises where the dealer conducts his or her business. In~~
2705 ~~determining whether an item of food is sold for immediate~~
2706 ~~consumption, the customary consumption practices prevailing at~~
2707 ~~the selling facility shall be considered.~~

2708 ~~3. "Premises" shall be construed broadly, and means, but is~~
2709 ~~not limited to, the lobby, aisle, or auditorium of a theater;~~
2710 ~~the seating, aisle, or parking area of an arena, rink, or~~
2711 ~~stadium; or the parking area of a drive-in or outdoor theater.~~
2712 ~~The premises of a caterer with respect to catered meals or~~
2713 ~~beverages shall be the place where such meals or beverages are~~
2714 ~~served.~~

2715 ~~4. "Hot prepared food products" means those products,~~
2716 ~~items, or components which have been prepared for sale in a~~
2717 ~~heated condition and which are sold at any temperature that is~~
2718 ~~higher than the air temperature of the room or place where they~~
2719 ~~are sold. "Hot prepared food products," for the purposes of this~~
2720 ~~subsection, includes a combination of hot and cold food items or~~
2721 ~~components where a single price has been established for the~~
2722 ~~combination and the food products are sold in such combination,~~
2723 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~
2724 ~~sandwich or hot pizza, including cold components or side items.~~

2725 ~~(d)~~(e)1. Food or drinks not exempt under paragraphs (a),
2726 (b), and (c), ~~and (d)~~ are exempt, notwithstanding those

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2727 paragraphs, when purchased with food coupons or Special
2728 Supplemental Food Program for Women, Infants, and Children
2729 vouchers issued under authority of federal law.

2730 2. This paragraph is effective only while federal law
2731 prohibits a state's participation in the federal food coupon
2732 program or Special Supplemental Food Program for Women, Infants,
2733 and Children if there is an official determination that state or
2734 local sales taxes are collected within that state on purchases
2735 of food or drinks with such coupons.

2736 3. This paragraph does ~~shall~~ not apply to any food or
2737 drinks on which federal law allows ~~shall permit~~ sales taxes
2738 without penalty, such as termination of the state's
2739 participation.

2740 (e) ~~(f)~~ The application of the tax on a package that
2741 contains exempt food products and taxable nonfood products
2742 depends upon the essential character of the complete package.

2743 1. If the taxable items represent more than 25 percent of
2744 the cost of the complete package and a single charge is made,
2745 the entire sales price of the package is taxable. If the taxable
2746 items are separately stated, the separate charge for the taxable
2747 items is subject to tax.

2748 2. If the taxable items represent 25 percent or less of the
2749 cost of the complete package and a single charge is made, the
2750 entire sales price of the package is exempt from tax. The person
2751 preparing the package is liable for the tax on the cost of the
2752 taxable items going into the complete package. If the taxable
2753 items are separately stated, the separate charge is subject to
2754 tax.

2755 (f) Dietary supplements that are sold as prepared food are

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2756 not exempt.

2757 (2) EXEMPTIONS; MEDICAL.—

2758 (a) There shall be exempt from the tax imposed by this
2759 chapter:

2760 1. Drugs dispensed according to an individual prescription
2761 or prescriptions.

2762 2. Mobility-enhancing equipment or prosthetic devices any
2763 ~~medical products and supplies or medicine~~ dispensed according to
2764 an individual prescription or prescriptions or durable medical
2765 equipment. ~~written by a prescriber authorized by law to~~
2766 ~~prescribe medicinal drugs;~~

2767 3. Hypodermic needles. ~~hypodermic syringes;~~

2768 4. Chemical compounds and test kits used for the diagnosis
2769 or treatment of human disease, illness, or injury and intended
2770 for one-time use.

2771 5. Over-the-counter drugs ~~and common household remedies~~
2772 ~~recommended and generally sold for internal or external use in~~
2773 ~~the cure, mitigation, treatment, or prevention of illness or~~
2774 ~~disease in human beings, but not including~~ grooming and hygiene
2775 products.

2776 6. Band-aids, gauze, bandages, and adhesive tape.

2777 7. Funerals. However, tangible personal property used by
2778 funeral directors in their business is taxable. ~~cosmetics or~~
2779 ~~toilet articles, notwithstanding the presence of medicinal~~
2780 ~~ingredients therein, according to a list prescribed and approved~~
2781 ~~by the Department of Health, which list shall be certified to~~
2782 ~~the Department of Revenue from time to time and included in the~~
2783 ~~rules promulgated by the Department of Revenue. There shall also~~
2784 ~~be exempt from the tax imposed by this chapter~~ artificial eyes

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2785 ~~and limbs; orthopedic shoes; prescription eyeglasses and items~~
2786 ~~incidental thereto or which become a part thereof; dentures;~~
2787 ~~hearing aids; crutches; prosthetic and orthopedic appliances;~~
2788 ~~and funerals. In addition, any~~

2789 8. Items intended for one-time use which transfer essential
2790 optical characteristics to contact lenses. shall be exempt from
2791 the tax imposed by this chapter; However, this exemption applies
2792 shall apply only after \$100,000 of the tax imposed by this
2793 chapter on such items has been paid in any calendar year by a
2794 taxpayer who claims the exemption in such year. ~~Funeral~~
2795 ~~directors shall pay tax on all tangible personal property used~~
2796 ~~by them in their business.~~

2797 (b) For the purposes of this subsection, the term:

2798 1. "Drug" means a compound, substance, or preparation, and
2799 any component of a compound, substance, or preparation, other
2800 than food and food ingredients, dietary supplements, and
2801 alcoholic beverages, which is:

2802 a. Recognized in the official United States Pharmacopoeia,
2803 official Homeopathic Pharmacopoeia of the United States, or
2804 official National Formulary, or the supplement to any of them;

2805 b. Intended for use in the diagnosis, cure, mitigation,
2806 treatment, or prevention of disease; or

2807 c. Intended to affect the structure or any function of the
2808 body.

2809 2. "Durable medical equipment" means equipment, including
2810 repair and replacement parts to such equipment, but excluding
2811 mobility-enhancing equipment, which can withstand repeated use,
2812 is primarily and customarily used to serve a medical purpose,
2813 generally is not useful to a person in the absence of illness or

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2814 injury, and is not worn on or in the body.

2815 3. "Mobility-enhancing equipment" means equipment,
2816 including repair and replacement parts to such equipment, but
2817 excluding durable medical equipment, which:

2818 a. Is primarily and customarily used to provide or increase
2819 the ability to move from one place to another and which is
2820 appropriate for use in a home or a motor vehicle.

2821 b. Is not generally used by persons with normal mobility.

2822 c. Does not include any motor vehicle or any equipment on a
2823 motor vehicle normally provided by a motor vehicle manufacturer.

2824 4. "Prosthetic device" means a replacement, corrective, or
2825 supportive device, including repair or replacement parts to such
2826 equipment, which is worn on or in the body to:

2827 a. Artificially replace a missing portion of the body;

2828 b. Prevent or correct physical deformity or malfunction; or

2829 c. Support a weak or deformed portion of the body.

2830 5. "Grooming and hygiene products" mean soaps and cleaning
2831 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and
2832 suntan lotions and screens, regardless of whether the items meet
2833 the definition of an over-the-counter drug.

2834 6. "Over-the-counter drug" means a drug provided in
2835 packaging that contains a label that identifies the product as a
2836 drug as required by 21 C.F.R. s. 201.66. An over-the-counter
2837 drug label includes a drug-facts panel or a statement of the
2838 active ingredients and a list of the ingredients contained in
2839 the compound, substance, or preparation. ~~"Prosthetic and~~
2840 ~~orthopedic appliances" means any apparatus, instrument, device,~~
2841 ~~or equipment used to replace or substitute for any missing part~~
2842 ~~of the body, to alleviate the malfunction of any part of the~~

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2843 ~~body, or to assist any disabled person in leading a normal life~~
2844 ~~by facilitating such person's mobility. Such apparatus,~~
2845 ~~instrument, device, or equipment shall be exempted according to~~
2846 ~~an individual prescription or prescriptions written by a~~
2847 ~~physician licensed under chapter 458, chapter 459, chapter 460,~~
2848 ~~chapter 461, or chapter 466, or according to a list prescribed~~
2849 ~~and approved by the Department of Health, which list shall be~~
2850 ~~certified to the Department of Revenue from time to time and~~
2851 ~~included in the rules promulgated by the Department of Revenue.~~

2852 ~~2. "Cosmetics" means articles intended to be rubbed,~~
2853 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
2854 ~~applied to the human body for cleansing, beautifying, promoting~~
2855 ~~attractiveness, or altering the appearance and also means~~
2856 ~~articles intended for use as a compound of any such articles,~~
2857 ~~including, but not limited to, cold creams, suntan lotions,~~
2858 ~~makeup, and body lotions.~~

2859 ~~3. "Toilet articles" means any article advertised or held~~
2860 ~~out for sale for grooming purposes and those articles that are~~
2861 ~~customarily used for grooming purposes, regardless of the name~~
2862 ~~by which they may be known, including, but not limited to, soap,~~
2863 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~
2864 ~~shampoo, deodorant, and mouthwash.~~

2865 ~~7.4.~~ "Prescription" means an order, formula, or recipe
2866 issued in any form of oral, written, electronic, or other means
2867 of transmission by a practitioner licensed under chapter 458,
2868 chapter 459, chapter 460, chapter 461, chapter 466, or chapter
2869 474. The term includes an orally transmitted order by the
2870 lawfully designated agent of the practitioner. The term also
2871 includes an order written or transmitted by a practitioner

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2872 licensed to practice in a jurisdiction other than this state,
2873 but only if the pharmacist called upon to dispense the order
2874 determines, in the exercise of his or her professional judgment,
2875 that the order is valid and necessary for the treatment of a
2876 chronic or recurrent illness. ~~includes any order for drugs or~~
2877 ~~medicinal supplies written or transmitted by any means of~~
2878 ~~communication by a duly licensed practitioner authorized by the~~
2879 ~~laws of the state to prescribe such drugs or medicinal supplies~~
2880 ~~and intended to be dispensed by a pharmacist. The term also~~
2881 ~~includes an orally transmitted order by the lawfully designated~~
2882 ~~agent of such practitioner. The term also includes an order~~
2883 ~~written or transmitted by a practitioner licensed to practice in~~
2884 ~~a jurisdiction other than this state, but only if the pharmacist~~
2885 ~~called upon to dispense such order determines, in the exercise~~
2886 ~~of his or her professional judgment, that the order is valid and~~
2887 ~~necessary for the treatment of a chronic or recurrent illness.~~
2888 ~~The term also includes a pharmacist's order for a product~~
2889 ~~selected from the formulary created pursuant to s. 465.186. A~~
2890 ~~prescription may be retained in written form, or the pharmacist~~
2891 ~~may cause it to be recorded in a data processing system,~~
2892 ~~provided that such order can be produced in printed form upon~~
2893 ~~lawful request.~~

2894 (c) Chlorine is ~~shall~~ not be exempt from the tax imposed by
2895 this chapter when used for the treatment of water in swimming
2896 pools.

2897 ~~(d) Lithotripters are exempt.~~

2898 (d)(e) Human organs are exempt.

2899 ~~(f) Sales of drugs to or by physicians, dentists,~~
2900 ~~veterinarians, and hospitals in connection with medical~~

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2901 ~~treatment are exempt.~~

2902 ~~(g) Medical products and supplies used in the cure,~~
2903 ~~mitigation, alleviation, prevention, or treatment of injury,~~
2904 ~~disease, or incapacity which are temporarily or permanently~~
2905 ~~incorporated into a patient or client by a practitioner of the~~
2906 ~~healing arts licensed in the state are exempt.~~

2907 ~~(h) The purchase by a veterinarian of commonly recognized~~
2908 ~~substances possessing curative or remedial properties which are~~
2909 ~~ordered and dispensed as treatment for a diagnosed health~~
2910 ~~disorder by or on the prescription of a duly licensed~~
2911 ~~veterinarian, and which are applied to or consumed by animals~~
2912 ~~for alleviation of pain or the cure or prevention of sickness,~~
2913 ~~disease, or suffering are exempt. Also exempt are the purchase~~
2914 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~
2915 ~~bandages, lotions, vitamins, and worm remedies.~~

2916 ~~(i) X-ray opaques, also known as opaque drugs and~~
2917 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~
2918 ~~when used in connection with medical X rays for treatment of~~
2919 ~~bodies of humans and animals, are exempt.~~

2920 ~~(e)-(j)~~ (e) Parts, special attachments, special lettering, and
2921 other like items that are added to or attached to tangible
2922 personal property so that a handicapped person can use them are
2923 exempt when such items are purchased by a person pursuant to an
2924 individual prescription.

2925 ~~(f)-(k)~~ (f) This subsection shall be strictly construed and
2926 enforced.

2927 (5) EXEMPTIONS; ACCOUNT OF USE.—

2928 (g) *Building materials used in the rehabilitation of real*
2929 *property located in an enterprise zone.—*

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2930 1. Building materials used in the rehabilitation of real
2931 property located in an enterprise zone are exempt from the tax
2932 imposed by this chapter upon an affirmative showing to the
2933 satisfaction of the department that the items have been used for
2934 the rehabilitation of real property located in an enterprise
2935 zone. Except as provided in subparagraph 2., this exemption
2936 inures to the owner, lessee, or lessor at the time the real
2937 property is rehabilitated, but only through a refund of
2938 previously paid taxes. To receive a refund pursuant to this
2939 paragraph, the owner, lessee, or lessor of the rehabilitated
2940 real property must file an application under oath with the
2941 governing body or enterprise zone development agency having
2942 jurisdiction over the enterprise zone where the business is
2943 located, as applicable. A single application for a refund may be
2944 submitted for multiple, contiguous parcels that were part of a
2945 single parcel that was divided as part of the rehabilitation of
2946 the property. All other requirements of this paragraph apply to
2947 each parcel on an individual basis. The application must
2948 include:

2949 a. The name and address of the person claiming the refund.

2950 b. An address and assessment roll parcel number of the
2951 rehabilitated real property for which a refund of previously
2952 paid taxes is being sought.

2953 c. A description of the improvements made to accomplish the
2954 rehabilitation of the real property.

2955 d. A copy of a valid building permit issued by the county
2956 or municipal building department for the rehabilitation of the
2957 real property.

2958 e. A sworn statement, under penalty of perjury, from the

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2959 general contractor licensed in this state with whom the
2960 applicant contracted to make the improvements necessary to
2961 rehabilitate the real property, which lists the building
2962 materials used to rehabilitate the real property, the actual
2963 cost of the building materials, and the amount of sales tax paid
2964 in this state on the building materials. If a general contractor
2965 was not used, the applicant, not a general contractor, shall
2966 make the sworn statement required by this sub-subparagraph.
2967 Copies of the invoices which ~~that~~ evidence the purchase of the
2968 building materials used in the rehabilitation and the payment of
2969 sales tax on the building materials must be attached to the
2970 sworn statement provided by the general contractor or by the
2971 applicant. Unless the actual cost of building materials used in
2972 the rehabilitation of real property and the payment of sales
2973 taxes is documented by a general contractor or by the applicant
2974 in this manner, the cost of the building materials is deemed to
2975 be an amount equal to 40 percent of the increase in assessed
2976 value for ad valorem tax purposes.

2977 f. The identifying number assigned pursuant to s. 290.0065
2978 to the enterprise zone in which the rehabilitated real property
2979 is located.

2980 g. A certification by the local building code inspector
2981 that the improvements necessary to rehabilitate the real
2982 property are substantially completed.

2983 h. A statement of whether the business is a small business
2984 as defined by s. 288.703(1).

2985 i. If applicable, the name and address of each permanent
2986 employee of the business, including, for each employee who is a
2987 resident of an enterprise zone, the identifying number assigned

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2988 pursuant to s. 290.0065 to the enterprise zone in which the
2989 employee resides.

2990 2. This exemption inures to a municipality, county, other
2991 governmental unit or agency, or nonprofit community-based
2992 organization through a refund of previously paid taxes if the
2993 building materials used in the rehabilitation are paid for from
2994 the funds of a community development block grant, State Housing
2995 Initiatives Partnership Program, or similar grant or loan
2996 program. To receive a refund, a municipality, county, other
2997 governmental unit or agency, or nonprofit community-based
2998 organization must file an application that includes the same
2999 information required in subparagraph 1. In addition, the
3000 application must include a sworn statement signed by the chief
3001 executive officer of the municipality, county, other
3002 governmental unit or agency, or nonprofit community-based
3003 organization seeking a refund which states that the building
3004 materials for which a refund is sought were funded by a
3005 community development block grant, State Housing Initiatives
3006 Partnership Program, or similar grant or loan program.

3007 3. Within 10 working days after receipt of an application,
3008 the governing body or enterprise zone development agency shall
3009 review the application to determine if it contains all the
3010 information required by subparagraph 1. or subparagraph 2. and
3011 meets the criteria set out in this paragraph. The governing body
3012 or agency shall certify all applications that contain the
3013 required information and are eligible to receive a refund. If
3014 applicable, the governing body or agency shall also certify if
3015 20 percent of the employees of the business that applies for the
3016 exemption are residents of an enterprise zone, excluding

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3017 temporary and part-time employees. The certification must be in
3018 writing, and a copy of the certification shall be transmitted to
3019 the executive director of the department. The applicant is
3020 responsible for forwarding a certified application to the
3021 department within the time specified in subparagraph 4.

3022 4. An application for a refund must be submitted to the
3023 department within 6 months after the rehabilitation of the
3024 property is deemed to be substantially completed by the local
3025 building code inspector or by November 1 after the rehabilitated
3026 property is first subject to assessment.

3027 5. Only one exemption through a refund of previously paid
3028 taxes for the rehabilitation of real property is permitted for
3029 any single parcel of property unless there is a change in
3030 ownership, a new lessor, or a new lessee of the real property.
3031 Only one exemption through a refund of previously paid taxes for
3032 the rehabilitation of real property is permitted for any single
3033 building. A refund may not be granted unless the amount to be
3034 refunded exceeds \$500. A refund may not exceed the lesser of 97
3035 percent of the Florida sales or use tax paid on the cost of the
3036 building materials used in the rehabilitation of the real
3037 property as determined pursuant to sub-subparagraph 1.e. or
3038 \$5,000, or, if at least 20 percent of the employees of the
3039 business are residents of an enterprise zone, excluding
3040 temporary and part-time employees, the amount of refund may not
3041 exceed the lesser of 97 percent of the sales tax paid on the
3042 cost of the building materials or \$10,000. A refund shall be
3043 made within 30 days after formal approval by the department of
3044 the application for the refund.

3045 6. The department shall adopt rules governing the manner

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3046 and form of refund applications and may establish guidelines as
3047 to the requisites for an affirmative showing of qualification
3048 for exemption under this paragraph.

3049 7. The department shall deduct an amount equal to 10
3050 percent of each refund granted under this paragraph from the
3051 amount transferred into the Local Government Half-cent Sales Tax
3052 Clearing Trust Fund pursuant to s. 212.20 for the county area in
3053 which the rehabilitated real property is located and shall
3054 transfer that amount to the General Revenue Fund.

3055 8. For the purposes of the exemption provided in this
3056 paragraph, the term:

3057 a. "Building materials" means tangible personal property
3058 that becomes a component part of improvements to real property.

3059 b. "Full-time employee" means a person who performs duties
3060 in connection with the operations of an eligible business on a
3061 regular, full-time basis for an average of at least 36 hours per
3062 week each month throughout the year.

3063 ~~c.d.~~ "Real property" has the same meaning as provided in s.
3064 192.001(12), except that the term does not include a condominium
3065 parcel or condominium property as defined in s. 718.103.

3066 ~~d.e.~~ "Rehabilitation of real property" means the
3067 reconstruction, renovation, restoration, rehabilitation,
3068 construction, or expansion of improvements to real property.

3069 ~~e.f.~~ "Substantially completed" has the same meaning as
3070 provided in s. 192.042(1).

3071 f. "Temporary employee" means an employee who has been
3072 employed by an eligible business for less than 3 months on the
3073 date of the application for the exemption provided in this
3074 paragraph, or who is employed only for a limited time.

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3075 9. This paragraph expires on the date specified in s.
3076 290.016 for the expiration of the Florida Enterprise Zone Act.

3077 (14) HOURLY, DAILY, OR MILEAGE CHARGES; HIGH-VOLTAGE
3078 TRANSMISSION FACILITY.—The following are exempt from the taxes
3079 imposed by this chapter:

3080 (a) The hourly, daily, or mileage charges, to the extent
3081 that such charges are subject to the jurisdiction of the United
3082 States Interstate Commerce Commission, if such charges are paid
3083 by reason of the presence of railroad cars owned by another
3084 company on the tracks of the taxpayer, or such charges are made
3085 pursuant to car service agreements.

3086 (b) The payments made to an owner of a high-voltage bulk
3087 transmission facility in connection with the possession or
3088 control of such facility by a regional transmission
3089 organization, independent system operator, or similar entity
3090 under the jurisdiction of the Federal Energy Regulatory
3091 Commission. However, if two taxpayers, in connection with the
3092 interchange of facilities, rent or lease property, each to the
3093 other, for use in providing or furnishing any of the services
3094 mentioned in s. 166.231, the term "lease or rental" means only
3095 the net amount of rental involved. ~~TECHNICAL ASSISTANCE ADVISORY~~
3096 ~~COMMITTEE.~~ ~~The department shall establish a technical assistance~~
3097 ~~advisory committee with public and private sector members,~~
3098 ~~including representatives of both manufacturers and retailers,~~
3099 ~~to advise the Department of Revenue and the Department of Health~~
3100 ~~in determining the taxability of specific products and product~~
3101 ~~lines pursuant to subsection (1) and paragraph (2) (a). In~~
3102 ~~determining taxability and in preparing a list of specific~~
3103 ~~products and product lines that are or are not taxable, the~~

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3104 ~~committee shall not be subject to the provisions of chapter 120.~~
3105 ~~Private sector members shall not be compensated for serving on~~
3106 ~~the committee.~~

3107 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

3108 (b) As used in this subsection, the term "overhead
3109 materials" means all tangible personal property, other than
3110 ~~qualifying property as defined in s. 212.02(14)(a) and~~
3111 electricity, which is used or consumed in the performance of a
3112 qualifying contract, title to which property vests in or passes
3113 to the government under the contract.

3114 (c) As used in this subsection ~~and in s. 212.02(14)(a)~~, the
3115 term "qualifying contract" means a contract with the United
3116 States Department of Defense or the National Aeronautics and
3117 Space Administration, or a subcontract thereunder, but does not
3118 include a contract or subcontract for the repair, alteration,
3119 improvement, or construction of real property, except to the
3120 extent that purchases under such a contract would otherwise be
3121 exempt from the tax imposed by this chapter.

3122 Section 14. Section 212.094, Florida Statutes, is created
3123 to read:

3124 212.094 Purchaser requests for refunds from dealers.—

3125 (1) If a purchaser seeks a refund of or credit against a
3126 tax collected under this chapter by a dealer, the purchaser
3127 shall submit a written request for the refund or credit to the
3128 dealer in accordance with this section. The request must contain
3129 all the information necessary for the dealer to determine the
3130 validity of the purchaser's request.

3131 (2) The purchaser may not take any other action against the
3132 dealer with respect to the requested refund or credit until 60

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3133 days after the dealer's receipt of a completed request.

3134 (3) This section does not affect a person's standing to
3135 claim a refund.

3136 (4) This section does not apply to refunds resulting from
3137 merchandise returned by a customer to a dealer.

3138 Section 15. Section 212.12, Florida Statutes, is amended to
3139 read:

3140 212.12 Dealer's credit for collecting tax; penalties for
3141 noncompliance; powers of Department of Revenue in dealing with
3142 delinquents; ~~brackets applicable to taxable transactions;~~
3143 records required.-

3144 (1) (a) Notwithstanding any other provision of law and for
3145 the purpose of compensating persons granting licenses for and
3146 the lessors of real and personal property taxed hereunder, for
3147 the purpose of compensating dealers in tangible personal
3148 property, for the purpose of compensating dealers providing
3149 communication services and taxable services, for the purpose of
3150 compensating owners of places where admissions are collected,
3151 and for the purpose of compensating remitters of any taxes or
3152 fees reported on the same documents utilized for the sales and
3153 use tax, as compensation for the keeping of prescribed records,
3154 filing timely tax returns, and the proper accounting and
3155 remitting of taxes by them, such seller, person, lessor, dealer,
3156 owner, or and remitter shall be allowed a collection allowance
3157 based on a percentage of tax remitted for a reporting period.

3158 The rate of compensation is:

- 3159 1. Of the first \$6,250 of tax remitted, 0.75 percent;
3160 2. Of the tax remitted exceeding \$6,250 and less than or
3161 equal to \$62,500, 0.375 percent; and

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3162 3. Of the tax remitted exceeding \$62,500, 0.1875 percent.

3163 (b) The amount of collection allowance for each seller,
3164 person, lessor, dealer, owner, or remitter is limited based on
3165 the amount of sales and use tax remitted in the 12-month period
3166 ending June 30 of the previous calendar year. No collection
3167 allowance is allowed on the total tax remitted by any seller,
3168 person, lessor, dealer, owner, or remitter in any month in
3169 excess of:

3170 1. The amount of \$750,000, if the total amount remitted by
3171 all dealers in the previous year was equal to or less than \$1
3172 billion;

3173 2. The amount of \$1 million, if the total amount remitted
3174 by all dealers in the previous year was greater than \$1 billion
3175 but equal to or less than \$2.5 billion;

3176 3. The amount of \$3 million, if the total amount remitted
3177 by all dealers in the previous year was greater than \$2.5
3178 billion but equal to or less than \$5 billion;

3179 4. The amount of \$5 million, if the total amount remitted
3180 by all dealers in the previous year was greater than \$5 billion
3181 but equal to or less than \$7.5 billion;

3182 5. The amount of \$7 million, if the total amount remitted
3183 by all dealers in the previous year was greater than \$7.5
3184 billion but equal to or less than \$10 billion; or

3185 6. The amount of \$10 million, if the total amount remitted
3186 by all dealers in the previous year was greater than \$10
3187 billion. ~~(except dealers who make mail order sales) shall be~~
3188 ~~allowed 2.5 percent of the amount of the tax due and accounted~~
3189 ~~for and remitted to the department, in the form of a deduction~~
3190 ~~in submitting his or her report and paying the amount due by him~~

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3191 ~~or her; the department shall allow such deduction of 2.5 percent~~
3192 ~~of the amount of the tax to the person paying the same for~~
3193 ~~remitting the tax and making of tax returns in the manner herein~~
3194 ~~provided, for paying the amount due to be paid by him or her,~~
3195 ~~and as further compensation to dealers in tangible personal~~
3196 ~~property for the keeping of prescribed records and for~~
3197 ~~collection of taxes and remitting the same. However, if the~~
3198 ~~amount of the tax due and remitted to the department for the~~
3199 ~~reporting period exceeds \$1,200, no allowance shall be allowed~~
3200 ~~for all amounts in excess of \$1,200. The executive director of~~
3201 ~~the department is authorized to negotiate a collection~~
3202 ~~allowance, pursuant to rules promulgated by the department, with~~
3203 ~~a dealer who makes mail order sales. The rules of the department~~
3204 ~~shall provide guidelines for establishing the collection~~
3205 ~~allowance based upon the dealer's estimated costs of collecting~~
3206 ~~the tax, the volume and value of the dealer's mail order sales~~
3207 ~~to purchasers in this state, and the administrative and legal~~
3208 ~~costs and likelihood of achieving collection of the tax absent~~
3209 ~~the cooperation of the dealer. However, in no event shall the~~
3210 ~~collection allowance negotiated by the executive director exceed~~
3211 ~~10 percent of the tax remitted for a reporting period.~~

3212 (c) ~~(a)~~ The Department of Revenue may deny the collection
3213 allowance if a taxpayer files an incomplete return or if the
3214 required tax return or tax is delinquent at the time of payment.

3215 1. An "incomplete return" is, for purposes of this chapter,
3216 a return that ~~which~~ is lacking such uniformity, completeness,
3217 and arrangement that the physical handling, verification, review
3218 of the return, or determination of other taxes and fees reported
3219 on the return may not be readily accomplished.

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3220 2. The department shall adopt rules requiring such
3221 information as it may deem necessary to ensure that the tax
3222 levied hereunder is properly collected, reviewed, compiled,
3223 reported, and enforced, including, but not limited to: the
3224 amount of gross sales; the amount of taxable sales; the amount
3225 of tax collected or due; the amount of lawful refunds,
3226 deductions, or credits claimed; the amount claimed as the
3227 dealer's collection allowance; the amount of penalty and
3228 interest; the amount due with the return; and such other
3229 information as the Department of Revenue may specify. The
3230 department shall require that transient rentals and agricultural
3231 equipment transactions be separately shown. Sales made through
3232 vending machines as defined in s. 212.0515 must be separately
3233 shown on the return. Sales made through coin-operated amusement
3234 machines as defined by s. 212.02 and the number of machines
3235 operated must be separately shown on the return or on a form
3236 prescribed by the department. If a separate form is required,
3237 the same penalties for late filing, incomplete filing, or
3238 failure to file as provided for the sales tax return shall apply
3239 to said form.

3240 (d) ~~(b)~~ The collection allowance and other credits or
3241 deductions provided in this chapter shall be applied
3242 proportionally to any taxes or fees reported on the same
3243 documents used for the sales and use tax.

3244 (e) ~~(e)~~1. A dealer entitled to the collection allowance
3245 provided in this section may elect to forego the collection
3246 allowance and direct that said amount be transferred into the
3247 Educational Enhancement Trust Fund. Such an election must be
3248 made with the timely filing of a return and may not be rescinded

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3249 once made. If a dealer who makes such an election files a
3250 delinquent return, underpays the tax, or files an incomplete
3251 return, the amount transferred into the Educational Enhancement
3252 Trust Fund shall be the amount of the collection allowance
3253 remaining after resolution of liability for all of the tax,
3254 interest, and penalty due on that return or underpayment of tax.
3255 The Department of Education shall distribute the remaining
3256 amount from the trust fund to the school districts that have
3257 adopted resolutions stating that those funds will be used to
3258 ensure that up-to-date technology is purchased for the
3259 classrooms in the district and that teachers are trained in the
3260 use of that technology. Revenues collected in districts that do
3261 not adopt such a resolution shall be equally distributed to
3262 districts that have adopted such resolutions.

3263 2. This paragraph applies to all taxes, surtaxes, and any
3264 local option taxes administered under this chapter and remitted
3265 directly to the department. This paragraph does not apply to any
3266 locally imposed and self-administered convention development
3267 tax, tourist development tax, or tourist impact tax administered
3268 under this chapter.

3269 3. Revenues from the dealer-collection allowances shall be
3270 transferred quarterly from the General Revenue Fund to the
3271 Educational Enhancement Trust Fund. The Department of Revenue
3272 shall provide to the Department of Education quarterly
3273 information about such revenues by county to which the
3274 collection allowance was attributed.

3275
3276 Notwithstanding any provision of chapter 120 to the contrary,
3277 the Department of Revenue may adopt rules to carry out the

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3278 amendment made by chapter 2006-52, Laws of Florida, to this
3279 section.

3280 (f) Notwithstanding paragraph (a), a small remote seller
3281 may elect to receive a collection allowance of 20 percent of the
3282 tax to be remitted to the state, not to exceed compensation of
3283 \$85 in any month in lieu of compensation provided in paragraph
3284 (b). Such election is effective for a 6-month period beginning
3285 with the first month that such seller collects Florida tax.
3286 After 6 months, the collection allowance shall be those rates
3287 established in paragraph (b). The increased amount of collection
3288 allowance permitted by this paragraph is available to a small
3289 remote seller that begins collecting tax for the state within
3290 the first 12 months following the date of registration.

3291 (g) If sales and use tax collection from remote sellers is
3292 not greater than 20 percent of the amount determined by the
3293 Revenue Estimating Conference of potential collections by July
3294 1, 2014, the collection allowance permitted by this subsection
3295 shall be reduced to 2.5 percent of tax collected, not to exceed
3296 \$30.

3297 (h) Notwithstanding paragraphs (a) and (b), a Model 1
3298 seller, as defined in s. 213.256, is not entitled to the
3299 collection allowance described in paragraphs (a) and (b).

3300 (i)1. In addition to any collection allowance that may be
3301 provided under this subsection, the department may provide the
3302 monetary allowances required to be provided by the state to
3303 certified service providers and voluntary sellers pursuant to
3304 Article VI of the Streamlined Sales and Use Tax Agreement, as
3305 amended.

3306 2. Such monetary allowances must be in the form of

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3307 collection allowances that certified service providers or
3308 voluntary sellers are permitted to retain from the tax revenues
3309 collected on remote sales to be remitted to the state pursuant
3310 to this chapter.

3311 (j) As used in this subsection, the term:

3312 1. "Small remote seller" means a new remote seller that has
3313 gross national remote sales of not more than \$5 million and
3314 would not otherwise be required to register in this state.

3315 2. "New remote seller" means a remote seller that registers
3316 under the agreement, as provided in s. 213.2567, and that was
3317 not previously required to collect sales or use tax. A seller
3318 merely reincorporating, changing its name, or having a change in
3319 ownership or any other similar change in its business structure
3320 or operation is not a new remote seller.

3321 3. "Remote seller" means a seller that would not be
3322 registered in this state but for the ability of this state to
3323 require the seller to collect sales or use tax under federal
3324 authority.

3325 (2) (a) When any person required hereunder to make any
3326 return or to pay any tax or fee imposed by this chapter either
3327 fails to timely file such return or fails to pay the tax or fee
3328 shown due on the return within the time required hereunder, in
3329 addition to all other penalties provided herein and by the laws
3330 of this state in respect to such taxes or fees, a specific
3331 penalty shall be added to the tax or fee in the amount of 10
3332 percent of either the tax or fee shown on the return that is not
3333 timely filed or any tax or fee not paid timely. The penalty may
3334 not be less than \$50 for failure to timely file a tax return
3335 required by s. 212.11(1) or timely pay the tax or fee shown due

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3336 on the return except as provided in s. 213.21(10). If a person
3337 fails to timely file a return required by s. 212.11(1) and to
3338 timely pay the tax or fee shown due on the return, only one
3339 penalty of 10 percent, which may not be less than \$50, shall be
3340 imposed.

3341 (b) When any person required under this section to make a
3342 return or to pay a tax or fee imposed by this chapter fails to
3343 disclose the tax or fee on the return within the time required,
3344 excluding a noncompliant filing event generated by situations
3345 covered in paragraph (a), in addition to all other penalties
3346 provided in this section and by the laws of this state in
3347 respect to such taxes or fees, a specific penalty shall be added
3348 to the additional tax or fee owed in the amount of 10 percent of
3349 any such unpaid tax or fee not paid timely if the failure is for
3350 not more than 30 days, with an additional 10 percent of any such
3351 unpaid tax or fee for each additional 30 days, or fraction
3352 thereof, while the failure continues, not to exceed a total
3353 penalty of 50 percent, in the aggregate, of any unpaid tax or
3354 fee.

3355 (c) Any person who knowingly and with a willful intent to
3356 evade any tax imposed under this chapter fails to file six
3357 consecutive returns as required by law commits a felony of the
3358 third degree, punishable as provided in s. 775.082 or s.
3359 775.083.

3360 (d) Any person who makes a false or fraudulent return with
3361 a willful intent to evade payment of any tax or fee imposed
3362 under this chapter; any person who, after the department's
3363 delivery of a written notice to the person's last known address
3364 specifically alerting the person of the requirement to register

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3365 the person's business as a dealer, intentionally fails to
3366 register the business; and any person who, after the
3367 department's delivery of a written notice to the person's last
3368 known address specifically alerting the person of the
3369 requirement to collect tax on specific transactions,
3370 intentionally fails to collect such tax, shall, in addition to
3371 the other penalties provided by law, be liable for a specific
3372 penalty of 100 percent of any unreported or any uncollected tax
3373 or fee and, upon conviction, for fine and punishment as provided
3374 in s. 775.082, s. 775.083, or s. 775.084. Delivery of written
3375 notice may be made by certified mail, or by the use of such
3376 other method as is documented as being necessary and reasonable
3377 under the circumstances. The civil and criminal penalties
3378 imposed herein for failure to comply with a written notice
3379 alerting the person of the requirement to register the person's
3380 business as a dealer or to collect tax on specific transactions
3381 shall not apply if the person timely files a written challenge
3382 to such notice in accordance with procedures established by the
3383 department by rule or the notice fails to clearly advise that
3384 failure to comply with or timely challenge the notice will
3385 result in the imposition of the civil and criminal penalties
3386 imposed herein.

3387 1. If the total amount of unreported or uncollected taxes
3388 or fees is less than \$300, the first offense resulting in
3389 conviction is a misdemeanor of the second degree, the second
3390 offense resulting in conviction is a misdemeanor of the first
3391 degree, and the third and all subsequent offenses resulting in
3392 conviction is a misdemeanor of the first degree, and the third
3393 and all subsequent offenses resulting in conviction are felonies

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3394 of the third degree.

3395 2. If the total amount of unreported or uncollected taxes
3396 or fees is \$300 or more but less than \$20,000, the offense is a
3397 felony of the third degree.

3398 3. If the total amount of unreported or uncollected taxes
3399 or fees is \$20,000 or more but less than \$100,000, the offense
3400 is a felony of the second degree.

3401 4. If the total amount of unreported or uncollected taxes
3402 or fees is \$100,000 or more, the offense is a felony of the
3403 first degree.

3404 (e) A person who willfully attempts in any manner to evade
3405 any tax, surcharge, or fee imposed under this chapter or the
3406 payment thereof is, in addition to any other penalties provided
3407 by law, liable for a specific penalty in the amount of 100
3408 percent of the tax, surcharge, or fee, and commits a felony of
3409 the third degree, punishable as provided in s. 775.082, s.
3410 775.083, or s. 775.084.

3411 (f) When any person, firm, or corporation fails to timely
3412 remit the proper estimated payment required under s. 212.11, a
3413 specific penalty shall be added in an amount equal to 10 percent
3414 of any unpaid estimated tax. Beginning with January 1, 1985,
3415 returns, the department, upon a showing of reasonable cause, is
3416 authorized to waive or compromise penalties imposed by this
3417 paragraph. However, other penalties and interest shall be due
3418 and payable if the return on which the estimated payment was due
3419 was not timely or properly filed.

3420 (g) A dealer who files a consolidated return pursuant to s.
3421 212.11(1)(e) is subject to the penalty established in paragraph
3422 (e) unless the dealer has paid the required estimated tax for

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3423 his or her consolidated return as a whole without regard to each
3424 location. If the dealer fails to pay the required estimated tax
3425 for his or her consolidated return as a whole, each filing
3426 location shall stand on its own with respect to calculating
3427 penalties pursuant to paragraph (f).

3428 (3) When any dealer, or other person charged herein, fails
3429 to remit the tax, or any portion thereof, on or before the day
3430 when such tax is required by law to be paid, there shall be
3431 added to the amount due interest at the rate of 1 percent per
3432 month of the amount due from the date due until paid. Interest
3433 on the delinquent tax shall be calculated beginning on the 21st
3434 day of the month following the month for which the tax is due,
3435 except as otherwise provided in this chapter.

3436 (4) All penalties and interest imposed by this chapter
3437 shall be payable to and collectible by the department in the
3438 same manner as if they were a part of the tax imposed. The
3439 department may settle or compromise any such interest or
3440 penalties pursuant to s. 213.21.

3441 (5) (a) The department is authorized to audit or inspect the
3442 records and accounts of dealers defined herein, ~~including audits~~
3443 ~~or inspections of dealers who make mail order sales to the~~
3444 ~~extent permitted by another state,~~ and to correct by credit any
3445 overpayment of tax, and, in the event of a deficiency, an
3446 assessment shall be made and collected. No administrative
3447 finding of fact is necessary prior to the assessment of any tax
3448 deficiency.

3449 (b) In the event any dealer or other person charged herein
3450 fails or refuses to make his or her records available for
3451 inspection so that no audit or examination has been made of the

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3452 books and records of such dealer or person, fails or refuses to
3453 register as a dealer, fails to make a report and pay the tax as
3454 provided by this chapter, makes a grossly incorrect report or
3455 makes a report that is false or fraudulent, then, in such event,
3456 it shall be the duty of the department to make an assessment
3457 from an estimate based upon the best information then available
3458 to it for the taxable period of retail sales of such dealer, the
3459 gross proceeds from rentals, the total admissions received,
3460 amounts received from leases of tangible personal property by
3461 such dealer, or of the cost price of all articles of tangible
3462 personal property imported by the dealer for use or consumption
3463 or distribution or storage to be used or consumed in this state,
3464 or of the sales or cost price of all services the sale or use of
3465 which is taxable under this chapter, together with interest,
3466 plus penalty, if such have accrued, as the case may be. Then the
3467 department shall proceed to collect such taxes, interest, and
3468 penalty on the basis of such assessment, which shall be
3469 considered prima facie correct, and the burden to show the
3470 contrary shall rest upon the dealer, seller, owner, or lessor,
3471 as the case may be.

3472 (6) (a) The department is given the power to prescribe the
3473 records to be kept by all persons subject to taxes imposed by
3474 this chapter. It shall be the duty of every person required to
3475 make a report and pay any tax under this chapter, every person
3476 receiving rentals or license fees, and owners of places of
3477 admission, to keep and preserve suitable records of the sales,
3478 leases, rentals, license fees, admissions, or purchases, as the
3479 case may be, taxable under this chapter; such other books of
3480 account as may be necessary to determine the amount of the tax

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3481 due hereunder; and other information as may be required by the
3482 department. It shall be the duty of every such person so charged
3483 with such duty, moreover, to keep and preserve as long as
3484 required by s. 213.35 all invoices and other records of goods,
3485 wares, and merchandise; records of admissions, leases, license
3486 fees and rentals; and records of all other subjects of taxation
3487 under this chapter. All such books, invoices, and other records
3488 shall be open to examination at all reasonable hours to the
3489 department or any of its duly authorized agents.

3490 (b) For the purpose of this subsection, if a dealer does
3491 not have adequate records of his or her retail sales or
3492 purchases, the department may, upon the basis of a test or
3493 sampling of the dealer's available records or other information
3494 relating to the sales or purchases made by such dealer for a
3495 representative period, determine the proportion that taxable
3496 retail sales bear to total retail sales or the proportion that
3497 taxable purchases bear to total purchases. This subsection does
3498 not affect the duty of the dealer to collect, or the liability
3499 of any consumer to pay, any tax imposed by or pursuant to this
3500 chapter.

3501 (c)1. If the records of a dealer are adequate but
3502 voluminous in nature and substance, the department may sample
3503 such records and project the audit findings derived therefrom
3504 over the entire audit period to determine the proportion that
3505 taxable retail sales bear to total retail sales or the
3506 proportion that taxable purchases bear to total purchases. In
3507 order to conduct such a sample, the department must first make a
3508 good faith effort to reach an agreement with the dealer, which
3509 agreement provides for the means and methods to be used in the

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3510 sampling process. In the event that no agreement is reached, the
3511 dealer is entitled to a review by the executive director. In the
3512 case of fixed assets, a dealer may agree in writing with the
3513 department for adequate but voluminous records to be
3514 statistically sampled. Such an agreement shall provide for the
3515 methodology to be used in the statistical sampling process. The
3516 audit findings derived therefrom shall be projected over the
3517 period represented by the sample in order to determine the
3518 proportion that taxable purchases bear to total purchases. Once
3519 an agreement has been signed, it is final and conclusive with
3520 respect to the method of sampling fixed assets, and the
3521 department may not conduct a detailed audit of fixed assets, and
3522 the taxpayer may not request a detailed audit after the
3523 agreement is reached.

3524 2. For the purposes of sampling pursuant to subparagraph
3525 1., the department shall project any deficiencies and
3526 overpayments derived therefrom over the entire audit period. In
3527 determining the dealer's compliance, the department shall reduce
3528 any tax deficiency as derived from the sample by the amount of
3529 any overpayment derived from the sample. In the event the
3530 department determines from the sample results that the dealer
3531 has a net tax overpayment, the department shall provide the
3532 findings of this overpayment to the Chief Financial Officer for
3533 repayment of funds paid into the State Treasury through error
3534 pursuant to s. 215.26.

3535 3.a. A taxpayer is entitled, both in connection with an
3536 audit and in connection with an application for refund filed
3537 independently of any audit, to establish the amount of any
3538 refund or deficiency through statistical sampling when the

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3539 taxpayer's records are adequate but voluminous. In the case of
3540 fixed assets, a dealer may agree in writing with the department
3541 for adequate but voluminous records to be statistically sampled.
3542 Such an agreement shall provide for the methodology to be used
3543 in the statistical sampling process. The audit findings derived
3544 therefrom shall be projected over the period represented by the
3545 sample in order to determine the proportion that taxable
3546 purchases bear to total purchases. Once an agreement has been
3547 signed, it is final and conclusive with respect to the method of
3548 sampling fixed assets, and the department may not conduct a
3549 detailed audit of fixed assets, and the taxpayer may not request
3550 a detailed audit after the agreement is reached.

3551 b. Alternatively, a taxpayer is entitled to establish any
3552 refund or deficiency through any other sampling method agreed
3553 upon by the taxpayer and the department when the taxpayer's
3554 records, other than those regarding fixed assets, are adequate
3555 but voluminous. Whether done through statistical sampling or any
3556 other sampling method agreed upon by the taxpayer and the
3557 department, the completed sample must reflect both overpayments
3558 and underpayments of taxes due. The sample shall be conducted
3559 through:

3560 (I) A taxpayer request to perform the sampling through the
3561 certified audit program pursuant to s. 213.285;

3562 (II) Attestation by a certified public accountant as to the
3563 adequacy of the sampling method utilized and the results reached
3564 using such sampling method; or

3565 (III) A sampling method that has been submitted by the
3566 taxpayer and approved by the department before a refund claim is
3567 submitted. This sub-sub-subparagraph does not prohibit a

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3568 taxpayer from filing a refund claim prior to approval by the
3569 department of the sampling method; however, a refund claim
3570 submitted before the sampling method has been approved by the
3571 department cannot be a complete refund application pursuant to
3572 s. 213.255 until the sampling method has been approved by the
3573 department.

3574 c. The department shall prescribe by rule the procedures to
3575 be followed under each method of sampling. Such procedures shall
3576 follow generally accepted auditing procedures for sampling. The
3577 rule shall also set forth other criteria regarding the use of
3578 sampling, including, but not limited to, training requirements,
3579 which ~~that~~ must be met before a sampling method may be utilized
3580 and the steps necessary for the department and the taxpayer to
3581 reach agreement on a sampling method submitted by the taxpayer
3582 for approval by the department.

3583 (7) In the event the dealer has imported tangible personal
3584 property and he or she fails to produce an invoice showing the
3585 cost price of the articles, as defined in this chapter, which
3586 are subject to tax, or the invoice does not reflect the true or
3587 actual cost price as defined herein, then the department shall
3588 ascertain, in any manner feasible, the true cost price, and
3589 assess and collect the tax thereon with interest plus penalties,
3590 if such have accrued on the true cost price as assessed by it.
3591 The assessment so made shall be considered prima facie correct,
3592 and the duty shall be on the dealer to show to the contrary.

3593 (8) In the case of the lease or rental of tangible personal
3594 property, or other rentals or license fees as herein defined and
3595 taxed, if the consideration given or reported by the lessor,
3596 person receiving rental or license fee, or dealer does not, in

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3597 the judgment of the department, represent the true or actual
3598 consideration, then the department is authorized to ascertain
3599 the same and assess and collect the tax thereon in the same
3600 manner as above provided, with respect to imported tangible
3601 property, together with interest, plus penalties, if such have
3602 accrued.

3603 (9) Taxes imposed by this chapter upon the privilege of the
3604 use, consumption, storage for consumption, or sale of tangible
3605 personal property, admissions, license fees, rentals,
3606 communication services, and upon the sale or use of services as
3607 herein taxed shall be collected upon the basis of an addition of
3608 the tax imposed by this chapter to the total price of such
3609 admissions, license fees, rentals, communication or other
3610 services, or sale price of such article or articles that are
3611 purchased, sold, or leased at any one time by or to a customer
3612 or buyer; the dealer, or person charged herein, is required to
3613 pay a privilege tax in the amount of the tax imposed by this
3614 chapter on the total of his or her gross sales of tangible
3615 personal property, admissions, license fees, rentals, and
3616 communication services or to collect a tax upon the sale or use
3617 of services, and such person or dealer shall add the tax imposed
3618 by this chapter to the price, license fee, rental, or
3619 admissions, and communication or other services and collect the
3620 total sum from the purchaser, admittee, licensee, lessee, or
3621 consumer. In computing the tax due or to be collected as the
3622 result of any transaction, the dealer may elect to compute the
3623 tax due on a transaction on a per-item basis or on an invoice
3624 basis, consistent with the definition of the term "sales price."
3625 The tax rate shall be the sum of the applicable state and local

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3626 rates, if any, and the tax computation shall be carried to the
3627 third decimal place. Whenever the third decimal place is greater
3628 than four, the tax shall be rounded to the next whole cent. The
3629 ~~department shall make available in an electronic format or~~
3630 ~~otherwise the tax amounts and the following brackets applicable~~
3631 ~~to all transactions taxable at the rate of 6 percent:~~

3632 ~~(a) On single sales of less than 10 cents, no tax shall be~~
3633 ~~added.~~

3634 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~
3635 ~~both inclusive, 1 cent shall be added for taxes.~~

3636 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~
3637 ~~inclusive, 2 cents shall be added for taxes.~~

3638 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~
3639 ~~inclusive, 3 cents shall be added for taxes.~~

3640 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~
3641 ~~inclusive, 4 cents shall be added for taxes.~~

3642 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~
3643 ~~inclusive, 5 cents shall be added for taxes.~~

3644 ~~(g) On sales in amounts from 84 cents to \$1, both~~
3645 ~~inclusive, 6 cents shall be added for taxes.~~

3646 ~~(h) On sales in amounts of more than \$1, 6 percent shall be~~
3647 ~~charged upon each dollar of price, plus the appropriate bracket~~
3648 ~~charge upon any fractional part of a dollar.~~

3649 ~~(10) In counties which have adopted a discretionary sales~~
3650 ~~surtax at the rate of 1 percent, the department shall make~~
3651 ~~available in an electronic format or otherwise the tax amounts~~
3652 ~~and the following brackets applicable to all taxable~~
3653 ~~transactions that would otherwise have been transactions taxable~~
3654 ~~at the rate of 6 percent:~~

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3655 ~~(a) On single sales of less than 10 cents, no tax shall be~~
3656 ~~added.~~

3657 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~
3658 ~~both inclusive, 1 cent shall be added for taxes.~~

3659 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~
3660 ~~inclusive, 2 cents shall be added for taxes.~~

3661 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~
3662 ~~inclusive, 3 cents shall be added for taxes.~~

3663 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~
3664 ~~inclusive, 4 cents shall be added for taxes.~~

3665 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~
3666 ~~inclusive, 5 cents shall be added for taxes.~~

3667 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~
3668 ~~inclusive, 6 cents shall be added for taxes.~~

3669 ~~(h) On sales in amounts from 86 cents to \$1, both~~
3670 ~~inclusive, 7 cents shall be added for taxes.~~

3671 ~~(i) On sales in amounts from \$1 up to, and including, the~~
3672 ~~first \$5,000 in price, 7 percent shall be charged upon each~~
3673 ~~dollar of price, plus the appropriate bracket charge upon any~~
3674 ~~fractional part of a dollar.~~

3675 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~
3676 ~~percent shall be added upon the first \$5,000 in price, and 6~~
3677 ~~percent shall be added upon each dollar of price in excess of~~
3678 ~~the first \$5,000 in price, plus the bracket charges upon any~~
3679 ~~fractional part of a dollar as provided for in subsection (9).~~

3680 ~~(11) The department shall make available in an electronic~~
3681 ~~format or otherwise the tax amounts and brackets applicable to~~
3682 ~~all taxable transactions that occur in counties that have a~~
3683 ~~surtax at a rate other than 1 percent which transactions would~~

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3684 otherwise have been transactions taxable at the rate of 6
3685 percent. Likewise, the department shall make available in an
3686 electronic format or otherwise the tax amounts and brackets
3687 applicable to transactions taxable at 7 percent pursuant to s.
3688 212.05(1)(c) and on transactions which would otherwise have been
3689 so taxable in counties which have adopted a discretionary sales
3690 surtax.

3691 (10)~~(12)~~ The Legislature intends ~~It is hereby declared to~~
3692 ~~be the legislative intent~~ that, whenever in the construction,
3693 administration, or enforcement of this chapter there may be any
3694 question respecting a duplication of the tax, the end consumer,
3695 or the last retail sale, is ~~be~~ the sale intended to be taxed and
3696 insofar as may be practicable there be no duplication or
3697 pyramiding of the tax.

3698 (11)~~(13)~~ In order to aid the administration and enforcement
3699 of the provisions of this chapter with respect to the rentals
3700 and license fees, each lessor or person granting the use of any
3701 hotel, apartment house, roominghouse, tourist or trailer camp,
3702 real property, or any interest therein, or any portion thereof,
3703 inclusive of owners; property managers; lessors; landlords;
3704 hotel, apartment house, and roominghouse operators; and all
3705 licensed real estate agents within the state leasing, granting
3706 the use of, or renting such property, shall be required to keep
3707 a record of each and every such lease, license, or rental
3708 transaction that ~~which~~ is taxable under this chapter, in such a
3709 manner and upon such forms as the department may prescribe, and
3710 to report such transaction to the department or its designated
3711 agents, and to maintain such records as long as required by s.
3712 213.35, subject to the inspection of the department and its

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3713 agents. Upon the failure by such owner; property manager;
3714 lessor; landlord; hotel, apartment house, roominghouse, tourist
3715 or trailer camp operator; or real estate agent to keep and
3716 maintain such records and to make such reports upon the forms
3717 and in the manner prescribed, such owner; property manager;
3718 lessor; landlord; hotel, apartment house, roominghouse, tourist
3719 or trailer camp operator; receiver of rent or license fees; or
3720 real estate agent commits ~~is guilty of~~ a misdemeanor of the
3721 second degree, punishable as provided in s. 775.082 or s.
3722 775.083, for the first offense; for subsequent offenses, ~~they~~
3723 ~~are~~ each is ~~guilty of~~ a misdemeanor of the first degree,
3724 punishable as provided in s. 775.082 or s. 775.083. If, however,
3725 any subsequent offense involves intentional destruction of such
3726 records with an intent to evade payment of or deprive the state
3727 of any tax revenues, such subsequent offense is ~~shall be~~ a
3728 felony of the third degree, punishable as provided in s. 775.082
3729 or s. 775.083.

3730 ~~(14) If it is determined upon audit that a dealer has~~
3731 ~~collected and remitted taxes by applying the applicable tax rate~~
3732 ~~to each transaction as described in subsection (9) and rounding~~
3733 ~~the tax due to the nearest whole cent rather than applying the~~
3734 ~~appropriate bracket system provided by law or department rule,~~
3735 ~~the dealer shall not be held liable for additional tax, penalty,~~
3736 ~~and interest resulting from such failure if:~~

3737 ~~(a) The dealer acted in a good faith belief that rounding~~
3738 ~~to the nearest whole cent was the proper method of determining~~
3739 ~~the amount of tax due on each taxable transaction.~~

3740 ~~(b) The dealer timely reported and remitted all taxes~~
3741 ~~collected on each taxable transaction.~~

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3742 ~~(c) The dealer agrees in writing to future compliance with~~
3743 ~~the laws and rules concerning brackets applicable to the~~
3744 ~~dealer's transactions.~~

3745 Section 16. Subsection (1) of section 212.15, Florida
3746 Statutes, is amended to read:

3747 212.15 Taxes declared state funds; penalties for failure to
3748 remit taxes; due and delinquent dates; judicial review.—

3749 (1) The taxes imposed by this chapter shall, ~~except as~~
3750 ~~provided in s. 212.06(5)(a)2.e.,~~ become state funds at the
3751 moment of collection and shall for each month be due to the
3752 department on the first day of the succeeding month and be
3753 delinquent on the 21st day of such month. All returns postmarked
3754 after the 20th day of such month are delinquent.

3755 Section 17. Subsection (3) of section 212.17, Florida
3756 Statutes, is amended to read:

3757 212.17 Credits for returned goods, rentals, or admissions;
3758 goods acquired for dealer's own use and subsequently resold;
3759 additional powers of department.—

3760 (3) A dealer who has remitted ~~paid~~ the tax imposed by this
3761 chapter on tangible personal property or services may take a
3762 credit or obtain a refund for ~~any~~ tax remitted ~~paid~~ by the
3763 dealer on the unpaid balance due on bad debts ~~worthless accounts~~
3764 within 12 months following the month in which the bad debt was
3765 ~~has been~~ charged off as uncollectable in the dealer's books and
3766 records and was eligible to be deducted for federal income tax
3767 purposes. A credit or refund based on a bad debt may not include
3768 finance charges or interest, sales tax, uncollectible amounts on
3769 property that remain in the possession of the selling dealer,
3770 expenses incurred in collection efforts, or any amounts relating

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3771 to repossessed property.

3772 (a) A dealer who is taking a credit against or obtaining a
3773 refund on worthless accounts shall calculate the amount of the
3774 deduction pursuant to 26 U.S.C. s. 166.

3775 (b) When the amount of bad debt exceeds the amount of
3776 taxable sales for the period during which the bad debt is
3777 charged off, a refund claim must be filed, notwithstanding s.
3778 215.26(2), within the period prescribed in this subsection.

3779 (c) If any accounts so charged off for which a credit or
3780 refund has been obtained are thereafter in whole or in part paid
3781 to the dealer, the amount so paid shall be included in the first
3782 return filed after such collection and the tax paid accordingly.

3783 (d) If filing responsibilities have been assumed by a
3784 certified service provider, the certified service provider shall
3785 claim, on behalf of the dealer, any bad-debt allowance provided
3786 by this subsection. The certified service provider shall credit
3787 or refund to the dealer the full amount of any bad-debt
3788 allowance or refund received.

3789 (e) For purposes of reporting a payment received on a
3790 previously claimed bad debt, any payments made on a debt or
3791 account shall first be applied proportionally to the taxable
3792 price of the property or service and the sales tax on such
3793 property, and second to any interest, service charges, and any
3794 other charges.

3795 (f) In situations in which the books and records of the
3796 dealer or certified service provider making the claim for a bad-
3797 debt allowance support an allocation of the bad debts among
3798 states, the department may permit the allocation among states.

3799 Section 18. Paragraphs (a) and (e) of subsection (3) of

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3800 section 212.18, Florida Statutes, are amended to read:

3801 212.18 Administration of law; registration of dealers;
3802 rules.-

3803 (3) (a) Every person desiring to engage in or conduct
3804 business in this state as a dealer, as defined in this chapter,
3805 or to lease, rent, or let or grant licenses in living quarters
3806 or sleeping or housekeeping accommodations in hotels, apartment
3807 houses, roominghouses, or tourist or trailer camps that are
3808 subject to tax under s. 212.03, or to lease, rent, or let or
3809 grant licenses in real property, as defined in this chapter, and
3810 every person who sells or receives anything of value by way of
3811 admissions, must file with the department an application for a
3812 certificate of registration for each place of business, showing
3813 the names of the persons who have interests in such business and
3814 their residences, the address of the business, and such other
3815 data as the department may reasonably require. However, owners
3816 and operators of vending machines or newspaper rack machines are
3817 required to obtain only one certificate of registration for each
3818 county in which such machines are located. The department, by
3819 rule, may authorize a dealer that uses independent sellers to
3820 sell its merchandise to remit tax on the retail sales price
3821 charged to the ultimate consumer in lieu of having the
3822 independent seller register as a dealer and remit the tax. The
3823 department may appoint the county tax collector as the
3824 department's agent to accept applications for registrations. The
3825 application must be made to the department before the person,
3826 firm, copartnership, or corporation may engage in such business,
3827 and it must be accompanied by a registration fee of \$5. ~~However,~~
3828 ~~a registration fee is not required to accompany an application~~

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3829 ~~to engage in or conduct business to make mail order sales.~~ The
3830 department may waive the registration fee for applications
3831 submitted through the department's Internet registration process
3832 or the multistate electronic registration system.

3833 (e) As used in this paragraph, the term "exhibitor" means a
3834 person who enters into an agreement authorizing the display of
3835 tangible personal property or services at a convention or a
3836 trade show. The following provisions apply to the registration
3837 of exhibitors as dealers under this chapter:

3838 1. An exhibitor whose agreement prohibits the sale of
3839 tangible personal property or services subject to the tax
3840 imposed in this chapter is not required to register as a dealer.

3841 2. An exhibitor whose agreement provides for the sale at
3842 wholesale only of tangible personal property or services subject
3843 to the tax imposed in this chapter must obtain a resale
3844 certificate from the purchasing dealer but is not required to
3845 register as a dealer.

3846 3. An exhibitor whose agreement authorizes the retail sale
3847 of tangible personal property or services subject to the tax
3848 imposed in this chapter must register as a dealer and collect
3849 the tax imposed under this chapter on such sales.

3850 ~~4. Any exhibitor who makes a mail order sale pursuant to s.~~
3851 ~~212.0596 must register as a dealer.~~

3852
3853 Any person who conducts a convention or a trade show must make
3854 their exhibitor's agreements available to the department for
3855 inspection and copying.

3856 Section 19. Section 212.20, Florida Statutes, is amended to
3857 read:

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3858 212.20 Funds collected, disposition; additional powers of
3859 department; operational expense; refund of taxes adjudicated
3860 unconstitutionally collected.—

3861 (1) The department shall pay over to the Chief Financial
3862 Officer of the state all funds received and collected by it
3863 under the provisions of this chapter, to be credited to the
3864 account of the General Revenue Fund of the state.

3865 (2) The department is authorized to employ all necessary
3866 assistants to administer this chapter properly and is also
3867 authorized to purchase all necessary supplies and equipment
3868 ~~which may be~~ required for this purpose.

3869 (3) The estimated amount of money needed for the
3870 administration of this chapter shall be included by the
3871 department in its annual legislative budget request for the
3872 operation of its office.

3873 ~~(4) When there has been a final adjudication that any tax~~
3874 ~~pursuant to s. 212.0596 was levied, collected, or both, contrary~~
3875 ~~to the Constitution of the United States or the State~~
3876 ~~Constitution, the department shall, in accordance with rules,~~
3877 ~~determine, based upon claims for refund and other evidence and~~
3878 ~~information, who paid such tax or taxes, and refund to each such~~
3879 ~~person the amount of tax paid. For purposes of this subsection,~~
3880 ~~a "final adjudication" is a decision of a court of competent~~
3881 ~~jurisdiction from which no appeal can be taken or from which the~~
3882 ~~official or officials of this state with authority to make such~~
3883 ~~decisions has or have decided not to appeal.~~

3884 (4)(5) For the purposes of this section, the term:

3885 (a) "Proceeds" means all tax or fee revenue collected or
3886 received by the department, including interest and penalties.

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3887 (b) "Reallocate" means reduction of the accounts of initial
3888 deposit and redeposit into the indicated account.

3889 (5)~~(6)~~ Distribution of all proceeds under this chapter and
3890 s. 202.18(1)(b) and (2)(b) shall be as follows:

3891 (a) Proceeds from the convention development taxes
3892 authorized under s. 212.0305 shall be reallocated to the
3893 Convention Development Tax Clearing Trust Fund.

3894 (b) Proceeds from discretionary sales surtaxes imposed
3895 pursuant to ss. 212.054 and 212.055 shall be reallocated to the
3896 Discretionary Sales Surtax Clearing Trust Fund.

3897 (c) Proceeds from the fees imposed under ss. 212.05(1)(h)3.
3898 and 212.18(3) shall remain with the General Revenue Fund.

3899 (d) The proceeds of all other taxes and fees imposed
3900 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
3901 and (2)(b) shall be distributed as follows:

3902 1. In any fiscal year, the greater of \$500 million, minus
3903 an amount equal to 4.6 percent of the proceeds of the taxes
3904 collected pursuant to chapter 201, or 5.2 percent of all other
3905 taxes and fees imposed pursuant to this chapter or remitted
3906 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
3907 monthly installments into the General Revenue Fund.

3908 2. After the distribution under subparagraph 1., 8.814
3909 percent of the amount remitted by a sales tax dealer located
3910 within a participating county pursuant to s. 218.61 shall be
3911 transferred into the Local Government Half-cent Sales Tax
3912 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
3913 transferred shall be reduced by 0.1 percent, and the department
3914 shall distribute this amount to the Public Employees Relations
3915 Commission Trust Fund less \$5,000 each month, which shall be

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3916 added to the amount calculated in subparagraph 3. and
3917 distributed accordingly. Beginning January 1, 2012, the amount
3918 to be transferred pursuant to this subparagraph to the Local
3919 Government Half-cent Sales Tax Trust Fund shall be reduced each
3920 fiscal year by an amount determined by the Revenue Estimating
3921 Conference for implementation of the Streamlined Sales and Use
3922 Tax Agreement in this state and that amount shall remain with
3923 the General Revenue Fund. The Revenue Estimating Conference
3924 shall determine the impact of implementation of the Streamlined
3925 Sales and Use Tax Agreement by October 1, 2011.

3926 3. After the distribution under subparagraphs 1. and 2.,
3927 0.095 percent shall be transferred to the Local Government Half-
3928 cent Sales Tax Clearing Trust Fund and distributed pursuant to
3929 s. 218.65.

3930 4. After the distributions under subparagraphs 1., 2., and
3931 3., 2.0440 percent of the available proceeds shall be
3932 transferred monthly to the Revenue Sharing Trust Fund for
3933 Counties pursuant to s. 218.215.

3934 5. After the distributions under subparagraphs 1., 2., and
3935 3., 1.3409 percent of the available proceeds shall be
3936 transferred monthly to the Revenue Sharing Trust Fund for
3937 Municipalities pursuant to s. 218.215. If the total revenue to
3938 be distributed pursuant to this subparagraph is at least as
3939 great as the amount due from the Revenue Sharing Trust Fund for
3940 Municipalities and the former Municipal Financial Assistance
3941 Trust Fund in state fiscal year 1999-2000, no municipality shall
3942 receive less than the amount due from the Revenue Sharing Trust
3943 Fund for Municipalities and the former Municipal Financial
3944 Assistance Trust Fund in state fiscal year 1999-2000. If the

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3945 total proceeds to be distributed are less than the amount
3946 received in combination from the Revenue Sharing Trust Fund for
3947 Municipalities and the former Municipal Financial Assistance
3948 Trust Fund in state fiscal year 1999-2000, each municipality
3949 shall receive an amount proportionate to the amount it was due
3950 in state fiscal year 1999-2000.

3951 6. Of the remaining proceeds:

3952 a. In each fiscal year, the sum of \$29,915,500 shall be
3953 divided into as many equal parts as there are counties in the
3954 state, and one part shall be distributed to each county. The
3955 distribution among the several counties must begin each fiscal
3956 year on or before January 5th and continue monthly for a total
3957 of 4 months. If a local or special law required that any moneys
3958 accruing to a county in fiscal year 1999-2000 under the then-
3959 existing provisions of s. 550.135 be paid directly to the
3960 district school board, special district, or a municipal
3961 government, such payment must continue until the local or
3962 special law is amended or repealed. The state covenants with
3963 holders of bonds or other instruments of indebtedness issued by
3964 local governments, special districts, or district school boards
3965 before July 1, 2000, that it is not the intent of this
3966 subparagraph to adversely affect the rights of those holders or
3967 relieve local governments, special districts, or district school
3968 boards of the duty to meet their obligations as a result of
3969 previous pledges or assignments or trusts entered into which
3970 obligated funds received from the distribution to county
3971 governments under then-existing s. 550.135. This distribution
3972 specifically is in lieu of funds distributed under s. 550.135
3973 before July 1, 2000.

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3974 b. The department shall distribute \$166,667 monthly
3975 pursuant to s. 288.1162 to each applicant certified as a
3976 facility for a new or retained professional sports franchise
3977 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
3978 monthly by the department to each certified applicant as defined
3979 in s. 288.11621 for a facility for a spring training franchise.
3980 However, not more than \$416,670 may be distributed monthly in
3981 the aggregate to all certified applicants for facilities for
3982 spring training franchises. Distributions begin 60 days after
3983 such certification and continue for not more than 30 years,
3984 except as otherwise provided in s. 288.11621. A certified
3985 applicant identified in this sub-subparagraph may not receive
3986 more in distributions than expended by the applicant for the
3987 public purposes provided for in s. 288.1162(5) or s.
3988 288.11621(3).

3989 c. Beginning 30 days after notice by the Office of Tourism,
3990 Trade, and Economic Development to the Department of Revenue
3991 that an applicant has been certified as the professional golf
3992 hall of fame pursuant to s. 288.1168 and is open to the public,
3993 \$166,667 shall be distributed monthly, for up to 300 months, to
3994 the applicant.

3995 d. Beginning 30 days after notice by the Office of Tourism,
3996 Trade, and Economic Development to the Department of Revenue
3997 that the applicant has been certified as the International Game
3998 Fish Association World Center facility pursuant to s. 288.1169,
3999 and the facility is open to the public, \$83,333 shall be
4000 distributed monthly, for up to 168 months, to the applicant.
4001 This distribution is subject to reduction pursuant to s.
4002 288.1169. A lump sum payment of \$999,996 shall be made, after

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4003 certification and before July 1, 2000.

4004 7. All other proceeds must remain in the General Revenue
4005 Fund.

4006 Section 20. Section 213.052, Florida Statutes, is created
4007 to read:

4008 213.052 Notice of state sales and use tax rate changes.-

4009 (1) A sales or use tax rate change imposed under chapter
4010 212 is effective on January 1, April 1, July 1, or October 1.

4011 The Department of Revenue shall provide notice of the rate
4012 change to all affected dealers at least 60 days before the
4013 effective date of the rate change. In addition to other methods,
4014 the department may use telephone, electronic mail, facsimile, or
4015 other electronic means to provide notice.

4016 (2) Failure of a dealer to receive notice does not relieve
4017 the dealer of its obligation to collect sales or use tax.

4018 Section 21. Section 213.0521, Florida Statutes, is created
4019 to read:

4020 213.0521 Effective date of state sales and use tax rate
4021 changes.-The effective date for services covering a period
4022 starting before and ending after the statutory effective date is
4023 as follows:

4024 (1) For a rate increase, the new rate applies to the first
4025 billing period starting on or after the effective date.

4026 (2) For a rate decrease, the new rate applies to bills
4027 rendered on or after the effective date.

4028 Section 22. Section 213.215, Florida Statutes, is created
4029 to read:

4030 213.215 Sales and use tax amnesty upon registration in
4031 accordance with Streamlined Sales and Use Tax Agreement.-

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4032 (1) Amnesty shall be provided for uncollected or unpaid
4033 sales or use tax to a dealer who registers to pay or to collect
4034 and remit applicable sales or use tax in accordance with the
4035 terms of the Streamlined Sales and Use Tax Agreement authorized
4036 under s. 213.256 if the dealer was not registered with the
4037 Department of Revenue in the 12-month period preceding the
4038 effective date of participation in the agreement by this state.

4039 (2) The amnesty precludes assessment for uncollected or
4040 unpaid sales or use tax, together with penalty or interest for
4041 sales made during the period the dealer was not registered with
4042 the Department of Revenue, if registration occurs within 12
4043 months after the effective date of this state's participation in
4044 the agreement.

4045 (3) The amnesty is not available to a dealer with respect
4046 to any matter for which the dealer received notice of the
4047 commencement of an audit if the audit is not yet finally
4048 resolved, including any related administrative and judicial
4049 processes.

4050 (4) The amnesty is not available for sales or use taxes
4051 already paid or remitted to the state or to taxes collected by
4052 the dealer.

4053 (5) The amnesty is fully effective, absent the dealer's
4054 fraud or intentional misrepresentation of a material fact, as
4055 long as the dealer continues registration and continues payment
4056 or collection and remittance of applicable sales or use taxes
4057 for at least 36 months.

4058 (6) The amnesty applies only to sales or use taxes due from
4059 a dealer in its capacity as a dealer and not to sales or use
4060 taxes due from a dealer in its capacity as a purchaser.

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4061 Section 23. Subsections (1) and (2) of section 213.256,
4062 Florida Statutes, are amended to read:

4063 213.256 Simplified Sales and Use Tax Administration Act.—

4064 (1) As used in this section and s. 213.2567, the term:

4065 (a) "Agent" means, for purposes of carrying out the
4066 responsibilities placed on a dealer, a person appointed by the
4067 dealer to represent the dealer before the department.

4068 ~~"Department" means the Department of Revenue.~~

4069 (b) "Agreement" means the Streamlined Sales and Use Tax
4070 Agreement as amended and adopted on January 27, 2001, by the
4071 Executive Committee of the National Conference of State
4072 Legislatures.

4073 (c) "Certified automated system" means software certified
4074 jointly by the state ~~states that are signatories to the~~
4075 agreement to calculate the tax imposed by each jurisdiction on a
4076 transaction, determine the amount of tax to remit to the
4077 appropriate state, and maintain a record of the transaction.

4078 (d) "Certified service provider" means an agent certified
4079 jointly by the ~~states that are signatories to the agreement~~ to
4080 perform all of the dealer's seller's sales tax functions other
4081 than the dealer's obligation to remit tax on its own purchases.

4082 (e) "Dealer" means any person making sales, leases, or
4083 rentals of personal property or services.

4084 (f) "Department" means the Department of Revenue.

4085 (g) "Governing board" means the governing board overseeing
4086 an agreement with other states to conform the sales and use tax
4087 laws of this state to the terms of the agreement.

4088 (h)1. "Model 1 seller" means a dealer who has selected a
4089 certified service provider as the dealer's agent to perform all

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4090 of the dealer's sales and use tax functions other than the
4091 dealer's obligation to remit tax on the dealer's purchases.

4092 2. "Model 2 seller" means a dealer who has selected a
4093 certified automated system to perform part of the dealer's sales
4094 and use tax functions, but retains responsibility for remitting
4095 the tax.

4096 3. "Model 3 seller" means a dealer who has sales in at
4097 least five member states, has total annual sales revenue of at
4098 least \$500 million, has a proprietary system that calculates the
4099 amount of tax due each jurisdiction, and has entered into a
4100 performance agreement with the member states which establishes a
4101 tax performance standard for the dealer. As used in this
4102 subparagraph, a dealer includes an affiliated group of dealers
4103 using the same proprietary system.

4104 4. "Model 4 seller" means a dealer who is registered under
4105 the agreement and is not a model 1, model 2, or model 3 seller.

4106 (i)~~(e)~~ "Person" means an individual, trust, estate,
4107 fiduciary, partnership, limited liability company, limited
4108 liability partnership, corporation, or any other legal entity.

4109 (j) "Registered under this agreement" means registration by
4110 a dealer with the member states under the central registration
4111 system.

4112 (k)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

4113 ~~(g) "Seller" means any person making sales, leases, or~~
4114 ~~rentals of personal property or services.~~

4115 (l)~~(h)~~ "State" means any state of the United States and the
4116 District of Columbia.

4117 (m)~~(i)~~ "Use tax" means the tax levied under chapter 212.

4118 (2) (a) The executive director of the department is

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4119 authorized to ~~shall~~ enter into the agreement ~~the Streamlined~~
4120 ~~Sales and Use Tax Agreement~~ with one or more states to simplify
4121 and modernize sales and use tax administration in order to
4122 substantially reduce the burden of tax compliance for all
4123 dealers ~~sellers~~ and for all types of commerce. In furtherance of
4124 the agreement, the executive director of the department or his
4125 or her designee shall act jointly with other states that are
4126 members of the agreement to establish standards for
4127 certification of a certified service provider and certified
4128 automated systems ~~system~~ and central registration systems
4129 ~~establish performance standards for multistate sellers.~~

4130 (b) The executive director of the department or his or her
4131 designee shall take other actions reasonably required to
4132 administer this section. Other actions authorized by this
4133 section include, but are not limited to, the adoption of rules
4134 and the joint procurement, with other member states, of goods
4135 and services in furtherance of the cooperative agreement.

4136 (c) The executive director of the department or his or her
4137 designee may represent this state before the other states that
4138 are signatories to the agreement.

4139 (d) The executive director of the department or his or her
4140 designee is authorized to prepare and submit from time to time
4141 reports and certifications that are determined necessary
4142 according to the terms of the agreement and to enter into other
4143 agreements with the governing board, member states, and service
4144 providers which the executive director determines will
4145 facilitate the administration of the tax laws of this state.

4146 Section 24. Section 213.2562, Florida Statutes, is created
4147 to read:

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4148 213.2562 Approval of software to calculate tax.—The
4149 department shall review software submitted to the governing
4150 board for certification as an automated system. If the software
4151 accurately reflects the taxability of product categories
4152 included in the program, the department shall certify the
4153 approval of the software to the governing board.

4154 Section 25. Section 213.2567, Florida Statutes, is created
4155 to read:

4156 213.2567 Simplified sales and use tax registration;
4157 certification; liability; and audit.—

4158 (1) A dealer who registers under the agreement agrees to
4159 collect and remit sales and use taxes for all taxable sales into
4160 the member states, including member states joining after the
4161 dealer's registration. Withdrawal or revocation of this state
4162 does not relieve a dealer of its responsibility to remit taxes
4163 previously or subsequently collected on behalf of the state.

4164 (a) When registering, the dealer may select a model 1,
4165 model 2, or model 3 method of remittance or another method
4166 allowed by state law to remit the taxes collected.

4167 (b) A model 2, model 3, or model 4 seller may register in
4168 this state as a seller that does not anticipate having any sales
4169 in this state if the seller did not have any sales in this state
4170 within the 12 months preceding registration. However, the seller
4171 retains the obligation to collect and remit sales and use tax on
4172 any sale made into this state.

4173 (c) A dealer may be registered by an agent. This
4174 registration must be in writing and submitted to a member state.

4175 (2) (a) A model 1 seller is liable for any sales and use
4176 tax, penalty, and interest due this state. A certified service

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4177 provider is the agent of a model 1 seller with whom the
4178 certified service provider has contracted for the collection and
4179 remittance of sales and use taxes. As the model 1 seller's
4180 agent, the certified service provider is jointly and severally
4181 liable with the model 1 seller for sales and use tax, penalty,
4182 and interest due this state on all sales transactions it
4183 processes for the model 1 seller.

4184 (b) A member state may audit model 1 sellers and certified
4185 service providers pursuant to this chapter and chapter 212.
4186 Member states may jointly audit certified service providers.

4187 (3) A model 2 seller that uses a certified automated system
4188 remains responsible and is liable to this state for reporting
4189 and remitting tax. However, a model 2 seller is not responsible
4190 for errors in reliance on a certified automated system.

4191 (4) A model 3 seller is liable for the failure of the
4192 proprietary system to meet the performance standard.

4193 (5) A person who provides a certified automated system is
4194 not liable for errors contained in software that was approved by
4195 the department and certified to the governing board. However,
4196 such person is:

4197 (a) Responsible for the proper functioning of that system;

4198 (b) Liable to this state for underpayments of tax
4199 attributable to errors in the functioning of the certified
4200 automated system; and

4201 (c) Liable for the misclassification of an item or
4202 transaction that is not corrected within 10 days following the
4203 receipt of notice from the department.

4204 (6) The executive director of the department, or his or her
4205 designee, may certify a person as a certified service provider

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4206 if the person:

4207 (a) Uses a certified automated system;

4208 (b) Integrates its certified automated system with the
4209 system of a dealer for whom the person collects tax so that the
4210 tax due on a sale is determined at the time of the sale;

4211 (c) Agrees to remit the taxes it collects at the time and
4212 in the manner specified by chapter 212;

4213 (d) Agrees to file returns on behalf of the dealers for
4214 whom the person collects tax;

4215 (e) Agrees to protect the privacy of tax information the
4216 person obtains in accordance with s. 213.053; and

4217 (f) Enters into a written agreement with the department
4218 concerning the disclosure of information and agrees to comply
4219 with the terms of the written agreement.

4220 (7) The department shall review software submitted to the
4221 governing board for certification as a certified automated
4222 system. The executive director of the department shall certify
4223 the approval of the software to the governing board if the
4224 software:

4225 (a) Determines the applicable state and local sales and use
4226 tax rate for a transaction in accordance with s. 212.06(3) and
4227 (4);

4228 (b) Correctly determines whether an item is exempt from
4229 tax;

4230 (c) Correctly determines the amount of tax to be remitted
4231 for each taxpayer for a reporting period; and

4232 (d) Can generate reports and returns as required by the
4233 governing board.

4234 (8) The department may by rule establish one or more sales

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4235 tax performance standards for model 3 sellers.

4236 (9) Disclosure of information necessary under this section
4237 must be made according to a written agreement between the
4238 executive director of the department or his or her designee and
4239 the certified service provider. The certified service provider
4240 is bound by the same requirements of confidentiality as the
4241 department employees. Breach of confidentiality is a misdemeanor
4242 of the first degree, punishable as provided in s. 775.082 or s.
4243 775.083.

4244 Section 26. The executive director of the Department of
4245 Revenue may adopt emergency rules to implement this act.
4246 Notwithstanding any other law, the emergency rules shall remain
4247 effective for 6 months after the date of adoption and may be
4248 renewed during the pendency of procedures to adopt rules
4249 addressing the subject of the emergency rules.

4250 Section 27. The President of the Senate and the Speaker of
4251 the House of Representatives shall create a joint select
4252 committee to study alternatives for the modernization,
4253 simplification, and streamlining of the various taxes in this
4254 state, including, but not limited to, issues such as further
4255 simplification of the communications services tax. The committee
4256 shall also study how sales and use tax exemptions may be used to
4257 encourage economic development and how this state's corporate
4258 income tax may be revised to ensure fairness to all businesses.

4259 Section 28. Paragraph (a) of subsection (5) of section
4260 11.45, Florida Statutes, is amended to read:

4261 11.45 Definitions; duties; authorities; reports; rules.—

4262 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

4263 (a) The Legislative Auditing Committee shall direct the

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4264 Auditor General to make an audit of any municipality whenever
4265 petitioned to do so by at least 20 percent of the registered
4266 electors in the last general election of that municipality
4267 pursuant to this subsection. The supervisor of elections of the
4268 county in which the municipality is located shall certify
4269 whether or not the petition contains the signatures of at least
4270 20 percent of the registered electors of the municipality. After
4271 the completion of the audit, the Auditor General shall determine
4272 whether the municipality has the fiscal resources necessary to
4273 pay the cost of the audit. The municipality shall pay the cost
4274 of the audit within 90 days after the Auditor General's
4275 determination that the municipality has the available resources.
4276 If the municipality fails to pay the cost of the audit, the
4277 Department of Revenue shall, upon certification of the Auditor
4278 General, withhold from that portion of the distribution pursuant
4279 to s. 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ which is distributable to
4280 such municipality, a sum sufficient to pay the cost of the audit
4281 and shall deposit that sum into the General Revenue Fund of the
4282 state.

4283 Section 29. Subsection (6) of section 196.012, Florida
4284 Statutes, is amended to read:

4285 196.012 Definitions.—For the purpose of this chapter, the
4286 following terms are defined as follows, except where the context
4287 clearly indicates otherwise:

4288 (6) Governmental, municipal, or public purpose or function
4289 shall be deemed to be served or performed when the lessee under
4290 any leasehold interest created in property of the United States,
4291 the state or any of its political subdivisions, or any
4292 municipality, agency, special district, authority, or other

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4293 public body corporate of the state is demonstrated to perform a
4294 function or serve a governmental purpose that ~~which~~ could
4295 properly be performed or served by an appropriate governmental
4296 unit or that ~~which~~ is demonstrated to perform a function or
4297 serve a purpose that ~~which~~ would otherwise be a valid subject
4298 for the allocation of public funds. For purposes of the
4299 preceding sentence, an activity undertaken by a lessee which is
4300 permitted under the terms of its lease of real property
4301 designated as an aviation area on an airport layout plan that
4302 ~~which~~ has been approved by the Federal Aviation Administration
4303 and which real property is used for the administration,
4304 operation, business offices and activities related specifically
4305 thereto in connection with the conduct of an aircraft full-
4306 service, fixed-base ~~full service fixed base~~ operation that ~~which~~
4307 provides goods and services to the general aviation public in
4308 the promotion of air commerce shall be deemed an activity that
4309 ~~which~~ serves a governmental, municipal, or public purpose or
4310 function. Any activity undertaken by a lessee which is permitted
4311 under the terms of its lease of real property designated as a
4312 public airport as defined in s. 332.004(14) by municipalities,
4313 agencies, special districts, authorities, or other public bodies
4314 corporate and public bodies politic of the state, a spaceport as
4315 defined in s. 331.303, or which is located in a deepwater port
4316 identified in s. 403.021(9)(b) and owned by one of the foregoing
4317 governmental units, subject to a leasehold or other possessory
4318 interest of a nongovernmental lessee that is deemed to perform
4319 an aviation, airport, aerospace, maritime, or port purpose or
4320 operation shall be deemed an activity that serves a
4321 governmental, municipal, or public purpose. The use by a lessee,

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4322 licensee, or management company of real property or a portion
4323 thereof as a convention center, visitor center, sports facility
4324 with permanent seating, concert hall, arena, stadium, park, or
4325 beach is deemed a use that serves a governmental, municipal, or
4326 public purpose or function when access to the property is open
4327 to the general public with or without a charge for admission. If
4328 property deeded to a municipality by the United States is
4329 subject to a requirement that the Federal Government, through a
4330 schedule established by the Secretary of the Interior, determine
4331 that the property is being maintained for public historic
4332 preservation, park, or recreational purposes and if those
4333 conditions are not met the property will revert back to the
4334 Federal Government, then such property shall be deemed to serve
4335 a municipal or public purpose. The term "governmental purpose"
4336 also includes a direct use of property on federal lands in
4337 connection with the Federal Government's Space Exploration
4338 Program or spaceport activities as defined in s. 212.02 ~~s.~~
4339 ~~212.02(22)~~. Real property and tangible personal property owned
4340 by the Federal Government or Space Florida and used for defense
4341 and space exploration purposes or which is put to a use in
4342 support thereof shall be deemed to perform an essential national
4343 governmental purpose and shall be exempt. "Owned by the lessee"
4344 as used in this chapter does not include personal property,
4345 buildings, or other real property improvements used for the
4346 administration, operation, business offices and activities
4347 related specifically thereto in connection with the conduct of
4348 an aircraft full-service, fixed-base ~~full-service fixed based~~
4349 operation that ~~which~~ provides goods and services to the general
4350 aviation public in the promotion of air commerce, provided that

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4351 the real property is designated as an aviation area on an
4352 airport layout plan approved by the Federal Aviation
4353 Administration. For purposes of determination of "ownership,"
4354 buildings and other real property improvements that ~~which~~ will
4355 revert to the airport authority or other governmental unit upon
4356 expiration of the term of the lease shall be deemed "owned" by
4357 the governmental unit and not the lessee. Providing two-way
4358 telecommunications services to the public for hire by the use of
4359 a telecommunications facility, as defined in s. 364.02 ~~s.~~
4360 ~~364.02(15)~~, and for which a certificate is required under
4361 chapter 364 does not constitute an exempt use for purposes of s.
4362 196.199, unless the telecommunications services are provided by
4363 the operator of a public-use airport, as defined in s. 332.004,
4364 for the operator's provision of telecommunications services for
4365 the airport or its tenants, concessionaires, or licensees, or
4366 unless the telecommunications services are provided by a public
4367 hospital.

4368 Section 30. Paragraph (b) of subsection (1) and paragraph
4369 (b) of subsection (2) of section 202.18, Florida Statutes, are
4370 amended to read:

4371 202.18 Allocation and disposition of tax proceeds.—The
4372 proceeds of the communications services taxes remitted under
4373 this chapter shall be treated as follows:

4374 (1) The proceeds of the taxes remitted under s.
4375 202.12(1)(a) shall be divided as follows:

4376 (b) The remaining portion shall be distributed according to
4377 s. 212.20(5) ~~s. 212.20(6)~~.

4378 (2) The proceeds of the taxes remitted under s.
4379 202.12(1)(b) shall be divided as follows:

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4380 (b) Sixty-three percent of the remainder shall be allocated
4381 to the state and distributed pursuant to s. 212.20(5)(d)2. ~~s.~~
4382 ~~212.20(6)~~, except that the proceeds allocated pursuant to s.
4383 212.20(5)(d)2. ~~s. 212.20(6)(d)2.~~ shall be prorated to the
4384 participating counties in the same proportion as that month's
4385 collection of the taxes and fees imposed pursuant to chapter 212
4386 and paragraph (1)(b).

4387 Section 31. Paragraphs (f), (g), (h), and (i) of subsection
4388 (1) of section 203.01, Florida Statutes, are amended to read:

4389 203.01 Tax on gross receipts for utility and communications
4390 services.—

4391 (1)

4392 (f) Any person who imports into this state electricity,
4393 natural gas, or manufactured gas, or severs natural gas, for
4394 that person's own use or consumption as a substitute for
4395 purchasing utility, transportation, or delivery services taxable
4396 under this chapter and who cannot demonstrate payment of the tax
4397 imposed by this chapter must register with the Department of
4398 Revenue and pay into the State Treasury each month an amount
4399 equal to the cost price of such electricity, natural gas, or
4400 manufactured gas times the rate set forth in paragraph (b),
4401 reduced by the amount of any like tax lawfully imposed on and
4402 paid by the person from whom the electricity, natural gas, or
4403 manufactured gas was purchased or any person who provided
4404 delivery service or transportation service in connection with
4405 the electricity, natural gas, or manufactured gas. For purposes
4406 of this paragraph, the term "cost price" has the meaning
4407 ascribed in s. 212.02 ~~s. 212.02(4)~~. The methods of demonstrating
4408 proof of payment and the amount of such reductions in tax shall

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4409 be made according to rules of the Department of Revenue.

4410 (g) Electricity produced by cogeneration or by small power
4411 producers which is transmitted and distributed by a public
4412 utility between two locations of a customer of the utility
4413 pursuant to s. 366.051 is subject to the tax imposed by this
4414 section. The tax shall be applied to the cost price of such
4415 electricity as provided in s. 212.02 ~~s. 212.02(4)~~ and shall be
4416 paid each month by the producer of such electricity.

4417 (h) Electricity produced by cogeneration or by small power
4418 producers during the 12-month period ending June 30 of each year
4419 which is in excess of nontaxable electricity produced during the
4420 12-month period ending June 30, 1990, is subject to the tax
4421 imposed by this section. The tax shall be applied to the cost
4422 price of such electricity as provided in s. 212.02 ~~s. 212.02(4)~~
4423 and shall be paid each month, beginning with the month in which
4424 total production exceeds the production of nontaxable
4425 electricity for the 12-month period ending June 30, 1990. For
4426 purposes of this paragraph, "nontaxable electricity" means
4427 electricity produced by cogeneration or by small power producers
4428 which is not subject to tax under paragraph (g). Taxes paid
4429 pursuant to paragraph (g) may be credited against taxes due
4430 under this paragraph. Electricity generated as part of an
4431 industrial manufacturing process that ~~which~~ manufactures
4432 products from phosphate rock, raw wood fiber, paper, citrus, or
4433 any agricultural product shall not be subject to the tax imposed
4434 by this paragraph. "Industrial manufacturing process" means the
4435 entire process conducted at the location where the process takes
4436 place.

4437 (i) Any person other than a cogenerator or small power

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4438 producer described in paragraph (h) who produces for his or her
4439 own use electrical energy that ~~which~~ is a substitute for
4440 electrical energy produced by an electric utility as defined in
4441 s. 366.02 is subject to the tax imposed by this section. The tax
4442 shall be applied to the cost price of such electrical energy as
4443 provided in s. 212.02 ~~s. 212.02(4)~~ and shall be paid each month.
4444 The provisions of this paragraph do not apply to any electrical
4445 energy produced and used by an electric utility.

4446 Section 32. Subsection (1) of section 212.052, Florida
4447 Statutes, is amended to read:

4448 212.052 Research or development costs; exemption.—

4449 (1) For the purposes of the exemption provided in this
4450 section:

4451 (a) The term "research or development" means research that
4452 ~~which~~ has one of the following as its ultimate goal:

4453 1. Basic research in a scientific field of endeavor.

4454 2. Advancing knowledge or technology in a scientific or
4455 technical field of endeavor.

4456 3. The development of a new product, whether or not the new
4457 product is offered for sale.

4458 4. The improvement of an existing product, whether or not
4459 the improved product is offered for sale.

4460 5. The development of new uses of an existing product,
4461 whether or not a new use is offered as a rationale to purchase
4462 the product.

4463 6. The design and development of prototypes, whether or not
4464 a resulting product is offered for sale.

4465
4466 The term "research or development" does not include ordinary

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4467 testing or inspection of materials or products used for quality
4468 control, market research, efficiency surveys, consumer surveys,
4469 advertising and promotions, management studies, or research in
4470 connection with literary, historical, social science,
4471 psychological, or other similar nontechnical activities.

4472 (b) The term "costs" means cost price as defined in s.
4473 212.02 ~~s. 212.02(4)~~.

4474 (c) The term "product" means any item, device, technique,
4475 prototype, invention, or process that ~~which~~ is, was, or may be
4476 commercially exploitable.

4477 Section 33. Subsection (3) of section 212.13, Florida
4478 Statutes, is amended to read:

4479 212.13 Records required to be kept; power to inspect; audit
4480 procedure.—

4481 (3) For the purpose of enforcement of this chapter, every
4482 manufacturer and seller of tangible personal property or
4483 services licensed within this state is required to permit the
4484 department to examine his or her books and records at all
4485 reasonable hours, and, upon his or her refusal, the department
4486 may require him or her to permit such examination by resort to
4487 the circuit courts of this state, subject however to the right
4488 of removal of the cause to the judicial circuit wherein such
4489 person's business is located or wherein such person's books and
4490 records are kept, provided further that such person's books and
4491 records are kept within the state. When the dealer has made an
4492 allocation or attribution pursuant to the definition of sales
4493 price in s. 212.02 ~~s. 212.02(16)~~, the department may prescribe
4494 by rule the books and records that must be made available during
4495 an audit of the dealer's books and records and examples of

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4496 methods for determining the reasonableness thereof. Books and
4497 records kept in the regular course of business include, but are
4498 not limited to, general ledgers, price lists, cost records,
4499 customer billings, billing system reports, tariffs, and other
4500 regulatory filings and rules of regulatory authorities. Such
4501 record may be required to be made available to the department in
4502 an electronic format when so kept by the dealer. The dealer may
4503 support the allocation of charges with books and records kept in
4504 the regular course of business covering the dealer's entire
4505 service area, including territories outside this state. During
4506 an audit, the department may reasonably require production of
4507 any additional books and records found necessary to assist in
4508 its determination.

4509 Section 34. Section 212.081, Florida Statutes, is amended
4510 to read:

4511 212.081 Legislative intent.—It is hereby declared to be the
4512 legislative intent of the amendments to ss. 212.11(1)~~7~~
4513 ~~212.12(10)~~, and 212.20 by chapter 57-398, Laws of Florida:

4514 (1) To aid in the enforcement of this chapter by
4515 recognizing the effect of court rulings involving such
4516 enforcement and to incorporate herein substantial rulings of the
4517 department which have been recognized as necessary to supplement
4518 the interpretation of some of the terms used in this section.

4519 (2) To arrange the exemptions allowed in this section in
4520 more orderly categories thereby eliminating some of the
4521 confusion attendant upon the present arrangement where cross-
4522 exemptions frequently occur.

4523 (a) It is further declared to be the legislative intent
4524 that the tax levied by this chapter and imposed by this section

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4525 is not a tax on motor vehicles as property but a tax on the
4526 privilege to sell, to rent, to use or to store for use in this
4527 state motor vehicles; that such tax is separate from and in
4528 addition to any license tax imposed on motor vehicles; and that
4529 such tax is not intended as an ad valorem tax on motor vehicles
4530 as prohibited by the Constitution.

4531 (b) It is also the legislative intent that there shall be
4532 no pyramiding or duplication of excise taxes levied by the state
4533 under this chapter and no municipality shall levy any excise tax
4534 upon any privilege, admission, lease, rental, sale, use or
4535 storage for use or consumption which is subject to a tax under
4536 this chapter unless permitted by general law; provided, however,
4537 that this provision shall not impair valid municipal ordinances
4538 which are in effect and under which a municipal tax is being
4539 levied and collected on July 1, 1957.

4540 (3) It is hereby declared to be the legislative intent that
4541 all purchases made by banks are subject to state sales tax in
4542 the same manner as is provided by law for all other purchasers.
4543 It is further declared to be the legislative intent that if for
4544 any reason the sales tax on federal banks is declared invalid,
4545 that sales tax shall not apply or be applicable to purchases
4546 made by state banks.

4547 Section 35. Subsection (3) of section 218.245, Florida
4548 Statutes, is amended to read:

4549 218.245 Revenue sharing; apportionment.—

4550 (3) Revenues attributed to the increase in distribution to
4551 the Revenue Sharing Trust Fund for Municipalities pursuant to s.
4552 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ from 1.0715 percent to 1.3409
4553 percent provided in chapter 2003-402, Laws of Florida, shall be

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4554 distributed to each eligible municipality and any unit of local
4555 government that is consolidated as provided by s. 9, Art. VIII
4556 of the State Constitution of 1885, as preserved by s. 6(e), Art.
4557 VIII, 1968 revised constitution, as follows: each eligible local
4558 government's allocation shall be based on the amount it received
4559 from the half-cent sales tax under s. 218.61 in the prior state
4560 fiscal year divided by the total receipts under s. 218.61 in the
4561 prior state fiscal year for all eligible local governments.
4562 However, for the purpose of calculating this distribution, the
4563 amount received from the half-cent sales tax under s. 218.61 in
4564 the prior state fiscal year by a unit of local government which
4565 is consolidated as provided by s. 9, Art. VIII of the State
4566 Constitution of 1885, as amended, and as preserved by s. 6(e),
4567 Art. VIII, of the Constitution as revised in 1968, shall be
4568 reduced by 50 percent for such local government and for the
4569 total receipts. For eligible municipalities that began
4570 participating in the allocation of half-cent sales tax under s.
4571 218.61 in the previous state fiscal year, their annual receipts
4572 shall be calculated by dividing their actual receipts by the
4573 number of months they participated, and the result multiplied by
4574 12.

4575 Section 36. Subsections (5), (6), and (7) of section
4576 218.65, Florida Statutes, are amended to read:

4577 218.65 Emergency distribution.—

4578 (5) At the beginning of each fiscal year, the Department of
4579 Revenue shall calculate a base allocation for each eligible
4580 county equal to the difference between the current per capita
4581 limitation times the county's population, minus prior year
4582 ordinary distributions to the county pursuant to ss.

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4583 212.20(5)(d)2., 218.61, and 218.62 ~~ss. 212.20(6)(d)2., 218.61,~~
4584 ~~and 218.62.~~ If moneys deposited into the Local Government Half-
4585 cent Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3.
4586 ~~s. 212.20(6)(d)3.,~~ excluding moneys appropriated for
4587 supplemental distributions pursuant to subsection (8), for the
4588 current year are less than or equal to the sum of the base
4589 allocations, each eligible county shall receive a share of the
4590 appropriated amount proportional to its base allocation. If the
4591 deposited amount exceeds the sum of the base allocations, each
4592 county shall receive its base allocation, and the excess
4593 appropriated amount, less any amounts distributed under
4594 subsection (6), shall be distributed equally on a per capita
4595 basis among the eligible counties.

4596 (6) If moneys deposited in the Local Government Half-cent
4597 Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3. ~~s.~~
4598 ~~212.20(6)(d)3.~~ exceed the amount necessary to provide the base
4599 allocation to each eligible county, the moneys in the trust fund
4600 may be used to provide a transitional distribution, as specified
4601 in this subsection, to certain counties whose population has
4602 increased. The transitional distribution shall be made available
4603 to each county that qualified for a distribution under
4604 subsection (2) in the prior year but does not, because of the
4605 requirements of paragraph (2)(a), qualify for a distribution in
4606 the current year. Beginning on July 1 of the year following the
4607 year in which the county no longer qualifies for a distribution
4608 under subsection (2), the county shall receive two-thirds of the
4609 amount received in the prior year, and beginning July 1 of the
4610 second year following the year in which the county no longer
4611 qualifies for a distribution under subsection (2), the county

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4612 shall receive one-third of the amount it received in the last
4613 year it qualified for the distribution under subsection (2). If
4614 insufficient moneys are available in the Local Government Half-
4615 cent Sales Tax Clearing Trust Fund to fully provide such a
4616 transitional distribution to each county that meets the
4617 eligibility criteria in this section, each eligible county shall
4618 receive a share of the available moneys proportional to the
4619 amount it would have received had moneys been sufficient to
4620 fully provide such a transitional distribution to each eligible
4621 county.

4622 (7) There is hereby annually appropriated from the Local
4623 Government Half-cent Sales Tax Clearing Trust Fund the
4624 distribution provided in s. 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~ to
4625 be used for emergency and supplemental distributions pursuant to
4626 this section.

4627 Section 37. Paragraph (s) of subsection (1) of section
4628 288.1045, Florida Statutes, is amended to read:

4629 288.1045 Qualified defense contractor and space flight
4630 business tax refund program.—

4631 (1) DEFINITIONS.—As used in this section:

4632 (s) "Space flight business" means the manufacturing,
4633 processing, or assembly of space flight technology products,
4634 space flight facilities, space flight propulsion systems, or
4635 space vehicles, satellites, or stations of any kind possessing
4636 the capability for space flight, as defined by s. 212.02 ~~s.~~
4637 ~~212.02(23)~~, or components thereof, and includes, in supporting
4638 space flight, vehicle launch activities, flight operations,
4639 ground control or ground support, and all administrative
4640 activities directly related to such activities. The term does

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4641 not include products that are designed or manufactured for
 4642 general commercial aviation or other uses even if those products
 4643 may also serve an incidental use in space flight applications.

4644 Section 38. Paragraphs (a) and (d) of subsection (3) of
 4645 section 288.11621, Florida Statutes, are amended to read:

4646 288.11621 Spring training baseball franchises.—

4647 (3) USE OF FUNDS.—

4648 (a) A certified applicant may use funds provided under s.
 4649 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ only to:

4650 1. Serve the public purpose of acquiring, constructing,
 4651 reconstructing, or renovating a facility for a spring training
 4652 franchise.

4653 2. Pay or pledge for the payment of debt service on, or to
 4654 fund debt service reserve funds, arbitrage rebate obligations,
 4655 or other amounts payable with respect thereto, bonds issued for
 4656 the acquisition, construction, reconstruction, or renovation of
 4657 such facility, or for the reimbursement of such costs or the
 4658 refinancing of bonds issued for such purposes.

4659 3. Assist in the relocation of a spring training franchise
 4660 from one unit of local government to another only if the
 4661 governing board of the current host local government by a
 4662 majority vote agrees to relocation.

4663 (d)1. All certified applicants must place unexpended state
 4664 funds received pursuant to s. 212.20(5)(d)6.b. ~~s.~~
 4665 ~~212.20(6)(d)6.b.~~ in a trust fund or separate account for use
 4666 only as authorized in this section.

4667 2. A certified applicant may request that the Department of
 4668 Revenue suspend further distributions of state funds made
 4669 available under s. 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ for 12

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4670 months after expiration of an existing agreement with a spring
4671 training franchise to provide the certified applicant with an
4672 opportunity to enter into a new agreement with a spring training
4673 franchise, at which time the distributions shall resume.

4674 3. The expenditure of state funds distributed to an
4675 applicant certified before July 1, 2010, must begin within 48
4676 months after the initial receipt of the state funds. In
4677 addition, the construction of, or capital improvements to, a
4678 spring training facility must be completed within 24 months
4679 after the project's commencement.

4680 Section 39. Subsection (6) of section 288.1169, Florida
4681 Statutes, is amended to read:

4682 288.1169 International Game Fish Association World Center
4683 facility.—

4684 (6) The Department of Commerce must recertify every 10
4685 years that the facility is open, that the International Game
4686 Fish Association World Center continues to be the only
4687 international administrative headquarters, fishing museum, and
4688 Hall of Fame in the United States recognized by the
4689 International Game Fish Association, and that the project is
4690 meeting the minimum projections for attendance or sales tax
4691 revenues as required at the time of original certification. If
4692 the facility is not recertified during this 10-year review as
4693 meeting the minimum projections, then funding shall be abated
4694 until certification criteria are met. If the project fails to
4695 generate \$1 million of annual revenues pursuant to paragraph
4696 (2) (e), the distribution of revenues pursuant to s.
4697 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.d.~~ shall be reduced to an
4698 amount equal to \$83,333 multiplied by a fraction, the numerator

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4699 of which is the actual revenues generated and the denominator of
4700 which is \$1 million. Such reduction remains in effect until
4701 revenues generated by the project in a 12-month period equal or
4702 exceed \$1 million.

4703 Section 40. Subsection (8) of section 551.102, Florida
4704 Statutes, is amended to read:

4705 551.102 Definitions.—As used in this chapter, the term:

4706 (8) "Slot machine" means any mechanical or electrical
4707 contrivance, terminal that may or may not be capable of
4708 downloading slot games from a central server system, machine, or
4709 other device that, upon insertion of a coin, bill, ticket,
4710 token, or similar object or upon payment of any consideration
4711 whatsoever, including the use of any electronic payment system
4712 except a credit card or debit card, is available to play or
4713 operate, the play or operation of which, whether by reason of
4714 skill or application of the element of chance or both, may
4715 deliver or entitle the person or persons playing or operating
4716 the contrivance, terminal, machine, or other device to receive
4717 cash, billets, tickets, tokens, or electronic credits to be
4718 exchanged for cash or to receive merchandise or anything of
4719 value whatsoever, whether the payoff is made automatically from
4720 the machine or manually. The term includes associated equipment
4721 necessary to conduct the operation of the contrivance, terminal,
4722 machine, or other device. Slot machines may use spinning reels,
4723 video displays, or both. A slot machine is not a "coin-operated
4724 amusement machine" as defined in s. 212.02 ~~s. 212.02(24)~~ or an
4725 amusement game or machine as described in s. 849.161, and slot
4726 machines are not subject to the tax imposed by s. 212.05(1)(h).

4727 Section 41. Paragraph (a) of subsection (1) of section

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4728 790.0655, Florida Statutes, is amended to read:

4729 790.0655 Purchase and delivery of handguns; mandatory
4730 waiting period; exceptions; penalties.-

4731 (1) (a) There shall be a mandatory ~~3-day~~ waiting period,
4732 which shall be 3 days, excluding weekends and legal holidays,
4733 between the purchase and the delivery at retail of any handgun.
4734 "Purchase" means the transfer of money or other valuable
4735 consideration to the retailer. "Handgun" means a firearm capable
4736 of being carried and used by one hand, such as a pistol or
4737 revolver. "Retailer" means and includes every person engaged in
4738 the business of making sales at retail or for distribution, or
4739 use, or consumption, or storage to be used or consumed in this
4740 state, as defined in s. 212.02 ~~s. 212.02(13)~~.

4741 Section 42. Section 212.0596, Florida Statutes, is
4742 repealed.

4743 Section 43. This act shall take effect January 1, 2012.