

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

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

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57 changes; creating s. 213.215, F.S.; providing amnesty for
58 uncollected or unpaid sales and use taxes for sellers who
59 register under the Streamlined Sales and Use Tax
60 Agreement; providing exceptions to the amnesty; amending
61 s. 213.256, F.S.; providing and revising definitions;
62 providing for entry into agreements with other states to
63 simplify and facilitate compliance with sales tax laws;
64 providing for certification of compliance with agreements;
65 creating s. 213.2562, F.S.; providing for the department
66 to review software submitted to the governing board for
67 certification as a certified automated system; creating s.
68 213.2567, F.S.; providing for the registration of sellers,
69 the certification of a person as a certified service
70 provider, and the certification of a software program as a
71 certified automated system by the governing board under
72 the Streamlined Sales and Use Tax Agreement; declaring
73 legislative intent; providing for the adoption of
74 emergency rules; amending ss. 11.45, 196.012, 202.18,
75 203.01, 212.031, 212.052, 212.055, 212.13, 212.15,
76 213.015, 218.245, 218.65, 288.1045, 288.11621, 288.1169,
77 551.102, and 790.0655, F.S.; conforming cross-references;
78 repealing s. 212.0596, F.S., relating to provisions
79 pertaining to the taxation of mail-order sales; providing
80 an effective date.

81
82 Be It Enacted by the Legislature of the State of Florida:

83
84 Section 1. Section 212.02, Florida Statutes, is amended to

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85 read:

86 212.02 Definitions.—The following terms and phrases when
87 used in this chapter have the meanings ascribed to them in this
88 section, except where the context clearly indicates a different
89 meaning. The term:

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

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

111 (3) "Agricultural production" means the production of
112 plants and animals useful to humans, including the preparation,

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113 planting, cultivating, or harvesting of these products or any
114 other practices necessary to accomplish production through the
115 harvest phase, which includes aquaculture, horticulture,
116 floriculture, viticulture, forestry, dairy, livestock, poultry,
117 bees, and all other forms of farm products and farm production.

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

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

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

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

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

140 2. "One nonitemized price" does not include a price that

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141 is separately identified by product on binding sales or other
142 supporting sales-related documentation made available to the
143 customer in paper or electronic form, including, but not limited
144 to, an invoice, bill of sale, receipt, contract, service
145 agreement, lease agreement, periodic notice of rates and
146 services, rate card, or price list.

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

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

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

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

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

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

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169 transaction is the second service;

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

173 d. The retail sale of exempt tangible personal property
174 and taxable personal property in which:

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

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

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

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

192 (5)-(2) "Business" means any activity engaged in by any
193 person, or caused to be engaged in by him or her, with the
194 object of private or public gain, benefit, or advantage, either
195 direct or indirect. Except for the sales of any aircraft, boat,
196 mobile home, or motor vehicle, the term "business" shall not be

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197 construed in this chapter to include occasional or isolated
198 sales or transactions involving tangible personal property or
199 services by a person who does not hold himself or herself out as
200 engaged in business or sales of unclaimed tangible personal
201 property under s. 717.122, but includes other charges for the
202 sale or rental of tangible personal property, sales of services
203 taxable under this chapter, sales of or charges of admission,
204 communication services, all rentals and leases of living
205 quarters, other than low-rent housing operated under chapter
206 421, sleeping or housekeeping accommodations in hotels,
207 apartment houses, roominghouses, tourist or trailer camps, and
208 all rentals of or licenses in real property, other than low-rent
209 housing operated under chapter 421, all leases or rentals of or
210 licenses in parking lots or garages for motor vehicles, docking
211 or storage spaces for boats in boat docks or marinas as defined
212 in this chapter and made subject to a tax imposed by this
213 chapter. The term "business" shall not be construed in this
214 chapter to include the leasing, subleasing, or licensing of real
215 property by one corporation to another if all of the stock of
216 both such corporations is owned, directly or through one or more
217 wholly owned subsidiaries, by a common parent corporation; the
218 property was in use prior to July 1, 1989, title to the property
219 was transferred after July 1, 1988, and before July 1, 1989,
220 between members of an affiliated group, as defined in s. 1504(a)
221 of the Internal Revenue Code of 1986, which group included both
222 such corporations and there is no substantial change in the use
223 of the property following the transfer of title; the leasing,
224 subleasing, or licensing of the property was required by an

225 unrelated lender as a condition of providing financing to one or
 226 more members of the affiliated group; and the corporation to
 227 which the property is leased, subleased, or licensed had sales
 228 subject to the tax imposed by this chapter of not less than \$667
 229 million during the most recent 12-month period ended June 30.
 230 Any tax on such sales, charges, rentals, admissions, or other
 231 transactions made subject to the tax imposed by this chapter
 232 shall be collected by the state, county, municipality, any
 233 political subdivision, agency, bureau, or department, or other
 234 state or local governmental instrumentality in the same manner
 235 as other dealers, unless specifically exempted by this chapter.

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

238 (7)~~(3)~~ ~~The terms~~ "Cigarettes," "tobacco," or "tobacco
 239 products" referred to in this chapter include all such products
 240 as are defined or may be hereafter defined by the laws of the
 241 state.

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

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

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

253 designed to cause a computer or automatic data processing
 254 equipment to perform a task.

255 (11)-(4) "Cost price" means the actual cost of articles of
 256 tangible personal property without any deductions therefrom on
 257 account of the cost of materials used, labor or service costs,
 258 transportation charges, or any expenses whatsoever.

259 (12) "Delivery charges" means charges by the seller of
 260 personal property or services for preparation and delivery to a
 261 location designated by the purchaser of such property or
 262 services, including, but not limited to, transportation,
 263 shipping, postage, handling, crating, and packing.

264 Notwithstanding any other provision of this section, the term
 265 does not include the charges for delivery of direct mail,
 266 transportation, shipping, postage, handling, crating, and
 267 packing or similar charges if those charges are separately
 268 stated on an invoice or similar billing document given to the
 269 purchaser and are invoiced at cost with no markup. The exclusion
 270 of delivery charges for direct mail shall apply to any sale
 271 involving the delivery or mailing of direct mail, printed
 272 material that would otherwise be direct mail that results from a
 273 transaction that this state considers the sale of a service, or
 274 printed material delivered or mailed to a mass audience when the
 275 cost of the printed material is not billed directly to the
 276 recipients and is the result of a transaction that includes the
 277 development of billing information or the provision of data
 278 processing services. If a shipment includes exempt property and
 279 taxable property, the seller shall tax only the percentage of
 280 the delivery charge allocated to the taxable property. The

281 seller may allocate the delivery charge by using:

282 (a) A percentage based on the total sales price of the
 283 taxable property compared to the sales price of all property in
 284 the shipment; or

285 (b) A percentage based on the total weight of the taxable
 286 property compared to the total weight of all property in the
 287 shipment.

288 (13) ~~(5)~~ The term "Department" means the Department of
 289 Revenue.

290 (14) "Diesel fuel" means any liquid product, gas product,
 291 or any combination thereof, which is used in an internal
 292 combustion engine or motor to propel any form of vehicle,
 293 machine, or mechanical contrivance. The term includes, but is
 294 not limited to, all forms of fuel commonly or commercially known
 295 or sold as diesel fuel or kerosene. However, the term does not
 296 include butane gas, propane gas, or any other form of liquefied
 297 petroleum gas or compressed natural gas.

298 (15) "Direct mail" means printed material delivered or
 299 distributed by the United States Postal Service or other
 300 delivery service to a mass audience or to addressees on a
 301 mailing list provided by the purchaser or at the direction of
 302 the purchaser when the cost of the items are not billed directly
 303 to the recipients. The term includes tangible personal property
 304 supplied directly or indirectly by the purchaser to the direct
 305 mail seller for inclusion in the package containing the printed
 306 material. The term does not include multiple items of printed
 307 material delivered to a single address.

308 (16) "Electronic" means relating to technology having

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309 electrical, digital, magnetic, wireless, optical,
310 electromagnetic, or similar capabilities.

311 (17)~~(6)~~ "Enterprise zone" means an area of the state
312 designated pursuant to s. 290.0065. This subsection expires on
313 the date specified in s. 290.016 for the expiration of the
314 Florida Enterprise Zone Act.

315 (18)~~(7)~~ "Factory-built building" means a structure
316 manufactured in a manufacturing facility for installation or
317 erection as a finished building; "factory-built building"
318 includes, but is not limited to, residential, commercial,
319 institutional, storage, and industrial structures.

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

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

328 (21) "Fractional aircraft ownership program" means a
329 program that meets the requirements of 14 C.F.R. part 91,
330 subpart K, relating to fractional ownership operations, except
331 that the program must include a minimum of 25 aircraft owned or
332 leased by the program manager and used in the program.

333 (22)~~(8)~~ "In this state" or "in the state" means within the
334 state boundaries of Florida as defined in s. 1, Art. II of the
335 State Constitution and includes all territory within these
336 limits owned by or ceded to the United States.

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337 (23)~~(9)~~ The term "Intoxicating beverages" or "alcoholic
338 beverages" referred to in this chapter includes all such
339 beverages as are so defined or may be hereafter defined by the
340 laws of the state.

341 (24)~~(10)~~ "Lease," "let," or "rental" means leasing or
342 renting of living quarters or sleeping or housekeeping
343 accommodations in hotels, apartment houses, roominghouses,
344 tourist or trailer camps and real property, the same being
345 defined as follows:

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

356 (b) Any building, or part thereof, where separate
357 accommodations for two or more families living independently of
358 each other are supplied to transient or permanent guests or
359 tenants shall for the purpose of this chapter be deemed an
360 apartment house.

361 (c) Every house, boat, vehicle, motor court, trailer
362 court, or other structure or any place or location kept, used,
363 maintained, or advertised as, or held out to the public to be, a
364 place where living quarters or sleeping or housekeeping

365 accommodations are supplied for pay to transient or permanent
 366 guests or tenants, whether in one or adjoining buildings, shall
 367 for the purpose of this chapter be deemed a roominghouse.

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

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

378 (f) A "trailer camp," "mobile home park," or "recreational
 379 vehicle park" is a place where space is offered, with or without
 380 service facilities, by any persons or municipality to the public
 381 for the parking and accommodation of two or more automobile
 382 trailers, mobile homes, or recreational vehicles which are used
 383 for lodging, for either a direct money consideration or an
 384 indirect benefit to the lessor or owner in connection with a
 385 related business, such space being hereby defined as living
 386 quarters, and the rental price thereof shall include all service
 387 charges paid to the lessor.

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

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393 definition shall be used for purposes of the sales and use tax
 394 regardless of whether a transaction is characterized as a lease
 395 or rental under generally accepted accounting principles, the
 396 Internal Revenue Code, the Uniform Commercial Code, or any other
 397 provisions of federal, state, or local law. These terms include
 398 agreements covering motor vehicles and trailers if the amount of
 399 consideration may be increased or decreased by reference to the
 400 amount realized upon sale or disposition of the property as
 401 provided in 26 U.S.C. s. 7701(h) (1). These terms do not include:
 402 a. A transfer of possession or control of property under a
 403 security agreement or deferred payment plan that requires the
 404 transfer of title upon completion of the required payments;
 405 b. A transfer of possession or control of property under
 406 an agreement that requires the transfer of title upon completion
 407 of required payments and payment of an option price does not
 408 exceed the greater of \$100 or 1 percent of the total required
 409 payments; or
 410 c. The provision of tangible personal property along with
 411 an operator for a fixed or indeterminate period of time. A
 412 condition of this exclusion is that the operator is necessary
 413 for the equipment to perform as designed. For the purpose of
 414 this sub-subparagraph, an operator must do more than maintain,
 415 inspect, or set up the tangible personal property ~~the leasing or~~
 416 ~~rental of tangible personal property and the possession or use~~
 417 ~~thereof by the lessee or rentee for a consideration, without~~
 418 ~~transfer of the title of such property, except as expressly~~
 419 ~~provided to the contrary herein.~~
 420 2. ~~The term "Lease," "let," or "rental" does not include~~

421 ~~mean~~ hourly, daily, or mileage charges, to the extent that such
422 charges are subject to the jurisdiction of the United States
423 Interstate Commerce Commission, if ~~when~~ such charges are paid by
424 reason of the presence of railroad cars owned by another on the
425 tracks of the taxpayer, or charges made pursuant to car service
426 agreements.

427 3. ~~The term~~ "Lease," "let," "rental," or "license" does
428 not include payments made to an owner of high-voltage bulk
429 transmission facilities in connection with the possession or
430 control of such facilities by a regional transmission
431 organization, independent system operator, or similar entity
432 under the jurisdiction of the Federal Energy Regulatory
433 Commission. However, where two taxpayers, in connection with the
434 interchange of facilities, rent or lease property, each to the
435 other, for use in providing or furnishing any of the services
436 mentioned in s. 166.231, the term "lease or rental" means only
437 the net amount of rental involved.

438 (h) "Real property" means the surface land, improvements
439 thereto, and fixtures, and is synonymous with "realty" and "real
440 estate."

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

445 (j) Privilege, franchise, or concession fees, or fees for
446 a license to do business, paid to an airport are not payments
447 for leasing, letting, renting, or granting a license for the use
448 of real property.

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449 (25) "Livestock" includes all animals of the equine,
450 bovine, or swine class, including goats, sheep, mules, horses,
451 hogs, cattle, ostriches, and other grazing animals raised for
452 commercial purposes. The term also includes fish raised for
453 commercial purposes.

454 (26) (a) "Model 1 seller" has the same meaning as provided
455 in s. 213.256.

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

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

460 (27)-(11) "Motor fuel" means and includes what is commonly
461 known and sold as gasoline and fuels containing a mixture of
462 gasoline and other products.

463 (28)-(12) "Person" includes any individual, firm,
464 copartnership, joint adventure, association, corporation,
465 estate, trust, business trust, receiver, syndicate, or other
466 group or combination acting as a unit and also includes any
467 political subdivision, municipality, state agency, bureau, or
468 department and includes the plural as well as the singular
469 number.

470 (29) "Power farm equipment" means moving or stationary
471 equipment that contains within itself the means for its own
472 propulsion or power and moving or stationary equipment that is
473 dependent upon an external power source to perform its
474 functions.

475 (30) "Prewritten computer software" means computer
476 software, including prewritten upgrades, which is not designed

477 and developed by the author or other creator to the
478 specifications of a specific purchaser. The combining of two or
479 more prewritten computer software programs or prewritten
480 portions of such programs does not cause the combination to be
481 other than prewritten computer software. Prewritten computer
482 software includes software designed and developed by the author
483 or other creator to the specifications of a specific purchaser
484 when such software is sold to a person other than the specific
485 purchaser. Where a person modifies or enhances computer software
486 of which the person is not the author or creator, the person
487 shall be deemed to be the author or creator only of such
488 person's modifications or enhancements. Prewritten computer
489 software or a prewritten portion of such software which is
490 modified or enhanced to any degree, if such modification or
491 enhancement is designed and developed to the specifications of a
492 specific purchaser, remains prewritten computer software.
493 However, prewritten computer software does not include software
494 that has been modified or enhanced for a particular purchaser if
495 the charge for the enhancement is reasonable and separately
496 stated on the invoice or other statement of price given to the
497 purchaser.

498 (31) "Product transferred electronically" means a product,
499 except computer software, which was obtained by a purchaser by
500 means other than the purchase of tangible storage media.

501 (32) "Qualified aircraft" means any aircraft having a
502 maximum certified takeoff weight of less than 10,000 pounds and
503 equipped with twin turbofan engines that meet Stage IV noise
504 requirements which is used by a business operating as an on-

505 demand air carrier under Federal Aviation Administration
 506 Regulation Title 14, chapter I, part 135, Code of Federal
 507 Regulations, which owns or leases and operates a fleet of at
 508 least 25 of such aircraft in this state.

509 (33)-(13) "Retailer" means and includes every person
 510 engaged in the business of making sales at retail or for
 511 distribution, or use, or consumption, or storage to be used or
 512 consumed in this state.

513 (34)-(14)(a) "Retail sale" or a "sale at retail" means a
 514 sale to a consumer or to any person for any purpose other than
 515 for resale in the form of tangible personal property or services
 516 taxable under this chapter, and includes all such transactions
 517 that may be made in lieu of retail sales or sales at retail. A
 518 sale for resale includes a sale of qualifying property. As used
 519 in this paragraph, the term "qualifying property" means tangible
 520 personal property, other than electricity, which is used or
 521 consumed by a government contractor in the performance of a
 522 qualifying contract as defined in s. 212.08(17)(c), to the
 523 extent that the cost of the property is allocated or charged as
 524 a direct item of cost to such contract, title to which property
 525 vests in or passes to the government under the contract. The
 526 term "government contractor" includes prime contractors and
 527 subcontractors. As used in this paragraph, a cost is a "direct
 528 item of cost" if it is a "direct cost" as defined in 48 C.F.R.
 529 s. 9904.418-30(a)(2), or similar successor provisions, including
 530 costs identified specifically with a particular contract.

531 (b) ~~The terms~~ "Retail sales," "sales at retail," "use,"
 532 "storage," and "consumption" include the sale, use, storage, or

533 consumption of all tangible advertising materials imported or
534 caused to be imported into this state. Tangible advertising
535 material includes displays, display containers, brochures,
536 catalogs, price lists, point-of-sale advertising, and technical
537 manuals or any tangible personal property which does not
538 accompany the product to the ultimate consumer.

539 (c) "Retail sales," "sale at retail," "use," "storage,"
540 and "consumption" do not include materials, containers, labels,
541 sacks, bags, or similar items intended to accompany a product
542 sold to a customer without which delivery of the product would
543 be impracticable because of the character of the contents and be
544 used one time only for packaging tangible personal property for
545 sale or for the convenience of the customer or for packaging in
546 the process of providing a service taxable under this chapter.
547 When a separate charge for packaging materials is made, the
548 charge shall be considered part of the sales price or rental
549 charge for purposes of determining the applicability of tax. The
550 terms do not include the sale, use, storage, or consumption of
551 industrial materials, including chemicals and fuels except as
552 provided herein, for future processing, manufacture, or
553 conversion into articles of tangible personal property for
554 resale when such industrial materials, including chemicals and
555 fuels except as provided herein, become a component or
556 ingredient of the finished product. However, the terms include
557 the sale, use, storage, or consumption of tangible personal
558 property, including machinery and equipment or parts thereof,
559 purchased electricity, and fuels used to power machinery, when
560 such items are used and dissipated in fabricating, converting,

561 or processing tangible personal property for sale, even though
 562 they may become ingredients or components of the tangible
 563 personal property for sale through accident, wear, tear,
 564 erosion, corrosion, or similar means. The terms do not include
 565 the sale of materials to a registered repair facility for use in
 566 repairing a motor vehicle, airplane, or boat, when such
 567 materials are incorporated into and sold as part of the repair.
 568 Such a sale shall be deemed a purchase for resale by the repair
 569 facility, even though every material is not separately stated or
 570 separately priced on the repair invoice.

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

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

577 (35) ~~(15)~~ "Sale" means and includes:

578 (a) Any transfer of title or possession, or both,
 579 exchange, barter, license, lease, or rental, conditional or
 580 otherwise, in any manner or by any means whatsoever, of tangible
 581 personal property for a consideration.

582 (b) The rental of living quarters or sleeping or
 583 housekeeping accommodations in hotels, apartment houses or
 584 roominghouses, or tourist or trailer camps, as hereinafter
 585 defined in this chapter.

586 (c) The producing, fabricating, processing, printing, or
 587 imprinting of tangible personal property for a consideration for
 588 consumers who furnish either directly or indirectly the

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589 materials used in the producing, fabricating, processing,
590 printing, or imprinting.

591 (d) The furnishing, preparing, or serving for a
592 consideration of any tangible personal property for consumption
593 on or off the premises of the person furnishing, preparing, or
594 serving such tangible personal property which includes the sale
595 of meals or prepared food by an employer to his or her
596 employees.

597 (e) A transaction whereby the possession of property is
598 transferred but the seller retains title as security for the
599 payment of the price.

600 (36) (a) ~~(16)~~ "Sales price" applies to the measure subject
601 to the tax imposed by this chapter and means the total amount of
602 consideration, including cash, credit, property, and services,
603 for which tangible personal property or personal services are
604 sold, leased, or rented, valued in money, whether received in
605 money or otherwise, without any deduction for the following:

- 606 1. The seller's cost of the property sold;
607 2. The cost of materials used, labor or service cost,
608 interest, losses, all costs of transportation to the seller, all
609 taxes imposed on the seller, and any other expense of the
610 seller;
611 3. Charges by the seller for any services necessary to
612 complete the sale, other than delivery and installation charges;
613 4. Delivery charges; or
614 5. Installation charges.

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

- 616 1. Trade-ins allowed and taken at the time of sale if the

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617 amount is separately stated on the invoice, bill of sale, or
618 similar document given to the purchaser;

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

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

626 4. Any taxes legally imposed directly on the consumer
627 which are separately stated on the invoice, bill of sale, or
628 similar document given to the purchaser; or means the total
629 amount paid for tangible personal property, including any
630 services that are a part of the sale, valued in money, whether
631 paid in money or otherwise, and includes any amount for which
632 credit is given to the purchaser by the seller, without any
633 deduction therefrom on account of the cost of the property sold,
634 the cost of materials used, labor or service cost, interest
635 charged, losses, or any other expense whatsoever. "Sales price"
636 also includes the consideration for a transaction which requires
637 both labor and material to alter, remodel, maintain, adjust, or
638 repair tangible personal property. Trade-ins or discounts
639 allowed and taken at the time of sale shall not be included
640 within the purview of this subsection. "Sales price" also
641 includes the full face value of any coupon used by a purchaser
642 to reduce the price paid to a retailer for an item of tangible
643 personal property; where the retailer will be reimbursed for
644 such coupon, in whole or in part, by the manufacturer of the

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645 ~~item of tangible personal property; or whenever it is not~~
646 ~~practicable for the retailer to determine, at the time of sale,~~
647 ~~the extent to which reimbursement for the coupon will be made.~~
648 ~~The term "sales price" does not include federal excise taxes~~
649 ~~imposed upon the retailer on the sale of tangible personal~~
650 ~~property. The term "sales price" does include federal~~
651 ~~manufacturers' excise taxes, even if the federal tax is listed~~
652 ~~as a separate item on the invoice. To the extent required by~~
653 ~~federal law, the term "sales price" does not include~~

654 5. Charges for Internet access services which are not
655 itemized on the customer's bill, but which can be reasonably
656 identified from the selling dealer's books and records kept in
657 the regular course of business. The dealer may support the
658 allocation of charges with books and records kept in the regular
659 course of business covering the dealer's entire service area,
660 including territories outside this state.

661 (37) "Sea trial" means a voyage for the purpose of testing
662 repair or modification work, which is in length and scope
663 reasonably necessary to test repairs or modifications, or a
664 voyage for the purpose of ascertaining the seaworthiness of a
665 vessel. If the sea trial is to test repair or modification work,
666 the owner or repair facility shall certify, in a form required
667 by the department, what repairs have been tested. The owner and
668 the repair facility may also be required to certify that the
669 length and scope of the voyage were reasonably necessary to test
670 the repairs or modifications.

671 (38) "Seller" means a person making sales, leases, or
672 rentals of personal property or services.

673 (39) "Solar energy system" means the equipment and
 674 requisite hardware that provide and are used for collecting,
 675 transferring, converting, storing, or using incident solar
 676 energy for water heating, space heating, cooling, or other
 677 applications that would otherwise require the use of a
 678 conventional source of energy such as petroleum products,
 679 natural gas, manufactured gas, or electricity.

680 (40) "Space flight" means any flight designed for
 681 suborbital, orbital, or interplanetary travel of a space
 682 vehicle, satellite, or station of any kind.

683 (41) "Spaceport activities" means activities directed or
 684 sponsored by Space Florida on spaceport territory pursuant to
 685 its powers and responsibilities under the Space Florida Act.

686 ~~(17) "Diesel fuel" means any liquid product, gas product,~~
 687 ~~or combination thereof used in an internal combustion engine or~~
 688 ~~motor to propel any form of vehicle, machine, or mechanical~~
 689 ~~contrivance. This term includes, but is not limited to, all~~
 690 ~~forms of fuel commonly or commercially known or sold as diesel~~
 691 ~~fuel or kerosene. However, the term "diesel fuel" does not~~
 692 ~~include butane gas, propane gas, or any other form of liquefied~~
 693 ~~petroleum gas or compressed natural gas.~~

694 (42)~~(18)~~ "Storage" means and includes any keeping or
 695 retention in this state of tangible personal property for use or
 696 consumption in this state or for any purpose other than sale at
 697 retail in the regular course of business.

698 (43) "Streamlined Sales and Use Tax Agreement" has the
 699 same meaning as in s. 213.256.

700 (44)~~(19)~~ "Tangible personal property" means and includes

701 personal property which may be seen, weighed, measured, or
 702 touched or is in any manner perceptible to the senses, including
 703 electric power or energy, water, gas, steam, prewritten computer
 704 software, boats, motor vehicles and mobile homes as defined in
 705 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all
 706 other types of vehicles. The term "tangible personal property"
 707 does not include stocks, bonds, notes, insurance, ~~or~~ other
 708 obligations or securities, any product transferred
 709 electronically, or pari-mutuel tickets sold or issued under the
 710 racing laws of the state.

711 ~~(45)-(20)~~ "Use" means and includes the exercise of any
 712 right or power over tangible personal property incident to the
 713 ownership thereof, or interest therein, except that it does not
 714 include the sale at retail of that property in the regular
 715 course of business. The term "use" does not include:

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

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

721 ~~(46)-(21)~~ ~~The term~~ "Use tax" referred to in this chapter
 722 includes the use, the consumption, the distribution, and the
 723 storage as herein defined.

724 (47) "Voluntary seller" or "volunteer seller" means a
 725 seller that is not required to register in this state to collect
 726 the tax imposed by this chapter.

727 ~~(22)~~ ~~"Spaceport activities" means activities directed or~~
 728 ~~sponsored by Space Florida on spaceport territory pursuant to~~

729 ~~its powers and responsibilities under the Space Florida Act.~~

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

733 ~~(24) "Coin-operated amusement machine" means any machine~~
 734 ~~operated by coin, slug, token, coupon, or similar device for the~~
 735 ~~purposes of entertainment or amusement. The term includes, but~~
 736 ~~is not limited to, coin-operated pinball machines, music~~
 737 ~~machines, juke boxes, mechanical games, video games, arcade~~
 738 ~~games, billiard tables, moving picture viewers, shooting~~
 739 ~~galleries, and all other similar amusement devices.~~

740 ~~(25) "Sea trial" means a voyage for the purpose of testing~~
 741 ~~repair or modification work, which is in length and scope~~
 742 ~~reasonably necessary to test repairs or modifications, or a~~
 743 ~~voyage for the purpose of ascertaining the seaworthiness of a~~
 744 ~~vessel. If the sea trial is to test repair or modification work,~~
 745 ~~the owner or repair facility shall certify, in a form required~~
 746 ~~by the department, what repairs have been tested. The owner and~~
 747 ~~the repair facility may also be required to certify that the~~
 748 ~~length and scope of the voyage were reasonably necessary to test~~
 749 ~~the repairs or modifications.~~

750 ~~(26) "Solar energy system" means the equipment and~~
 751 ~~requisite hardware that provide and are used for collecting,~~
 752 ~~transferring, converting, storing, or using incident solar~~
 753 ~~energy for water heating, space heating, cooling, or other~~
 754 ~~applications that would otherwise require the use of a~~
 755 ~~conventional source of energy such as petroleum products,~~
 756 ~~natural gas, manufactured gas, or electricity.~~

757 ~~(27) "Agricultural commodity" means horticultural,~~
 758 ~~aquacultural, poultry and farm products, and livestock and~~
 759 ~~livestock products.~~

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

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

770 ~~(30) "Power farm equipment" means moving or stationary~~
 771 ~~equipment that contains within itself the means for its own~~
 772 ~~propulsion or power and moving or stationary equipment that is~~
 773 ~~dependent upon an external power source to perform its~~
 774 ~~functions.~~

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

778 ~~(32) "Agricultural production" means the production of~~
 779 ~~plants and animals useful to humans, including the preparation,~~
 780 ~~planting, cultivating, or harvesting of these products or any~~
 781 ~~other practices necessary to accomplish production through the~~
 782 ~~harvest phase, and includes aquaculture, horticulture,~~
 783 ~~floriculture, viticulture, forestry, dairy, livestock, poultry,~~
 784 ~~bees, and any and all forms of farm products and farm~~

785 ~~production.~~

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

794 ~~(34) "Fractional aircraft ownership program" means a~~
 795 ~~program that meets the requirements of 14 C.F.R. part 91,~~
 796 ~~subpart K, relating to fractional ownership operations, except~~
 797 ~~that the program must include a minimum of 25 aircraft owned or~~
 798 ~~leased by the program manager and used in the program.~~

799 Section 2. Paragraph (c) of subsection (7) of section
 800 212.03, Florida Statutes, is amended to read:

801 212.03 Transient rentals tax; rate, procedure,
 802 enforcement, exemptions.—

803 (7)

804 (c) The rental of facilities in a trailer camp, mobile
 805 home park, or recreational vehicle park facilities, as defined
 806 in s. 212.02 (24) ~~(10)(f)~~, which are intended primarily for rental
 807 as a principal or permanent place of residence is exempt from
 808 the tax imposed by this chapter. The rental of such facilities
 809 that primarily serve transient guests is not exempt by this
 810 subsection. In the application of this law, or in making any
 811 determination against the exemption, the department shall
 812 consider the facility as primarily serving transient guests

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813 unless the facility owner makes a verified declaration on a form
814 prescribed by the department that more than half of the total
815 rental units available are occupied by tenants who have a
816 continuous residence in excess of 3 months. The owner of a
817 facility declared to be exempt by this paragraph must make a
818 determination of the taxable status of the facility at the end
819 of the owner's accounting year using any consecutive 3-month
820 period at least one month of which is in the accounting year.
821 The owner must use a selected consecutive 3-month period during
822 each annual redetermination. In the event that an exempt
823 facility no longer qualifies for exemption by this paragraph,
824 the owner must notify the department on a form prescribed by the
825 department by the 20th day of the first month of the owner's
826 next succeeding accounting year that the facility no longer
827 qualifies for such exemption. The tax levied by this section
828 shall apply to the rental of facilities that no longer qualify
829 for exemption under this paragraph beginning the first day of
830 the owner's next succeeding accounting year. The provisions of
831 this paragraph do not apply to mobile home lots regulated under
832 chapter 723.

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

835 212.0306 Local option food and beverage tax; procedure for
836 levying; authorized uses; administration.—

837 (6) Any county levying a tax authorized by this section
838 must locally administer the tax using the powers and duties
839 enumerated for local administration of the tourist development
840 tax by s. 125.0104, 1992 Supplement to the Florida Statutes

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841 | 1991. ~~The county's ordinance shall also provide for brackets~~
 842 | ~~applicable to taxable transactions.~~

843 | Section 4. Paragraph (b) of subsection (1) of section
 844 | 212.04, Florida Statutes, is amended to read:

845 | 212.04 Admissions tax; rate, procedure, enforcement.—

846 | (1)

847 | (b) For the exercise of such privilege, a tax is levied at
 848 | the rate of 6 percent of sales price, or the actual value
 849 | received from such admissions, which 6 percent shall be added to
 850 | and collected with all such admissions from the purchaser
 851 | thereof, and such tax shall be paid for the exercise of the
 852 | privilege as defined in the preceding paragraph. Each ticket
 853 | must show on its face the actual sales price of the admission,
 854 | or each dealer selling the admission must prominently display at
 855 | the box office or other place where the admission charge is made
 856 | a notice disclosing the price of the admission, and the tax
 857 | shall be computed and collected on the basis of the actual price
 858 | of the admission charged by the dealer. The sale price or actual
 859 | value of admission shall, for the purpose of this chapter, be
 860 | that price remaining after deduction of federal taxes and state
 861 | or locally imposed or authorized seat surcharges, taxes, or
 862 | fees, if any, imposed upon such admission. The sale price or
 863 | actual value does not include separately stated ticket service
 864 | charges that are imposed by a facility ticket office or a
 865 | ticketing service and added to a separately stated, established
 866 | ticket price. ~~The rate of tax on each admission shall be~~
 867 | ~~according to the brackets established by s. 212.12(9).~~

868 | Section 5. Subsections (6) through (11) of section

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869 212.0506, Florida Statutes, are amended to read:

870 212.0506 Taxation of service warranties.—

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

873 (6)~~(7)~~ This tax shall not apply to any portion of the
 874 consideration received by any person in connection with the
 875 issuance of any service warranty contract upon which such person
 876 is required to pay any premium tax imposed under the Florida
 877 Insurance Code or under s. 634.313(1).

878 (7)~~(8)~~ If a transaction involves both the issuance of a
 879 service warranty that is subject to such tax and the issuance of
 880 a warranty, guaranty, extended warranty or extended guaranty,
 881 contract, agreement, or other written promise that is not
 882 subject to such tax, the consideration shall be separately
 883 identified and stated with respect to the taxable and nontaxable
 884 portions of the transaction. If the consideration is separately
 885 apportioned and identified in good faith, such tax shall apply
 886 to the transaction to the extent that the consideration received
 887 or to be received in connection with the transaction is payment
 888 for a service warranty subject to such tax. If the consideration
 889 is not apportioned in good faith, the department may reform the
 890 contract; such reformation by the department is to be considered
 891 prima facie correct, and the burden to show the contrary rests
 892 upon the dealer. If the consideration for such a transaction is
 893 not separately identified and stated, the entire transaction is
 894 taxable.

895 (8)~~(9)~~ Any claim which arises under a service warranty
 896 taxable under this section, which claim is paid directly by the

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897 person issuing such warranty, is not subject to any tax imposed
898 under this chapter.

899 (9)~~(10)~~ Materials and supplies used in the performance of
900 a factory or manufacturer's warranty are exempt if the contract
901 is furnished at no extra charge with the equipment guaranteed
902 thereunder and such materials and supplies are paid for by the
903 factory or manufacturer.

904 (10)~~(11)~~ Any duties imposed by this chapter upon dealers
905 of tangible personal property with respect to collecting and
906 remitting taxes; making returns; keeping books, records, and
907 accounts; and complying with the rules and regulations of the
908 department apply to all dealers as defined in s. 212.06(2)(1).

909 Section 6. Section 212.05, Florida Statutes, is amended to
910 read:

911 212.05 Sales, storage, use tax.—It is hereby declared to
912 be the legislative intent that every person is exercising a
913 taxable privilege who engages in the business of selling
914 tangible personal property at retail in this state, ~~including~~
915 ~~the business of making mail order sales,~~ or who rents or
916 furnishes any of the things or services taxable under this
917 chapter, or who stores for use or consumption in this state any
918 item or article of tangible personal property as defined herein
919 and who leases or rents such property within the state.

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

923 (a)1.a. At the rate of 6 percent of the sales price of
924 each item or article of tangible personal property when sold at

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925 retail in this state, computed on each taxable sale for the
926 purpose of remitting the amount of tax due the state, and
927 including each and every retail sale.

928 b. Each occasional or isolated sale of an aircraft, boat,
929 mobile home, or motor vehicle of a class or type which is
930 required to be registered, licensed, titled, or documented in
931 this state or by the United States Government shall be subject
932 to tax at the rate provided in this paragraph. The department
933 shall by rule adopt any nationally recognized publication for
934 valuation of used motor vehicles as the reference price list for
935 any used motor vehicle which is required to be licensed pursuant
936 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
937 party to an occasional or isolated sale of such a vehicle
938 reports to the tax collector a sales price which is less than 80
939 percent of the average loan price for the specified model and
940 year of such vehicle as listed in the most recent reference
941 price list, the tax levied under this paragraph shall be
942 computed by the department on such average loan price unless the
943 parties to the sale have provided to the tax collector an
944 affidavit signed by each party, or other substantial proof,
945 stating the actual sales price. Any party to such sale who
946 reports a sales price less than the actual sales price is guilty
947 of a misdemeanor of the first degree, punishable as provided in
948 s. 775.082 or s. 775.083. The department shall collect or
949 attempt to collect from such party any delinquent sales taxes.
950 In addition, such party shall pay any tax due and any penalty
951 and interest assessed plus a penalty equal to twice the amount
952 of the additional tax owed. Notwithstanding any other provision

953 of law, the Department of Revenue may waive or compromise any
 954 penalty imposed pursuant to this subparagraph.

955 2. This paragraph does not apply to the sale of a boat or
 956 aircraft by or through a registered dealer under this chapter to
 957 a purchaser who, at the time of taking delivery, is a
 958 nonresident of this state, does not make his or her permanent
 959 place of abode in this state, and is not engaged in carrying on
 960 in this state any employment, trade, business, or profession in
 961 which the boat or aircraft will be used in this state, or is a
 962 corporation none of the officers or directors of which is a
 963 resident of, or makes his or her permanent place of abode in,
 964 this state, or is a noncorporate entity that has no individual
 965 vested with authority to participate in the management,
 966 direction, or control of the entity's affairs who is a resident
 967 of, or makes his or her permanent abode in, this state. For
 968 purposes of this exemption, either a registered dealer acting on
 969 his or her own behalf as seller, a registered dealer acting as
 970 broker on behalf of a seller, or a registered dealer acting as
 971 broker on behalf of the purchaser may be deemed to be the
 972 selling dealer. This exemption shall not be allowed unless:

973 a. The purchaser removes a qualifying boat, as described
 974 in sub-subparagraph f., from the state within 90 days after the
 975 date of purchase or extension, or the purchaser removes a
 976 nonqualifying boat or an aircraft from this state within 10 days
 977 after the date of purchase or, when the boat or aircraft is
 978 repaired or altered, within 20 days after completion of the
 979 repairs or alterations;

980 b. The purchaser, within 30 days from the date of

981 | departure, shall provide the department with written proof that
 982 | the purchaser licensed, registered, titled, or documented the
 983 | boat or aircraft outside the state. If such written proof is
 984 | unavailable, within 30 days the purchaser shall provide proof
 985 | that the purchaser applied for such license, title,
 986 | registration, or documentation. The purchaser shall forward to
 987 | the department proof of title, license, registration, or
 988 | documentation upon receipt;

989 | c. The purchaser, within 10 days of removing the boat or
 990 | aircraft from Florida, shall furnish the department with proof
 991 | of removal in the form of receipts for fuel, dockage, slippage,
 992 | tie-down, or hangaring from outside of Florida. The information
 993 | so provided must clearly and specifically identify the boat or
 994 | aircraft;

995 | d. The selling dealer, within 5 days of the date of sale,
 996 | shall provide to the department a copy of the sales invoice,
 997 | closing statement, bills of sale, and the original affidavit
 998 | signed by the purchaser attesting that he or she has read the
 999 | provisions of this section;

1000 | e. The seller makes a copy of the affidavit a part of his
 1001 | or her record for as long as required by s. 213.35; and

1002 | f. Unless the nonresident purchaser of a boat of 5 net
 1003 | tons of admeasurement or larger intends to remove the boat from
 1004 | this state within 10 days after the date of purchase or when the
 1005 | boat is repaired or altered, within 20 days after completion of
 1006 | the repairs or alterations, the nonresident purchaser shall
 1007 | apply to the selling dealer for a decal which authorizes 90 days
 1008 | after the date of purchase for removal of the boat. The

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1009 nonresident purchaser of a qualifying boat may apply to the
 1010 selling dealer within 60 days after the date of purchase for an
 1011 extension decal that authorizes the boat to remain in this state
 1012 for an additional 90 days, but not more than a total of 180
 1013 days, before the nonresident purchaser is required to pay the
 1014 tax imposed by this chapter. The department is authorized to
 1015 issue decals in advance to dealers. The number of decals issued
 1016 in advance to a dealer shall be consistent with the volume of
 1017 the dealer's past sales of boats which qualify under this sub-
 1018 subparagraph. The selling dealer or his or her agent shall mark
 1019 and affix the decals to qualifying boats in the manner
 1020 prescribed by the department, prior to delivery of the boat.

1021 (I) The department is hereby authorized to charge dealers
 1022 a fee sufficient to recover the costs of decals issued, except
 1023 the extension decal shall cost \$425.

1024 (II) The proceeds from the sale of decals will be
 1025 deposited into the administrative trust fund.

1026 (III) Decals shall display information to identify the
 1027 boat as a qualifying boat under this sub-subparagraph,
 1028 including, but not limited to, the decal's date of expiration.

1029 (IV) The department is authorized to require dealers who
 1030 purchase decals to file reports with the department and may
 1031 prescribe all necessary records by rule. All such records are
 1032 subject to inspection by the department.

1033 (V) Any dealer or his or her agent who issues a decal
 1034 falsely, fails to affix a decal, mismarks the expiration date of
 1035 a decal, or fails to properly account for decals will be
 1036 considered prima facie to have committed a fraudulent act to

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1037 evade the tax and will be liable for payment of the tax plus a
 1038 mandatory penalty of 200 percent of the tax, and shall be liable
 1039 for fine and punishment as provided by law for a conviction of a
 1040 misdemeanor of the first degree, as provided in s. 775.082 or s.
 1041 775.083.

1042 (VI) Any nonresident purchaser of a boat who removes a
 1043 decal prior to permanently removing the boat from the state, or
 1044 defaces, changes, modifies, or alters a decal in a manner
 1045 affecting its expiration date prior to its expiration, or who
 1046 causes or allows the same to be done by another, will be
 1047 considered prima facie to have committed a fraudulent act to
 1048 evade the tax and will be liable for payment of the tax plus a
 1049 mandatory penalty of 200 percent of the tax, and shall be liable
 1050 for fine and punishment as provided by law for a conviction of a
 1051 misdemeanor of the first degree, as provided in s. 775.082 or s.
 1052 775.083.

1053 (VII) The department is authorized to adopt rules
 1054 necessary to administer and enforce this subparagraph and to
 1055 publish the necessary forms and instructions.

1056 (VIII) The department is hereby authorized to adopt
 1057 emergency rules pursuant to s. 120.54(4) to administer and
 1058 enforce the provisions of this subparagraph.

1059
 1060 If the purchaser fails to remove the qualifying boat from this
 1061 state within the maximum 180 days after purchase or a
 1062 nonqualifying boat or an aircraft from this state within 10 days
 1063 after purchase or, when the boat or aircraft is repaired or
 1064 altered, within 20 days after completion of such repairs or

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1065 alterations, or permits the boat or aircraft to return to this
 1066 state within 6 months from the date of departure, except as
 1067 provided in s. 212.08(7) (ggg), or if the purchaser fails to
 1068 furnish the department with any of the documentation required by
 1069 this subparagraph within the prescribed time period, the
 1070 purchaser shall be liable for use tax on the cost price of the
 1071 boat or aircraft and, in addition thereto, payment of a penalty
 1072 to the Department of Revenue equal to the tax payable. This
 1073 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
 1074 The maximum 180-day period following the sale of a qualifying
 1075 boat tax-exempt to a nonresident may not be tolled for any
 1076 reason.

1077 (b) At the rate of 6 percent of the cost price of each
 1078 item or article of tangible personal property when the same is
 1079 not sold but is used, consumed, distributed, or stored for use
 1080 or consumption in this state; however, for tangible property
 1081 originally purchased exempt from tax for use exclusively for
 1082 lease and which is converted to the owner's own use, tax may be
 1083 paid on the fair market value of the property at the time of
 1084 conversion. If the fair market value of the property cannot be
 1085 determined, use tax at the time of conversion shall be based on
 1086 the owner's acquisition cost. Under no circumstances may the
 1087 aggregate amount of sales tax from leasing the property and use
 1088 tax due at the time of conversion be less than the total sales
 1089 tax that would have been due on the original acquisition cost
 1090 paid by the owner.

1091 (c) At the rate of 6 percent of the gross proceeds derived
 1092 from the lease or rental of tangible personal property, as

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1093 ~~defined herein; however, the following special provisions apply~~
 1094 ~~to the lease or rental of motor vehicles:~~

1095 ~~1. When a motor vehicle is leased or rented for a period~~
 1096 ~~of less than 12 months:~~

1097 ~~a. If the motor vehicle is rented in Florida, the entire~~
 1098 ~~amount of such rental is taxable, even if the vehicle is dropped~~
 1099 ~~off in another state.~~

1100 ~~b. If the motor vehicle is rented in another state and~~
 1101 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

1102 ~~2. Except as provided in subparagraph 3., for the lease or~~
 1103 ~~rental of a motor vehicle for a period of not less than 12~~
 1104 ~~months, sales tax is due on the lease or rental payments if the~~
 1105 ~~vehicle is registered in this state; provided, however, that no~~
 1106 ~~tax shall be due if the taxpayer documents use of the motor~~
 1107 ~~vehicle outside this state and tax is being paid on the lease or~~
 1108 ~~rental payments in another state.~~

1109 ~~3. The tax imposed by this chapter does not apply to the~~
 1110 ~~lease or rental of a commercial motor vehicle as defined in s.~~
 1111 ~~316.003(66)(a) to one lessee or rentee for a period of not less~~
 1112 ~~than 12 months when tax was paid on the purchase price of such~~
 1113 ~~vehicle by the lessor. To the extent tax was paid with respect~~
 1114 ~~to the purchase of such vehicle in another state, territory of~~
 1115 ~~the United States, or the District of Columbia, the Florida tax~~
 1116 ~~payable shall be reduced in accordance with the provisions of s.~~
 1117 ~~212.06(7). This subparagraph shall only be available when the~~
 1118 ~~lease or rental of such property is an established business or~~
 1119 ~~part of an established business or the same is incidental or~~
 1120 ~~germane to such business.~~

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1121 (d) At the rate of 6 percent of the lease or rental price
 1122 paid by a lessee or rentee, or contracted or agreed to be paid
 1123 by a lessee or rentee, to the owner of the tangible personal
 1124 property.

1125 (e)1. At the rate of 6 percent on charges for:

1126 a. Prepaid calling arrangements. The tax on charges for
 1127 prepaid calling arrangements shall be collected at the time of
 1128 sale and remitted by the selling dealer.

1129 (I) "Prepaid calling arrangement" means the separately
 1130 stated retail sale by advance payment of communications services
 1131 that consist exclusively of telephone calls originated by using
 1132 an access number, authorization code, or other means that may be
 1133 manually, electronically, or otherwise entered and that are sold
 1134 in predetermined units or dollars whose number declines with use
 1135 in a known amount.

1136 (II) The sale or recharge of the prepaid calling
 1137 arrangement is deemed to take place in accordance with s.
 1138 212.06(17) (d) If the sale or recharge of the prepaid calling
 1139 arrangement does not take place at the dealer's place of
 1140 business, it shall be deemed to take place at the customer's
 1141 shipping address or, if no item is shipped, at the customer's
 1142 address or the location associated with the customer's mobile
 1143 telephone number.

1144 (III) The sale or recharge of a prepaid calling
 1145 arrangement shall be treated as a sale of tangible personal
 1146 property for purposes of this chapter, whether or not a tangible
 1147 item evidencing such arrangement is furnished to the purchaser,
 1148 and such sale within this state subjects the selling dealer to

1149 | the jurisdiction of this state for purposes of this subsection.

1150 | b. The installation of telecommunication and telegraphic
1151 | equipment.

1152 | c. Electrical power or energy, except that the tax rate
1153 | for charges for electrical power or energy is 7 percent.

1154 | 2. The provisions of s. 212.17(3), regarding credit for
1155 | tax paid on charges subsequently found to be worthless, shall be
1156 | equally applicable to any tax paid under the provisions of this
1157 | section on charges for prepaid calling arrangements,
1158 | telecommunication or telegraph services, or electric power
1159 | subsequently found to be uncollectible. The word "charges" in
1160 | this paragraph does not include any excise or similar tax levied
1161 | by the Federal Government, any political subdivision of the
1162 | state, or any municipality upon the purchase, sale, or recharge
1163 | of prepaid calling arrangements or upon the purchase or sale of
1164 | telecommunication, television system program, or telegraph
1165 | service or electric power, which tax is collected by the seller
1166 | from the purchaser.

1167 | (f) At the rate of 6 percent on the sale, rental, use,
1168 | consumption, or storage for use in this state of machines and
1169 | equipment, and parts and accessories therefor, used in
1170 | manufacturing, processing, compounding, producing, mining, or
1171 | quarrying personal property for sale or to be used in furnishing
1172 | communications, transportation, or public utility services.

1173 | (g)1. At the rate of 6 percent on the retail price of
1174 | newspapers and magazines sold or used in Florida.

1175 | 2. Notwithstanding other provisions of this chapter,
1176 | inserts of printed materials which are distributed with a

1177 newspaper or magazine are a component part of the newspaper or
 1178 magazine, and neither the sale nor use of such inserts is
 1179 subject to tax when:

1180 a. Printed by a newspaper or magazine publisher or
 1181 commercial printer and distributed as a component part of a
 1182 newspaper or magazine, which means that the items after being
 1183 printed are delivered directly to a newspaper or magazine
 1184 publisher by the printer for inclusion in editions of the
 1185 distributed newspaper or magazine;

1186 b. Such publications are labeled as part of the designated
 1187 newspaper or magazine publication into which they are to be
 1188 inserted; and

1189 c. The purchaser of the insert presents a resale
 1190 certificate to the vendor stating that the inserts are to be
 1191 distributed as a component part of a newspaper or magazine.

1192 (h)1. A tax is imposed at the rate of 4 percent on the
 1193 charges for the use of coin-operated amusement machines. The tax
 1194 shall be calculated by dividing the gross receipts from such
 1195 charges for the applicable reporting period by a divisor,
 1196 determined as provided in this subparagraph, to compute gross
 1197 taxable sales, and then subtracting gross taxable sales from
 1198 gross receipts to arrive at the amount of tax due. For counties
 1199 that do not impose a discretionary sales surtax, the divisor is
 1200 equal to 1.04; for counties that impose a 0.5 percent
 1201 discretionary sales surtax, the divisor is equal to 1.045; for
 1202 counties that impose a 1 percent discretionary sales surtax, the
 1203 divisor is equal to 1.050; and for counties that impose a 2
 1204 percent sales surtax, the divisor is equal to 1.060. If a county

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1205 imposes a discretionary sales surtax that is not listed in this
1206 subparagraph, the department shall make the applicable divisor
1207 available in an electronic format or otherwise. Additional
1208 divisors shall bear the same mathematical relationship to the
1209 next higher and next lower divisors as the new surtax rate bears
1210 to the next higher and next lower surtax rates for which
1211 divisors have been established. When a machine is activated by a
1212 slug, token, coupon, or any similar device which has been
1213 purchased, the tax is on the price paid by the user of the
1214 device for such device.

1215 2. As used in this paragraph, the term "operator" means
1216 any person who possesses a coin-operated amusement machine for
1217 the purpose of generating sales through that machine and who is
1218 responsible for removing the receipts from the machine.

1219 a. If the owner of the machine is also the operator of it,
1220 he or she shall be liable for payment of the tax without any
1221 deduction for rent or a license fee paid to a location owner for
1222 the use of any real property on which the machine is located.

1223 b. If the owner or lessee of the machine is also its
1224 operator, he or she shall be liable for payment of the tax on
1225 the purchase or lease of the machine, as well as the tax on
1226 sales generated through the machine.

1227 c. If the proprietor of the business where the machine is
1228 located does not own the machine, he or she shall be deemed to
1229 be the lessee and operator of the machine and is responsible for
1230 the payment of the tax on sales, unless such responsibility is
1231 otherwise provided for in a written agreement between him or her
1232 and the machine owner.

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1233 3.a. An operator of a coin-operated amusement machine may
1234 not operate or cause to be operated in this state any such
1235 machine until the operator has registered with the department
1236 and has conspicuously displayed an identifying certificate
1237 issued by the department. The identifying certificate shall be
1238 issued by the department upon application from the operator. The
1239 identifying certificate shall include a unique number, and the
1240 certificate shall be permanently marked with the operator's
1241 name, the operator's sales tax number, and the maximum number of
1242 machines to be operated under the certificate. An identifying
1243 certificate shall not be transferred from one operator to
1244 another. The identifying certificate must be conspicuously
1245 displayed on the premises where the coin-operated amusement
1246 machines are being operated.

1247 b. The operator of the machine must obtain an identifying
1248 certificate before the machine is first operated in the state
1249 and by July 1 of each year thereafter. The annual fee for each
1250 certificate shall be based on the number of machines identified
1251 on the application times \$30 and is due and payable upon
1252 application for the identifying device. The application shall
1253 contain the operator's name, sales tax number, business address
1254 where the machines are being operated, and the number of
1255 machines in operation at that place of business by the operator.
1256 No operator may operate more machines than are listed on the
1257 certificate. A new certificate is required if more machines are
1258 being operated at that location than are listed on the
1259 certificate. The fee for the new certificate shall be based on
1260 the number of additional machines identified on the application

1261 form times \$30.

1262 c. A penalty of \$250 per machine is imposed on the
 1263 operator for failing to properly obtain and display the required
 1264 identifying certificate. A penalty of \$250 is imposed on the
 1265 lessee of any machine placed in a place of business without a
 1266 proper current identifying certificate. Such penalties shall
 1267 apply in addition to all other applicable taxes, interest, and
 1268 penalties.

1269 d. Operators of coin-operated amusement machines must
 1270 obtain a separate sales and use tax certificate of registration
 1271 for each county in which such machines are located. One sales
 1272 and use tax certificate of registration is sufficient for all of
 1273 the operator's machines within a single county.

1274 4. The provisions of this paragraph do not apply to coin-
 1275 operated amusement machines owned and operated by churches or
 1276 synagogues.

1277 5. In addition to any other penalties imposed by this
 1278 chapter, a person who knowingly and willfully violates any
 1279 provision of this paragraph commits a misdemeanor of the second
 1280 degree, punishable as provided in s. 775.082 or s. 775.083.

1281 6. The department may adopt rules necessary to administer
 1282 the provisions of this paragraph.

1283 (i)1. At the rate of 6 percent on charges for all:

1284 a. Detective, burglar protection, and other protection
 1285 services (NAICS National Numbers 561611, 561612, 561613, and
 1286 561621). Any law enforcement officer, as defined in s. 943.10,
 1287 who is performing approved duties as determined by his or her
 1288 local law enforcement agency in his or her capacity as a law

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1289 enforcement officer, and who is subject to the direct and
1290 immediate command of his or her law enforcement agency, and in
1291 the law enforcement officer's uniform as authorized by his or
1292 her law enforcement agency, is performing law enforcement and
1293 public safety services and is not performing detective, burglar
1294 protection, or other protective services, if the law enforcement
1295 officer is performing his or her approved duties in a
1296 geographical area in which the law enforcement officer has
1297 arrest jurisdiction. Such law enforcement and public safety
1298 services are not subject to tax irrespective of whether the duty
1299 is characterized as "extra duty," "off-duty," or "secondary
1300 employment," and irrespective of whether the officer is paid
1301 directly or through the officer's agency by an outside source.
1302 The term "law enforcement officer" includes full-time or part-
1303 time law enforcement officers, and any auxiliary law enforcement
1304 officer, when such auxiliary law enforcement officer is working
1305 under the direct supervision of a full-time or part-time law
1306 enforcement officer.

1307 b. Nonresidential cleaning, excluding cleaning of the
1308 interiors of transportation equipment, and nonresidential
1309 building pest control services (NAICS National Numbers 561710
1310 and 561720).

1311 2. As used in this paragraph, "NAICS" means those
1312 classifications contained in the North American Industry
1313 Classification System, as published in 2007 by the Office of
1314 Management and Budget, Executive Office of the President.

1315 3. Charges for detective, burglar protection, and other
1316 protection security services performed in this state but used

1317 | outside this state are exempt from taxation. Charges for
 1318 | detective, burglar protection, and other protection security
 1319 | services performed outside this state and used in this state are
 1320 | subject to tax.

1321 | 4. If a transaction involves both the sale or use of a
 1322 | service taxable under this paragraph and the sale or use of a
 1323 | service or any other item not taxable under this chapter, the
 1324 | consideration paid must be separately identified and stated with
 1325 | respect to the taxable and exempt portions of the transaction or
 1326 | the entire transaction shall be presumed taxable. The burden
 1327 | shall be on the seller of the service or the purchaser of the
 1328 | service, whichever applicable, to overcome this presumption by
 1329 | providing documentary evidence as to which portion of the
 1330 | transaction is exempt from tax. The department is authorized to
 1331 | adjust the amount of consideration identified as the taxable and
 1332 | exempt portions of the transaction; however, a determination
 1333 | that the taxable and exempt portions are inaccurately stated and
 1334 | that the adjustment is applicable must be supported by
 1335 | substantial competent evidence.

1336 | 5. Each seller of services subject to sales tax pursuant
 1337 | to this paragraph shall maintain a monthly log showing each
 1338 | transaction for which sales tax was not collected because the
 1339 | services meet the requirements of subparagraph 3. for out-of-
 1340 | state use. The log must identify the purchaser's name, location
 1341 | and mailing address, and federal employer identification number,
 1342 | if a business, or the social security number, if an individual,
 1343 | the service sold, the price of the service, the date of sale,
 1344 | the reason for the exemption, and the sales invoice number. The

1345 monthly log shall be maintained pursuant to the same
 1346 requirements and subject to the same penalties imposed for the
 1347 keeping of similar records pursuant to this chapter.

1348 (j)1. Notwithstanding any other provision of this chapter,
 1349 there is hereby levied a tax on the sale, use, consumption, or
 1350 storage for use in this state of any coin or currency, whether
 1351 in circulation or not, when such coin or currency:

1352 a. Is not legal tender;

1353 b. If legal tender, is sold, exchanged, or traded at a
 1354 rate in excess of its face value; or

1355 c. Is sold, exchanged, or traded at a rate based on its
 1356 precious metal content.

1357 2. Such tax shall be at a rate of 6 percent of the price
 1358 at which the coin or currency is sold, exchanged, or traded,
 1359 except that, with respect to a coin or currency which is legal
 1360 tender of the United States and which is sold, exchanged, or
 1361 traded, such tax shall not be levied.

1362 3. There are exempt from this tax exchanges of coins or
 1363 currency which are in general circulation in, and legal tender
 1364 of, one nation for coins or currency which are in general
 1365 circulation in, and legal tender of, another nation when
 1366 exchanged solely for use as legal tender and at an exchange rate
 1367 based on the relative value of each as a medium of exchange.

1368 4. With respect to any transaction that involves the sale
 1369 of coins or currency taxable under this paragraph in which the
 1370 taxable amount represented by the sale of such coins or currency
 1371 exceeds \$500, the entire amount represented by the sale of such
 1372 coins or currency is exempt from the tax imposed under this

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1373 paragraph. The dealer must maintain proper documentation, as
 1374 prescribed by rule of the department, to identify that portion
 1375 of a transaction which involves the sale of coins or currency
 1376 and is exempt under this subparagraph.

1377 (k) At the rate of 6 percent of the sales price of each
 1378 gallon of diesel fuel not taxed under chapter 206 purchased for
 1379 use in a vessel.

1380 (l) Florists located in this state are liable for sales
 1381 tax on sales to retail customers regardless of where or by whom
 1382 the items sold are to be delivered. Florists located in this
 1383 state are not liable for sales tax on payments received from
 1384 other florists for items delivered to customers in this state.

1385 (m) Operators of game concessions or other concessionaires
 1386 who customarily award tangible personal property as prizes may,
 1387 in lieu of paying tax on the cost price of such property, pay
 1388 tax on 25 percent of the gross receipts from such concession
 1389 activity.

1390 (2) The tax shall be collected by the dealer, as defined
 1391 herein, and remitted by the dealer to the state at the time and
 1392 in the manner as hereinafter provided.

1393 (3) The tax so levied is in addition to all other taxes,
 1394 whether levied in the form of excise, license, or privilege
 1395 taxes, and in addition to all other fees and taxes levied.

1396 ~~(4) The tax imposed pursuant to this chapter shall be due~~
 1397 ~~and payable according to the brackets set forth in s. 212.12.~~

1398 (4) ~~(5)~~ Notwithstanding any other provision of this
 1399 chapter, the maximum amount of tax imposed under this chapter
 1400 and collected on each sale or use of a boat in this state may

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1401 not exceed \$18,000.

1402 Section 7. Section 212.054, Florida Statutes, is amended
 1403 to read:

1404 212.054 Discretionary sales surtax; limitations,
 1405 administration, and collection.—

1406 (1) A ~~No~~ general excise tax on sales may not ~~shall~~ be
 1407 levied by the governing body of any county unless specifically
 1408 authorized in s. 212.055. Any general excise tax on sales
 1409 authorized pursuant to said section shall be administered and
 1410 collected exclusively as provided in this section.

1411 (2) (a) The tax imposed by the governing body of any county
 1412 authorized to so levy pursuant to s. 212.055 shall be a
 1413 discretionary surtax on all transactions occurring in the county
 1414 which transactions are subject to the state tax imposed on
 1415 sales, use, services, rentals, admissions, and other
 1416 transactions by this chapter and communications services as
 1417 defined for purposes of chapter 202. The surtax, if levied,
 1418 shall be computed as the applicable rate or rates authorized
 1419 pursuant to s. 212.055 times the amount of taxable sales and
 1420 taxable purchases representing such transactions. If the surtax
 1421 is levied on the sale of an item of tangible personal property
 1422 or on the sale of a service, the surtax shall be computed by
 1423 multiplying the rate imposed by the county within which the sale
 1424 occurs by the amount of the taxable sale. The sale of an item of
 1425 tangible personal property or the sale of a service is not
 1426 subject to the surtax if the property, the service, or the
 1427 tangible personal property representing the service is delivered
 1428 within a county that does not impose a discretionary sales

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1429 surtax.

1430 (b) However:

1431 1. The sales amount above \$5,000 on a motor vehicle,
1432 aircraft, boat, manufactured home, modular home, or mobile home
1433 is any item of tangible personal property shall not be subject
1434 to the surtax. ~~However, charges for prepaid calling~~
1435 ~~arrangements, as defined in s. 212.05(1)(c)1.a., shall be~~
1436 ~~subject to the surtax. For purposes of administering the \$5,000~~
1437 ~~limitation on an item of tangible personal property, if two or~~
1438 ~~more taxable items of tangible personal property are sold to the~~
1439 ~~same purchaser at the same time and, under generally accepted~~
1440 ~~business practice or industry standards or usage, are normally~~
1441 ~~sold in bulk or are items that, when assembled, comprise a~~
1442 ~~working unit or part of a working unit, such items must be~~
1443 ~~considered a single item for purposes of the \$5,000 limitation~~
1444 ~~when supported by a charge ticket, sales slip, invoice, or other~~
1445 ~~tangible evidence of a single sale or rental.~~

1446 2. In the case of utility services covering a period
1447 starting before and ending after the effective date of the
1448 surtax, the rate applies as follows:

1449 a. In the case of a rate adoption or increase, the new
1450 rate applies to the first billing period starting on or after
1451 the effective date of the surtax adoption or increase.

1452 b. In the case of a rate decrease or termination, the new
1453 rate applies to bills rendered on or after the effective date of
1454 the rate change billed on or after the effective date of any
1455 ~~such surtax, the entire amount of the charge for utility~~
1456 ~~services shall be subject to the surtax. In the case of utility~~

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1457 ~~services billed after the last day the surtax is in effect, the~~
1458 ~~entire amount of the charge on said items shall not be subject~~
1459 ~~to the surtax.~~ "Utility service," as used in this section, does
1460 not include any communications services as defined in chapter
1461 202.

1462 3. In the case of written contracts which are signed prior
1463 to the effective date of any such surtax for the construction of
1464 improvements to real property or for remodeling of existing
1465 structures, the surtax shall be paid by the contractor
1466 responsible for the performance of the contract. However, the
1467 contractor may apply for one refund of any such surtax paid on
1468 materials necessary for the completion of the contract. Any
1469 application for refund shall be made no later than 15 months
1470 following initial imposition of the surtax in that county. The
1471 application for refund shall be in the manner prescribed by the
1472 department by rule. A complete application shall include proof
1473 of the written contract and of payment of the surtax. The
1474 application shall contain a sworn statement, signed by the
1475 applicant or its representative, attesting to the validity of
1476 the application. The department shall, within 30 days after
1477 approval of a complete application, certify to the county
1478 information necessary for issuance of a refund to the applicant.
1479 Counties are hereby authorized to issue refunds for this purpose
1480 and shall set aside from the proceeds of the surtax a sum
1481 sufficient to pay any refund lawfully due. Any person who
1482 fraudulently obtains or attempts to obtain a refund pursuant to
1483 this subparagraph, in addition to being liable for repayment of
1484 any refund fraudulently obtained plus a mandatory penalty of 100

1485 percent of the refund, is guilty of a felony of the third
 1486 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1487 775.084.

1488 4. In the case of any vessel, railroad, or motor vehicle
 1489 common carrier entitled to partial exemption from tax imposed
 1490 under this chapter pursuant to s. 212.08(4), (8), or (9), the
 1491 basis for imposition of surtax shall be the same as provided in
 1492 s. 212.08 and the ratio shall be applied each month to total
 1493 purchases in this state of property qualified for proration
 1494 which is delivered or sold in the taxing county to establish the
 1495 portion used and consumed in intracounty movement and subject to
 1496 surtax.

1497 (3) Except as otherwise provided in this section, a surtax
 1498 applies to a retail sale, lease, or rental of tangible personal
 1499 property, a digital good, or a service when, under s.
 1500 212.06(17), the transaction occurs in a county that imposes a
 1501 surtax under s. 212.055.

1502 (4)~~(3)~~ To determine whether a transaction occurs in a
 1503 county imposing a surtax, the following provisions apply ~~For the~~
 1504 ~~purpose of this section, a transaction shall be deemed to have~~
 1505 ~~occurred in a county imposing the surtax when:~~

1506 (a)~~1.~~ The retail sale of a modular or manufactured home,
 1507 not including a mobile home, occurs in the county to which the
 1508 house is delivered ~~includes an item of tangible personal~~
 1509 ~~property, a service, or tangible personal property representing~~
 1510 ~~a service, and the item of tangible personal property, the~~
 1511 ~~service, or the tangible personal property representing the~~
 1512 ~~service is delivered within the county. If there is no~~

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1513 ~~reasonable evidence of delivery of a service, the sale of a~~
 1514 ~~service is deemed to occur in the county in which the purchaser~~
 1515 ~~accepts the bill of sale.~~

1516 (b)2. The retail sale, excluding a lease or rental, of any
 1517 motor vehicle that does not qualify as transportation equipment,
 1518 as defined in s. 212.06(17) (g), or the retail sale of a ~~of any~~
 1519 motor vehicle or mobile home of a class or type ~~that~~ which is
 1520 required to be registered in this state or in any other state ~~is~~
 1521 shall be deemed to occur ~~have occurred~~ only in the county
 1522 identified ~~from as~~ the residence address of the purchaser on the
 1523 registration or title document for ~~the~~ such property.

1524 (c)~~(b)~~ Admission charged for an event occurs ~~The event for~~
 1525 which an admission is charged is located in the county ~~in which~~
 1526 the event is held.

1527 (d)~~(e)~~ A lease or rental of real property occurs in the
 1528 county in which the real property is located. ~~The consumer of~~
 1529 utility services is located in the county.

1530 (e)~~(d)~~1. The retail sale, excluding a lease or rental, of
 1531 any aircraft that does not qualify as transportation equipment,
 1532 as defined in s. 212.06(17) (g), or of any boat of a class or
 1533 type that is required to be registered, licensed, titled, or
 1534 documented in this state or by the United States Government
 1535 occurs in the county to which the aircraft or boat is delivered.

1536 2. The user of any aircraft or boat of a class or type
 1537 ~~that~~ which is required to be registered, licensed, titled, or
 1538 documented in this state or by the United States Government
 1539 imported into the county for use, consumption, distribution, or
 1540 storage to be used or consumed occurs in the county in which the

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1541 user is located ~~in the county~~.

1542 ~~3.2.~~ However, it shall be presumed that such items used
 1543 outside the county imposing the surtax for 6 months or longer
 1544 before being imported into the county were not purchased for use
 1545 in the county, except as provided in s. 212.06(8)(b).

1546 ~~4.3.~~ This paragraph does not apply to the use or
 1547 consumption of items upon which a like tax of equal or greater
 1548 amount has been lawfully imposed and paid outside the county.

1549 ~~(f)(e)~~ The purchase purchaser of any motor vehicle or
 1550 mobile home of a class or type that ~~which~~ is required to be
 1551 registered in this state occurs in the county identified from
 1552 the residential address of the purchaser ~~is a resident of the~~
 1553 ~~taxing county as determined by the address appearing on or to be~~
 1554 ~~reflected~~ on the registration document for the ~~such~~ property.

1555 ~~(g)(f)~~1. The use, consumption, distribution, or storage of
 1556 a ~~Any~~ motor vehicle or mobile home of a class or type that ~~which~~
 1557 is required to be registered in this state and that is imported
 1558 from another state occurs in the county to which it is imported
 1559 ~~into the taxing county by a user residing therein for the~~
 1560 ~~purpose of use, consumption, distribution, or storage in the~~
 1561 ~~taxing county.~~

1562 2. However, it shall be presumed that such items used
 1563 outside the taxing county for 6 months or longer before being
 1564 imported into the county were not purchased for use in the
 1565 county.

1566 ~~(g)~~ ~~The real property which is leased or rented is located~~
 1567 ~~in the county.~~

1568 (h) A ~~The~~ transient rental transaction occurs in the

1569 county in which the rental property is located.

1570 ~~(i) The delivery of any aircraft or boat of a class or~~
 1571 ~~type which is required to be registered, licensed, titled, or~~
 1572 ~~documented in this state or by the United States Government is~~
 1573 ~~to a location in the county. However, this paragraph does not~~
 1574 ~~apply to the use or consumption of items upon which a like tax~~
 1575 ~~of equal or greater amount has been lawfully imposed and paid~~
 1576 ~~outside the county.~~

1577 ~~(i)-(j)~~ A transaction occurs in a county imposing the
 1578 surtax if the dealer owing a use tax on purchases or leases is
 1579 located in that the county.

1580 ~~(k) The delivery of tangible personal property other than~~
 1581 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~
 1582 ~~is made to a location outside the county, but the property is~~
 1583 ~~brought into the county within 6 months after delivery, in which~~
 1584 ~~event, the owner must pay the surtax as a use tax.~~

1585 ~~(j)-(l)~~ The use of a coin-operated amusement or vending
 1586 machine occurs is located in the county in which the machine is
 1587 located.

1588 ~~(k)-(m)~~ An The florist taking the original order to sell
 1589 tangible personal property taken by a florist occurs is located
 1590 in the county in which the florist taking the order is located,
 1591 notwithstanding any other provision of this section.

1592 ~~(5)-(4)~~(a) The department shall administer, collect, and
 1593 enforce the tax authorized under s. 212.055 pursuant to the same
 1594 procedures used in the administration, collection, and
 1595 enforcement of the general state sales tax imposed under the
 1596 provisions of this chapter, except as provided in this section.

1597 The provisions of this chapter regarding interest and penalties
 1598 on delinquent taxes shall apply to the surtax. Discretionary
 1599 sales surtaxes shall not be included in the computation of
 1600 estimated taxes pursuant to s. 212.11. Notwithstanding any other
 1601 provision of law, a dealer need not separately state the amount
 1602 of the surtax on the charge ticket, sales slip, invoice, or
 1603 other tangible evidence of sale. For the purposes of this
 1604 section and s. 212.055, the "proceeds" of any surtax means all
 1605 funds collected and received by the department pursuant to a
 1606 specific authorization and levy under s. 212.055, including any
 1607 interest and penalties on delinquent surtaxes.

1608 (b) The proceeds of a discretionary sales surtax collected
 1609 by the selling dealer located in a county imposing the surtax
 1610 shall be returned, less the cost of administration, to the
 1611 county where the selling dealer is located. The proceeds shall
 1612 be transferred to the Discretionary Sales Surtax Clearing Trust
 1613 Fund. A separate account shall be established in the trust fund
 1614 for each county imposing a discretionary surtax. The amount
 1615 deducted for the costs of administration may not exceed 3
 1616 percent of the total revenue generated for all counties levying
 1617 a surtax authorized in s. 212.055. The amount deducted for the
 1618 costs of administration may be used only for costs that are
 1619 solely and directly attributable to the surtax. The total cost
 1620 of administration shall be prorated among those counties levying
 1621 the surtax on the basis of the amount collected for a particular
 1622 county to the total amount collected for all counties. The
 1623 department shall distribute the moneys in the trust fund to the
 1624 appropriate counties each month, unless otherwise provided in s.

1625 | 212.055.

1626 | (c)1. Any dealer located in a county that does not impose
 1627 | a discretionary sales surtax but who collects the surtax due to
 1628 | sales of tangible personal property or services delivered
 1629 | outside the county shall remit monthly the proceeds of the
 1630 | surtax to the department to be deposited into an account in the
 1631 | Discretionary Sales Surtax Clearing Trust Fund which is separate
 1632 | from the county surtax collection accounts. The department shall
 1633 | distribute funds in this account using a distribution factor
 1634 | determined for each county that levies a surtax and multiplied
 1635 | by the amount of funds in the account and available for
 1636 | distribution. The distribution factor for each county equals the
 1637 | product of:

1638 | a. The county's latest official population determined
 1639 | pursuant to s. 186.901;

1640 | b. The county's rate of surtax; and

1641 | c. The number of months the county has levied a surtax
 1642 | during the most recent distribution period;

1643 |
 1644 | divided by the sum of all such products of the counties levying
 1645 | the surtax during the most recent distribution period.

1646 | 2. The department shall compute distribution factors for
 1647 | eligible counties once each quarter and make appropriate
 1648 | quarterly distributions.

1649 | 3. A county that fails to timely provide the information
 1650 | required by this section to the department authorizes the
 1651 | department, by such action, to use the best information
 1652 | available to it in distributing surtax revenues to the county.

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1653 If this information is unavailable to the department, the
 1654 department may partially or entirely disqualify the county from
 1655 receiving surtax revenues under this paragraph. A county that
 1656 fails to provide timely information waives its right to
 1657 challenge the department's determination of the county's share,
 1658 if any, of revenues provided under this paragraph.

1659 ~~(5) No discretionary sales surtax or increase or decrease~~
 1660 ~~in the rate of any discretionary sales surtax shall take effect~~
 1661 ~~on a date other than January 1. No discretionary sales surtax~~
 1662 ~~shall terminate on a day other than December 31.~~

1663 (6) The governing body of any county levying a
 1664 discretionary sales surtax shall enact an ordinance levying the
 1665 surtax in accordance with the procedures described in s.
 1666 125.66(2).

1667 (7) (a) Any adoption, repeal, or rate change of the surtax
 1668 by the governing body of any county levying a discretionary
 1669 sales surtax or the school board of any county levying the
 1670 school capital outlay surtax authorized by s. 212.055(6) is
 1671 effective on April 1. A county or school board adopting,
 1672 repealing, or changing the rate of such surtax shall notify the
 1673 department within 10 days after final adoption by ordinance or
 1674 referendum of an adoption, repeal, imposition, termination, or
 1675 rate change of the surtax, but no later than October 20
 1676 immediately preceding such April 1 ~~November 16~~ prior to the
 1677 ~~effective date~~. The notice must specify the time period during
 1678 which the surtax will be in effect and the rate and must include
 1679 a copy of the ordinance and such other information as the
 1680 department requires by rule. Failure to timely provide such

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1681 notification to the department shall result in the delay of the
1682 effective date for a period of 1 year.

1683 (b) In addition to the notification required by paragraph
1684 (a), the governing body of any county proposing to levy a
1685 discretionary sales surtax or the school board of any county
1686 proposing to levy the school capital outlay surtax authorized by
1687 s. 212.055(6) shall notify the department by October 1 if the
1688 referendum or consideration of the ordinance that would result
1689 in imposition, termination, or rate change of the surtax is
1690 scheduled to occur on or after October 1 of that year. Failure
1691 to timely provide such notification to the department shall
1692 result in the delay of the effective date for a period of 1
1693 year.

1694 (c) The department shall provide notice of the adoption,
1695 repeal, or rate change of the surtax to affected sellers by
1696 February 1 immediately preceding the April 1 effective date.

1697 (d) Notwithstanding the date set in an ordinance for the
1698 termination of a surtax, a surtax terminates only on March 31. A
1699 surtax imposed before January 1, 2012, for which an ordinance
1700 provides a different termination date, also terminates on the
1701 March 31 following the termination date established in the
1702 ordinance.

1703 (8) With respect to any motor vehicle or mobile home of a
1704 class or type which is required to be registered in this state,
1705 the tax due on a transaction occurring in the taxing county as
1706 herein provided shall be collected from the purchaser or user
1707 incident to the titling and registration of such property,
1708 irrespective of whether such titling or registration occurs in

1709 the taxing county.

1710 (9) The department may certify vendor databases, and shall
 1711 purchase or otherwise make available a database or databases,
 1712 singly or in combination, which describe boundary changes for
 1713 all taxing jurisdictions, including a description of the change
 1714 and the effective date of a boundary change; provide all sales
 1715 and use tax rates by jurisdiction; assign to each five-digit and
 1716 nine-digit zip code the proper rate and jurisdiction and apply
 1717 the lowest combined rate imposed in the zip code area, if the
 1718 area includes more than one tax rate in any level of taxing
 1719 jurisdiction; and use address-based boundary database records
 1720 for assigning taxing jurisdictions and associated tax rates.

1721 (a) A seller or certified service provider that collects
 1722 and remits the state tax and any local tax imposed by this
 1723 chapter shall be held harmless from any tax, interest, and
 1724 penalties due solely as a result of relying on erroneous data on
 1725 tax rates, boundaries, or taxing jurisdiction assignments
 1726 provided by the state if the seller or certified service
 1727 provider exercises due diligence in applying one or more of the
 1728 following methods to determine the taxing jurisdiction and tax
 1729 rate for a transaction:

1730 1. Employing an electronic database provided by the
 1731 department under this subsection; or

1732 2. Employing a state-certified database.

1733 (b) If a seller or certified service provider is unable to
 1734 determine the applicable rate and jurisdiction using an address-
 1735 based database record after exercising due diligence, the seller
 1736 or certified service provider may apply the nine-digit zip code

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1737 designation applicable to a purchaser.

1738 (c) If a nine-digit zip code designation is not available
1739 for a street address or if a seller or certified service
1740 provider is unable to determine the nine-digit zip code
1741 designation applicable to a purchase after exercising due
1742 diligence to determine the designation, the seller or certified
1743 service provider may apply the rate for the five-digit zip code
1744 area.

1745 (d) There is a rebuttable presumption that a seller or
1746 certified service provider has exercised due diligence if the
1747 seller or certified service provider has attempted to determine
1748 the tax rate and jurisdiction by using state-certified software
1749 that makes this assignment from the address and zip code
1750 information applicable to the purchase.

1751 (e) There is a rebuttable presumption that a seller or
1752 certified service provider has exercised due diligence if the
1753 seller or certified service provider has attempted to determine
1754 the nine-digit zip code designation by using state-certified
1755 software that makes this designation from the street address and
1756 the five-digit zip code applicable to a purchase.

1757 (f) If a seller or certified service provider does not use
1758 one of the methods specified in paragraph (a), the seller or
1759 certified service provider may be held liable to the department
1760 for tax, interest, and penalties that are due for charging and
1761 collecting the incorrect amount of tax.

1762 (10) A purchaser shall be held harmless from tax,
1763 interest, and penalties for having failed to pay the correct
1764 amount of sales or use tax due solely as a result of any of the

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1765 following circumstances:

1766 (a) The seller or certified service provider relied on
1767 erroneous data on tax rates, boundaries, or taxing jurisdiction
1768 assignments provided by the department;

1769 (b) A purchaser holding a direct-pay permit relied on
1770 erroneous data on tax rates, boundaries, or taxing jurisdiction
1771 assignments provided by the department; or

1772 (c) A purchaser relied on erroneous data supplied in a
1773 database described in paragraph (9) (a).

1774 (11) A seller is not liable for failing to collect tax at
1775 the new tax rate if:

1776 (a) The new rate takes effect within 30 days after the new
1777 rate is enacted;

1778 (b) The seller collected the tax at the preceding rate;

1779 (c) The seller's failure to collect the tax at the new
1780 rate does not extend beyond 30 days after the enactment of the
1781 new rate; and

1782 (d) The seller did not fraudulently fail to collect at the
1783 new rate or solicit purchasers based on the preceding rate.

1784 Section 8. Paragraph (c) of subsection (2) and subsections
1785 (3) and (5) of section 212.06, Florida Statutes, are amended,
1786 and subsection (17) is added to that section, to read:

1787 212.06 Sales, storage, use tax; collectible from dealers;
1788 "dealer" defined; dealers to collect from purchasers;
1789 legislative intent as to scope of tax.—

1790 (2)

1791 (c) The term "dealer" is further defined to mean every
1792 person, as used in this chapter, who sells at retail or who

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1793 offers for sale at retail, or who has in his or her possession
 1794 for sale at retail; or for use, consumption, or distribution; or
 1795 for storage to be used or consumed in this state, tangible
 1796 personal property as defined herein, ~~including a retailer who~~
 1797 ~~transacts a mail order sale.~~

1798 (3) (a) Except as provided in paragraph (b), every dealer
 1799 making sales, whether within or outside the state, of tangible
 1800 personal property for distribution, storage, or use or other
 1801 consumption, in this state, shall, at the time of making sales,
 1802 collect the tax imposed by this chapter from the purchaser.

1803 (b)1. Notwithstanding subsection (17), a purchaser of
 1804 direct mail which is not a holder of a direct-pay permit shall
 1805 provide to the seller in conjunction with the purchase a direct-
 1806 mail form or information to show the jurisdictions to which the
 1807 direct mail is delivered to recipients.

1808 2. Upon receipt of information from the purchaser showing
 1809 the jurisdictions to which the direct mail is delivered to
 1810 recipients, the seller shall collect the tax according to the
 1811 delivery information provided by the purchaser. In the absence
 1812 of bad faith, the seller is relieved of any further obligation
 1813 to collect tax on any transaction for which the seller has
 1814 collected tax pursuant to the delivery information provided by
 1815 the purchaser.

1816 3. If the purchaser of direct mail does not have a direct-
 1817 pay permit and does not provide the seller with a direct-mail
 1818 form or delivery information as required by subparagraph 1., the
 1819 seller shall collect the tax according to subparagraph (17) (d)5.
 1820 This paragraph does not limit a purchaser's obligation to remit

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1821 sales or use tax to any state to which the direct mail is
1822 delivered.

1823 4. If a purchaser of direct mail provides the seller with
1824 documentation of direct-pay authority, the purchaser is not
1825 required to provide a direct-mail form or delivery information
1826 to the seller. A purchaser of printed materials shall have sole
1827 responsibility for the taxes imposed by this chapter on those
1828 materials when the printer of the materials delivers them to the
1829 United States Postal Service for mailing to persons other than
1830 the purchaser located within and outside this state. Printers of
1831 materials delivered by mail to persons other than the purchaser
1832 located within and outside this state shall have no obligation
1833 or responsibility for the payment or collection of any taxes
1834 imposed under this chapter on those materials. However, printers
1835 are obligated to collect the taxes imposed by this chapter on
1836 printed materials when all, or substantially all, of the
1837 materials will be mailed to persons located within this state.
1838 For purposes of the printer's tax collection obligation, there
1839 is a rebuttable presumption that all materials printed at a
1840 facility are mailed to persons located within the same state as
1841 that in which the facility is located. A certificate provided by
1842 the purchaser to the printer concerning the delivery of the
1843 printed materials for that purchase or all purchases shall be
1844 sufficient for purposes of rebutting the presumption created
1845 herein.

1846 5.2. The Department of Revenue is authorized to adopt
1847 rules and forms to implement the provisions of this paragraph.

1848 (5) (a) 1. ~~Except as provided in subparagraph 2., It is not~~

1849 ~~the intention of~~ This chapter does not ~~to~~ levy a tax upon
 1850 tangible personal property imported, produced, or manufactured
 1851 in this state for export:

1852 1. If, ~~provided that tangible personal property may not be~~
 1853 ~~considered as being imported, produced, or manufactured for~~
 1854 ~~export unless~~ the importer, producer, or manufacturer:

1855 a. Delivers the tangible personal property ~~same~~ to a
 1856 licensed exporter for exporting or to a common carrier for
 1857 shipment outside the state or mails the same by United States
 1858 mail to a destination outside the state; ~~or, in the case of~~
 1859 ~~aircraft being exported under their own power to a destination~~
 1860 ~~outside the continental limits of the United States, by~~
 1861 ~~submission~~

1862 b. Submits to the department ~~of~~ a duly signed and
 1863 validated United States customs declaration, ~~showing the~~
 1864 departure of an ~~the~~ aircraft from the continental United States
 1865 ~~and;~~ ~~and further with respect to aircraft,~~ the canceled United
 1866 States registry of the said aircraft for an aircraft that is
 1867 exported under its own power to a destination outside of the
 1868 continental United States; ~~or in the case of~~

1869 c. Submits documentation as required by rule to the
 1870 department showing the departure of an aircraft of foreign
 1871 registry from the continental United States on which parts and
 1872 equipment have been installed ~~on aircraft of foreign registry,~~
 1873 ~~by submission to the department of documentation, the extent of~~
 1874 ~~which shall be provided by rule, showing the departure of the~~
 1875 ~~aircraft from the continental United States; or~~ nor is it the
 1876 ~~intention of this chapter to levy a tax on any sale which~~

1877 2. If the state is prohibited from taxing the sale under
 1878 the Constitution or laws of the United States.

1879
 1880 Every retail sale made to a person physically present at the
 1881 time of sale shall be presumed to have been delivered in this
 1882 state.

1883 ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~
 1884 ~~each sale of tangible personal property to be transported to a~~
 1885 ~~cooperating state as defined in sub-subparagraph c., at the rate~~
 1886 ~~specified in sub-subparagraph d. However, a Florida dealer will~~
 1887 ~~be relieved from the requirements of collecting taxes pursuant~~
 1888 ~~to this subparagraph if the Florida dealer obtains from the~~
 1889 ~~purchaser an affidavit setting forth the purchaser's name,~~
 1890 ~~address, state taxpayer identification number, and a statement~~
 1891 ~~that the purchaser is aware of his or her state's use tax laws,~~
 1892 ~~is a registered dealer in Florida or another state, or is~~
 1893 ~~purchasing the tangible personal property for resale or is~~
 1894 ~~otherwise not required to pay the tax on the transaction. The~~
 1895 ~~department may, by rule, provide a form to be used for the~~
 1896 ~~purposes set forth herein.~~

1897 ~~b. For purposes of this subparagraph, "a cooperating~~
 1898 ~~state" is one determined by the executive director of the~~
 1899 ~~department to cooperate satisfactorily with this state in~~
 1900 ~~collecting taxes on mail order sales. No state shall be so~~
 1901 ~~determined unless it meets all the following minimum~~
 1902 ~~requirements:~~

1903 ~~(I) It levies and collects taxes on mail order sales of~~
 1904 ~~property transported from that state to persons in this state,~~

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1905 ~~as described in s. 212.0596, upon request of the department.~~

1906 ~~(II) The tax so collected shall be at the rate specified~~
 1907 ~~in s. 212.05, not including any local option or tourist or~~
 1908 ~~convention development taxes collected pursuant to s. 125.0104~~
 1909 ~~or this chapter.~~

1910 ~~(III) Such state agrees to remit to the department all~~
 1911 ~~taxes so collected no later than 30 days from the last day of~~
 1912 ~~the calendar quarter following their collection.~~

1913 ~~(IV) Such state authorizes the department to audit dealers~~
 1914 ~~within its jurisdiction who make mail order sales that are the~~
 1915 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~
 1916 ~~the department for auditing them with its own personnel.~~

1917 ~~(V) Such state agrees to provide to the department records~~
 1918 ~~obtained by it from retailers or dealers in such state showing~~
 1919 ~~delivery of tangible personal property into this state upon~~
 1920 ~~which no sales or use tax has been paid in a manner similar to~~
 1921 ~~that provided in sub-subparagraph g.~~

1922 ~~e. For purposes of this subparagraph, "sales of tangible~~
 1923 ~~personal property to be transported to a cooperating state"~~
 1924 ~~means mail order sales to a person who is in the cooperating~~
 1925 ~~state at the time the order is executed, from a dealer who~~
 1926 ~~receives that order in this state.~~

1927 ~~d. The tax levied by sub-subparagraph a. shall be at the~~
 1928 ~~rate at which such a sale would have been taxed pursuant to the~~
 1929 ~~cooperating state's tax laws if consummated in the cooperating~~
 1930 ~~state by a dealer and a purchaser, both of whom were physically~~
 1931 ~~present in that state at the time of the sale.~~

1932 ~~e. The tax levied by sub-subparagraph a., when collected,~~

1933 ~~shall be held in the State Treasury in trust for the benefit of~~
 1934 ~~the cooperating state and shall be paid to it at a time agreed~~
 1935 ~~upon between the department, acting for this state, and the~~
 1936 ~~cooperating state or the department or agency designated by it~~
 1937 ~~to act for it; however, such payment shall in no event be made~~
 1938 ~~later than 30 days from the last day of the calendar quarter~~
 1939 ~~after the tax was collected. Funds held in trust for the benefit~~
 1940 ~~of a cooperating state shall not be subject to the service~~
 1941 ~~charges imposed by s. 215.20.~~

1942 ~~f. The department is authorized to perform such acts and~~
 1943 ~~to provide such cooperation to a cooperating state with~~
 1944 ~~reference to the tax levied by sub-subparagraph a. as is~~
 1945 ~~required of the cooperating state by sub-subparagraph b.~~

1946 ~~g. In furtherance of this act, dealers selling tangible~~
 1947 ~~personal property for delivery in another state shall make~~
 1948 ~~available to the department, upon request of the department,~~
 1949 ~~records of all tangible personal property so sold. Such records~~
 1950 ~~shall include a description of the property, the name and~~
 1951 ~~address of the purchaser, the name and address of the person to~~
 1952 ~~whom the property was sent, the purchase price of the property,~~
 1953 ~~information regarding whether sales tax was paid in this state~~
 1954 ~~on the purchase price, and such other information as the~~
 1955 ~~department may by rule prescribe.~~

1956 ~~(b)1. Notwithstanding the provisions of paragraph (a), it~~
 1957 ~~is not the intention of this chapter to levy a tax on the sale~~
 1958 ~~of tangible personal property to a nonresident dealer who does~~
 1959 ~~not hold a Florida sales tax registration, provided such~~
 1960 ~~nonresident dealer furnishes the seller a statement declaring~~

1961 that the tangible personal property will be transported outside
 1962 this state by the nonresident dealer for resale and for no other
 1963 purpose. The statement shall include, but not be limited to, the
 1964 nonresident dealer's name, address, applicable passport or visa
 1965 number, arrival-departure card number, and evidence of authority
 1966 to do business in the nonresident dealer's home state or
 1967 country, such as his or her business name and address,
 1968 occupational license number, if applicable, or any other
 1969 suitable requirement. The statement shall be signed by the
 1970 nonresident dealer and shall include the following sentence:
 1971 "Under penalties of perjury, I declare that I have read the
 1972 foregoing, and the facts alleged are true to the best of my
 1973 knowledge and belief."

1974 2. The burden of proof of subparagraph 1. rests with the
 1975 seller, who must retain the proper documentation to support the
 1976 exempt sale. The exempt transaction is subject to verification
 1977 by the department.

1978 (c) Notwithstanding the provisions of paragraph (a), it is
 1979 not the intention of this chapter to levy a tax on the sale by a
 1980 printer to a nonresident print purchaser of material printed by
 1981 that printer for that nonresident print purchaser when the print
 1982 purchaser does not furnish the printer a resale certificate
 1983 containing a sales tax registration number but does furnish to
 1984 the printer a statement declaring that such material will be
 1985 resold by the nonresident print purchaser.

1986 (17) This subsection shall be used to determine the
 1987 location where a transaction occurs for purposes of applying the
 1988 tax imposed by this chapter.

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1989 (a) For purposes of this subsection, the terms "receive"
 1990 and "receipt" mean:

- 1991 1. Taking possession of tangible personal property;
- 1992 2. Making first use of services; or
- 1993 3. Taking possession or making first use of digital goods,
 1994 whichever occurs first.

1995
 1996 The terms do not include possession by a shipping company on
 1997 behalf of the purchaser.

1998 (b) For purposes of this subsection, the term "product"
 1999 means tangible personal property, a digital good, or a service.

2000 (c) This section does not apply to sales or use taxes
 2001 levied on:

- 2002 1. The retail sale or transfer of a boat, modular home,
 2003 manufactured home, or mobile home.
- 2004 2. The retail sale, excluding a lease or rental, of a
 2005 motor vehicle or aircraft that does not qualify as
 2006 transportation equipment, as defined in paragraph (g). The lease
 2007 or rental of these items shall be deemed to have occurred in
 2008 accordance with paragraph (f).

- 2009 3. The retail sale of tangible personal property by a
 2010 florist.

2011
 2012 Such retail sales are deemed to take place at the location
 2013 determined under s. 212.054(4).

2014 (d) The retail sale of a product, excluding a lease or
 2015 rental, shall be deemed to take place:

- 2016 1. When the product is received by the purchaser at a

2017 business location of the seller, at that business location;

2018 2. When the product is not received by the purchaser at a
 2019 business location of the seller, at the location of receipt by
 2020 the purchaser, or the purchaser's donee, designated as such by
 2021 the purchaser, including the location indicated by instructions
 2022 for delivery to the purchaser or donee, known to the seller;

2023 3. When subparagraphs 1. and 2. do not apply, at the
 2024 location indicated by an address for the purchaser which is
 2025 available from the business records of the seller which are
 2026 maintained in the ordinary course of the seller's business, if
 2027 use of this address does not constitute bad faith;

2028 4. When subparagraphs 1., 2., and 3. do not apply, at the
 2029 location indicated by an address for the purchaser obtained
 2030 during the consummation of the sale, including the address of a
 2031 purchaser's payment instrument, if no other address is
 2032 available, if use of this address does not constitute bad faith;
 2033 or

2034 5. When subparagraphs 1., 2., 3., and 4. do not apply,
 2035 including when the seller is without sufficient information to
 2036 apply the previous subparagraphs, at the address from which
 2037 tangible personal property was shipped, from which the digital
 2038 good or the computer software delivered electronically was first
 2039 available for transmission by the seller, or from which the
 2040 service was provided, disregarding any location that merely
 2041 provided the digital transfer of the product sold.

2042 (e) The lease or rental of tangible personal property,
 2043 other than property identified in paragraphs (f) and (g), shall
 2044 be deemed to have occurred as follows:

2045 1. For a lease or rental that requires recurring periodic
 2046 payments, the first periodic payment is deemed to take place in
 2047 accordance with paragraph (d), notwithstanding the exclusion of
 2048 lease or rental in paragraph (d). Subsequent periodic payments
 2049 are deemed to have occurred at the primary property location for
 2050 each period covered by the payment. The primary property
 2051 location is determined by an address for the property provided
 2052 by the lessee which is available to the lessor from its records
 2053 maintained in the ordinary course of business, if use of this
 2054 address does not constitute bad faith. The property location is
 2055 not altered by intermittent use of the property at different
 2056 locations, such as use of business property that accompanies
 2057 employees on business trips and service calls.

2058 2. For a lease or rental that does not require recurring
 2059 periodic payments, the payment is deemed to take place in
 2060 accordance with paragraph (d), notwithstanding the exclusion of
 2061 a lease or rental in paragraph (d).

2062 3. This paragraph does not affect the imposition or
 2063 computation of sales or use tax on leases or rentals based on a
 2064 lump sum or accelerated basis or on the acquisition of property
 2065 for lease.

2066 (f) The lease or rental of a motor vehicle or aircraft
 2067 that does not qualify as transportation equipment, as defined in
 2068 paragraph (g), shall be sourced as follows:

2069 1. For a lease or rental that requires recurring periodic
 2070 payments, each periodic payment is deemed to take place at the
 2071 primary property location. The primary property location shall
 2072 be determined by an address for the property provided by the

2073 lessee which is available to the lessor from its records
 2074 maintained in the ordinary course of business, if use of this
 2075 address does not constitute bad faith. This location may not be
 2076 altered by intermittent use at different locations.

2077 2. For a lease or rental that does not require recurring
 2078 periodic payments, the payment is deemed to take place in
 2079 accordance with paragraph (d), notwithstanding the exclusion of
 2080 a lease or rental in paragraph (d).

2081 3. This paragraph does not affect the imposition or
 2082 computation of sales or use tax on leases or rentals based on a
 2083 lump sum or accelerated basis or on the acquisition of property
 2084 for lease.

2085 (g) The retail sale, including a lease or rental, of
 2086 transportation equipment shall be deemed to take place in
 2087 accordance with paragraph (d), notwithstanding the exclusion of
 2088 a lease or rental in paragraph (d). The term "transportation
 2089 equipment" means:

2090 1. Locomotives and rail cars that are used for the
 2091 carriage of persons or property in interstate commerce;

2092 2. Trucks and truck tractors with a gross vehicle weight
 2093 rating (GVWR) of 10,001 pounds or greater, trailers,
 2094 semitrailers, or passenger buses that are registered through the
 2095 International Registration Plan and operated under authority of
 2096 a carrier authorized and certificated by the United States
 2097 Department of Transportation or another federal authority to
 2098 engage in the carriage of persons or property in interstate
 2099 commerce;

2100 3. Aircraft that are operated by air carriers authorized

2101 and certificated by the United States Department of
 2102 Transportation or another federal or a foreign authority to
 2103 engage in the carriage of persons or property in interstate or
 2104 foreign commerce; or

2105 4. Containers designed for use on and component parts
 2106 attached or secured on the items set forth in subparagraphs 1.-
 2107 3.

2108 Section 9. Paragraph (c) of subsection (1) of section
 2109 212.07, Florida Statutes, is amended, and subsection (10) is
 2110 added that section, to read:

2111 212.07 Sales, storage, use tax; tax added to purchase
 2112 price; dealer not to absorb; liability of purchasers who cannot
 2113 prove payment of the tax; penalties; general exemptions.-

2114 (1)

2115 (c) Unless the purchaser of tangible personal property
 2116 that is incorporated into tangible personal property
 2117 manufactured, produced, compounded, processed, or fabricated for
 2118 one's own use and subject to the tax imposed under s.
 2119 212.06(1) (b) or is purchased for export under s. 212.06(5) (a) ~~1-~~
 2120 extends a certificate in compliance with the rules of the
 2121 department, the dealer shall himself or herself be liable for
 2122 and pay the tax.

2123 (10) (a) The executive director is authorized to maintain
 2124 and publish a taxability matrix in a downloadable format that
 2125 has been approved by the governing board of the Streamlined
 2126 Sales and Use Tax Agreement.

2127 (b) The state shall provide notice of changes to the
 2128 taxability of the products or services listed in the taxability

2129 matrix.

2130 (c) A seller or certified service provider who collects
 2131 and remits the state and local tax imposed by this chapter shall
 2132 be held harmless from tax, interest, and penalties for having
 2133 charged and collected the incorrect amount of sales or use tax
 2134 due solely as a result of relying on erroneous data provided by
 2135 the state in the taxability matrix.

2136 (d) A purchaser shall be held harmless from penalties for
 2137 having failed to pay the correct amount of sales or use tax due
 2138 solely as a result of any of the following circumstances:

2139 1. The seller or certified service provider relied on
 2140 erroneous data provided by the state in the taxability matrix
 2141 completed by the state;

2142 2. A purchaser relied on erroneous data provided by the
 2143 state in the taxability matrix completed by the state; or

2144 3. A purchaser holding a direct-pay permit relied on
 2145 erroneous data provided by the state in the taxability matrix
 2146 completed by the state.

2147 (e) A purchaser shall be held harmless from tax and
 2148 interest for having failed to pay the correct amount of sales or
 2149 use tax due solely as a result of the state's erroneous
 2150 classification in the taxability matrix of terms included in the
 2151 library of definitions as "taxable" or "exempt," "included in
 2152 sales price" or "excluded from sales price," or "included in the
 2153 definition" or "excluded from the definition."

2154 Section 10. Subsections (1) and (2) and paragraphs (b) and
 2155 (c) of subsection (17) of section 212.08, Florida Statutes, are
 2156 amended to read:

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2157 212.08 Sales, rental, use, consumption, distribution, and
 2158 storage tax; specified exemptions.—The sale at retail, the
 2159 rental, the use, the consumption, the distribution, and the
 2160 storage to be used or consumed in this state of the following
 2161 are hereby specifically exempt from the tax imposed by this
 2162 chapter.

2163 (1) EXEMPTIONS; GENERAL GROCERIES.—

2164 (a) Food and food ingredients products for human
 2165 consumption are exempt from the tax imposed by this chapter.

2166 (b) For the purpose of this chapter, as used in this
 2167 subsection, the term "food and food ingredients products" means
 2168 substances, whether in liquid, concentrated, solid, frozen,
 2169 dried, or dehydrated form, which are sold for ingestion or
 2170 chewing by humans and are consumed for their taste or
 2171 nutritional value ~~edible commodities, whether processed, cooked,~~
 2172 ~~raw, canned, or in any other form, which are generally regarded~~
 2173 ~~as food.~~ This includes, but is not limited to, all of the
 2174 following:

2175 1. ~~Cereals and cereal products, baked goods,~~
 2176 ~~oleomargarine, meat and meat products, fish and seafood~~
 2177 ~~products, frozen foods and dinners, poultry, eggs and egg~~
 2178 ~~products, vegetables and vegetable products, fruit and fruit~~
 2179 ~~products, spices, salt, sugar and sugar products, milk and dairy~~
 2180 ~~products, and products intended to be mixed with milk.~~

2181 2. ~~Natural fruit or vegetable juices or their concentrates~~
 2182 ~~or reconstituted natural concentrated fruit or vegetable juices,~~
 2183 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
 2184 ~~sweetened or unsweetened, seasoned with salt or spice, or~~

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2185 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~
 2186 ~~unless it is sold in a liquid form.~~

2187 1.3. Bakery products sold by bakeries, pastry shops, or
 2188 like establishments, if sold without eating utensils. For
 2189 purposes of this subparagraph, bakery products include bread,
 2190 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,
 2191 danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and
 2192 tortillas that do not have eating facilities.

2193 2. Dietary supplements. The term "dietary supplements"
 2194 means any product, other than tobacco, intended to supplement
 2195 the diet which contains one or more of the following dietary
 2196 ingredients: a vitamin; a mineral; an herb or other botanical;
 2197 an amino acid; a dietary substance for use by humans to
 2198 supplement the diet by increasing the total dietary intake; or a
 2199 concentrate, metabolite, constituent, extract, or combination of
 2200 any ingredient described in this subparagraph which is intended
 2201 for ingestion in tablet, capsule, powder, softgel, gelcap, or
 2202 liquid form or, if not intended for ingestion in such a form, is
 2203 not represented as conventional food and is not represented for
 2204 use as a sole item of a meal or of the diet, and which is
 2205 required to be labeled as a dietary supplement, identifiable by
 2206 the supplemental facts panel found on the label and as required
 2207 pursuant to 21 C.F.R. s. 101.36.

2208 (c) The exemption provided by this subsection does not
 2209 apply to:

2210 ~~1. Food products sold as meals for consumption on or off~~
 2211 ~~the premises of the dealer.~~

2212 ~~2. Food products furnished, prepared, or served for~~

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2213 ~~consumption at tables, chairs, or counters or from trays,~~
 2214 ~~glasses, dishes, or other tableware, whether provided by the~~
 2215 ~~dealer or by a person with whom the dealer contracts to furnish,~~
 2216 ~~prepare, or serve food products to others.~~

2217 ~~3. Food products ordinarily sold for immediate consumption~~
 2218 ~~on the seller's premises or near a location at which parking~~
 2219 ~~facilities are provided primarily for the use of patrons in~~
 2220 ~~consuming the products purchased at the location, even though~~
 2221 ~~such products are sold on a "take out" or "to go" order and are~~
 2222 ~~actually packaged or wrapped and taken from the premises of the~~
 2223 ~~dealer.~~

2224 ~~4. Sandwiches sold ready for immediate consumption on or~~
 2225 ~~off the seller's premises.~~

2226 ~~5. Food products sold ready for immediate consumption~~
 2227 ~~within a place, the entrance to which is subject to an admission~~
 2228 ~~charge.~~

2229 ~~1.6.~~ To food and food ingredients sold as prepared food.

2230 The term "prepared food" means:

2231 a. Food sold in a heated state or heated by the seller;

2232 b. Two or more food ingredients mixed or combined by the
 2233 seller for sale as a single item; or

2234 c. Food sold with eating utensils provided by the seller,
 2235 including plates, knives, forks, spoons, glasses, cups, napkins,
 2236 or straws. A plate does not include a container or packaging
 2237 used to transport food.

2238

2239 Prepared food does not include food that is only cut,

2240 repackaged, or pasteurized by the seller, eggs, fish, meat,

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2241 poultry, and foods containing these raw animal foods requiring
 2242 cooking by the consumer as recommended by the Food and Drug
 2243 Administration in chapter 3, part 4011 of its food code so as to
 2244 prevent food-borne illness. ~~Food products sold as hot prepared~~
 2245 ~~food products.~~

2246 2.7. ~~Soft drinks, including, but not limited to, any~~
 2247 ~~nonalcoholic beverage, any preparation or beverage commonly~~
 2248 ~~referred to as a "soft drink," or any noncarbonated drink made~~
 2249 ~~from milk derivatives or tea, if sold in cans or similar~~
 2250 ~~containers.~~ The term "soft drinks" means nonalcoholic beverages
 2251 that contain natural or artificial sweeteners. Soft drinks do
 2252 not include beverages that contain milk or milk products, soy,
 2253 rice, or similar milk substitutes, or greater than 50 percent of
 2254 vegetable or fruit juice by volume.

2255 ~~8.~~ ~~Ice cream, frozen yogurt, and similar frozen dairy or~~
 2256 ~~nondairy products in cones, small cups, or pints, popsicles,~~
 2257 ~~frozen fruit bars, or other novelty items, whether or not sold~~
 2258 ~~separately.~~

2259 ~~9.~~ ~~Food that is prepared, whether on or off the premises,~~
 2260 ~~and sold for immediate consumption. This does not apply to food~~
 2261 ~~prepared off the premises and sold in the original sealed~~
 2262 ~~container, or the slicing of products into smaller portions.~~

2263 ~~3.10.~~ Food and food ingredients ~~products~~ sold through a
 2264 vending machine, ~~pushcart, motor vehicle, or any other form of~~
 2265 ~~vehicle.~~

2266 ~~4.11.~~ Candy and any similar product regarded as candy or
 2267 confection, ~~based on its normal use, as indicated on the label~~
 2268 ~~or advertising thereof.~~ The term "candy" means a preparation of

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2269 sugar, honey, or other natural or artificial sweeteners in
 2270 combination with chocolate, fruits, nuts, or other ingredients
 2271 or flavorings in the form of bars, drops, or pieces. Candy does
 2272 not include any preparation that contains flour and does not
 2273 require refrigeration.

2274 5. To tobacco.

2275 ~~12. Bakery products sold by bakeries, pastry shops, or~~
 2276 ~~like establishments having eating facilities, except when sold~~
 2277 ~~for consumption off the seller's premises.~~

2278 ~~13. Food products served, prepared, or sold in or by~~
 2279 ~~restaurants, lunch counters, cafeterias, hotels, taverns, or~~
 2280 ~~other like places of business.~~

2281 ~~(d) As used in this subsection, the term:~~

2282 ~~1. "For consumption off the seller's premises" means that~~
 2283 ~~the food or drink is intended by the customer to be consumed at~~
 2284 ~~a place away from the dealer's premises.~~

2285 ~~2. "For consumption on the seller's premises" means that~~
 2286 ~~the food or drink sold may be immediately consumed on the~~
 2287 ~~premises where the dealer conducts his or her business. In~~
 2288 ~~determining whether an item of food is sold for immediate~~
 2289 ~~consumption, the customary consumption practices prevailing at~~
 2290 ~~the selling facility shall be considered.~~

2291 ~~3. "Premises" shall be construed broadly, and means, but~~
 2292 ~~is not limited to, the lobby, aisle, or auditorium of a theater;~~
 2293 ~~the seating, aisle, or parking area of an arena, rink, or~~
 2294 ~~stadium; or the parking area of a drive-in or outdoor theater.~~
 2295 ~~The premises of a caterer with respect to catered meals or~~
 2296 ~~beverages shall be the place where such meals or beverages are~~

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2297 served.

2298 4. ~~"Hot prepared food products" means those products,~~
2299 ~~items, or components which have been prepared for sale in a~~
2300 ~~heated condition and which are sold at any temperature that is~~
2301 ~~higher than the air temperature of the room or place where they~~
2302 ~~are sold. "Hot prepared food products," for the purposes of this~~
2303 ~~subsection, includes a combination of hot and cold food items or~~
2304 ~~components where a single price has been established for the~~
2305 ~~combination and the food products are sold in such combination,~~
2306 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~
2307 ~~sandwich or hot pizza, including cold components or side items.~~

2308 (d)~~(e)~~1. Food or drinks not exempt under paragraphs (a),
2309 (b), and (c), ~~and (d)~~ are exempt, notwithstanding those
2310 paragraphs, when purchased with food coupons or Special
2311 Supplemental Food Program for Women, Infants, and Children
2312 vouchers issued under authority of federal law.

2313 2. This paragraph is effective only while federal law
2314 prohibits a state's participation in the federal food coupon
2315 program or Special Supplemental Food Program for Women, Infants,
2316 and Children if there is an official determination that state or
2317 local sales taxes are collected within that state on purchases
2318 of food or drinks with such coupons.

2319 3. This paragraph does ~~shall~~ not apply to any food or
2320 drinks on which federal law permits ~~shall permit~~ sales taxes
2321 without penalty, such as termination of the state's
2322 participation.

2323 (e) Dietary supplements that are sold as prepared food are
2324 not exempt.

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2325 (2) EXEMPTIONS; MEDICAL.—
 2326 (a) There shall be exempt from the tax imposed by this
 2327 chapter:
 2328 1. Drugs.
 2329 2. Durable medical equipment, mobility-enhancing
 2330 equipment, or prosthetic devices ~~any medical products and~~
 2331 ~~supplies or medicine~~ dispensed according to an individual
 2332 prescription or prescriptions. ~~written by a prescriber~~
 2333 ~~authorized by law to prescribe medicinal drugs;~~
 2334 3. Hypodermic needles. ~~hypodermic syringes;~~
 2335 4. Chemical compounds and test kits used for the diagnosis
 2336 or treatment of human disease, illness, or injury and intended
 2337 for one-time use. ~~;~~
 2338 5. Over-the-counter drugs ~~and common household remedies~~
 2339 ~~recommended and generally sold for internal or external use in~~
 2340 ~~the cure, mitigation, treatment, or prevention of illness or~~
 2341 ~~disease in human beings, but not including grooming and hygiene~~
 2342 products.
 2343 6. Band-aids, gauze, bandages, and adhesive tape.
 2344 7. Funerals. However, tangible personal property used by
 2345 funeral directors in their business is taxable. ~~cosmetics or~~
 2346 ~~toilet articles, notwithstanding the presence of medicinal~~
 2347 ~~ingredients therein, according to a list prescribed and approved~~
 2348 ~~by the Department of Health, which list shall be certified to~~
 2349 ~~the Department of Revenue from time to time and included in the~~
 2350 ~~rules promulgated by the Department of Revenue. There shall also~~
 2351 ~~be exempt from the tax imposed by this chapter artificial eyes~~
 2352 ~~and limbs; orthopedic shoes; prescription eyeglasses and items~~

2353 ~~incidental thereto or which become a part thereof; dentures;~~
 2354 ~~hearing aids; crutches; prosthetic and orthopedic appliances;~~
 2355 ~~and funerals. In addition, any~~

2356 8. Items intended for one-time use which transfer
 2357 essential optical characteristics to contact lenses. ~~shall be~~
 2358 ~~exempt from the tax imposed by this chapter;~~ However, this
 2359 exemption applies ~~shall apply only~~ after \$100,000 of the tax
 2360 imposed by this chapter on such items has been paid in any
 2361 calendar year by a taxpayer who claims the exemption in such
 2362 year. ~~Funeral directors shall pay tax on all tangible personal~~
 2363 ~~property used by them in their business.~~

2364 (b) For the purposes of this subsection, the term:

2365 1. "Drug" means a compound, substance, or preparation, and
 2366 any component of a compound, substance, or preparation, other
 2367 than food and food ingredients, dietary supplements, and
 2368 alcoholic beverages, which is:

2369 a. Recognized in the official United States Pharmacopoeia,
 2370 official Homeopathic Pharmacopoeia of the United States, or
 2371 official National Formulary, or the supplement to any of them;

2372 b. Intended for use in the diagnosis, cure, mitigation,
 2373 treatment, or prevention of disease; or

2374 c. Intended to affect the structure or any function of the
 2375 body.

2376 2. "Durable medical equipment" means equipment, including
 2377 repair and replacement parts to such equipment, but excluding
 2378 mobility-enhancing equipment, which can withstand repeated use,
 2379 is primarily and customarily used to serve a medical purpose,
 2380 generally is not useful to a person in the absence of illness or

2381 injury, and is not worn on or in the body.

2382 3. "Mobility-enhancing equipment" means equipment,

2383 including repair and replacement parts to such equipment, but

2384 excluding durable medical equipment, which:

2385 a. Is primarily and customarily used to provide or

2386 increase the ability to move from one place to another and which

2387 is appropriate for use in a home or a motor vehicle.

2388 b. Is not generally used by persons with normal mobility.

2389 c. Does not include any motor vehicle or any equipment on

2390 a motor vehicle normally provided by a motor vehicle

2391 manufacturer.

2392 4. "Prosthetic device" means a replacement, corrective, or

2393 supportive device, including repair or replacement parts to such

2394 equipment, which is worn on or in the body to:

2395 a. Artificially replace a missing portion of the body;

2396 b. Prevent or correct physical deformity or malfunction;

2397 or

2398 c. Support a weak or deformed portion of the body.

2399 5. "Grooming and hygiene products" mean soaps and cleaning

2400 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and

2401 suntan lotions and screens, regardless of whether the items meet

2402 the definition of an over-the-counter drug.

2403 6. "Over-the-counter drug" means a drug the packaging for

2404 which contains a label that identifies the product as a drug as

2405 required by 21 C.F.R. s. 201.66. The over-the-counter drug label

2406 includes a drug-facts panel or a statement of the active

2407 ingredients, with a list of those ingredients contained in the

2408 compound, substance, or preparation. ~~"Prosthetic and orthopedic~~

2409 ~~appliances" means any apparatus, instrument, device, or~~
 2410 ~~equipment used to replace or substitute for any missing part of~~
 2411 ~~the body, to alleviate the malfunction of any part of the body,~~
 2412 ~~or to assist any disabled person in leading a normal life by~~
 2413 ~~facilitating such person's mobility. Such apparatus, instrument,~~
 2414 ~~device, or equipment shall be exempted according to an~~
 2415 ~~individual prescription or prescriptions written by a physician~~
 2416 ~~licensed under chapter 458, chapter 459, chapter 460, chapter~~
 2417 ~~461, or chapter 466, or according to a list prescribed and~~
 2418 ~~approved by the Department of Health, which list shall be~~
 2419 ~~certified to the Department of Revenue from time to time and~~
 2420 ~~included in the rules promulgated by the Department of Revenue.~~

2421 ~~2. "Cosmetics" means articles intended to be rubbed,~~
 2422 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
 2423 ~~applied to the human body for cleansing, beautifying, promoting~~
 2424 ~~attractiveness, or altering the appearance and also means~~
 2425 ~~articles intended for use as a compound of any such articles,~~
 2426 ~~including, but not limited to, cold creams, suntan lotions,~~
 2427 ~~makeup, and body lotions.~~

2428 ~~3. "Toilet articles" means any article advertised or held~~
 2429 ~~out for sale for grooming purposes and those articles that are~~
 2430 ~~customarily used for grooming purposes, regardless of the name~~
 2431 ~~by which they may be known, including, but not limited to, soap,~~
 2432 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~
 2433 ~~shampoo, deodorant, and mouthwash.~~

2434 7.4. "Prescription" means an order, formula, or recipe
 2435 issued in any form of oral, written, electronic, or other means
 2436 of transmission by a practitioner licensed under chapter 458,

2437 chapter 459, chapter 460, chapter 461, or chapter 466. The term
 2438 also includes an orally transmitted order by the lawfully
 2439 designated agent of such practitioner. The term also includes an
 2440 order written or transmitted by a practitioner licensed to
 2441 practice in a jurisdiction other than this state, but only if
 2442 the pharmacist called upon to dispense the order determines, in
 2443 the exercise of his or her professional judgment, that the order
 2444 is valid and necessary for the treatment of a chronic or
 2445 recurrent illness. ~~includes any order for drugs or medicinal~~
 2446 ~~supplies written or transmitted by any means of communication by~~
 2447 ~~a duly licensed practitioner authorized by the laws of the state~~
 2448 ~~to prescribe such drugs or medicinal supplies and intended to be~~
 2449 ~~dispensed by a pharmacist. The term also includes an orally~~
 2450 ~~transmitted order by the lawfully designated agent of such~~
 2451 ~~practitioner. The term also includes an order written or~~
 2452 ~~transmitted by a practitioner licensed to practice in a~~
 2453 ~~jurisdiction other than this state, but only if the pharmacist~~
 2454 ~~called upon to dispense such order determines, in the exercise~~
 2455 ~~of his or her professional judgment, that the order is valid and~~
 2456 ~~necessary for the treatment of a chronic or recurrent illness.~~
 2457 ~~The term also includes a pharmacist's order for a product~~
 2458 ~~selected from the formulary created pursuant to s. 465.186. A~~
 2459 ~~prescription may be retained in written form, or the pharmacist~~
 2460 ~~may cause it to be recorded in a data processing system,~~
 2461 ~~provided that such order can be produced in printed form upon~~
 2462 ~~lawful request.~~

2463 (c) Chlorine is ~~shall~~ not be exempt from the tax imposed
 2464 by this chapter when used for the treatment of water in swimming

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2465 pools.

2466 ~~(d) Lithotripters are exempt.~~

2467 (d)(e) Human organs are exempt.

2468 ~~(f) Sales of drugs to or by physicians, dentists,~~

2469 ~~veterinarians, and hospitals in connection with medical~~

2470 ~~treatment are exempt.~~

2471 ~~(g) Medical products and supplies used in the cure,~~

2472 ~~mitigation, alleviation, prevention, or treatment of injury,~~

2473 ~~disease, or incapacity which are temporarily or permanently~~

2474 ~~incorporated into a patient or client by a practitioner of the~~

2475 ~~healing arts licensed in the state are exempt.~~

2476 ~~(h) The purchase by a veterinarian of commonly recognized~~

2477 ~~substances possessing curative or remedial properties which are~~

2478 ~~ordered and dispensed as treatment for a diagnosed health~~

2479 ~~disorder by or on the prescription of a duly licensed~~

2480 ~~veterinarian, and which are applied to or consumed by animals~~

2481 ~~for alleviation of pain or the cure or prevention of sickness,~~

2482 ~~disease, or suffering are exempt. Also exempt are the purchase~~

2483 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~

2484 ~~bandages, lotions, vitamins, and worm remedies.~~

2485 ~~(i) X-ray opaques, also known as opaque drugs and~~

2486 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~

2487 ~~when used in connection with medical X rays for treatment of~~

2488 ~~bodies of humans and animals, are exempt.~~

2489 (e)(j) Parts, special attachments, special lettering, and

2490 other like items that are added to or attached to tangible

2491 personal property so that a handicapped person can use them are

2492 exempt when such items are purchased by a person pursuant to an

2493 individual prescription.

2494 ~~(f) (*)~~ This subsection shall be strictly construed and
 2495 enforced.

2496 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

2497 (b) As used in this subsection, the term "overhead
 2498 materials" means all tangible personal property, other than
 2499 qualifying property as defined in s. 212.02 ~~(34)~~ ~~(14)~~ (a) and
 2500 electricity, which is used or consumed in the performance of a
 2501 qualifying contract, title to which property vests in or passes
 2502 to the government under the contract.

2503 (c) As used in this subsection and in s.
 2504 212.02 ~~(34)~~ ~~(14)~~ (a), the term "qualifying contract" means a
 2505 contract with the United States Department of Defense or the
 2506 National Aeronautics and Space Administration, or a subcontract
 2507 thereunder, but does not include a contract or subcontract for
 2508 the repair, alteration, improvement, or construction of real
 2509 property, except to the extent that purchases under such a
 2510 contract would otherwise be exempt from the tax imposed by this
 2511 chapter.

2512 Section 11. Section 212.094, Florida Statutes, is created
 2513 to read:

2514 212.094 Purchaser request for refund or credit from
 2515 dealer.—

2516 (1) If a purchaser seeks from a dealer a refund of or
 2517 credit against a tax collected under this chapter by that
 2518 dealer, the purchaser shall submit a written request for the
 2519 refund or credit to the dealer in accordance with this section.
 2520 The request must contain all the information necessary for the

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2521 dealer to determine the validity of the purchaser's request.

2522 (2) The purchaser may not take any other action against
 2523 the dealer with respect to the requested refund or credit until
 2524 the dealer has had 60 days after receiving a completed request
 2525 in which to respond.

2526 (3) This section does not affect a person's standing to
 2527 claim a refund.

2528 (4) This section does not apply to refunds resulting from
 2529 merchandise returned by a customer to a dealer.

2530 Section 12. Section 212.12, Florida Statutes, is amended
 2531 to read:

2532 212.12 Dealer's credit for collecting tax; penalties for
 2533 noncompliance; powers of Department of Revenue in dealing with
 2534 delinquents; ~~brackets applicable to taxable transactions;~~
 2535 records required.—

2536 (1) Notwithstanding any other provision of law and for the
 2537 purpose of compensating persons granting licenses for and the
 2538 lessors of real and personal property taxed hereunder, for the
 2539 purpose of compensating dealers in tangible personal property,
 2540 for the purpose of compensating dealers providing communication
 2541 services and taxable services, for the purpose of compensating
 2542 owners of places where admissions are collected, and for the
 2543 purpose of compensating remitters of any taxes or fees reported
 2544 on the same documents utilized for the sales and use tax, as
 2545 compensation for the keeping of prescribed records, filing
 2546 timely tax returns, and the proper accounting and remitting of
 2547 taxes by them, such seller, person, lessor, dealer, owner, and
 2548 remitter ~~(except dealers who make mail order sales)~~ shall be

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2549 allowed 2.5 percent of the amount of the tax due and accounted
 2550 for and remitted to the department, in the form of a deduction
 2551 in submitting his or her report and paying the amount due by him
 2552 or her; the department shall allow such deduction of 2.5 percent
 2553 of the amount of the tax to the person paying the same for
 2554 remitting the tax and making of tax returns in the manner herein
 2555 provided, for paying the amount due to be paid by him or her,
 2556 and as further compensation to dealers in tangible personal
 2557 property for the keeping of prescribed records and for
 2558 collection of taxes and remitting the same. However, if the
 2559 amount of the tax due and remitted to the department for the
 2560 reporting period exceeds \$1,200, no allowance shall be allowed
 2561 for all amounts in excess of \$1,200. ~~The executive director of~~
 2562 ~~the department is authorized to negotiate a collection~~
 2563 ~~allowance, pursuant to rules promulgated by the department, with~~
 2564 ~~a dealer who makes mail order sales. The rules of the department~~
 2565 ~~shall provide guidelines for establishing the collection~~
 2566 ~~allowance based upon the dealer's estimated costs of collecting~~
 2567 ~~the tax, the volume and value of the dealer's mail order sales~~
 2568 ~~to purchasers in this state, and the administrative and legal~~
 2569 ~~costs and likelihood of achieving collection of the tax absent~~
 2570 ~~the cooperation of the dealer. However, in no event shall the~~
 2571 ~~collection allowance negotiated by the executive director exceed~~
 2572 ~~10 percent of the tax remitted for a reporting period.~~

2573 (a) The Department of Revenue may deny the collection
 2574 allowance if a taxpayer files an incomplete return or if the
 2575 required tax return or tax is delinquent at the time of payment.

2576 1. An "incomplete return" is, for purposes of this

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2577 chapter, a return which is lacking such uniformity,
2578 completeness, and arrangement that the physical handling,
2579 verification, review of the return, or determination of other
2580 taxes and fees reported on the return may not be readily
2581 accomplished.

2582 2. The department shall adopt rules requiring such
2583 information as it may deem necessary to ensure that the tax
2584 levied hereunder is properly collected, reviewed, compiled,
2585 reported, and enforced, including, but not limited to: the
2586 amount of gross sales; the amount of taxable sales; the amount
2587 of tax collected or due; the amount of lawful refunds,
2588 deductions, or credits claimed; the amount claimed as the
2589 dealer's collection allowance; the amount of penalty and
2590 interest; the amount due with the return; and such other
2591 information as the Department of Revenue may specify. The
2592 department shall require that transient rentals and agricultural
2593 equipment transactions be separately shown. Sales made through
2594 vending machines as defined in s. 212.0515 must be separately
2595 shown on the return. Sales made through coin-operated amusement
2596 machines as defined by s. 212.02 and the number of machines
2597 operated must be separately shown on the return or on a form
2598 prescribed by the department. If a separate form is required,
2599 the same penalties for late filing, incomplete filing, or
2600 failure to file as provided for the sales tax return shall apply
2601 to said form.

2602 (b) The collection allowance and other credits or
2603 deductions provided in this chapter shall be applied
2604 proportionally to any taxes or fees reported on the same

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2605 documents used for the sales and use tax.

2606 (c)1. A dealer entitled to the collection allowance
2607 provided in this section may elect to forego the collection
2608 allowance and direct that said amount be transferred into the
2609 Educational Enhancement Trust Fund. Such an election must be
2610 made with the timely filing of a return and may not be rescinded
2611 once made. If a dealer who makes such an election files a
2612 delinquent return, underpays the tax, or files an incomplete
2613 return, the amount transferred into the Educational Enhancement
2614 Trust Fund shall be the amount of the collection allowance
2615 remaining after resolution of liability for all of the tax,
2616 interest, and penalty due on that return or underpayment of tax.
2617 The Department of Education shall distribute the remaining
2618 amount from the trust fund to the school districts that have
2619 adopted resolutions stating that those funds will be used to
2620 ensure that up-to-date technology is purchased for the
2621 classrooms in the district and that teachers are trained in the
2622 use of that technology. Revenues collected in districts that do
2623 not adopt such a resolution shall be equally distributed to
2624 districts that have adopted such resolutions.

2625 2. This paragraph applies to all taxes, surtaxes, and any
2626 local option taxes administered under this chapter and remitted
2627 directly to the department. This paragraph does not apply to any
2628 locally imposed and self-administered convention development
2629 tax, tourist development tax, or tourist impact tax administered
2630 under this chapter.

2631 3. Revenues from the dealer-collection allowances shall be
2632 transferred quarterly from the General Revenue Fund to the

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2633 Educational Enhancement Trust Fund. The Department of Revenue
 2634 shall provide to the Department of Education quarterly
 2635 information about such revenues by county to which the
 2636 collection allowance was attributed.

2637
 2638 Notwithstanding any provision of chapter 120 to the contrary,
 2639 the Department of Revenue may adopt rules to carry out the
 2640 amendment made by chapter 2006-52, Laws of Florida, to this
 2641 section.

2642 (d) Notwithstanding paragraphs (a) and (b), a Model 1
 2643 seller under the Streamlined Sales and Use Tax Agreement is not
 2644 entitled to the collection allowance described in paragraphs (a)
 2645 and (b).

2646 (e)1. In addition to any collection allowance that may be
 2647 provided under this subsection, the department may provide the
 2648 monetary allowances required to be provided by the state to
 2649 certified service providers and voluntary sellers pursuant to
 2650 Article VI of the Streamlined Sales and Use Tax Agreement, as
 2651 amended.

2652 2. Such monetary allowances must be in the form of
 2653 collection allowances that certified service providers or
 2654 voluntary sellers are permitted to retain from the tax revenues
 2655 collected on remote sales to be remitted to the state pursuant
 2656 to this chapter.

2657 3. For purposes of this paragraph, the term "voluntary
 2658 seller" or "volunteer seller" means a seller that is not
 2659 required to register in this state to collect a tax. The term
 2660 "remote sales" means revenues generated by such a seller for

2661 this state for which the seller is not required to register to
 2662 collect the tax imposed by this chapter.

2663 (2) (a) When any person required hereunder to make any
 2664 return or to pay any tax or fee imposed by this chapter either
 2665 fails to timely file such return or fails to pay the tax or fee
 2666 shown due on the return within the time required hereunder, in
 2667 addition to all other penalties provided herein and by the laws
 2668 of this state in respect to such taxes or fees, a specific
 2669 penalty shall be added to the tax or fee in the amount of 10
 2670 percent of either the tax or fee shown on the return that is not
 2671 timely filed or any tax or fee not paid timely. The penalty may
 2672 not be less than \$50 for failure to timely file a tax return
 2673 required by s. 212.11(1) or timely pay the tax or fee shown due
 2674 on the return except as provided in s. 213.21(10). If a person
 2675 fails to timely file a return required by s. 212.11(1) and to
 2676 timely pay the tax or fee shown due on the return, only one
 2677 penalty of 10 percent, which may not be less than \$50, shall be
 2678 imposed.

2679 (b) When any person required under this section to make a
 2680 return or to pay a tax or fee imposed by this chapter fails to
 2681 disclose the tax or fee on the return within the time required,
 2682 excluding a noncompliant filing event generated by situations
 2683 covered in paragraph (a), in addition to all other penalties
 2684 provided in this section and by the laws of this state in
 2685 respect to such taxes or fees, a specific penalty shall be added
 2686 to the additional tax or fee owed in the amount of 10 percent of
 2687 any such unpaid tax or fee not paid timely if the failure is for
 2688 not more than 30 days, with an additional 10 percent of any such

2689 unpaid tax or fee for each additional 30 days, or fraction
 2690 thereof, while the failure continues, not to exceed a total
 2691 penalty of 50 percent, in the aggregate, of any unpaid tax or
 2692 fee.

2693 (c) Any person who knowingly and with a willful intent to
 2694 evade any tax imposed under this chapter fails to file six
 2695 consecutive returns as required by law commits a felony of the
 2696 third degree, punishable as provided in s. 775.082 or s.
 2697 775.083.

2698 (d) Any person who makes a false or fraudulent return with
 2699 a willful intent to evade payment of any tax or fee imposed
 2700 under this chapter; any person who, after the department's
 2701 delivery of a written notice to the person's last known address
 2702 specifically alerting the person of the requirement to register
 2703 the person's business as a dealer, intentionally fails to
 2704 register the business; and any person who, after the
 2705 department's delivery of a written notice to the person's last
 2706 known address specifically alerting the person of the
 2707 requirement to collect tax on specific transactions,
 2708 intentionally fails to collect such tax, shall, in addition to
 2709 the other penalties provided by law, be liable for a specific
 2710 penalty of 100 percent of any unreported or any uncollected tax
 2711 or fee and, upon conviction, for fine and punishment as provided
 2712 in s. 775.082, s. 775.083, or s. 775.084. Delivery of written
 2713 notice may be made by certified mail, or by the use of such
 2714 other method as is documented as being necessary and reasonable
 2715 under the circumstances. The civil and criminal penalties
 2716 imposed herein for failure to comply with a written notice

2717 alerting the person of the requirement to register the person's
 2718 business as a dealer or to collect tax on specific transactions
 2719 shall not apply if the person timely files a written challenge
 2720 to such notice in accordance with procedures established by the
 2721 department by rule or the notice fails to clearly advise that
 2722 failure to comply with or timely challenge the notice will
 2723 result in the imposition of the civil and criminal penalties
 2724 imposed herein.

2725 1. If the total amount of unreported or uncollected taxes
 2726 or fees is less than \$300, the first offense resulting in
 2727 conviction is a misdemeanor of the second degree, the second
 2728 offense resulting in conviction is a misdemeanor of the first
 2729 degree, and the third and all subsequent offenses resulting in
 2730 conviction is a misdemeanor of the first degree, and the third
 2731 and all subsequent offenses resulting in conviction are felonies
 2732 of the third degree.

2733 2. If the total amount of unreported or uncollected taxes
 2734 or fees is \$300 or more but less than \$20,000, the offense is a
 2735 felony of the third degree.

2736 3. If the total amount of unreported or uncollected taxes
 2737 or fees is \$20,000 or more but less than \$100,000, the offense
 2738 is a felony of the second degree.

2739 4. If the total amount of unreported or uncollected taxes
 2740 or fees is \$100,000 or more, the offense is a felony of the
 2741 first degree.

2742 (e) A person who willfully attempts in any manner to evade
 2743 any tax, surcharge, or fee imposed under this chapter or the
 2744 payment thereof is, in addition to any other penalties provided

2745 by law, liable for a specific penalty in the amount of 100
 2746 percent of the tax, surcharge, or fee, and commits a felony of
 2747 the third degree, punishable as provided in s. 775.082, s.
 2748 775.083, or s. 775.084.

2749 (f) When any person, firm, or corporation fails to timely
 2750 remit the proper estimated payment required under s. 212.11, a
 2751 specific penalty shall be added in an amount equal to 10 percent
 2752 of any unpaid estimated tax. Beginning with January 1, 1985,
 2753 returns, the department, upon a showing of reasonable cause, is
 2754 authorized to waive or compromise penalties imposed by this
 2755 paragraph. However, other penalties and interest shall be due
 2756 and payable if the return on which the estimated payment was due
 2757 was not timely or properly filed.

2758 (g) A dealer who files a consolidated return pursuant to
 2759 s. 212.11(1)(e) is subject to the penalty established in
 2760 paragraph (e) unless the dealer has paid the required estimated
 2761 tax for his or her consolidated return as a whole without regard
 2762 to each location. If the dealer fails to pay the required
 2763 estimated tax for his or her consolidated return as a whole,
 2764 each filing location shall stand on its own with respect to
 2765 calculating penalties pursuant to paragraph (f).

2766 (3) When any dealer, or other person charged herein, fails
 2767 to remit the tax, or any portion thereof, on or before the day
 2768 when such tax is required by law to be paid, there shall be
 2769 added to the amount due interest at the rate of 1 percent per
 2770 month of the amount due from the date due until paid. Interest
 2771 on the delinquent tax shall be calculated beginning on the 21st
 2772 day of the month following the month for which the tax is due,

2773 | except as otherwise provided in this chapter.

2774 | (4) All penalties and interest imposed by this chapter
 2775 | shall be payable to and collectible by the department in the
 2776 | same manner as if they were a part of the tax imposed. The
 2777 | department may settle or compromise any such interest or
 2778 | penalties pursuant to s. 213.21.

2779 | (5) (a) The department is authorized to audit or inspect
 2780 | the records and accounts of dealers defined herein, ~~including~~
 2781 | ~~audits or inspections of dealers who make mail order sales to~~
 2782 | ~~the extent permitted by another state,~~ and to correct by credit
 2783 | any overpayment of tax, and, in the event of a deficiency, an
 2784 | assessment shall be made and collected. No administrative
 2785 | finding of fact is necessary prior to the assessment of any tax
 2786 | deficiency.

2787 | (b) In the event any dealer or other person charged herein
 2788 | fails or refuses to make his or her records available for
 2789 | inspection so that no audit or examination has been made of the
 2790 | books and records of such dealer or person, fails or refuses to
 2791 | register as a dealer, fails to make a report and pay the tax as
 2792 | provided by this chapter, makes a grossly incorrect report or
 2793 | makes a report that is false or fraudulent, then, in such event,
 2794 | it shall be the duty of the department to make an assessment
 2795 | from an estimate based upon the best information then available
 2796 | to it for the taxable period of retail sales of such dealer, the
 2797 | gross proceeds from rentals, the total admissions received,
 2798 | amounts received from leases of tangible personal property by
 2799 | such dealer, or of the cost price of all articles of tangible
 2800 | personal property imported by the dealer for use or consumption

2801 or distribution or storage to be used or consumed in this state,
 2802 or of the sales or cost price of all services the sale or use of
 2803 which is taxable under this chapter, together with interest,
 2804 plus penalty, if such have accrued, as the case may be. Then the
 2805 department shall proceed to collect such taxes, interest, and
 2806 penalty on the basis of such assessment which shall be
 2807 considered prima facie correct, and the burden to show the
 2808 contrary shall rest upon the dealer, seller, owner, or lessor,
 2809 as the case may be.

2810 (6) (a) The department is given the power to prescribe the
 2811 records to be kept by all persons subject to taxes imposed by
 2812 this chapter. It shall be the duty of every person required to
 2813 make a report and pay any tax under this chapter, every person
 2814 receiving rentals or license fees, and owners of places of
 2815 admission, to keep and preserve suitable records of the sales,
 2816 leases, rentals, license fees, admissions, or purchases, as the
 2817 case may be, taxable under this chapter; such other books of
 2818 account as may be necessary to determine the amount of the tax
 2819 due hereunder; and other information as may be required by the
 2820 department. It shall be the duty of every such person so charged
 2821 with such duty, moreover, to keep and preserve as long as
 2822 required by s. 213.35 all invoices and other records of goods,
 2823 wares, and merchandise; records of admissions, leases, license
 2824 fees and rentals; and records of all other subjects of taxation
 2825 under this chapter. All such books, invoices, and other records
 2826 shall be open to examination at all reasonable hours to the
 2827 department or any of its duly authorized agents.

2828 (b) For the purpose of this subsection, if a dealer does

2829 | not have adequate records of his or her retail sales or
 2830 | purchases, the department may, upon the basis of a test or
 2831 | sampling of the dealer's available records or other information
 2832 | relating to the sales or purchases made by such dealer for a
 2833 | representative period, determine the proportion that taxable
 2834 | retail sales bear to total retail sales or the proportion that
 2835 | taxable purchases bear to total purchases. This subsection does
 2836 | not affect the duty of the dealer to collect, or the liability
 2837 | of any consumer to pay, any tax imposed by or pursuant to this
 2838 | chapter.

2839 | (c)1. If the records of a dealer are adequate but
 2840 | voluminous in nature and substance, the department may sample
 2841 | such records and project the audit findings derived therefrom
 2842 | over the entire audit period to determine the proportion that
 2843 | taxable retail sales bear to total retail sales or the
 2844 | proportion that taxable purchases bear to total purchases. In
 2845 | order to conduct such a sample, the department must first make a
 2846 | good faith effort to reach an agreement with the dealer, which
 2847 | agreement provides for the means and methods to be used in the
 2848 | sampling process. In the event that no agreement is reached, the
 2849 | dealer is entitled to a review by the executive director. In the
 2850 | case of fixed assets, a dealer may agree in writing with the
 2851 | department for adequate but voluminous records to be
 2852 | statistically sampled. Such an agreement shall provide for the
 2853 | methodology to be used in the statistical sampling process. The
 2854 | audit findings derived therefrom shall be projected over the
 2855 | period represented by the sample in order to determine the
 2856 | proportion that taxable purchases bear to total purchases. Once

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2857 an agreement has been signed, it is final and conclusive with
2858 respect to the method of sampling fixed assets, and the
2859 department may not conduct a detailed audit of fixed assets, and
2860 the taxpayer may not request a detailed audit after the
2861 agreement is reached.

2862 2. For the purposes of sampling pursuant to subparagraph
2863 1., the department shall project any deficiencies and
2864 overpayments derived therefrom over the entire audit period. In
2865 determining the dealer's compliance, the department shall reduce
2866 any tax deficiency as derived from the sample by the amount of
2867 any overpayment derived from the sample. In the event the
2868 department determines from the sample results that the dealer
2869 has a net tax overpayment, the department shall provide the
2870 findings of this overpayment to the Chief Financial Officer for
2871 repayment of funds paid into the State Treasury through error
2872 pursuant to s. 215.26.

2873 3.a. A taxpayer is entitled, both in connection with an
2874 audit and in connection with an application for refund filed
2875 independently of any audit, to establish the amount of any
2876 refund or deficiency through statistical sampling when the
2877 taxpayer's records are adequate but voluminous. In the case of
2878 fixed assets, a dealer may agree in writing with the department
2879 for adequate but voluminous records to be statistically sampled.
2880 Such an agreement shall provide for the methodology to be used
2881 in the statistical sampling process. The audit findings derived
2882 therefrom shall be projected over the period represented by the
2883 sample in order to determine the proportion that taxable
2884 purchases bear to total purchases. Once an agreement has been

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2885 signed, it is final and conclusive with respect to the method of
 2886 sampling fixed assets, and the department may not conduct a
 2887 detailed audit of fixed assets, and the taxpayer may not request
 2888 a detailed audit after the agreement is reached.

2889 b. Alternatively, a taxpayer is entitled to establish any
 2890 refund or deficiency through any other sampling method agreed
 2891 upon by the taxpayer and the department when the taxpayer's
 2892 records, other than those regarding fixed assets, are adequate
 2893 but voluminous. Whether done through statistical sampling or any
 2894 other sampling method agreed upon by the taxpayer and the
 2895 department, the completed sample must reflect both overpayments
 2896 and underpayments of taxes due. The sample shall be conducted
 2897 through:

2898 (I) A taxpayer request to perform the sampling through the
 2899 certified audit program pursuant to s. 213.285;

2900 (II) Attestation by a certified public accountant as to
 2901 the adequacy of the sampling method utilized and the results
 2902 reached using such sampling method; or

2903 (III) A sampling method that has been submitted by the
 2904 taxpayer and approved by the department before a refund claim is
 2905 submitted. This sub-sub-subparagraph does not prohibit a
 2906 taxpayer from filing a refund claim prior to approval by the
 2907 department of the sampling method; however, a refund claim
 2908 submitted before the sampling method has been approved by the
 2909 department cannot be a complete refund application pursuant to
 2910 s. 213.255 until the sampling method has been approved by the
 2911 department.

2912 c. The department shall prescribe by rule the procedures

2913 to be followed under each method of sampling. Such procedures
 2914 shall follow generally accepted auditing procedures for
 2915 sampling. The rule shall also set forth other criteria regarding
 2916 the use of sampling, including, but not limited to, training
 2917 requirements that must be met before a sampling method may be
 2918 utilized and the steps necessary for the department and the
 2919 taxpayer to reach agreement on a sampling method submitted by
 2920 the taxpayer for approval by the department.

2921 (7) In the event the dealer has imported tangible personal
 2922 property and he or she fails to produce an invoice showing the
 2923 cost price of the articles, as defined in this chapter, which
 2924 are subject to tax, or the invoice does not reflect the true or
 2925 actual cost price as defined herein, then the department shall
 2926 ascertain, in any manner feasible, the true cost price, and
 2927 assess and collect the tax thereon with interest plus penalties,
 2928 if such have accrued on the true cost price as assessed by it.
 2929 The assessment so made shall be considered prima facie correct,
 2930 and the duty shall be on the dealer to show to the contrary.

2931 (8) In the case of the lease or rental of tangible
 2932 personal property, or other rentals or license fees as herein
 2933 defined and taxed, if the consideration given or reported by the
 2934 lessor, person receiving rental or license fee, or dealer does
 2935 not, in the judgment of the department, represent the true or
 2936 actual consideration, then the department is authorized to
 2937 ascertain the same and assess and collect the tax thereon in the
 2938 same manner as above provided, with respect to imported tangible
 2939 property, together with interest, plus penalties, if such have
 2940 accrued.

2941 (9) Taxes imposed by this chapter upon the privilege of
 2942 the use, consumption, storage for consumption, or sale of
 2943 tangible personal property, admissions, license fees, rentals,
 2944 communication services, and upon the sale or use of services as
 2945 herein taxed shall be collected upon the basis of an addition of
 2946 the tax imposed by this chapter to the total price of such
 2947 admissions, license fees, rentals, communication or other
 2948 services, or sale price of such article or articles that are
 2949 purchased, sold, or leased at any one time by or to a customer
 2950 or buyer; the dealer, or person charged herein, is required to
 2951 pay a privilege tax in the amount of the tax imposed by this
 2952 chapter on the total of his or her gross sales of tangible
 2953 personal property, admissions, license fees, rentals, and
 2954 communication services or to collect a tax upon the sale or use
 2955 of services, and such person or dealer shall add the tax imposed
 2956 by this chapter to the price, license fee, rental, or
 2957 admissions, and communication or other services and collect the
 2958 total sum from the purchaser, admittee, licensee, lessee, or
 2959 consumer. In computing the tax due or to be collected as the
 2960 result of any transaction, the seller may elect to compute the
 2961 tax due on a transaction on a per-item basis or on an invoice
 2962 basis. The tax rate shall be the sum of the applicable state and
 2963 local rates, if any, and the tax computation shall be carried to
 2964 the third decimal place. Whenever the third decimal place is
 2965 greater than four, the tax shall be rounded to the next whole
 2966 cent. ~~The department shall make available in an electronic~~
 2967 ~~format or otherwise the tax amounts and the following brackets~~
 2968 ~~applicable to all transactions taxable at the rate of 6 percent:~~

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2969 ~~(a) On single sales of less than 10 cents, no tax shall be~~
 2970 ~~added.~~

2971 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~
 2972 ~~both inclusive, 1 cent shall be added for taxes.~~

2973 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~
 2974 ~~inclusive, 2 cents shall be added for taxes.~~

2975 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~
 2976 ~~inclusive, 3 cents shall be added for taxes.~~

2977 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~
 2978 ~~inclusive, 4 cents shall be added for taxes.~~

2979 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~
 2980 ~~inclusive, 5 cents shall be added for taxes.~~

2981 ~~(g) On sales in amounts from 84 cents to \$1, both~~
 2982 ~~inclusive, 6 cents shall be added for taxes.~~

2983 ~~(h) On sales in amounts of more than \$1, 6 percent shall~~
 2984 ~~be charged upon each dollar of price, plus the appropriate~~
 2985 ~~bracket charge upon any fractional part of a dollar.~~

2986 ~~(10) In counties which have adopted a discretionary sales~~
 2987 ~~surtax at the rate of 1 percent, the department shall make~~
 2988 ~~available in an electronic format or otherwise the tax amounts~~
 2989 ~~and the following brackets applicable to all taxable~~
 2990 ~~transactions that would otherwise have been transactions taxable~~
 2991 ~~at the rate of 6 percent:~~

2992 ~~(a) On single sales of less than 10 cents, no tax shall be~~
 2993 ~~added.~~

2994 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~
 2995 ~~both inclusive, 1 cent shall be added for taxes.~~

2996 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~

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2997 ~~inclusive, 2 cents shall be added for taxes.~~
 2998 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~
 2999 ~~inclusive, 3 cents shall be added for taxes.~~
 3000 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~
 3001 ~~inclusive, 4 cents shall be added for taxes.~~
 3002 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~
 3003 ~~inclusive, 5 cents shall be added for taxes.~~
 3004 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~
 3005 ~~inclusive, 6 cents shall be added for taxes.~~
 3006 ~~(h) On sales in amounts from 86 cents to \$1, both~~
 3007 ~~inclusive, 7 cents shall be added for taxes.~~
 3008 ~~(i) On sales in amounts from \$1 up to, and including, the~~
 3009 ~~first \$5,000 in price, 7 percent shall be charged upon each~~
 3010 ~~dollar of price, plus the appropriate bracket charge upon any~~
 3011 ~~fractional part of a dollar.~~
 3012 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~
 3013 ~~percent shall be added upon the first \$5,000 in price, and 6~~
 3014 ~~percent shall be added upon each dollar of price in excess of~~
 3015 ~~the first \$5,000 in price, plus the bracket charges upon any~~
 3016 ~~fractional part of a dollar as provided for in subsection (9).~~
 3017 ~~(11) The department shall make available in an electronic~~
 3018 ~~format or otherwise the tax amounts and brackets applicable to~~
 3019 ~~all taxable transactions that occur in counties that have a~~
 3020 ~~surtax at a rate other than 1 percent which transactions would~~
 3021 ~~otherwise have been transactions taxable at the rate of 6~~
 3022 ~~percent. Likewise, the department shall make available in an~~
 3023 ~~electronic format or otherwise the tax amounts and brackets~~
 3024 ~~applicable to transactions taxable at 7 percent pursuant to s.~~

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3025 ~~212.05(1)(e) and on transactions which would otherwise have been~~
 3026 ~~so taxable in counties which have adopted a discretionary sales~~
 3027 ~~surtax.~~

3028 (10)~~(12)~~ It is hereby declared to be the legislative
 3029 intent that, whenever in the construction, administration, or
 3030 enforcement of this chapter there may be any question respecting
 3031 a duplication of the tax, the end consumer, or last retail sale,
 3032 be the sale intended to be taxed and insofar as may be
 3033 practicable there be no duplication or pyramiding of the tax.

3034 (11)~~(13)~~ In order to aid the administration and
 3035 enforcement of the provisions of this chapter with respect to
 3036 the rentals and license fees, each lessor or person granting the
 3037 use of any hotel, apartment house, roominghouse, tourist or
 3038 trailer camp, real property, or any interest therein, or any
 3039 portion thereof, inclusive of owners; property managers;
 3040 lessors; landlords; hotel, apartment house, and roominghouse
 3041 operators; and all licensed real estate agents within the state
 3042 leasing, granting the use of, or renting such property, shall be
 3043 required to keep a record of each and every such lease, license,
 3044 or rental transaction which is taxable under this chapter, in
 3045 such a manner and upon such forms as the department may
 3046 prescribe, and to report such transaction to the department or
 3047 its designated agents, and to maintain such records as long as
 3048 required by s. 213.35, subject to the inspection of the
 3049 department and its agents. Upon the failure by such owner;
 3050 property manager; lessor; landlord; hotel, apartment house,
 3051 roominghouse, tourist or trailer camp operator; or real estate
 3052 agent to keep and maintain such records and to make such reports

3053 upon the forms and in the manner prescribed, such owner;
 3054 property manager; lessor; landlord; hotel, apartment house,
 3055 roominghouse, tourist or trailer camp operator; receiver of rent
 3056 or license fees; or real estate agent is guilty of a misdemeanor
 3057 of the second degree, punishable as provided in s. 775.082 or s.
 3058 775.083, for the first offense; for subsequent offenses, they
 3059 are each guilty of a misdemeanor of the first degree, punishable
 3060 as provided in s. 775.082 or s. 775.083. If, however, any
 3061 subsequent offense involves intentional destruction of such
 3062 records with an intent to evade payment of or deprive the state
 3063 of any tax revenues, such subsequent offense shall be a felony
 3064 of the third degree, punishable as provided in s. 775.082 or s.
 3065 775.083.

3066 ~~(14) If it is determined upon audit that a dealer has~~
 3067 ~~collected and remitted taxes by applying the applicable tax rate~~
 3068 ~~to each transaction as described in subsection (9) and rounding~~
 3069 ~~the tax due to the nearest whole cent rather than applying the~~
 3070 ~~appropriate bracket system provided by law or department rule,~~
 3071 ~~the dealer shall not be held liable for additional tax, penalty,~~
 3072 ~~and interest resulting from such failure if:~~

3073 ~~(a) The dealer acted in a good faith belief that rounding~~
 3074 ~~to the nearest whole cent was the proper method of determining~~
 3075 ~~the amount of tax due on each taxable transaction.~~

3076 ~~(b) The dealer timely reported and remitted all taxes~~
 3077 ~~collected on each taxable transaction.~~

3078 ~~(c) The dealer agrees in writing to future compliance with~~
 3079 ~~the laws and rules concerning brackets applicable to the~~
 3080 ~~dealer's transactions.~~

3081 Section 13. Subsection (3) of section 212.17, Florida
 3082 Statutes, is amended to read:

3083 212.17 Credits for returned goods, rentals, or admissions;
 3084 goods acquired for dealer's own use and subsequently resold;
 3085 additional powers of department.—

3086 (3) A dealer who has paid the tax imposed by this chapter
 3087 on tangible personal property or services may take a credit or
 3088 obtain a refund for any tax paid by the dealer on the unpaid
 3089 balance due on worthless accounts within 12 months following the
 3090 month in which the bad debt has been charged off for federal
 3091 income tax purposes. A dealer that has paid the tax imposed by
 3092 this chapter on tangible personal property or services and that
 3093 is not required to file federal income tax returns may take a
 3094 credit against or obtain a refund for any tax paid by the dealer
 3095 on the unpaid balance due on worthless accounts within 12 months
 3096 after the month in which the bad debt is written off as
 3097 uncollectible in the dealer's books and records and would be
 3098 eligible for a bad-debt deduction for federal income tax
 3099 purposes if the dealer was required to file a federal income tax
 3100 return.

3101 (a) A dealer that is taking a credit against or obtaining
 3102 a refund on worthless accounts shall base the bad-debt-recovery
 3103 calculation in accordance with 26 U.S.C. s. 166.

3104 (b) When the amount of bad debt exceeds the amount of
 3105 taxable sales for the period during which the bad debt is
 3106 written off, a refund claim must be filed, notwithstanding s.
 3107 215.26(2), within 3 years after the due date of the return on
 3108 which the bad debt could first be claimed.

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3109 (c) If any accounts so charged off for which a credit or
3110 refund has been obtained are thereafter in whole or in part paid
3111 to the dealer, the amount so paid shall be included in the first
3112 return filed after such collection and the tax paid accordingly.

3113 (d) If filing responsibilities have been assumed by a
3114 certified service provider, the certified service provider shall
3115 claim, on behalf of the seller, any bad-debt allowance provided
3116 by this subsection. The certified service provider shall credit
3117 or refund to the seller the full amount of any bad-debt
3118 allowance or refund received.

3119 (e) For the purposes of reporting a payment received on a
3120 previously claimed bad debt, any payments made on a debt or
3121 account shall first be applied proportionally to the taxable
3122 price of the property or service and the sales tax on such
3123 property, and second to any interest, service charges, and any
3124 other charges.

3125 (f) In situations in which the books and records of the
3126 party claiming the bad-debt allowance support an allocation of
3127 the bad debts among states that are members of the Streamlined
3128 Sales and Use Tax Agreement, the allocation is permitted among
3129 those states.

3130 Section 14. Paragraphs (a) and (e) of subsection (3) of
3131 section 212.18, Florida Statutes, are amended to read:

3132 212.18 Administration of law; registration of dealers;
3133 rules.—

3134 (3) (a) Every person desiring to engage in or conduct
3135 business in this state as a dealer, as defined in this chapter,
3136 or to lease, rent, or let or grant licenses in living quarters

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3137 or sleeping or housekeeping accommodations in hotels, apartment
3138 houses, roominghouses, or tourist or trailer camps that are
3139 subject to tax under s. 212.03, or to lease, rent, or let or
3140 grant licenses in real property, as defined in this chapter, and
3141 every person who sells or receives anything of value by way of
3142 admissions, must file with the department an application for a
3143 certificate of registration for each place of business, showing
3144 the names of the persons who have interests in such business and
3145 their residences, the address of the business, and such other
3146 data as the department may reasonably require. However, owners
3147 and operators of vending machines or newspaper rack machines are
3148 required to obtain only one certificate of registration for each
3149 county in which such machines are located. The department, by
3150 rule, may authorize a dealer that uses independent sellers to
3151 sell its merchandise to remit tax on the retail sales price
3152 charged to the ultimate consumer in lieu of having the
3153 independent seller register as a dealer and remit the tax. The
3154 department may appoint the county tax collector as the
3155 department's agent to accept applications for registrations. The
3156 application must be made to the department before the person,
3157 firm, copartnership, or corporation may engage in such business,
3158 and it must be accompanied by a registration fee of \$5. ~~However,~~
3159 ~~a registration fee is not required to accompany an application~~
3160 ~~to engage in or conduct business to make mail order sales.~~ The
3161 department may waive the registration fee for applications
3162 submitted through the department's Internet registration process
3163 or central electronic registration system provided by member
3164 states of the Streamlined Sales and Use Tax Agreement.

3165 (e) As used in this paragraph, the term "exhibitor" means
 3166 a person who enters into an agreement authorizing the display of
 3167 tangible personal property or services at a convention or a
 3168 trade show. The following provisions apply to the registration
 3169 of exhibitors as dealers under this chapter:

3170 1. An exhibitor whose agreement prohibits the sale of
 3171 tangible personal property or services subject to the tax
 3172 imposed in this chapter is not required to register as a dealer.

3173 2. An exhibitor whose agreement provides for the sale at
 3174 wholesale only of tangible personal property or services subject
 3175 to the tax imposed in this chapter must obtain a resale
 3176 certificate from the purchasing dealer but is not required to
 3177 register as a dealer.

3178 3. An exhibitor whose agreement authorizes the retail sale
 3179 of tangible personal property or services subject to the tax
 3180 imposed in this chapter must register as a dealer and collect
 3181 the tax imposed under this chapter on such sales.

3182 ~~4. Any exhibitor who makes a mail order sale pursuant to~~
 3183 ~~s. 212.0596 must register as a dealer.~~

3184
 3185 Any person who conducts a convention or a trade show must make
 3186 their exhibitor's agreements available to the department for
 3187 inspection and copying.

3188 Section 15. Section 212.20, Florida Statutes, is amended
 3189 to read:

3190 212.20 Funds collected, disposition; additional powers of
 3191 department; operational expense; refund of taxes adjudicated
 3192 unconstitutionally collected.—

3193 (1) The department shall pay over to the Chief Financial
 3194 Officer of the state all funds received and collected by it
 3195 under the provisions of this chapter, to be credited to the
 3196 account of the General Revenue Fund of the state.

3197 (2) The department is authorized to employ all necessary
 3198 assistants to administer this chapter properly and is also
 3199 authorized to purchase all necessary supplies and equipment
 3200 which may be required for this purpose.

3201 (3) The estimated amount of money needed for the
 3202 administration of this chapter shall be included by the
 3203 department in its annual legislative budget request for the
 3204 operation of its office.

3205 ~~(4) When there has been a final adjudication that any tax~~
 3206 ~~pursuant to s. 212.0596 was levied, collected, or both, contrary~~
 3207 ~~to the Constitution of the United States or the State~~
 3208 ~~Constitution, the department shall, in accordance with rules,~~
 3209 ~~determine, based upon claims for refund and other evidence and~~
 3210 ~~information, who paid such tax or taxes, and refund to each such~~
 3211 ~~person the amount of tax paid. For purposes of this subsection,~~
 3212 ~~a "final adjudication" is a decision of a court of competent~~
 3213 ~~jurisdiction from which no appeal can be taken or from which the~~
 3214 ~~official or officials of this state with authority to make such~~
 3215 ~~decisions has or have decided not to appeal.~~

3216 (4) ~~(5)~~ For the purposes of this section, the term:

3217 (a) "Proceeds" means all tax or fee revenue collected or
 3218 received by the department, including interest and penalties.

3219 (b) "Reallocate" means reduction of the accounts of
 3220 initial deposit and redeposit into the indicated account.

3221 (5)~~(6)~~ Distribution of all proceeds under this chapter and
 3222 s. 202.18(1)(b) and (2)(b) shall be as follows:

3223 (a) Proceeds from the convention development taxes
 3224 authorized under s. 212.0305 shall be reallocated to the
 3225 Convention Development Tax Clearing Trust Fund.

3226 (b) Proceeds from discretionary sales surtaxes imposed
 3227 pursuant to ss. 212.054 and 212.055 shall be reallocated to the
 3228 Discretionary Sales Surtax Clearing Trust Fund.

3229 (c) Proceeds from the fees imposed under ss.
 3230 212.05(1)(h)3. and 212.18(3) shall remain with the General
 3231 Revenue Fund.

3232 (d) The proceeds of all other taxes and fees imposed
 3233 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
 3234 and (2)(b) shall be distributed as follows:

3235 1. In any fiscal year, the greater of \$500 million, minus
 3236 an amount equal to 4.6 percent of the proceeds of the taxes
 3237 collected pursuant to chapter 201, or 5.2 percent of all other
 3238 taxes and fees imposed pursuant to this chapter or remitted
 3239 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
 3240 monthly installments into the General Revenue Fund.

3241 2. After the distribution under subparagraph 1., 8.814
 3242 percent of the amount remitted by a sales tax dealer located
 3243 within a participating county pursuant to s. 218.61 shall be
 3244 transferred into the Local Government Half-cent Sales Tax
 3245 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
 3246 transferred shall be reduced by 0.1 percent, and the department
 3247 shall distribute this amount to the Public Employees Relations
 3248 Commission Trust Fund less \$5,000 each month, which shall be

3249 added to the amount calculated in subparagraph 3. and
 3250 distributed accordingly.

3251 3. After the distribution under subparagraphs 1. and 2.,
 3252 0.095 percent shall be transferred to the Local Government Half-
 3253 cent Sales Tax Clearing Trust Fund and distributed pursuant to
 3254 s. 218.65.

3255 4. After the distributions under subparagraphs 1., 2., and
 3256 3., 2.0440 percent of the available proceeds shall be
 3257 transferred monthly to the Revenue Sharing Trust Fund for
 3258 Counties pursuant to s. 218.215.

3259 5. After the distributions under subparagraphs 1., 2., and
 3260 3., 1.3409 percent of the available proceeds shall be
 3261 transferred monthly to the Revenue Sharing Trust Fund for
 3262 Municipalities pursuant to s. 218.215. If the total revenue to
 3263 be distributed pursuant to this subparagraph is at least as
 3264 great as the amount due from the Revenue Sharing Trust Fund for
 3265 Municipalities and the former Municipal Financial Assistance
 3266 Trust Fund in state fiscal year 1999-2000, no municipality shall
 3267 receive less than the amount due from the Revenue Sharing Trust
 3268 Fund for Municipalities and the former Municipal Financial
 3269 Assistance Trust Fund in state fiscal year 1999-2000. If the
 3270 total proceeds to be distributed are less than the amount
 3271 received in combination from the Revenue Sharing Trust Fund for
 3272 Municipalities and the former Municipal Financial Assistance
 3273 Trust Fund in state fiscal year 1999-2000, each municipality
 3274 shall receive an amount proportionate to the amount it was due
 3275 in state fiscal year 1999-2000.

3276 6. Of the remaining proceeds:

3277 a. In each fiscal year, the sum of \$29,915,500 shall be
 3278 divided into as many equal parts as there are counties in the
 3279 state, and one part shall be distributed to each county. The
 3280 distribution among the several counties must begin each fiscal
 3281 year on or before January 5th and continue monthly for a total
 3282 of 4 months. If a local or special law required that any moneys
 3283 accruing to a county in fiscal year 1999-2000 under the then-
 3284 existing provisions of s. 550.135 be paid directly to the
 3285 district school board, special district, or a municipal
 3286 government, such payment must continue until the local or
 3287 special law is amended or repealed. The state covenants with
 3288 holders of bonds or other instruments of indebtedness issued by
 3289 local governments, special districts, or district school boards
 3290 before July 1, 2000, that it is not the intent of this
 3291 subparagraph to adversely affect the rights of those holders or
 3292 relieve local governments, special districts, or district school
 3293 boards of the duty to meet their obligations as a result of
 3294 previous pledges or assignments or trusts entered into which
 3295 obligated funds received from the distribution to county
 3296 governments under then-existing s. 550.135. This distribution
 3297 specifically is in lieu of funds distributed under s. 550.135
 3298 before July 1, 2000.

3299 b. The department shall distribute \$166,667 monthly
 3300 pursuant to s. 288.1162 to each applicant certified as a
 3301 facility for a new or retained professional sports franchise
 3302 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
 3303 monthly by the department to each certified applicant as defined
 3304 in s. 288.11621 for a facility for a spring training franchise.

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3305 However, not more than \$416,670 may be distributed monthly in
 3306 the aggregate to all certified applicants for facilities for
 3307 spring training franchises. Distributions begin 60 days after
 3308 such certification and continue for not more than 30 years,
 3309 except as otherwise provided in s. 288.11621. A certified
 3310 applicant identified in this sub-subparagraph may not receive
 3311 more in distributions than expended by the applicant for the
 3312 public purposes provided for in s. 288.1162(5) or s.
 3313 288.11621(3).

3314 c. Beginning 30 days after notice by the Office of
 3315 Tourism, Trade, and Economic Development to the Department of
 3316 Revenue that an applicant has been certified as the professional
 3317 golf hall of fame pursuant to s. 288.1168 and is open to the
 3318 public, \$166,667 shall be distributed monthly, for up to 300
 3319 months, to the applicant.

3320 d. Beginning 30 days after notice by the Office of
 3321 Tourism, Trade, and Economic Development to the Department of
 3322 Revenue that the applicant has been certified as the
 3323 International Game Fish Association World Center facility
 3324 pursuant to s. 288.1169, and the facility is open to the public,
 3325 \$83,333 shall be distributed monthly, for up to 168 months, to
 3326 the applicant. This distribution is subject to reduction
 3327 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be
 3328 made, after certification and before July 1, 2000.

3329 7. All other proceeds must remain in the General Revenue
 3330 Fund.

3331 Section 16. Section 213.052, Florida Statutes, is created
 3332 to read:

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3333 213.052 Notice of state sales and use tax rate changes.—

3334 (1) A sales or use tax rate change imposed under chapter
 3335 212 is effective on January 1, April 1, July 1, or October 1.
 3336 The Department of Revenue shall provide notice of such rate
 3337 change to all affected sellers 60 days before the effective date
 3338 of the rate change.

3339 (2) Failure of a seller to receive notice does not relieve
 3340 the seller of its obligation to collect sales or use tax.

3341 Section 17. Section 213.0521, Florida Statutes, is created
 3342 to read:

3343 213.0521 Effective date of state sales and use tax rate
 3344 changes.—The effective date for services covering a period
 3345 starting before and ending after the effective date of a
 3346 legislative act is as follows:

3347 (1) For a rate increase, the new rate applies to the first
 3348 billing period starting on or after the effective date.

3349 (2) For a rate decrease, the new rate applies to bills
 3350 rendered on or after the effective date.

3351 Section 18. Section 213.215, Florida Statutes, is created
 3352 to read:

3353 213.215 Sales and use tax amnesty upon registration in
 3354 accordance with the Streamlined Sales and Use Tax Agreement.—

3355 (1) Amnesty shall be provided for uncollected or unpaid
 3356 sales or use tax to a seller who registers to pay or to collect
 3357 and remit applicable sales or use tax in accordance with the
 3358 terms of the Streamlined Sales and Use Tax Agreement authorized
 3359 under s. 213.256, if the seller was not registered with the
 3360 Department of Revenue in the 12-month period preceding the

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3361 effective date of participation in the agreement by this state.

3362 (2) The amnesty precludes assessment for uncollected or
3363 unpaid sales or use tax, together with penalty or interest for
3364 sales made during the period the seller was not registered with
3365 the Department of Revenue, if registration occurs within 12
3366 months after the effective date of this state's participation in
3367 the agreement.

3368 (3) The amnesty is not available to a seller with respect
3369 to any matter for which the seller received notice of the
3370 commencement of an audit if the audit is not yet finally
3371 resolved, including any related administrative and judicial
3372 processes.

3373 (4) The amnesty is not available for sales or use taxes
3374 already paid or remitted to the state or to taxes collected by
3375 the seller.

3376 (5) The amnesty is fully effective, absent the seller's
3377 fraud or intentional misrepresentation of a material fact, as
3378 long as the seller continues registration and continues payment
3379 or collection and remittance of applicable sales or use taxes
3380 for at least 36 months.

3381 (6) The amnesty applies only to sales or use taxes due
3382 from a seller in its capacity as a seller and not to sales or
3383 use taxes due from a seller in its capacity as a buyer.

3384 Section 19. Subsections (1) and (2) of section 213.256,
3385 Florida Statutes, are amended to read:

3386 213.256 Simplified Sales and Use Tax Administration Act.—

3387 (1) As used in this section and ss. 213.2562 and 213.2567,
3388 the term:

3389 (a) "Agent" means, for purposes of carrying out the
 3390 responsibilities placed on a dealer, a person appointed by the
 3391 seller to represent the seller before the department.

3392 ~~"Department" means the Department of Revenue.~~

3393 (b) "Agreement" means the Streamlined Sales and Use Tax
 3394 Agreement ~~as amended and adopted on January 27, 2001, by the~~
 3395 ~~Executive Committee of the National Conference of State~~
 3396 ~~Legislatures.~~

3397 (c) "Certified automated system" means software certified
 3398 jointly by the state ~~states that are signatories to the~~
 3399 ~~agreement~~ to calculate the tax imposed by each jurisdiction on a
 3400 transaction, determine the amount of tax to remit to the
 3401 appropriate state, and maintain a record of the transaction.

3402 (d) "Certified service provider" means an agent certified
 3403 jointly ~~by the states that are signatories to the agreement~~ to
 3404 perform all of the seller's sales tax functions other than the
 3405 seller's obligation to remit tax on its own purchases.

3406 (e) "Department" means the Department of Revenue.

3407 (f) "Governing board" means the governing board of the
 3408 agreement.

3409 (g)1. "Model 1 seller" means a seller that has selected a
 3410 certified service provider as the seller's agent to perform all
 3411 of the seller's sales and use tax functions other than the
 3412 seller's obligation to remit tax on the seller's purchases.

3413 2. "Model 2 seller" means a seller that has selected a
 3414 certified automated system to perform part of the seller's sales
 3415 and use tax functions, but retains responsibility for remitting
 3416 the tax.

3417 3. "Model 3 seller" means a seller that has sales in at
 3418 least 5 member states, has total annual sales revenue of at
 3419 least \$500 million, has a proprietary system that calculates the
 3420 amount of tax due each jurisdiction, and has entered into a
 3421 performance agreement with the member states which establishes a
 3422 tax performance standard for the seller.

3423
 3424 As used in this paragraph, a seller includes an affiliated group
 3425 of sellers using the same proprietary system.

3426 (h)-(e) "Person" means an individual, trust, estate,
 3427 fiduciary, partnership, limited liability company, limited
 3428 liability partnership, corporation, or any other legal entity.

3429 (i) "Registered under this agreement" means registration
 3430 by a seller with the member states under the central
 3431 registration system.

3432 (j)-(f) "Sales tax" means the tax levied under chapter 212.

3433 (k)-(g) "Seller" means any person making sales, leases, or
 3434 rentals of personal property or services.

3435 (l)-(h) "State" means any state of the United States and
 3436 the District of Columbia.

3437 (m)-(i) "Use tax" means the tax levied under chapter 212.

3438 (2) (a) The executive director of the department is
 3439 authorized to ~~shall enter into an agreement the Streamlined~~
 3440 ~~Sales and Use Tax Agreement~~ with one or more states to simplify
 3441 and modernize sales and use tax administration in order to
 3442 substantially reduce the burden of tax compliance for all
 3443 sellers and for all types of commerce. In furtherance of the
 3444 agreement, the executive director of the department or his or

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3445 her designee shall act jointly with other states that are
 3446 members of the agreement to establish standards for
 3447 certification of a certified service provider and certified
 3448 automated systems ~~system~~ and central registration systems
 3449 ~~establish performance standards for multistate sellers.~~

3450 (b) The executive director of the department or his or her
 3451 designee shall take other actions reasonably required to
 3452 administer this section. Other actions authorized by this
 3453 section include, but are not limited to, the adoption of rules
 3454 and the joint procurement, with other member states, of goods
 3455 and services in furtherance of the cooperative agreement.

3456 (c) The executive director of the department or his or her
 3457 designee may represent this state before the other states that
 3458 are signatories to the agreement.

3459 (d) The executive director of the department or his or her
 3460 designee is authorized to prepare and submit from time to time
 3461 such reports and certifications as may be determined necessary
 3462 according to the terms of an agreement and to enter into such
 3463 other agreements with the governing board, member states, and
 3464 service providers as are determined by the executive director to
 3465 facilitate the administration of the tax laws of this state.

3466 Section 20. Section 213.2562, Florida Statutes, is created
 3467 to read:

3468 213.2562 Approval of software to calculate tax.—The
 3469 department shall review software submitted to the governing
 3470 board for certification as a certified automated system. If the
 3471 software accurately reflects the taxability of product
 3472 categories included in the program, the department shall certify

3473 the approval of the software to the governing board.

3474 Section 21. Section 213.2567, Florida Statutes, is created
3475 to read:

3476 213.2567 Simplified Sales and Use Tax Agreement
3477 registration, certification, liability, and audit.—

3478 (1) A seller that registers under the agreement agrees to
3479 collect and remit sales and use taxes for all taxable sales into
3480 the member states, including member states joining after the
3481 seller's registration. Withdrawal or revocation of this state
3482 does not relieve a seller of its responsibility to remit taxes
3483 previously or subsequently collected on behalf of the state.

3484 (a) When registering, the seller may select a model 1,
3485 model 2, or model 3 method of remittance or other method allowed
3486 by state law to remit the taxes collected.

3487 (b) A seller may be registered by an agent. Such an
3488 appointment must be in writing and submitted to a member state.

3489 (2) (a) A certified service provider is the agent of a
3490 model 1 seller with whom the certified service provider has
3491 contracted for the collection and remittance of sales and use
3492 taxes. As the model 1 seller's agent, the certified service
3493 provider is liable for sales and use tax due this state on all
3494 sales transactions it processes for the model 1 seller, except
3495 as set out in paragraph (b).

3496 (b) A model 1 seller is not liable to the state for sales
3497 or use tax due on transactions processed by the certified
3498 service provider unless the model 1 seller has misrepresented
3499 the type of items it sells or has committed fraud. In the
3500 absence of probable cause to believe that the model 1 seller has

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3501 committed fraud or made a material misrepresentation, the model
3502 1 seller is not subject to audit on the transactions processed
3503 by the certified service provider. A model 1 seller is subject
3504 to audit for transactions that have not been processed by the
3505 certified service provider. The member states acting jointly may
3506 perform a system check of the model 1 seller and review the
3507 model 1 seller's procedures to determine if the certified
3508 service provider's system is functioning properly and to
3509 determine the extent to which the model 1 seller's transactions
3510 are being processed by the certified service provider.

3511 (3) A model 2 seller that uses a certified automated
3512 system remains responsible and is liable to this state for
3513 reporting and remitting tax. However, a model 2 seller is not
3514 responsible for errors in reliance on a certified automated
3515 system.

3516 (4) A model 3 seller is liable for the failure of the
3517 proprietary system to meet the performance standard.

3518 (5) A person that provides a certified automated system is
3519 not liable for errors contained in software that was approved by
3520 the department and certified to the governing board. However,
3521 such person:

3522 (a) Is responsible for the proper functioning of that
3523 system;

3524 (b) Is liable to this state for underpayments of tax
3525 attributable to errors in the functioning of the certified
3526 automated system; and

3527 (c) Is liable for the misclassification of an item or
3528 transaction that is not corrected within 10 days after the

3529 receipt of notice from the department.

3530 (6) The executive director of the department or his or her
 3531 designee may certify a person as a certified service provider if
 3532 the person meets all of the following requirements:

3533 (a) Uses a certified automated system;

3534 (b) Integrates its certified automated system with the
 3535 system of a seller for whom the person collects tax so that the
 3536 tax due on a sale is determined at the time of the sale;

3537 (c) Agrees to remit the taxes it collects at the time and
 3538 in the manner specified by chapter 212;

3539 (d) Agrees to file returns on behalf of the sellers for
 3540 whom it collects tax;

3541 (e) Agrees to protect the privacy of tax information it
 3542 obtains in accordance with s. 213.053; and

3543 (f) Enters into a contract with the department and agrees
 3544 to comply with the terms of the contract.

3545 (7) The department shall review software submitted to the
 3546 governing board for certification as a certified automated
 3547 system. The executive director of the department shall certify
 3548 the approval of the software to the governing board if the
 3549 software:

3550 (a) Determines the applicable state and local sales and
 3551 use tax rate for a transaction in accordance with s. 212.06(3)
 3552 and (4);

3553 (b) Determines whether an item is exempt from tax;

3554 (c) Determines the amount of tax to be remitted for each
 3555 taxpayer for a reporting period; and

3556 (d) Can generate reports and returns as required by the

3557 governing board.

3558 (8) The department may by rule establish one or more sales
 3559 tax performance standards for model 3 sellers.

3560 (9) Disclosure of information necessary under this section
 3561 must be made according to a written agreement between the
 3562 executive director of the department or his or her designee and
 3563 the certified service provider. The certified service provider
 3564 is bound by the same requirements of confidentiality as the
 3565 department employees. Breach of confidentiality is a misdemeanor
 3566 of the first degree, punishable as provided in s. 775.082 or s.
 3567 775.083.

3568 Section 22. It is the intent of the Legislature to urge
 3569 the United States Congress to consider adequate protections for
 3570 small businesses engaging in both offline and online
 3571 transactions from added costs, administrative burdens, and
 3572 requirements imposed on intermediaries relating to the
 3573 collection and remittance of sales and use tax.

3574 Section 23. The executive director of the Department of
 3575 Revenue may adopt emergency rules to implement this act.
 3576 Notwithstanding any other law, the emergency rules shall remain
 3577 effective for 6 months after the date of adoption and may be
 3578 renewed during the pendency of procedures to adopt rules
 3579 addressing the subject of the emergency rules.

3580 Section 24. Paragraph (a) of subsection (5) of section
 3581 11.45, Florida Statutes, is amended to read:

3582 11.45 Definitions; duties; authorities; reports; rules.—

3583 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

3584 (a) The Legislative Auditing Committee shall direct the

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3585 Auditor General to make an audit of any municipality whenever
 3586 petitioned to do so by at least 20 percent of the registered
 3587 electors in the last general election of that municipality
 3588 pursuant to this subsection. The supervisor of elections of the
 3589 county in which the municipality is located shall certify
 3590 whether or not the petition contains the signatures of at least
 3591 20 percent of the registered electors of the municipality. After
 3592 the completion of the audit, the Auditor General shall determine
 3593 whether the municipality has the fiscal resources necessary to
 3594 pay the cost of the audit. The municipality shall pay the cost
 3595 of the audit within 90 days after the Auditor General's
 3596 determination that the municipality has the available resources.
 3597 If the municipality fails to pay the cost of the audit, the
 3598 Department of Revenue shall, upon certification of the Auditor
 3599 General, withhold from that portion of the distribution pursuant
 3600 to s. 212.20 (5) ~~(6)~~ (d) 5. which is distributable to such
 3601 municipality, a sum sufficient to pay the cost of the audit and
 3602 shall deposit that sum into the General Revenue Fund of the
 3603 state.

3604 Section 25. Subsection (6) of section 196.012, Florida
 3605 Statutes, is amended to read:

3606 196.012 Definitions.—For the purpose of this chapter, the
 3607 following terms are defined as follows, except where the context
 3608 clearly indicates otherwise:

3609 (6) Governmental, municipal, or public purpose or function
 3610 shall be deemed to be served or performed when the lessee under
 3611 any leasehold interest created in property of the United States,
 3612 the state or any of its political subdivisions, or any

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3613 municipality, agency, special district, authority, or other
 3614 public body corporate of the state is demonstrated to perform a
 3615 function or serve a governmental purpose which could properly be
 3616 performed or served by an appropriate governmental unit or which
 3617 is demonstrated to perform a function or serve a purpose which
 3618 would otherwise be a valid subject for the allocation of public
 3619 funds. For purposes of the preceding sentence, an activity
 3620 undertaken by a lessee which is permitted under the terms of its
 3621 lease of real property designated as an aviation area on an
 3622 airport layout plan which has been approved by the Federal
 3623 Aviation Administration and which real property is used for the
 3624 administration, operation, business offices and activities
 3625 related specifically thereto in connection with the conduct of
 3626 an aircraft full service fixed base operation which provides
 3627 goods and services to the general aviation public in the
 3628 promotion of air commerce shall be deemed an activity which
 3629 serves a governmental, municipal, or public purpose or function.
 3630 Any activity undertaken by a lessee which is permitted under the
 3631 terms of its lease of real property designated as a public
 3632 airport as defined in s. 332.004(14) by municipalities,
 3633 agencies, special districts, authorities, or other public bodies
 3634 corporate and public bodies politic of the state, a spaceport as
 3635 defined in s. 331.303, or which is located in a deepwater port
 3636 identified in s. 403.021(9)(b) and owned by one of the foregoing
 3637 governmental units, subject to a leasehold or other possessory
 3638 interest of a nongovernmental lessee that is deemed to perform
 3639 an aviation, airport, aerospace, maritime, or port purpose or
 3640 operation shall be deemed an activity that serves a

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3641 governmental, municipal, or public purpose. The use by a lessee,
 3642 licensee, or management company of real property or a portion
 3643 thereof as a convention center, visitor center, sports facility
 3644 with permanent seating, concert hall, arena, stadium, park, or
 3645 beach is deemed a use that serves a governmental, municipal, or
 3646 public purpose or function when access to the property is open
 3647 to the general public with or without a charge for admission. If
 3648 property deeded to a municipality by the United States is
 3649 subject to a requirement that the Federal Government, through a
 3650 schedule established by the Secretary of the Interior, determine
 3651 that the property is being maintained for public historic
 3652 preservation, park, or recreational purposes and if those
 3653 conditions are not met the property will revert back to the
 3654 Federal Government, then such property shall be deemed to serve
 3655 a municipal or public purpose. The term "governmental purpose"
 3656 also includes a direct use of property on federal lands in
 3657 connection with the Federal Government's Space Exploration
 3658 Program or spaceport activities as defined in s. 212.02(22).
 3659 Real property and tangible personal property owned by the
 3660 Federal Government or Space Florida and used for defense and
 3661 space exploration purposes or which is put to a use in support
 3662 thereof shall be deemed to perform an essential national
 3663 governmental purpose and shall be exempt. "Owned by the lessee"
 3664 as used in this chapter does not include personal property,
 3665 buildings, or other real property improvements used for the
 3666 administration, operation, business offices and activities
 3667 related specifically thereto in connection with the conduct of
 3668 an aircraft full service fixed based operation which provides

3669 goods and services to the general aviation public in the
 3670 promotion of air commerce provided that the real property is
 3671 designated as an aviation area on an airport layout plan
 3672 approved by the Federal Aviation Administration. For purposes of
 3673 determination of "ownership," buildings and other real property
 3674 improvements which will revert to the airport authority or other
 3675 governmental unit upon expiration of the term of the lease shall
 3676 be deemed "owned" by the governmental unit and not the lessee.
 3677 Providing two-way telecommunications services to the public for
 3678 hire by the use of a telecommunications facility, as defined in
 3679 s. 364.02~~(15)~~, and for which a certificate is required under
 3680 chapter 364 does not constitute an exempt use for purposes of s.
 3681 196.199, unless the telecommunications services are provided by
 3682 the operator of a public-use airport, as defined in s. 332.004,
 3683 for the operator's provision of telecommunications services for
 3684 the airport or its tenants, concessionaires, or licensees, or
 3685 unless the telecommunications services are provided by a public
 3686 hospital.

3687 Section 26. Paragraph (b) of subsection (1) and paragraph
 3688 (b) of subsection (2) of section 202.18, Florida Statutes, are
 3689 amended to read:

3690 202.18 Allocation and disposition of tax proceeds.—The
 3691 proceeds of the communications services taxes remitted under
 3692 this chapter shall be treated as follows:

3693 (1) The proceeds of the taxes remitted under s.
 3694 202.12(1)(a) shall be divided as follows:

3695 (b) The remaining portion shall be distributed according
 3696 to s. 212.20(5)~~(6)~~.

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3697 (2) The proceeds of the taxes remitted under s.
 3698 202.12(1)(b) shall be divided as follows:
 3699 (b) Sixty-three percent of the remainder shall be
 3700 allocated to the state and distributed pursuant to s.
 3701 212.20(5)~~(6)~~, except that the proceeds allocated pursuant to s.
 3702 212.20(5)~~(6)~~(d)2. shall be prorated to the participating
 3703 counties in the same proportion as that month's collection of
 3704 the taxes and fees imposed pursuant to chapter 212 and paragraph
 3705 (1)(b).

3706 Section 27. Paragraphs (f), (g), (h), and (i) of
 3707 subsection (1) of section 203.01, Florida Statutes, are amended
 3708 to read:

3709 203.01 Tax on gross receipts for utility and
 3710 communications services.—

3711 (1)

3712 (f) Any person who imports into this state electricity,
 3713 natural gas, or manufactured gas, or severs natural gas, for
 3714 that person's own use or consumption as a substitute for
 3715 purchasing utility, transportation, or delivery services taxable
 3716 under this chapter and who cannot demonstrate payment of the tax
 3717 imposed by this chapter must register with the Department of
 3718 Revenue and pay into the State Treasury each month an amount
 3719 equal to the cost price of such electricity, natural gas, or
 3720 manufactured gas times the rate set forth in paragraph (b),
 3721 reduced by the amount of any like tax lawfully imposed on and
 3722 paid by the person from whom the electricity, natural gas, or
 3723 manufactured gas was purchased or any person who provided
 3724 delivery service or transportation service in connection with

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3725 the electricity, natural gas, or manufactured gas. For purposes
3726 of this paragraph, the term "cost price" has the meaning
3727 ascribed in s. 212.02~~(4)~~. The methods of demonstrating proof of
3728 payment and the amount of such reductions in tax shall be made
3729 according to rules of the Department of Revenue.

3730 (g) Electricity produced by cogeneration or by small power
3731 producers which is transmitted and distributed by a public
3732 utility between two locations of a customer of the utility
3733 pursuant to s. 366.051 is subject to the tax imposed by this
3734 section. The tax shall be applied to the cost price of such
3735 electricity as provided in s. 212.02~~(4)~~ and shall be paid each
3736 month by the producer of such electricity.

3737 (h) Electricity produced by cogeneration or by small power
3738 producers during the 12-month period ending June 30 of each year
3739 which is in excess of nontaxable electricity produced during the
3740 12-month period ending June 30, 1990, is subject to the tax
3741 imposed by this section. The tax shall be applied to the cost
3742 price of such electricity as provided in s. 212.02~~(4)~~ and shall
3743 be paid each month, beginning with the month in which total
3744 production exceeds the production of nontaxable electricity for
3745 the 12-month period ending June 30, 1990. For purposes of this
3746 paragraph, "nontaxable electricity" means electricity produced
3747 by cogeneration or by small power producers which is not subject
3748 to tax under paragraph (g). Taxes paid pursuant to paragraph (g)
3749 may be credited against taxes due under this paragraph.

3750 Electricity generated as part of an industrial manufacturing
3751 process which manufactures products from phosphate rock, raw
3752 wood fiber, paper, citrus, or any agricultural product shall not

3753 | be subject to the tax imposed by this paragraph. "Industrial
 3754 | manufacturing process" means the entire process conducted at the
 3755 | location where the process takes place.

3756 | (i) Any person other than a cogenerator or small power
 3757 | producer described in paragraph (h) who produces for his or her
 3758 | own use electrical energy which is a substitute for electrical
 3759 | energy produced by an electric utility as defined in s. 366.02
 3760 | is subject to the tax imposed by this section. The tax shall be
 3761 | applied to the cost price of such electrical energy as provided
 3762 | in s. 212.02~~(4)~~ and shall be paid each month. The provisions of
 3763 | this paragraph do not apply to any electrical energy produced
 3764 | and used by an electric utility.

3765 | Section 28. Paragraph (a) of subsection (1) of section
 3766 | 212.031, Florida Statutes, is amended to read:

3767 | 212.031 Tax on rental or license fee for use of real
 3768 | property.—

3769 | (1)(a) It is declared to be the legislative intent that
 3770 | every person is exercising a taxable privilege who engages in
 3771 | the business of renting, leasing, letting, or granting a license
 3772 | for the use of any real property unless such property is:

- 3773 | 1. Assessed as agricultural property under s. 193.461.
- 3774 | 2. Used exclusively as dwelling units.
- 3775 | 3. Property subject to tax on parking, docking, or storage
 3776 | spaces under s. 212.03(6).
- 3777 | 4. Recreational property or the common elements of a
 3778 | condominium when subject to a lease between the developer or
 3779 | owner thereof and the condominium association in its own right
 3780 | or as agent for the owners of individual condominium units or

3781 the owners of individual condominium units. However, only the
 3782 lease payments on such property shall be exempt from the tax
 3783 imposed by this chapter, and any other use made by the owner or
 3784 the condominium association shall be fully taxable under this
 3785 chapter.

3786 5. A public or private street or right-of-way and poles,
 3787 conduits, fixtures, and similar improvements located on such
 3788 streets or rights-of-way, occupied or used by a utility or
 3789 provider of communications services, as defined by s. 202.11,
 3790 for utility or communications or television purposes. For
 3791 purposes of this subparagraph, the term "utility" means any
 3792 person providing utility services as defined in s. 203.012. This
 3793 exception also applies to property, wherever located, on which
 3794 the following are placed: towers, antennas, cables, accessory
 3795 structures, or equipment, not including switching equipment,
 3796 used in the provision of mobile communications services as
 3797 defined in s. 202.11. For purposes of this chapter, towers used
 3798 in the provision of mobile communications services, as defined
 3799 in s. 202.11, are considered to be fixtures.

3800 6. A public street or road which is used for
 3801 transportation purposes.

3802 7. Property used at an airport exclusively for the purpose
 3803 of aircraft landing or aircraft taxiing or property used by an
 3804 airline for the purpose of loading or unloading passengers or
 3805 property onto or from aircraft or for fueling aircraft.

3806 8.a. Property used at a port authority, as defined in s.
 3807 315.02(2), exclusively for the purpose of oceangoing vessels or
 3808 tugs docking, or such vessels mooring on property used by a port

3809 authority for the purpose of loading or unloading passengers or
 3810 cargo onto or from such a vessel, or property used at a port
 3811 authority for fueling such vessels, or to the extent that the
 3812 amount paid for the use of any property at the port is based on
 3813 the charge for the amount of tonnage actually imported or
 3814 exported through the port by a tenant.

3815 b. The amount charged for the use of any property at the
 3816 port in excess of the amount charged for tonnage actually
 3817 imported or exported shall remain subject to tax except as
 3818 provided in sub-subparagraph a.

3819 9. Property used as an integral part of the performance of
 3820 qualified production services. As used in this subparagraph, the
 3821 term "qualified production services" means any activity or
 3822 service performed directly in connection with the production of
 3823 a qualified motion picture, as defined in s. 212.06(1)(b), and
 3824 includes:

3825 a. Photography, sound and recording, casting, location
 3826 managing and scouting, shooting, creation of special and optical
 3827 effects, animation, adaptation (language, media, electronic, or
 3828 otherwise), technological modifications, computer graphics, set
 3829 and stage support (such as electricians, lighting designers and
 3830 operators, greensmen, prop managers and assistants, and grips),
 3831 wardrobe (design, preparation, and management), hair and makeup
 3832 (design, production, and application), performing (such as
 3833 acting, dancing, and playing), designing and executing stunts,
 3834 coaching, consulting, writing, scoring, composing,
 3835 choreographing, script supervising, directing, producing,
 3836 transmitting dailies, dubbing, mixing, editing, cutting,

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3837 looping, printing, processing, duplicating, storing, and
 3838 distributing;

3839 b. The design, planning, engineering, construction,
 3840 alteration, repair, and maintenance of real or personal property
 3841 including stages, sets, props, models, paintings, and facilities
 3842 principally required for the performance of those services
 3843 listed in sub-subparagraph a.; and

3844 c. Property management services directly related to
 3845 property used in connection with the services described in sub-
 3846 subparagraphs a. and b.

3847
 3848 This exemption will inure to the taxpayer upon presentation of
 3849 the certificate of exemption issued to the taxpayer under the
 3850 provisions of s. 288.1258.

3851 10. Leased, subleased, licensed, or rented to a person
 3852 providing food and drink concessionaire services within the
 3853 premises of a convention hall, exhibition hall, auditorium,
 3854 stadium, theater, arena, civic center, performing arts center,
 3855 publicly owned recreational facility, or any business operated
 3856 under a permit issued pursuant to chapter 550. A person
 3857 providing retail concessionaire services involving the sale of
 3858 food and drink or other tangible personal property within the
 3859 premises of an airport shall be subject to tax on the rental of
 3860 real property used for that purpose, but shall not be subject to
 3861 the tax on any license to use the property. For purposes of this
 3862 subparagraph, the term "sale" shall not include the leasing of
 3863 tangible personal property.

3864 11. Property occupied pursuant to an instrument calling

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3865 for payments which the department has declared, in a Technical
3866 Assistance Advisement issued on or before March 15, 1993, to be
3867 nontaxable pursuant to rule 12A-1.070(19)(c), Florida
3868 Administrative Code; provided that this subparagraph shall only
3869 apply to property occupied by the same person before and after
3870 the execution of the subject instrument and only to those
3871 payments made pursuant to such instrument, exclusive of renewals
3872 and extensions thereof occurring after March 15, 1993.

3873 12. Property used or occupied predominantly for space
3874 flight business purposes. As used in this subparagraph, "space
3875 flight business" means the manufacturing, processing, or
3876 assembly of a space facility, space propulsion system, space
3877 vehicle, satellite, or station of any kind possessing the
3878 capacity for space flight, as defined by s. 212.02~~(23)~~, or
3879 components thereof, and also means the following activities
3880 supporting space flight: vehicle launch activities, flight
3881 operations, ground control or ground support, and all
3882 administrative activities directly related thereto. Property
3883 shall be deemed to be used or occupied predominantly for space
3884 flight business purposes if more than 50 percent of the
3885 property, or improvements thereon, is used for one or more space
3886 flight business purposes. Possession by a landlord, lessor, or
3887 licensor of a signed written statement from the tenant, lessee,
3888 or licensee claiming the exemption shall relieve the landlord,
3889 lessor, or licensor from the responsibility of collecting the
3890 tax, and the department shall look solely to the tenant, lessee,
3891 or licensee for recovery of such tax if it determines that the
3892 exemption was not applicable.

3893 | 13. Rented, leased, subleased, or licensed to a person
 3894 | providing telecommunications, data systems management, or
 3895 | Internet services at a publicly or privately owned convention
 3896 | hall, civic center, or meeting space at a public lodging
 3897 | establishment as defined in s. 509.013. This subparagraph
 3898 | applies only to that portion of the rental, lease, or license
 3899 | payment that is based upon a percentage of sales, revenue
 3900 | sharing, or royalty payments and not based upon a fixed price.
 3901 | This subparagraph is intended to be clarifying and remedial in
 3902 | nature and shall apply retroactively. This subparagraph does not
 3903 | provide a basis for an assessment of any tax not paid, or create
 3904 | a right to a refund of any tax paid, pursuant to this section
 3905 | before July 1, 2010.

3906 | Section 29. Paragraph (b) of subsection (1) of section
 3907 | 212.052, Florida Statutes, is amended to read:

3908 | 212.052 Research or development costs; exemption.—

3909 | (1) For the purposes of the exemption provided in this
 3910 | section:

3911 | (b) The term "costs" means cost price as defined in s.
 3912 | 212.02~~(4)~~.

3913 | Section 30. Paragraph (c) of subsection (2), paragraph (c)
 3914 | of subsection (3), and paragraphs (c) and (i) of subsection (8)
 3915 | of section 212.055, Florida Statutes, are amended to read:

3916 | 212.055 Discretionary sales surtaxes; legislative intent;
 3917 | authorization and use of proceeds.—It is the legislative intent
 3918 | that any authorization for imposition of a discretionary sales
 3919 | surtax shall be published in the Florida Statutes as a
 3920 | subsection of this section, irrespective of the duration of the

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3921 levy. Each enactment shall specify the types of counties
 3922 authorized to levy; the rate or rates which may be imposed; the
 3923 maximum length of time the surtax may be imposed, if any; the
 3924 procedure which must be followed to secure voter approval, if
 3925 required; the purpose for which the proceeds may be expended;
 3926 and such other requirements as the Legislature may provide.
 3927 Taxable transactions and administrative procedures shall be as
 3928 provided in s. 212.054.

3929 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

3930 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax
 3931 levied under this subsection shall be distributed to the county
 3932 and the municipalities within such county in which the surtax
 3933 was collected, according to:

3934 1. An interlocal agreement between the county governing
 3935 authority and the governing bodies of the municipalities
 3936 representing a majority of the county's municipal population,
 3937 which agreement may include a school district with the consent
 3938 of the county governing authority and the governing bodies of
 3939 the municipalities representing a majority of the county's
 3940 municipal population; or

3941 2. If there is no interlocal agreement, according to the
 3942 formula provided in s. 218.62.

3943
 3944 Any change in the distribution formula must take effect on the
 3945 first day of any month that begins at least 60 days after
 3946 written notification of that change has been made to the
 3947 department.

3948 (3) SMALL COUNTY SURTAX.—

3949 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax
 3950 levied under this subsection shall be distributed to the county
 3951 and the municipalities within the county in which the surtax was
 3952 collected, according to:

3953 1. An interlocal agreement between the county governing
 3954 authority and the governing bodies of the municipalities
 3955 representing a majority of the county's municipal population,
 3956 which agreement may include a school district with the consent
 3957 of the county governing authority and the governing bodies of
 3958 the municipalities representing a majority of the county's
 3959 municipal population; or

3960 2. If there is no interlocal agreement, according to the
 3961 formula provided in s. 218.62.

3962
 3963 Any change in the distribution formula shall take effect on the
 3964 first day of any month that begins at least 60 days after
 3965 written notification of that change has been made to the
 3966 department.

3967 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

3968 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the
 3969 discretionary sales surtax collected under this subsection, less
 3970 an administrative fee that may be retained by the Department of
 3971 Revenue, shall be distributed by the department to the county.
 3972 The county shall distribute the proceeds it receives from the
 3973 department to the participating jurisdictions that have entered
 3974 into an interlocal agreement with the county under this
 3975 subsection. The county may also charge an administrative fee for
 3976 receiving and distributing the surtax in the amount of the

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3977 actual costs incurred, not to exceed 2 percent of the surtax
 3978 collected.

3979 (i) Surtax collections shall be initiated on January 1 of
 3980 the year following a successful referendum ~~in order to coincide~~
 3981 ~~with s. 212.054(5).~~

3982 Section 31. Subsection (3) of section 212.13, Florida
 3983 Statutes, is amended to read:

3984 212.13 Records required to be kept; power to inspect;
 3985 audit procedure.—

3986 (3) For the purpose of enforcement of this chapter, every
 3987 manufacturer and seller of tangible personal property or
 3988 services licensed within this state is required to permit the
 3989 department to examine his or her books and records at all
 3990 reasonable hours, and, upon his or her refusal, the department
 3991 may require him or her to permit such examination by resort to
 3992 the circuit courts of this state, subject however to the right
 3993 of removal of the cause to the judicial circuit wherein such
 3994 person's business is located or wherein such person's books and
 3995 records are kept, provided further that such person's books and
 3996 records are kept within the state. When the dealer has made an
 3997 allocation or attribution pursuant to the definition of sales
 3998 price in s. 212.02~~(16)~~, the department may prescribe by rule the
 3999 books and records that must be made available during an audit of
 4000 the dealer's books and records and examples of methods for
 4001 determining the reasonableness thereof. Books and records kept
 4002 in the regular course of business include, but are not limited
 4003 to, general ledgers, price lists, cost records, customer
 4004 billings, billing system reports, tariffs, and other regulatory

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4005 filings and rules of regulatory authorities. Such record may be
 4006 required to be made available to the department in an electronic
 4007 format when so kept by the dealer. The dealer may support the
 4008 allocation of charges with books and records kept in the regular
 4009 course of business covering the dealer's entire service area,
 4010 including territories outside this state. During an audit, the
 4011 department may reasonably require production of any additional
 4012 books and records found necessary to assist in its
 4013 determination.

4014 Section 32. Subsection (1) of section 212.15, Florida
 4015 Statutes, is amended to read:

4016 212.15 Taxes declared state funds; penalties for failure
 4017 to remit taxes; due and delinquent dates; judicial review.—

4018 (1) The taxes imposed by this chapter shall, ~~except as~~
 4019 ~~provided in s. 212.06(5)(a)2.e.,~~ become state funds at the
 4020 moment of collection and shall for each month be due to the
 4021 department on the first day of the succeeding month and be
 4022 delinquent on the 21st day of such month. All returns postmarked
 4023 after the 20th day of such month are delinquent.

4024 Section 33. Subsection (3) of section 213.015, Florida
 4025 Statutes, is amended to read:

4026 213.015 Taxpayer rights.—There is created a Florida
 4027 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
 4028 and property of Florida taxpayers are adequately safeguarded and
 4029 protected during tax assessment, collection, and enforcement
 4030 processes administered under the revenue laws of this state. The
 4031 Taxpayer's Bill of Rights compiles, in one document, brief but
 4032 comprehensive statements which explain, in simple, nontechnical

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4033 terms, the rights and obligations of the Department of Revenue
 4034 and taxpayers. Section 192.0105 provides additional rights
 4035 afforded to payors of property taxes and assessments. The rights
 4036 afforded taxpayers to ensure that their privacy and property are
 4037 safeguarded and protected during tax assessment and collection
 4038 are available only insofar as they are implemented in other
 4039 parts of the Florida Statutes or rules of the Department of
 4040 Revenue. The rights so guaranteed Florida taxpayers in the
 4041 Florida Statutes and the departmental rules are:

4042 (3) The right to be represented or advised by counsel or
 4043 other qualified representatives at any time in administrative
 4044 interactions with the department, the right to procedural
 4045 safeguards with respect to recording of interviews during tax
 4046 determination or collection processes conducted by the
 4047 department, the right to be treated in a professional manner by
 4048 department personnel, and the right to have audits, inspections
 4049 of records, and interviews conducted at a reasonable time and
 4050 place except in criminal and internal investigations (see ss.
 4051 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3),
 4052 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (11) ~~(13)~~,
 4053 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

4054 Section 34. Subsection (3) of section 218.245, Florida
 4055 Statutes, is amended to read:

4056 218.245 Revenue sharing; apportionment.—

4057 (3) Revenues attributed to the increase in distribution to
 4058 the Revenue Sharing Trust Fund for Municipalities pursuant to s.
 4059 212.20 (5) ~~(6)~~ (d) 5. from 1.0715 percent to 1.3409 percent provided
 4060 in chapter 2003-402, Laws of Florida, shall be distributed to

4061 each eligible municipality and any unit of local government that
 4062 is consolidated as provided by s. 9, Art. VIII of the State
 4063 Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968
 4064 revised constitution, as follows: each eligible local
 4065 government's allocation shall be based on the amount it received
 4066 from the half-cent sales tax under s. 218.61 in the prior state
 4067 fiscal year divided by the total receipts under s. 218.61 in the
 4068 prior state fiscal year for all eligible local governments.
 4069 However, for the purpose of calculating this distribution, the
 4070 amount received from the half-cent sales tax under s. 218.61 in
 4071 the prior state fiscal year by a unit of local government which
 4072 is consolidated as provided by s. 9, Art. VIII of the State
 4073 Constitution of 1885, as amended, and as preserved by s. 6(e),
 4074 Art. VIII, of the Constitution as revised in 1968, shall be
 4075 reduced by 50 percent for such local government and for the
 4076 total receipts. For eligible municipalities that began
 4077 participating in the allocation of half-cent sales tax under s.
 4078 218.61 in the previous state fiscal year, their annual receipts
 4079 shall be calculated by dividing their actual receipts by the
 4080 number of months they participated, and the result multiplied by
 4081 12.

4082 Section 35. Subsections (5), (6), and (7) of section
 4083 218.65, Florida Statutes, are amended to read:

4084 218.65 Emergency distribution.—

4085 (5) At the beginning of each fiscal year, the Department
 4086 of Revenue shall calculate a base allocation for each eligible
 4087 county equal to the difference between the current per capita
 4088 limitation times the county's population, minus prior year

4089 ordinary distributions to the county pursuant to ss.
 4090 212.20 (5) ~~(6)~~ (d) 2., 218.61, and 218.62. If moneys deposited into
 4091 the Local Government Half-cent Sales Tax Clearing Trust Fund
 4092 pursuant to s. 212.20 (5) ~~(6)~~ (d) 3., excluding moneys appropriated
 4093 for supplemental distributions pursuant to subsection (8), for
 4094 the current year are less than or equal to the sum of the base
 4095 allocations, each eligible county shall receive a share of the
 4096 appropriated amount proportional to its base allocation. If the
 4097 deposited amount exceeds the sum of the base allocations, each
 4098 county shall receive its base allocation, and the excess
 4099 appropriated amount, less any amounts distributed under
 4100 subsection (6), shall be distributed equally on a per capita
 4101 basis among the eligible counties.

4102 (6) If moneys deposited in the Local Government Half-cent
 4103 Sales Tax Clearing Trust Fund pursuant to s. 212.20 (5) ~~(6)~~ (d) 3.
 4104 exceed the amount necessary to provide the base allocation to
 4105 each eligible county, the moneys in the trust fund may be used
 4106 to provide a transitional distribution, as specified in this
 4107 subsection, to certain counties whose population has increased.
 4108 The transitional distribution shall be made available to each
 4109 county that qualified for a distribution under subsection (2) in
 4110 the prior year but does not, because of the requirements of
 4111 paragraph (2) (a), qualify for a distribution in the current
 4112 year. Beginning on July 1 of the year following the year in
 4113 which the county no longer qualifies for a distribution under
 4114 subsection (2), the county shall receive two-thirds of the
 4115 amount received in the prior year, and beginning July 1 of the
 4116 second year following the year in which the county no longer

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4117 | qualifies for a distribution under subsection (2), the county
 4118 | shall receive one-third of the amount it received in the last
 4119 | year it qualified for the distribution under subsection (2). If
 4120 | insufficient moneys are available in the Local Government Half-
 4121 | cent Sales Tax Clearing Trust Fund to fully provide such a
 4122 | transitional distribution to each county that meets the
 4123 | eligibility criteria in this section, each eligible county shall
 4124 | receive a share of the available moneys proportional to the
 4125 | amount it would have received had moneys been sufficient to
 4126 | fully provide such a transitional distribution to each eligible
 4127 | county.

4128 | (7) There is hereby annually appropriated from the Local
 4129 | Government Half-cent Sales Tax Clearing Trust Fund the
 4130 | distribution provided in s. 212.20 (5) ~~(6)~~ (d)3. to be used for
 4131 | emergency and supplemental distributions pursuant to this
 4132 | section.

4133 | Section 36. Paragraph (s) of subsection (1) of section
 4134 | 288.1045, Florida Statutes, is amended to read:

4135 | 288.1045 Qualified defense contractor and space flight
 4136 | business tax refund program.—

4137 | (1) DEFINITIONS.—As used in this section:

4138 | (s) "Space flight business" means the manufacturing,
 4139 | processing, or assembly of space flight technology products,
 4140 | space flight facilities, space flight propulsion systems, or
 4141 | space vehicles, satellites, or stations of any kind possessing
 4142 | the capability for space flight, as defined by s. 212.02 ~~(23)~~, or
 4143 | components thereof, and includes, in supporting space flight,
 4144 | vehicle launch activities, flight operations, ground control or

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4145 ground support, and all administrative activities directly
 4146 related to such activities. The term does not include products
 4147 that are designed or manufactured for general commercial
 4148 aviation or other uses even if those products may also serve an
 4149 incidental use in space flight applications.

4150 Section 37. Paragraphs (a) and (d) of subsection (3) of
 4151 section 288.11621, Florida Statutes, are amended to read:

4152 288.11621 Spring training baseball franchises.—

4153 (3) USE OF FUNDS.—

4154 (a) A certified applicant may use funds provided under s.
 4155 212.20 (5) ~~(6)~~ (d) 6.b. only to:

4156 1. Serve the public purpose of acquiring, constructing,
 4157 reconstructing, or renovating a facility for a spring training
 4158 franchise.

4159 2. Pay or pledge for the payment of debt service on, or to
 4160 fund debt service reserve funds, arbitrage rebate obligations,
 4161 or other amounts payable with respect thereto, bonds issued for
 4162 the acquisition, construction, reconstruction, or renovation of
 4163 such facility, or for the reimbursement of such costs or the
 4164 refinancing of bonds issued for such purposes.

4165 3. Assist in the relocation of a spring training franchise
 4166 from one unit of local government to another only if the
 4167 governing board of the current host local government by a
 4168 majority vote agrees to relocation.

4169 (d)1. All certified applicants must place unexpended state
 4170 funds received pursuant to s. 212.20 (5) ~~(6)~~ (d) 6.b. in a trust
 4171 fund or separate account for use only as authorized in this
 4172 section.

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4173 2. A certified applicant may request that the Department
4174 of Revenue suspend further distributions of state funds made
4175 available under s. 212.20 (5) ~~(6)~~ (d) 6.b. for 12 months after
4176 expiration of an existing agreement with a spring training
4177 franchise to provide the certified applicant with an opportunity
4178 to enter into a new agreement with a spring training franchise,
4179 at which time the distributions shall resume.

4180 3. The expenditure of state funds distributed to an
4181 applicant certified before July 1, 2010, must begin within 48
4182 months after the initial receipt of the state funds. In
4183 addition, the construction of, or capital improvements to, a
4184 spring training facility must be completed within 24 months
4185 after the project's commencement.

4186 Section 38. Subsection (6) of section 288.1169, Florida
4187 Statutes, is amended to read:

4188 288.1169 International Game Fish Association World Center
4189 facility.—

4190 (6) The Department of Commerce must recertify every 10
4191 years that the facility is open, that the International Game
4192 Fish Association World Center continues to be the only
4193 international administrative headquarters, fishing museum, and
4194 Hall of Fame in the United States recognized by the
4195 International Game Fish Association, and that the project is
4196 meeting the minimum projections for attendance or sales tax
4197 revenues as required at the time of original certification. If
4198 the facility is not recertified during this 10-year review as
4199 meeting the minimum projections, then funding shall be abated
4200 until certification criteria are met. If the project fails to

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4201 generate \$1 million of annual revenues pursuant to paragraph
 4202 (2) (e), the distribution of revenues pursuant to s.
 4203 212.20 (5) ~~(6)~~ (d) 6.d. shall be reduced to an amount equal to
 4204 \$83,333 multiplied by a fraction, the numerator of which is the
 4205 actual revenues generated and the denominator of which is \$1
 4206 million. Such reduction remains in effect until revenues
 4207 generated by the project in a 12-month period equal or exceed \$1
 4208 million.

4209 Section 39. Subsection (8) of section 551.102, Florida
 4210 Statutes, is amended to read:

4211 551.102 Definitions.—As used in this chapter, the term:

4212 (8) "Slot machine" means any mechanical or electrical
 4213 contrivance, terminal that may or may not be capable of
 4214 downloading slot games from a central server system, machine, or
 4215 other device that, upon insertion of a coin, bill, ticket,
 4216 token, or similar object or upon payment of any consideration
 4217 whatsoever, including the use of any electronic payment system
 4218 except a credit card or debit card, is available to play or
 4219 operate, the play or operation of which, whether by reason of
 4220 skill or application of the element of chance or both, may
 4221 deliver or entitle the person or persons playing or operating
 4222 the contrivance, terminal, machine, or other device to receive
 4223 cash, billets, tickets, tokens, or electronic credits to be
 4224 exchanged for cash or to receive merchandise or anything of
 4225 value whatsoever, whether the payoff is made automatically from
 4226 the machine or manually. The term includes associated equipment
 4227 necessary to conduct the operation of the contrivance, terminal,
 4228 machine, or other device. Slot machines may use spinning reels,

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4229 video displays, or both. A slot machine is not a "coin-operated
 4230 amusement machine" as defined in s. 212.02~~(24)~~ or an amusement
 4231 game or machine as described in s. 849.161, and slot machines
 4232 are not subject to the tax imposed by s. 212.05(1)(h).

4233 Section 40. Paragraph (a) of subsection (1) of section
 4234 790.0655, Florida Statutes, is amended to read:

4235 790.0655 Purchase and delivery of handguns; mandatory
 4236 waiting period; exceptions; penalties.—

4237 (1)(a) There shall be a mandatory 3-day waiting period,
 4238 which shall be 3 days, excluding weekends and legal holidays,
 4239 between the purchase and the delivery at retail of any handgun.

4240 "Purchase" means the transfer of money or other valuable
 4241 consideration to the retailer. "Handgun" means a firearm capable
 4242 of being carried and used by one hand, such as a pistol or
 4243 revolver. "Retailer" means and includes every person engaged in
 4244 the business of making sales at retail or for distribution, or
 4245 use, or consumption, or storage to be used or consumed in this
 4246 state, as defined in s. 212.02~~(13)~~.

4247 Section 41. Section 212.0596, Florida Statutes, is
 4248 repealed.

4249 Section 42. This act shall take effect January 1, 2012.