

1 A bill to be entitled
 2 An act relating to taxes on prepaid calling
 3 arrangements; amending ss. 202.11 and 212.05, F.S.;
 4 revising the definition of "prepaid calling
 5 arrangement" to clarify and update which services are
 6 included under that definition; providing for
 7 retroactive application; providing an effective date.

8
 9 WHEREAS, it is the intent of the Legislature to clarify
 10 that certain communication services that are paid for in advance
 11 are considered prepaid calling arrangements, subject to the
 12 state retail sales tax and are, therefore, excluded from a
 13 communications services tax, and

14 WHEREAS, it is further the intent of the Legislature that
 15 the provisions of this act are remedial in nature, should be
 16 interpreted broadly, as appropriate for a tax exclusion
 17 provision that defines the tax base, and not strictly, as would
 18 be appropriate for a tax exemption provision, NOW, THEREFORE,

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Subsection (9) of section 202.11, Florida
 23 Statutes, is amended to read:

24 202.11 Definitions.—As used in this chapter, the term:

25 (9) "Prepaid calling arrangement" means access to the
 26 ~~separately stated retail sale by advance payment of~~
 27 communications services which must be paid for in advance of
 28 using such services and which is that consist exclusively of

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29 ~~telephone calls originated by using an access number,~~
30 ~~authorization code, or other means that may be manually,~~
31 ~~electronically, or otherwise entered and that are sold in~~
32 ~~predetermined units or dollars~~ that expire on a predetermined
33 schedule or that are decremented on a predetermined basis in
34 exchange for such access ~~of which the number declines with use~~
35 ~~in a known amount.~~

36 Section 2. Paragraph (e) of subsection (1) of section
37 212.05, Florida Statutes, is amended to read:

38 212.05 Sales, storage, use tax.—It is hereby declared to
39 be the legislative intent that every person is exercising a
40 taxable privilege who engages in the business of selling
41 tangible personal property at retail in this state, including
42 the business of making mail order sales, or who rents or
43 furnishes any of the things or services taxable under this
44 chapter, or who stores for use or consumption in this state any
45 item or article of tangible personal property as defined herein
46 and who leases or rents such property within the state.

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

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

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

54 (I) "Prepaid calling arrangement" has the same meaning as
55 provided in s. 202.11 ~~means the separately stated retail sale by~~
56 ~~advance payment of communications services that consist~~

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57 ~~exclusively of telephone calls originated by using an access~~
58 ~~number, authorization code, or other means that may be manually,~~
59 ~~electronically, or otherwise entered and that are sold in~~
60 ~~predetermined units or dollars whose number declines with use in~~
61 ~~a known amount.~~

62 (II) If the sale or recharge of the prepaid calling
63 arrangement does not take place at the dealer's place of
64 business, it shall be deemed to have taken ~~take~~ place at the
65 customer's shipping address or, if no item is shipped, at the
66 customer's address or the location associated with the
67 customer's mobile telephone number.

68 (III) The sale or recharge of a prepaid calling
69 arrangement shall be treated as a sale of tangible personal
70 property for purposes of this chapter, whether or not a tangible
71 item evidencing such arrangement is furnished to the purchaser,
72 and such sale within this state subjects the selling dealer to
73 the jurisdiction of this state for purposes of this subsection.

74 b. The installation of telecommunication and telegraphic
75 equipment.

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

78 2. The provisions of s. 212.17(3), regarding credit for
79 tax paid on charges subsequently found to be worthless, is ~~shall~~
80 ~~be~~ equally applicable to any tax paid under ~~the provisions of~~
81 this section on charges for prepaid calling arrangements,
82 telecommunication or telegraph services, or electric power
83 subsequently found to be uncollectible. The term ~~word~~ "charges"
84 under ~~in~~ this paragraph does not include any excise or similar

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85 | tax levied by the Federal Government, any political subdivision
86 | of this ~~the~~ state, or any municipality upon the purchase, sale,
87 | or recharge of prepaid calling arrangements or upon the purchase
88 | or sale of telecommunication, television system program, or
89 | telegraph service or electric power, which tax is collected by
90 | the seller from the purchaser.

91 | Section 3. The amendments made by this act are intended to
92 | be remedial in nature and apply retroactively, but do not
93 | provide a basis for an assessment of any tax not paid or create
94 | a right to a refund or credit of any tax paid before the
95 | effective date of this act.

96 | Section 4. Except as otherwise expressly provided in
97 | section 3 of this act, this act shall take effect July 1, 2013.