

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

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

57 | for refunds of tax paid on mail-order sales to  
58 | conform; creating s. 213.052, F.S.; providing for  
59 | notice of state sales or use tax rate changes;  
60 | creating s. 213.0521, F.S.; providing the effective  
61 | date for state sales and use tax rate changes;  
62 | creating s. 213.215, F.S.; providing amnesty for  
63 | uncollected or unpaid sales and use taxes for sellers  
64 | who register under the Streamlined Sales and Use Tax  
65 | Agreement; providing exceptions to the amnesty;  
66 | amending s. 213.256, F.S.; providing and revising  
67 | definitions; providing for entry into agreements with  
68 | other states to simplify and facilitate compliance  
69 | with sales tax laws; providing for certification of  
70 | compliance with agreements; creating s. 213.2562,  
71 | F.S.; providing for the department to review software  
72 | submitted to the governing board for certification as  
73 | a certified automated system; creating s. 213.2567,  
74 | F.S.; providing for the registration of sellers, the  
75 | certification of a person as a certified service  
76 | provider, and the certification of a software program  
77 | as a certified automated system by the governing board  
78 | under the Streamlined Sales and Use Tax Agreement;  
79 | declaring legislative intent; providing for the  
80 | adoption of emergency rules; amending ss. 11.45,  
81 | 196.012, 202.18, 203.01, 212.031, 212.052, 212.055,  
82 | 212.13, 212.15, 213.015, 218.245, 218.65, 288.1045,  
83 | 288.11621, 288.1169, 551.102, and 790.0655, F.S.;  
84 | conforming cross-references; repealing s. 212.0596,

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85 F.S., relating to provisions pertaining to the  
86 taxation of mail-order sales; providing an effective  
87 date.

88

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

90

91 Section 1. Section 212.02, Florida Statutes, is amended to  
92 read:

93 212.02 Definitions.—The following terms and phrases when  
94 used in this chapter have the meanings ascribed to them in this  
95 section, except where the context clearly indicates a different  
96 meaning. The term:

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

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113 and fitness facilities, except physical fitness facilities owned  
114 or operated by any hospital licensed under chapter 395.

115 (2) "Agricultural commodity" means horticultural,  
116 aquacultural, poultry and farm products, and livestock and  
117 livestock products.

118 (3) "Agricultural production" means the production of  
119 plants and animals useful to humans, including the preparation,  
120 planting, cultivating, or harvesting of these products or any  
121 other practices necessary to accomplish production through the  
122 harvest phase, which includes aquaculture, horticulture,  
123 floriculture, viticulture, forestry, dairy, livestock, poultry,  
124 bees, and all other forms of farm products and farm production.

125 (4) "Bundled transaction" means the retail sale of two or  
126 more products, except real property and services to real  
127 property, in which the products are otherwise distinct and  
128 identifiable and the products are sold for one nonitemized  
129 price. A bundled transaction does not include the sale of any  
130 products in which the sales price varies, or is negotiable,  
131 based on the selection by the purchaser of the products included  
132 in the transaction.

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

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

135 a. Packaging, such as containers, boxes, sacks, bags, and  
136 bottles or other materials, such as wrapping, labels, tags, and  
137 instruction guides, which accompany the retail sale of the  
138 products and are incidental or immaterial to the retail sale of  
139 the products. Examples of packaging that is incidental or  
140 immaterial include grocery sacks, shoeboxes, dry cleaning

141 garment bags, and express delivery envelopes and boxes.

142 b. A product provided free of charge with the required  
143 purchase of another product. A product is provided free of  
144 charge if the sales price of the product purchased does not vary  
145 depending on the inclusion of the product provided free of  
146 charge.

147 2. "One nonitemized price" does not include a price that  
148 is separately identified by product on binding sales or other  
149 supporting sales-related documentation made available to the  
150 customer in paper or electronic form, including, but not limited  
151 to, an invoice, bill of sale, receipt, contract, service  
152 agreement, lease agreement, periodic notice of rates and  
153 services, rate card, or price list.

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

157 a. Sellers shall use the purchase price or sales price of  
158 the products to determine if the taxable products are de  
159 minimis. Sellers may not use a combination of the purchase price  
160 and sales price of the products to determine if the taxable  
161 products are de minimis.

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

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

167 a. The retail sale of tangible personal property and a  
168 service in which the tangible personal property is essential to

169 the use of the service, is provided exclusively in connection  
170 with the service, and the true object of the transaction is the  
171 service;

172 b. The retail sale of services in which one service is  
173 provided which is essential to the use or receipt of a second  
174 service and the first service is provided exclusively in  
175 connection with the second service and the true object of the  
176 transaction is the second service;

177 c. A transaction that includes taxable products and  
178 nontaxable products and the purchase price or sales price of the  
179 taxable products is de minimis; or

180 d. The retail sale of exempt tangible personal property  
181 and taxable personal property in which:

182 (I) The transaction includes food and food ingredients,  
183 drugs, durable medical equipment, mobility-enhancing equipment,  
184 over-the-counter drugs, prosthetic devices, or medical supplies;  
185 and

186 (II) The seller's purchase price or sales price of the  
187 taxable tangible personal property is 50 percent or less of the  
188 total purchase price or sales price of the bundled tangible  
189 personal property. Sellers may not use a combination of the  
190 purchase price and sales price of the tangible personal property  
191 to make the determination required in this paragraph.

192 2.a. Sellers shall use the purchase price or sales price  
193 of the products to determine if the taxable products are de  
194 minimis. Sellers may not use a combination of the purchase price  
195 and sales price of the products to determine if the taxable  
196 products are de minimis.

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

199 | (5)~~(2)~~ "Business" means any activity engaged in by any  
 200 | person, or caused to be engaged in by him or her, with the  
 201 | object of private or public gain, benefit, or advantage, either  
 202 | direct or indirect. Except for the sales of any aircraft, boat,  
 203 | mobile home, or motor vehicle, the term "business" shall not be  
 204 | construed in this chapter to include occasional or isolated  
 205 | sales or transactions involving tangible personal property or  
 206 | services by a person who does not hold himself or herself out as  
 207 | engaged in business or sales of unclaimed tangible personal  
 208 | property under s. 717.122, but includes other charges for the  
 209 | sale or rental of tangible personal property, sales of services  
 210 | taxable under this chapter, sales of or charges of admission,  
 211 | communication services, all rentals and leases of living  
 212 | quarters, other than low-rent housing operated under chapter  
 213 | 421, sleeping or housekeeping accommodations in hotels,  
 214 | apartment houses, roominghouses, tourist or trailer camps, and  
 215 | all rentals of or licenses in real property, other than low-rent  
 216 | housing operated under chapter 421, all leases or rentals of or  
 217 | licenses in parking lots or garages for motor vehicles, docking  
 218 | or storage spaces for boats in boat docks or marinas as defined  
 219 | in this chapter and made subject to a tax imposed by this  
 220 | chapter. The term "business" shall not be construed in this  
 221 | chapter to include the leasing, subleasing, or licensing of real  
 222 | property by one corporation to another if all of the stock of  
 223 | both such corporations is owned, directly or through one or more  
 224 | wholly owned subsidiaries, by a common parent corporation; the



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225 property was in use prior to July 1, 1989, title to the property  
226 was transferred after July 1, 1988, and before July 1, 1989,  
227 between members of an affiliated group, as defined in s. 1504(a)  
228 of the Internal Revenue Code of 1986, which group included both  
229 such corporations and there is no substantial change in the use  
230 of the property following the transfer of title; the leasing,  
231 subleasing, or licensing of the property was required by an  
232 unrelated lender as a condition of providing financing to one or  
233 more members of the affiliated group; and the corporation to  
234 which the property is leased, subleased, or licensed had sales  
235 subject to the tax imposed by this chapter of not less than \$667  
236 million during the most recent 12-month period ended June 30.  
237 Any tax on such sales, charges, rentals, admissions, or other  
238 transactions made subject to the tax imposed by this chapter  
239 shall be collected by the state, county, municipality, any  
240 political subdivision, agency, bureau, or department, or other  
241 state or local governmental instrumentality in the same manner  
242 as other dealers, unless specifically exempted by this chapter.

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

245 (7) ~~(3)~~ ~~The terms~~ "Cigarettes," "tobacco," or "tobacco  
246 products" referred to in this chapter include all such products  
247 as are defined or may be hereafter defined by the laws of the  
248 state.

249 (8) "Coin-operated amusement machine" means any machine  
250 operated by coin, slug, token, coupon, or similar device for the  
251 purposes of entertainment or amusement. The term includes, but  
252 is not limited to, coin-operated pinball machines, music

253 machines, juke boxes, mechanical games, video games, arcade  
254 games, billiard tables, moving picture viewers, shooting  
255 galleries, and all other similar amusement devices.

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

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

262 (11)-(4)- "Cost price" means the actual cost of articles of  
263 tangible personal property without any deductions therefrom on  
264 account of the cost of materials used, labor or service costs,  
265 transportation charges, or any expenses whatsoever.

266 (12) "Delivery charges" means charges by the seller of  
267 personal property or services for preparation and delivery to a  
268 location designated by the purchaser of such property or  
269 services, including, but not limited to, transportation,  
270 shipping, postage, handling, crating, and packing.

271 Notwithstanding any other provision of this section, the term  
272 does not include the charges for delivery of direct mail,  
273 transportation, shipping, postage, handling, crating, and  
274 packing or similar charges if those charges are separately  
275 stated on an invoice or similar billing document given to the  
276 purchaser and are invoiced at cost with no markup. The exclusion  
277 of delivery charges for direct mail shall apply to any sale  
278 involving the delivery or mailing of direct mail, printed  
279 material that would otherwise be direct mail that results from a  
280 transaction that this state considers the sale of a service, or

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281 printed material delivered or mailed to a mass audience when the  
282 cost of the printed material is not billed directly to the  
283 recipients and is the result of a transaction that includes the  
284 development of billing information or the provision of data  
285 processing services. If a shipment includes exempt property and  
286 taxable property, the seller shall tax only the percentage of  
287 the delivery charge allocated to the taxable property. The  
288 seller may allocate the delivery charge by using:

289 (a) A percentage based on the total sales price of the  
290 taxable property compared to the sales price of all property in  
291 the shipment; or

292 (b) A percentage based on the total weight of the taxable  
293 property compared to the total weight of all property in the  
294 shipment.

295 (13)-(5) The term "Department" means the Department of  
296 Revenue.

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

305 (15) "Direct mail" means printed material delivered or  
306 distributed by the United States Postal Service or other  
307 delivery service to a mass audience or to addressees on a  
308 mailing list provided by the purchaser or at the direction of

309 the purchaser when the cost of the items are not billed directly  
310 to the recipients. The term includes tangible personal property  
311 supplied directly or indirectly by the purchaser to the direct  
312 mail seller for inclusion in the package containing the printed  
313 material. The term does not include multiple items of printed  
314 material delivered to a single address.

315 (16) "Electronic" means relating to technology having  
316 electrical, digital, magnetic, wireless, optical,  
317 electromagnetic, or similar capabilities.

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

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

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

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

335 (21) "Fractional aircraft ownership program" means a  
336 program that meets the requirements of 14 C.F.R. part 91,

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337 subpart K, relating to fractional ownership operations, except  
338 that the program must include a minimum of 25 aircraft owned or  
339 leased by the program manager and used in the program.

340 (22)-(8) "In this state" or "in the state" means within the  
341 state boundaries of Florida as defined in s. 1, Art. II of the  
342 State Constitution and includes all territory within these  
343 limits owned by or ceded to the United States.

344 (23)-(9) ~~The term~~ "Intoxicating beverages" or "alcoholic  
345 beverages" referred to in this chapter includes all such  
346 beverages as are so defined or may be hereafter defined by the  
347 laws of the state.

348 (24)-(10) "Lease," "let," or "rental" means leasing or  
349 renting of living quarters or sleeping or housekeeping  
350 accommodations in hotels, apartment houses, roominghouses,  
351 tourist or trailer camps and real property, the same being  
352 defined as follows:

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

363 (b) Any building, or part thereof, where separate  
364 accommodations for two or more families living independently of

365 each other are supplied to transient or permanent guests or  
366 tenants shall for the purpose of this chapter be deemed an  
367 apartment house.

368 (c) Every house, boat, vehicle, motor court, trailer  
369 court, or other structure or any place or location kept, used,  
370 maintained, or advertised as, or held out to the public to be, a  
371 place where living quarters or sleeping or housekeeping  
372 accommodations are supplied for pay to transient or permanent  
373 guests or tenants, whether in one or adjoining buildings, shall  
374 for the purpose of this chapter be deemed a roominghouse.

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

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

385 (f) A "trailer camp," "mobile home park," or "recreational  
386 vehicle park" is a place where space is offered, with or without  
387 service facilities, by any persons or municipality to the public  
388 for the parking and accommodation of two or more automobile  
389 trailers, mobile homes, or recreational vehicles which are used  
390 for lodging, for either a direct money consideration or an  
391 indirect benefit to the lessor or owner in connection with a  
392 related business, such space being hereby defined as living

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393 quarters, and the rental price thereof shall include all service  
394 charges paid to the lessor.

395 (g)1. "Lease," "let," or "rental" also means any transfer  
396 of possession or control of tangible personal property for a  
397 fixed or indeterminate term for consideration. A clause for a  
398 future option to purchase or to extend an agreement does not  
399 preclude an agreement from being a lease or rental. This  
400 definition shall be used for purposes of the sales and use tax  
401 regardless of whether a transaction is characterized as a lease  
402 or rental under generally accepted accounting principles, the  
403 Internal Revenue Code, the Uniform Commercial Code, or any other  
404 federal, state, or local law. These terms include agreements  
405 covering motor vehicles and trailers if the amount of  
406 consideration may be increased or decreased by reference to the  
407 amount realized upon sale or disposition of the property as  
408 provided in 26 U.S.C. s. 7701(h) (1). These terms do not include:

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

412 b. A transfer of possession or control of property under  
413 an agreement that requires the transfer of title upon completion  
414 of required payments and payment of an option price does not  
415 exceed the greater of \$100 or 1 percent of the total required  
416 payments; or

417 c. The provision of tangible personal property along with  
418 an operator for a fixed or indeterminate period of time. A  
419 condition of this exclusion is that the operator is necessary  
420 for the equipment to perform as designed. For the purpose of

421 this sub-subparagraph, an operator must do more than maintain,  
422 inspect, or set up the tangible personal property ~~the leasing or~~  
423 ~~rental of tangible personal property and the possession or use~~  
424 ~~thereof by the lessee or rentee for a consideration, without~~  
425 ~~transfer of the title of such property, except as expressly~~  
426 ~~provided to the contrary herein.~~

427 2. ~~The term~~ "Lease," "let," or "rental" does not include  
428 ~~mean~~ hourly, daily, or mileage charges, to the extent that such  
429 charges are subject to the jurisdiction of the United States  
430 Interstate Commerce Commission, if ~~when~~ such charges are paid by  
431 reason of the presence of railroad cars owned by another on the  
432 tracks of the taxpayer, or charges made pursuant to car service  
433 agreements.

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

445 (h) "Real property" means the surface land, improvements  
446 thereto, and fixtures, and is synonymous with "realty" and "real  
447 estate."

448 (i) "License," ~~as used in this chapter~~ with reference to



449 the use of real property, means the granting of a privilege to  
450 use or occupy a building or a parcel of real property for any  
451 purpose.

452 (j) Privilege, franchise, or concession fees, or fees for  
453 a license to do business, paid to an airport are not payments  
454 for leasing, letting, renting, or granting a license for the use  
455 of real property.

456 (25) "Livestock" includes all animals of the equine,  
457 bovine, or swine class, including goats, sheep, mules, horses,  
458 hogs, cattle, ostriches, and other grazing animals raised for  
459 commercial purposes. The term also includes fish raised for  
460 commercial purposes.

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

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

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

467 (27)-(11) "Motor fuel" means and includes what is commonly  
468 known and sold as gasoline and fuels containing a mixture of  
469 gasoline and other products.

470 (28)-(12) "Person" includes any individual, firm,  
471 copartnership, joint adventure, association, corporation,  
472 estate, trust, business trust, receiver, syndicate, or other  
473 group or combination acting as a unit and also includes any  
474 political subdivision, municipality, state agency, bureau, or  
475 department and includes the plural as well as the singular  
476 number.

477        (29) "Power farm equipment" means moving or stationary  
478 equipment that contains within itself the means for its own  
479 propulsion or power and moving or stationary equipment that is  
480 dependent upon an external power source to perform its  
481 functions.

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

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

508        (32) "Qualified aircraft" means any aircraft having a  
509 maximum certified takeoff weight of less than 10,000 pounds and  
510 equipped with twin turbofan engines that meet Stage IV noise  
511 requirements which is used by a business operating as an on-  
512 demand air carrier under Federal Aviation Administration  
513 Regulation Title 14, chapter I, part 135, Code of Federal  
514 Regulations, which owns or leases and operates a fleet of at  
515 least 25 of such aircraft in this state.

516        (33)~~(13)~~ "Retailer" means and includes every person  
517 engaged in the business of making sales at retail or for  
518 distribution, or use, or consumption, or storage to be used or  
519 consumed in this state.

520        (34)~~(14)~~(a) "Retail sale" or a "sale at retail" means a  
521 sale to a consumer or to any person for any purpose other than  
522 for resale in the form of tangible personal property or services  
523 taxable under this chapter, and includes all such transactions  
524 that may be made in lieu of retail sales or sales at retail. A  
525 sale for resale includes a sale of qualifying property. As used  
526 in this paragraph, the term "qualifying property" means tangible  
527 personal property, other than electricity, which is used or  
528 consumed by a government contractor in the performance of a  
529 qualifying contract as defined in s. 212.08(17)(c), to the  
530 extent that the cost of the property is allocated or charged as  
531 a direct item of cost to such contract, title to which property  
532 vests in or passes to the government under the contract. The

533 term "government contractor" includes prime contractors and  
534 subcontractors. As used in this paragraph, a cost is a "direct  
535 item of cost" if it is a "direct cost" as defined in 48 C.F.R.  
536 s. 9904.418-30(a)(2), or similar successor provisions, including  
537 costs identified specifically with a particular contract.

538 (b) ~~The terms~~ "Retail sales," "sales at retail," "use,"  
539 "storage," and "consumption" include the sale, use, storage, or  
540 consumption of all tangible advertising materials imported or  
541 caused to be imported into this state. Tangible advertising  
542 material includes displays, display containers, brochures,  
543 catalogs, price lists, point-of-sale advertising, and technical  
544 manuals or any tangible personal property which does not  
545 accompany the product to the ultimate consumer.

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

561 resale when such industrial materials, including chemicals and  
562 fuels except as provided herein, become a component or  
563 ingredient of the finished product. However, the terms include  
564 the sale, use, storage, or consumption of tangible personal  
565 property, including machinery and equipment or parts thereof,  
566 purchased electricity, and fuels used to power machinery, when  
567 such items are used and dissipated in fabricating, converting,  
568 or processing tangible personal property for sale, even though  
569 they may become ingredients or components of the tangible  
570 personal property for sale through accident, wear, tear,  
571 erosion, corrosion, or similar means. The terms do not include  
572 the sale of materials to a registered repair facility for use in  
573 repairing a motor vehicle, airplane, or boat, when such  
574 materials are incorporated into and sold as part of the repair.  
575 Such a sale shall be deemed a purchase for resale by the repair  
576 facility, even though every material is not separately stated or  
577 separately priced on the repair invoice.

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

582 ~~(c) The term "Retail sale" includes a mail order sale, as~~  
583 ~~defined in s. 212.0596(1).~~

584 (35) ~~(15)~~ "Sale" means and includes:

585 (a) Any transfer of title or possession, or both,  
586 exchange, barter, license, lease, or rental, conditional or  
587 otherwise, in any manner or by any means whatsoever, of tangible  
588 personal property for a consideration.

589 (b) The rental of living quarters or sleeping or  
 590 housekeeping accommodations in hotels, apartment houses or  
 591 roominghouses, or tourist or trailer camps, as hereinafter  
 592 defined in this chapter.

593 (c) The producing, fabricating, processing, printing, or  
 594 imprinting of tangible personal property for a consideration for  
 595 consumers who furnish either directly or indirectly the  
 596 materials used in the producing, fabricating, processing,  
 597 printing, or imprinting.

598 (d) The furnishing, preparing, or serving for a  
 599 consideration of any tangible personal property for consumption  
 600 on or off the premises of the person furnishing, preparing, or  
 601 serving such tangible personal property which includes the sale  
 602 of meals or prepared food by an employer to his or her  
 603 employees.

604 (e) A transaction whereby the possession of property is  
 605 transferred but the seller retains title as security for the  
 606 payment of the price.

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

- 613 1. The seller's cost of the property sold;
- 614 2. The cost of materials used, labor or service cost,  
 615 interest, losses, all costs of transportation to the seller, all  
 616 taxes imposed on the seller, and any other expense of the

617 seller;  
618 3. Charges by the seller for any services necessary to  
619 complete the sale, other than delivery and installation charges;  
620 4. Delivery charges; or  
621 5. Installation charges.  
622 (b) "Sales price" does not include:  
623 1. Trade-ins allowed and taken at the time of sale if the  
624 amount is separately stated on the invoice, bill of sale, or  
625 similar document given to the purchaser;  
626 2. Discounts, including cash, term, or coupons, which are  
627 not reimbursed by a third party, are allowed by a seller, and  
628 taken by a purchaser at the time of sale;  
629 3. Interest, financing, and carrying charges from credit  
630 extended on the sale of personal property or services, if the  
631 amount is separately stated on the invoice, bill of sale, or  
632 similar document given to the purchaser;  
633 4. Any taxes legally imposed directly on the consumer that  
634 are separately stated on the invoice, bill of sale, or similar  
635 document given to the purchaser; or ~~means the total amount paid~~  
636 ~~for tangible personal property, including any services that are~~  
637 ~~a part of the sale, valued in money, whether paid in money or~~  
638 ~~otherwise, and includes any amount for which credit is given to~~  
639 ~~the purchaser by the seller, without any deduction therefrom on~~  
640 ~~account of the cost of the property sold, the cost of materials~~  
641 ~~used, labor or service cost, interest charged, losses, or any~~  
642 ~~other expense whatsoever. "Sales price" also includes the~~  
643 ~~consideration for a transaction which requires both labor and~~  
644 ~~material to alter, remodel, maintain, adjust, or repair tangible~~

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645 ~~personal property. Trade-ins or discounts allowed and taken at~~  
646 ~~the time of sale shall not be included within the purview of~~  
647 ~~this subsection. "Sales price" also includes the full face value~~  
648 ~~of any coupon used by a purchaser to reduce the price paid to a~~  
649 ~~retailer for an item of tangible personal property; where the~~  
650 ~~retailer will be reimbursed for such coupon, in whole or in~~  
651 ~~part, by the manufacturer of the item of tangible personal~~  
652 ~~property; or whenever it is not practicable for the retailer to~~  
653 ~~determine, at the time of sale, the extent to which~~  
654 ~~reimbursement for the coupon will be made. The term "sales~~  
655 ~~price" does not include federal excise taxes imposed upon the~~  
656 ~~retailer on the sale of tangible personal property. The term~~  
657 ~~"sales price" does include federal manufacturers' excise taxes,~~  
658 ~~even if the federal tax is listed as a separate item on the~~  
659 ~~invoice. To the extent required by federal law, the term "sales~~  
660 ~~price" does not include~~

661 5. Charges for Internet access services which are not  
662 itemized on the customer's bill, but which can be reasonably  
663 identified from the selling dealer's books and records kept in  
664 the regular course of business. The dealer may support the  
665 allocation of charges with books and records kept in the regular  
666 course of business covering the dealer's entire service area,  
667 including territories outside this state.

668 (37) "Sea trial" means a voyage for the purpose of testing  
669 repair or modification work, which is in length and scope  
670 reasonably necessary to test repairs or modifications, or a  
671 voyage for the purpose of ascertaining the seaworthiness of a  
672 vessel. If the sea trial is to test repair or modification work,



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673 the owner or repair facility shall certify, in a form required  
674 by the department, what repairs have been tested. The owner and  
675 the repair facility may also be required to certify that the  
676 length and scope of the voyage were reasonably necessary to test  
677 the repairs or modifications.

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

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

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

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

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

701 ~~(42)-(18)~~ "Storage" means and includes any keeping or  
 702 retention in this state of tangible personal property for use or  
 703 consumption in this state or for any purpose other than sale at  
 704 retail in the regular course of business.

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

707 ~~(44)-(19)~~ "Tangible personal property" means and includes  
 708 personal property which may be seen, weighed, measured, or  
 709 touched or is in any manner perceptible to the senses, including  
 710 electric power or energy, water, gas, steam, prewritten computer  
 711 software, boats, motor vehicles and mobile homes as defined in  
 712 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all  
 713 other types of vehicles. The term "tangible personal property"  
 714 does not include stocks, bonds, notes, insurance, ~~or~~ other  
 715 obligations or securities, any product transferred  
 716 electronically, or pari-mutuel tickets sold or issued under the  
 717 racing laws of the state.

718 ~~(45)-(20)~~ "Use" means and includes the exercise of any  
 719 right or power over tangible personal property incident to the  
 720 ownership thereof, or interest therein, except that it does not  
 721 include the sale at retail of that property in the regular  
 722 course of business. The term "use" does not include:

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

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

728 ~~(46)-(21)~~ ~~The term~~ "Use tax" referred to in this chapter

729 includes the use, the consumption, the distribution, and the  
730 storage as herein defined.

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

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

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

740 ~~(24) "Coin-operated amusement machine" means any machine~~  
741 ~~operated by coin, slug, token, coupon, or similar device for the~~  
742 ~~purposes of entertainment or amusement. The term includes, but~~  
743 ~~is not limited to, coin-operated pinball machines, music~~  
744 ~~machines, juke boxes, mechanical games, video games, arcade~~  
745 ~~games, billiard tables, moving picture viewers, shooting~~  
746 ~~galleries, and all other similar amusement devices.~~

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

757 ~~(26) "Solar energy system" means the equipment and~~  
758 ~~requisite hardware that provide and are used for collecting,~~  
759 ~~transferring, converting, storing, or using incident solar~~  
760 ~~energy for water heating, space heating, cooling, or other~~  
761 ~~applications that would otherwise require the use of a~~  
762 ~~conventional source of energy such as petroleum products,~~  
763 ~~natural gas, manufactured gas, or electricity.~~

764 ~~(27) "Agricultural commodity" means horticultural,~~  
765 ~~aquacultural, poultry and farm products, and livestock and~~  
766 ~~livestock products.~~

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

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

777 ~~(30) "Power farm equipment" means moving or stationary~~  
778 ~~equipment that contains within itself the means for its own~~  
779 ~~propulsion or power and moving or stationary equipment that is~~  
780 ~~dependent upon an external power source to perform its~~  
781 ~~functions.~~

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

785 ~~(32) "Agricultural production" means the production of~~  
786 ~~plants and animals useful to humans, including the preparation,~~  
787 ~~planting, cultivating, or harvesting of these products or any~~  
788 ~~other practices necessary to accomplish production through the~~  
789 ~~harvest phase, and includes aquaculture, horticulture,~~  
790 ~~floriculture, viticulture, forestry, dairy, livestock, poultry,~~  
791 ~~bees, and any and all forms of farm products and farm~~  
792 ~~production.~~

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

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

806 Section 2. Paragraph (c) of subsection (7) of section  
807 212.03, Florida Statutes, is amended to read:

808 212.03 Transient rentals tax; rate, procedure,  
809 enforcement, exemptions.—

810 (7)

811 (c) The rental of facilities in a trailer camp, mobile  
812 home park, or recreational vehicle park facilities, as defined

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813 | in s. 212.02 (24) ~~(10)(f)~~, which are intended primarily for rental  
814 | as a principal or permanent place of residence is exempt from  
815 | the tax imposed by this chapter. The rental of such facilities  
816 | that primarily serve transient guests is not exempt by this  
817 | subsection. In the application of this law, or in making any  
818 | determination against the exemption, the department shall  
819 | consider the facility as primarily serving transient guests  
820 | unless the facility owner makes a verified declaration on a form  
821 | prescribed by the department that more than half of the total  
822 | rental units available are occupied by tenants who have a  
823 | continuous residence in excess of 3 months. The owner of a  
824 | facility declared to be exempt by this paragraph must make a  
825 | determination of the taxable status of the facility at the end  
826 | of the owner's accounting year using any consecutive 3-month  
827 | period at least one month of which is in the accounting year.  
828 | The owner must use a selected consecutive 3-month period during  
829 | each annual redetermination. In the event that an exempt  
830 | facility no longer qualifies for exemption by this paragraph,  
831 | the owner must notify the department on a form prescribed by the  
832 | department by the 20th day of the first month of the owner's  
833 | next succeeding accounting year that the facility no longer  
834 | qualifies for such exemption. The tax levied by this section  
835 | shall apply to the rental of facilities that no longer qualify  
836 | for exemption under this paragraph beginning the first day of  
837 | the owner's next succeeding accounting year. The provisions of  
838 | this paragraph do not apply to mobile home lots regulated under  
839 | chapter 723.

840 |       Section 3. Subsection (6) of section 212.0306, Florida

841 Statutes, is amended to read:

842       212.0306 Local option food and beverage tax; procedure for  
843 levying; authorized uses; administration.—

844       (6) Any county levying a tax authorized by this section  
845 must locally administer the tax using the powers and duties  
846 enumerated for local administration of the tourist development  
847 tax by s. 125.0104, 1992 Supplement to the Florida Statutes  
848 1991. ~~The county's ordinance shall also provide for brackets~~  
849 ~~applicable to taxable transactions.~~

850       Section 4. Paragraph (b) of subsection (1) of section  
851 212.04, Florida Statutes, is amended to read:

852       212.04 Admissions tax; rate, procedure, enforcement.—

853       (1)

854       (b) For the exercise of such privilege, a tax is levied at  
855 the rate of 6 percent of sales price, or the actual value  
856 received from such admissions, which 6 percent shall be added to  
857 and collected with all such admissions from the purchaser  
858 thereof, and such tax shall be paid for the exercise of the  
859 privilege as defined in the preceding paragraph. Each ticket  
860 must show on its face the actual sales price of the admission,  
861 or each dealer selling the admission must prominently display at  
862 the box office or other place where the admission charge is made  
863 a notice disclosing the price of the admission, and the tax  
864 shall be computed and collected on the basis of the actual price  
865 of the admission charged by the dealer. The sale price or actual  
866 value of admission shall, for the purpose of this chapter, be  
867 that price remaining after deduction of federal taxes and state  
868 or locally imposed or authorized seat surcharges, taxes, or

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

875 Section 5. Subsections (6) through (11) of section  
876 212.0506, Florida Statutes, are amended to read:

877 212.0506 Taxation of service warranties.-

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

880 (6)~~(7)~~ This tax shall not apply to any portion of the  
881 consideration received by any person in connection with the  
882 issuance of any service warranty contract upon which such person  
883 is required to pay any premium tax imposed under the Florida  
884 Insurance Code or under s. 634.313(1).

885 (7)~~(8)~~ If a transaction involves both the issuance of a  
886 service warranty that is subject to such tax and the issuance of  
887 a warranty, guaranty, extended warranty or extended guaranty,  
888 contract, agreement, or other written promise that is not  
889 subject to such tax, the consideration shall be separately  
890 identified and stated with respect to the taxable and nontaxable  
891 portions of the transaction. If the consideration is separately  
892 apportioned and identified in good faith, such tax shall apply  
893 to the transaction to the extent that the consideration received  
894 or to be received in connection with the transaction is payment  
895 for a service warranty subject to such tax. If the consideration  
896 is not apportioned in good faith, the department may reform the



897 contract; such reformation by the department is to be considered  
 898 prima facie correct, and the burden to show the contrary rests  
 899 upon the dealer. If the consideration for such a transaction is  
 900 not separately identified and stated, the entire transaction is  
 901 taxable.

902 (8)~~(9)~~ Any claim which arises under a service warranty  
 903 taxable under this section, which claim is paid directly by the  
 904 person issuing such warranty, is not subject to any tax imposed  
 905 under this chapter.

906 (9)~~(10)~~ Materials and supplies used in the performance of  
 907 a factory or manufacturer's warranty are exempt if the contract  
 908 is furnished at no extra charge with the equipment guaranteed  
 909 thereunder and such materials and supplies are paid for by the  
 910 factory or manufacturer.

911 (10)~~(11)~~ Any duties imposed by this chapter upon dealers  
 912 of tangible personal property with respect to collecting and  
 913 remitting taxes; making returns; keeping books, records, and  
 914 accounts; and complying with the rules and regulations of the  
 915 department apply to all dealers as defined in s. 212.06(2)(1).

916 Section 6. Section 212.05, Florida Statutes, is amended to  
 917 read:

918 212.05 Sales, storage, use tax.—It is hereby declared to  
 919 be the legislative intent that every person is exercising a  
 920 taxable privilege who engages in the business of selling  
 921 tangible personal property at retail in this state, ~~including~~  
 922 ~~the business of making mail order sales,~~ or who rents or  
 923 furnishes any of the things or services taxable under this  
 924 chapter, or who stores for use or consumption in this state any

925 | item or article of tangible personal property as defined herein  
 926 | and who leases or rents such property within the state.

927 |       (1) For the exercise of such privilege, a tax is levied on  
 928 | each taxable transaction or incident, which tax is due and  
 929 | payable as follows:

930 |       (a)1.a. At the rate of 6 percent of the sales price of  
 931 | each item or article of tangible personal property when sold at  
 932 | retail in this state, computed on each taxable sale for the  
 933 | purpose of remitting the amount of tax due the state, and  
 934 | including each and every retail sale.

935 |       b. Each occasional or isolated sale of an aircraft, boat,  
 936 | mobile home, or motor vehicle of a class or type which is  
 937 | required to be registered, licensed, titled, or documented in  
 938 | this state or by the United States Government shall be subject  
 939 | to tax at the rate provided in this paragraph. The department  
 940 | shall by rule adopt any nationally recognized publication for  
 941 | valuation of used motor vehicles as the reference price list for  
 942 | any used motor vehicle which is required to be licensed pursuant  
 943 | to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any  
 944 | party to an occasional or isolated sale of such a vehicle  
 945 | reports to the tax collector a sales price which is less than 80  
 946 | percent of the average loan price for the specified model and  
 947 | year of such vehicle as listed in the most recent reference  
 948 | price list, the tax levied under this paragraph shall be  
 949 | computed by the department on such average loan price unless the  
 950 | parties to the sale have provided to the tax collector an  
 951 | affidavit signed by each party, or other substantial proof,  
 952 | stating the actual sales price. Any party to such sale who

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953 reports a sales price less than the actual sales price is guilty  
954 of a misdemeanor of the first degree, punishable as provided in  
955 s. 775.082 or s. 775.083. The department shall collect or  
956 attempt to collect from such party any delinquent sales taxes.  
957 In addition, such party shall pay any tax due and any penalty  
958 and interest assessed plus a penalty equal to twice the amount  
959 of the additional tax owed. Notwithstanding any other provision  
960 of law, the Department of Revenue may waive or compromise any  
961 penalty imposed pursuant to this subparagraph.

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

980 a. The purchaser removes a qualifying boat, as described

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981 in sub-subparagraph f., from the state within 90 days after the  
982 date of purchase or extension, or the purchaser removes a  
983 nonqualifying boat or an aircraft from this state within 10 days  
984 after the date of purchase or, when the boat or aircraft is  
985 repaired or altered, within 20 days after completion of the  
986 repairs or alterations;

987 b. The purchaser, within 30 days from the date of  
988 departure, shall provide the department with written proof that  
989 the purchaser licensed, registered, titled, or documented the  
990 boat or aircraft outside the state. If such written proof is  
991 unavailable, within 30 days the purchaser shall provide proof  
992 that the purchaser applied for such license, title,  
993 registration, or documentation. The purchaser shall forward to  
994 the department proof of title, license, registration, or  
995 documentation upon receipt;

996 c. The purchaser, within 10 days of removing the boat or  
997 aircraft from Florida, shall furnish the department with proof  
998 of removal in the form of receipts for fuel, dockage, slippage,  
999 tie-down, or hangaring from outside of Florida. The information  
1000 so provided must clearly and specifically identify the boat or  
1001 aircraft;

1002 d. The selling dealer, within 5 days of the date of sale,  
1003 shall provide to the department a copy of the sales invoice,  
1004 closing statement, bills of sale, and the original affidavit  
1005 signed by the purchaser attesting that he or she has read the  
1006 provisions of this section;

1007 e. The seller makes a copy of the affidavit a part of his  
1008 or her record for as long as required by s. 213.35; and

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1009 f. Unless the nonresident purchaser of a boat of 5 net  
1010 tons of admeasurement or larger intends to remove the boat from  
1011 this state within 10 days after the date of purchase or when the  
1012 boat is repaired or altered, within 20 days after completion of  
1013 the repairs or alterations, the nonresident purchaser shall  
1014 apply to the selling dealer for a decal which authorizes 90 days  
1015 after the date of purchase for removal of the boat. The  
1016 nonresident purchaser of a qualifying boat may apply to the  
1017 selling dealer within 60 days after the date of purchase for an  
1018 extension decal that authorizes the boat to remain in this state  
1019 for an additional 90 days, but not more than a total of 180  
1020 days, before the nonresident purchaser is required to pay the  
1021 tax imposed by this chapter. The department is authorized to  
1022 issue decals in advance to dealers. The number of decals issued  
1023 in advance to a dealer shall be consistent with the volume of  
1024 the dealer's past sales of boats which qualify under this sub-  
1025 subparagraph. The selling dealer or his or her agent shall mark  
1026 and affix the decals to qualifying boats in the manner  
1027 prescribed by the department, prior to delivery of the boat.

1028 (I) The department is hereby authorized to charge dealers  
1029 a fee sufficient to recover the costs of decals issued, except  
1030 the extension decal shall cost \$425.

1031 (II) The proceeds from the sale of decals will be  
1032 deposited into the administrative trust fund.

1033 (III) Decals shall display information to identify the  
1034 boat as a qualifying boat under this sub-subparagraph,  
1035 including, but not limited to, the decal's date of expiration.

1036 (IV) The department is authorized to require dealers who

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1037 purchase decals to file reports with the department and may  
1038 prescribe all necessary records by rule. All such records are  
1039 subject to inspection by the department.

1040 (V) Any dealer or his or her agent who issues a decal  
1041 falsely, fails to affix a decal, mismarks the expiration date of  
1042 a decal, or fails to properly account for decals will be  
1043 considered prima facie to have committed a fraudulent act to  
1044 evade the tax and will be liable for payment of the tax plus a  
1045 mandatory penalty of 200 percent of the tax, and shall be liable  
1046 for fine and punishment as provided by law for a conviction of a  
1047 misdemeanor of the first degree, as provided in s. 775.082 or s.  
1048 775.083.

1049 (VI) Any nonresident purchaser of a boat who removes a  
1050 decal prior to permanently removing the boat from the state, or  
1051 defaces, changes, modifies, or alters a decal in a manner  
1052 affecting its expiration date prior to its expiration, or who  
1053 causes or allows the same to be done by another, will be  
1054 considered prima facie to have committed a fraudulent act to  
1055 evade the tax and will be liable for payment of the tax plus a  
1056 mandatory penalty of 200 percent of the tax, and shall be liable  
1057 for fine and punishment as provided by law for a conviction of a  
1058 misdemeanor of the first degree, as provided in s. 775.082 or s.  
1059 775.083.

1060 (VII) The department is authorized to adopt rules  
1061 necessary to administer and enforce this subparagraph and to  
1062 publish the necessary forms and instructions.

1063 (VIII) The department is hereby authorized to adopt  
1064 emergency rules pursuant to s. 120.54(4) to administer and

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1065 enforce the provisions of this subparagraph.  
1066 If the purchaser fails to remove the qualifying boat from this  
1067 state within the maximum 180 days after purchase or a  
1068 nonqualifying boat or an aircraft from this state within 10 days  
1069 after purchase or, when the boat or aircraft is repaired or  
1070 altered, within 20 days after completion of such repairs or  
1071 alterations, or permits the boat or aircraft to return to this  
1072 state within 6 months from the date of departure, except as  
1073 provided in s. 212.08(7)(fff), or if the purchaser fails to  
1074 furnish the department with any of the documentation required by  
1075 this subparagraph within the prescribed time period, the  
1076 purchaser shall be liable for use tax on the cost price of the  
1077 boat or aircraft and, in addition thereto, payment of a penalty  
1078 to the Department of Revenue equal to the tax payable. This  
1079 penalty shall be in lieu of the penalty imposed by s. 212.12(2).  
1080 The maximum 180-day period following the sale of a qualifying  
1081 boat tax-exempt to a nonresident may not be tolled for any  
1082 reason.

1083 (b) At the rate of 6 percent of the cost price of each  
1084 item or article of tangible personal property when the same is  
1085 not sold but is used, consumed, distributed, or stored for use  
1086 or consumption in this state; however, for tangible property  
1087 originally purchased exempt from tax for use exclusively for  
1088 lease and which is converted to the owner's own use, tax may be  
1089 paid on the fair market value of the property at the time of  
1090 conversion. If the fair market value of the property cannot be  
1091 determined, use tax at the time of conversion shall be based on  
1092 the owner's acquisition cost. Under no circumstances may the

1093 aggregate amount of sales tax from leasing the property and use  
 1094 tax due at the time of conversion be less than the total sales  
 1095 tax that would have been due on the original acquisition cost  
 1096 paid by the owner.

1097 (c) At the rate of 6 percent of the gross proceeds derived  
 1098 from the lease or rental of tangible personal property, as  
 1099 defined herein; ~~however, the following special provisions apply  
 1100 to the lease or rental of motor vehicles:~~

1101 ~~1. When a motor vehicle is leased or rented for a period  
 1102 of less than 12 months:~~

1103 ~~a. If the motor vehicle is rented in Florida, the entire  
 1104 amount of such rental is taxable, even if the vehicle is dropped  
 1105 off in another state.~~

1106 ~~b. If the motor vehicle is rented in another state and  
 1107 dropped off in Florida, the rental is exempt from Florida tax.~~

1108 ~~2. Except as provided in subparagraph 3., for the lease or  
 1109 rental of a motor vehicle for a period of not less than 12  
 1110 months, sales tax is due on the lease or rental payments if the  
 1111 vehicle is registered in this state; provided, however, that no  
 1112 tax shall be due if the taxpayer documents use of the motor  
 1113 vehicle outside this state and tax is being paid on the lease or  
 1114 rental payments in another state.~~

1115 ~~3. The tax imposed by this chapter does not apply to the  
 1116 lease or rental of a commercial motor vehicle as defined in s.  
 1117 316.003(66) (a) to one lessee or rentee for a period of not less  
 1118 than 12 months when tax was paid on the purchase price of such  
 1119 vehicle by the lessor. To the extent tax was paid with respect  
 1120 to the purchase of such vehicle in another state, territory of~~



1121 ~~the United States, or the District of Columbia, the Florida tax~~  
 1122 ~~payable shall be reduced in accordance with the provisions of s.~~  
 1123 ~~212.06(7). This subparagraph shall only be available when the~~  
 1124 ~~lease or rental of such property is an established business or~~  
 1125 ~~part of an established business or the same is incidental or~~  
 1126 ~~germane to such business.~~

1127 (d) At the rate of 6 percent of the lease or rental price  
 1128 paid by a lessee or rentee, or contracted or agreed to be paid  
 1129 by a lessee or rentee, to the owner of the tangible personal  
 1130 property.

1131 (e)1. At the rate of 6 percent on charges for:

1132 a. Prepaid calling arrangements. The tax on charges for  
 1133 prepaid calling arrangements shall be collected at the time of  
 1134 sale and remitted by the selling dealer.

1135 (I) "Prepaid calling arrangement" means the separately  
 1136 stated retail sale by advance payment of communications services  
 1137 that consist exclusively of telephone calls originated by using  
 1138 an access number, authorization code, or other means that may be  
 1139 manually, electronically, or otherwise entered and that are sold  
 1140 in predetermined units or dollars whose number declines with use  
 1141 in a known amount.

1142 (II) The sale or recharge of the prepaid calling  
 1143 arrangement is deemed to take place in accordance with s.  
 1144 212.06(17) (d) If the sale or recharge of the prepaid calling  
 1145 arrangement does not take place at the dealer's place of  
 1146 business, it shall be deemed to take place at the customer's  
 1147 shipping address or, if no item is shipped, at the customer's  
 1148 address or the location associated with the customer's mobile

1149 ~~telephone number.~~

1150 (III) The sale or recharge of a prepaid calling  
 1151 arrangement shall be treated as a sale of tangible personal  
 1152 property for purposes of this chapter, whether or not a tangible  
 1153 item evidencing such arrangement is furnished to the purchaser,  
 1154 and such sale within this state subjects the selling dealer to  
 1155 the jurisdiction of this state for purposes of this subsection.

1156 b. The installation of telecommunication and telegraphic  
 1157 equipment.

1158 c. Electrical power or energy, except that the tax rate  
 1159 for charges for electrical power or energy is 7 percent.

1160 2. The provisions of s. 212.17(3), regarding credit for  
 1161 tax paid on charges subsequently found to be worthless, shall be  
 1162 equally applicable to any tax paid under the provisions of this  
 1163 section on charges for prepaid calling arrangements,  
 1164 telecommunication or telegraph services, or electric power  
 1165 subsequently found to be uncollectible. The word "charges" in  
 1166 this paragraph does not include any excise or similar tax levied  
 1167 by the Federal Government, any political subdivision of the  
 1168 state, or any municipality upon the purchase, sale, or recharge  
 1169 of prepaid calling arrangements or upon the purchase or sale of  
 1170 telecommunication, television system program, or telegraph  
 1171 service or electric power, which tax is collected by the seller  
 1172 from the purchaser.

1173 (f) At the rate of 6 percent on the sale, rental, use,  
 1174 consumption, or storage for use in this state of machines and  
 1175 equipment, and parts and accessories therefor, used in  
 1176 manufacturing, processing, compounding, producing, mining, or

1177 quarrying personal property for sale or to be used in furnishing  
 1178 communications, transportation, or public utility services.

1179 (g)1. At the rate of 6 percent on the retail price of  
 1180 newspapers and magazines sold or used in Florida.

1181 2. Notwithstanding other provisions of this chapter,  
 1182 inserts of printed materials which are distributed with a  
 1183 newspaper or magazine are a component part of the newspaper or  
 1184 magazine, and neither the sale nor use of such inserts is  
 1185 subject to tax when:

1186 a. Printed by a newspaper or magazine publisher or  
 1187 commercial printer and distributed as a component part of a  
 1188 newspaper or magazine, which means that the items after being  
 1189 printed are delivered directly to a newspaper or magazine  
 1190 publisher by the printer for inclusion in editions of the  
 1191 distributed newspaper or magazine;

1192 b. Such publications are labeled as part of the designated  
 1193 newspaper or magazine publication into which they are to be  
 1194 inserted; and

1195 c. The purchaser of the insert presents a resale  
 1196 certificate to the vendor stating that the inserts are to be  
 1197 distributed as a component part of a newspaper or magazine.

1198 (h)1. A tax is imposed at the rate of 4 percent on the  
 1199 charges for the use of coin-operated amusement machines. The tax  
 1200 shall be calculated by dividing the gross receipts from such  
 1201 charges for the applicable reporting period by a divisor,  
 1202 determined as provided in this subparagraph, to compute gross  
 1203 taxable sales, and then subtracting gross taxable sales from  
 1204 gross receipts to arrive at the amount of tax due. For counties

1205 | that do not impose a discretionary sales surtax, the divisor is  
 1206 | equal to 1.04; for counties that impose a 0.5 percent  
 1207 | discretionary sales surtax, the divisor is equal to 1.045; for  
 1208 | counties that impose a 1 percent discretionary sales surtax, the  
 1209 | divisor is equal to 1.050; and for counties that impose a 2  
 1210 | percent sales surtax, the divisor is equal to 1.060. If a county  
 1211 | imposes a discretionary sales surtax that is not listed in this  
 1212 | subparagraph, the department shall make the applicable divisor  
 1213 | available in an electronic format or otherwise. Additional  
 1214 | divisors shall bear the same mathematical relationship to the  
 1215 | next higher and next lower divisors as the new surtax rate bears  
 1216 | to the next higher and next lower surtax rates for which  
 1217 | divisors have been established. When a machine is activated by a  
 1218 | slug, token, coupon, or any similar device which has been  
 1219 | purchased, the tax is on the price paid by the user of the  
 1220 | device for such device.

1221 |         2. As used in this paragraph, the term "operator" means  
 1222 | any person who possesses a coin-operated amusement machine for  
 1223 | the purpose of generating sales through that machine and who is  
 1224 | responsible for removing the receipts from the machine.

1225 |         a. If the owner of the machine is also the operator of it,  
 1226 | he or she shall be liable for payment of the tax without any  
 1227 | deduction for rent or a license fee paid to a location owner for  
 1228 | the use of any real property on which the machine is located.

1229 |         b. If the owner or lessee of the machine is also its  
 1230 | operator, he or she shall be liable for payment of the tax on  
 1231 | the purchase or lease of the machine, as well as the tax on  
 1232 | sales generated through the machine.

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1233 c. If the proprietor of the business where the machine is  
1234 located does not own the machine, he or she shall be deemed to  
1235 be the lessee and operator of the machine and is responsible for  
1236 the payment of the tax on sales, unless such responsibility is  
1237 otherwise provided for in a written agreement between him or her  
1238 and the machine owner.

1239 3.a. An operator of a coin-operated amusement machine may  
1240 not operate or cause to be operated in this state any such  
1241 machine until the operator has registered with the department  
1242 and has conspicuously displayed an identifying certificate  
1243 issued by the department. The identifying certificate shall be  
1244 issued by the department upon application from the operator. The  
1245 identifying certificate shall include a unique number, and the  
1246 certificate shall be permanently marked with the operator's  
1247 name, the operator's sales tax number, and the maximum number of  
1248 machines to be operated under the certificate. An identifying  
1249 certificate shall not be transferred from one operator to  
1250 another. The identifying certificate must be conspicuously  
1251 displayed on the premises where the coin-operated amusement  
1252 machines are being operated.

1253 b. The operator of the machine must obtain an identifying  
1254 certificate before the machine is first operated in the state  
1255 and by July 1 of each year thereafter. The annual fee for each  
1256 certificate shall be based on the number of machines identified  
1257 on the application times \$30 and is due and payable upon  
1258 application for the identifying device. The application shall  
1259 contain the operator's name, sales tax number, business address  
1260 where the machines are being operated, and the number of

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1261 machines in operation at that place of business by the operator.  
1262 No operator may operate more machines than are listed on the  
1263 certificate. A new certificate is required if more machines are  
1264 being operated at that location than are listed on the  
1265 certificate. The fee for the new certificate shall be based on  
1266 the number of additional machines identified on the application  
1267 form times \$30.

1268 c. A penalty of \$250 per machine is imposed on the  
1269 operator for failing to properly obtain and display the required  
1270 identifying certificate. A penalty of \$250 is imposed on the  
1271 lessee of any machine placed in a place of business without a  
1272 proper current identifying certificate. Such penalties shall  
1273 apply in addition to all other applicable taxes, interest, and  
1274 penalties.

1275 d. Operators of coin-operated amusement machines must  
1276 obtain a separate sales and use tax certificate of registration  
1277 for each county in which such machines are located. One sales  
1278 and use tax certificate of registration is sufficient for all of  
1279 the operator's machines within a single county.

1280 4. The provisions of this paragraph do not apply to coin-  
1281 operated amusement machines owned and operated by churches or  
1282 synagogues.

1283 5. In addition to any other penalties imposed by this  
1284 chapter, a person who knowingly and willfully violates any  
1285 provision of this paragraph commits a misdemeanor of the second  
1286 degree, punishable as provided in s. 775.082 or s. 775.083.

1287 6. The department may adopt rules necessary to administer  
1288 the provisions of this paragraph.

1289 (i)1. At the rate of 6 percent on charges for all:  
 1290 a. Detective, burglar protection, and other protection  
 1291 services (NAICS National Numbers 561611, 561612, 561613, and  
 1292 561621). Any law enforcement officer, as defined in s. 943.10,  
 1293 who is performing approved duties as determined by his or her  
 1294 local law enforcement agency in his or her capacity as a law  
 1295 enforcement officer, and who is subject to the direct and  
 1296 immediate command of his or her law enforcement agency, and in  
 1297 the law enforcement officer's uniform as authorized by his or  
 1298 her law enforcement agency, is performing law enforcement and  
 1299 public safety services and is not performing detective, burglar  
 1300 protection, or other protective services, if the law enforcement  
 1301 officer is performing his or her approved duties in a  
 1302 geographical area in which the law enforcement officer has  
 1303 arrest jurisdiction. Such law enforcement and public safety  
 1304 services are not subject to tax irrespective of whether the duty  
 1305 is characterized as "extra duty," "off-duty," or "secondary  
 1306 employment," and irrespective of whether the officer is paid  
 1307 directly or through the officer's agency by an outside source.  
 1308 The term "law enforcement officer" includes full-time or part-  
 1309 time law enforcement officers, and any auxiliary law enforcement  
 1310 officer, when such auxiliary law enforcement officer is working  
 1311 under the direct supervision of a full-time or part-time law  
 1312 enforcement officer.  
 1313 b. Nonresidential cleaning, excluding cleaning of the  
 1314 interiors of transportation equipment, and nonresidential  
 1315 building pest control services (NAICS National Numbers 561710  
 1316 and 561720).

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1317           2. As used in this paragraph, "NAICS" means those  
1318 classifications contained in the North American Industry  
1319 Classification System, as published in 2007 by the Office of  
1320 Management and Budget, Executive Office of the President.

1321           3. Charges for detective, burglar protection, and other  
1322 protection security services performed in this state but used  
1323 outside this state are exempt from taxation. Charges for  
1324 detective, burglar protection, and other protection security  
1325 services performed outside this state and used in this state are  
1326 subject to tax.

1327           4. If a transaction involves both the sale or use of a  
1328 service taxable under this paragraph and the sale or use of a  
1329 service or any other item not taxable under this chapter, the  
1330 consideration paid must be separately identified and stated with  
1331 respect to the taxable and exempt portions of the transaction or  
1332 the entire transaction shall be presumed taxable. The burden  
1333 shall be on the seller of the service or the purchaser of the  
1334 service, whichever applicable, to overcome this presumption by  
1335 providing documentary evidence as to which portion of the  
1336 transaction is exempt from tax. The department is authorized to  
1337 adjust the amount of consideration identified as the taxable and  
1338 exempt portions of the transaction; however, a determination  
1339 that the taxable and exempt portions are inaccurately stated and  
1340 that the adjustment is applicable must be supported by  
1341 substantial competent evidence.

1342           5. Each seller of services subject to sales tax pursuant  
1343 to this paragraph shall maintain a monthly log showing each  
1344 transaction for which sales tax was not collected because the



1345 services meet the requirements of subparagraph 3. for out-of-  
 1346 state use. The log must identify the purchaser's name, location  
 1347 and mailing address, and federal employer identification number,  
 1348 if a business, or the social security number, if an individual,  
 1349 the service sold, the price of the service, the date of sale,  
 1350 the reason for the exemption, and the sales invoice number. The  
 1351 monthly log shall be maintained pursuant to the same  
 1352 requirements and subject to the same penalties imposed for the  
 1353 keeping of similar records pursuant to this chapter.

1354 (j)1. Notwithstanding any other provision of this chapter,  
 1355 there is hereby levied a tax on the sale, use, consumption, or  
 1356 storage for use in this state of any coin or currency, whether  
 1357 in circulation or not, when such coin or currency:

- 1358 a. Is not legal tender;
- 1359 b. If legal tender, is sold, exchanged, or traded at a  
 1360 rate in excess of its face value; or
- 1361 c. Is sold, exchanged, or traded at a rate based on its  
 1362 precious metal content.

1363 2. Such tax shall be at a rate of 6 percent of the price  
 1364 at which the coin or currency is sold, exchanged, or traded,  
 1365 except that, with respect to a coin or currency which is legal  
 1366 tender of the United States and which is sold, exchanged, or  
 1367 traded, such tax shall not be levied.

1368 3. There are exempt from this tax exchanges of coins or  
 1369 currency which are in general circulation in, and legal tender  
 1370 of, one nation for coins or currency which are in general  
 1371 circulation in, and legal tender of, another nation when  
 1372 exchanged solely for use as legal tender and at an exchange rate

1373 based on the relative value of each as a medium of exchange.

1374 4. With respect to any transaction that involves the sale  
1375 of coins or currency taxable under this paragraph in which the  
1376 taxable amount represented by the sale of such coins or currency  
1377 exceeds \$500, the entire amount represented by the sale of such  
1378 coins or currency is exempt from the tax imposed under this  
1379 paragraph. The dealer must maintain proper documentation, as  
1380 prescribed by rule of the department, to identify that portion  
1381 of a transaction which involves the sale of coins or currency  
1382 and is exempt under this subparagraph.

1383 (k) At the rate of 6 percent of the sales price of each  
1384 gallon of diesel fuel not taxed under chapter 206 purchased for  
1385 use in a vessel.

1386 (l) Florists located in this state are liable for sales  
1387 tax on sales to retail customers regardless of where or by whom  
1388 the items sold are to be delivered. Florists located in this  
1389 state are not liable for sales tax on payments received from  
1390 other florists for items delivered to customers in this state.

1391 (m) Operators of game concessions or other concessionaires  
1392 who customarily award tangible personal property as prizes may,  
1393 in lieu of paying tax on the cost price of such property, pay  
1394 tax on 25 percent of the gross receipts from such concession  
1395 activity.

1396 (2) The tax shall be collected by the dealer, as defined  
1397 herein, and remitted by the dealer to the state at the time and  
1398 in the manner as hereinafter provided.

1399 (3) The tax so levied is in addition to all other taxes,  
1400 whether levied in the form of excise, license, or privilege

1401 taxes, and in addition to all other fees and taxes levied.

1402 ~~(4) The tax imposed pursuant to this chapter shall be due~~  
 1403 ~~and payable according to the brackets set forth in s. 212.12.~~

1404 (4)~~(5)~~ Notwithstanding any other provision of this  
 1405 chapter, the maximum amount of tax imposed under this chapter  
 1406 and collected on each sale or use of a boat in this state may  
 1407 not exceed \$18,000.

1408 Section 7. Section 212.054, Florida Statutes, is amended  
 1409 to read:

1410 212.054 Discretionary sales surtax; limitations,  
 1411 administration, and collection.-

1412 (1) A ~~No~~ general excise tax on sales may not ~~shall~~ be  
 1413 levied by the governing body of any county unless specifically  
 1414 authorized in s. 212.055. Any general excise tax on sales  
 1415 authorized pursuant to said section shall be administered and  
 1416 collected exclusively as provided in this section.

1417 (2) (a) The tax imposed by the governing body of any county  
 1418 authorized to so levy pursuant to s. 212.055 shall be a  
 1419 discretionary surtax on all transactions occurring in the county  
 1420 which transactions are subject to the state tax imposed on  
 1421 sales, use, services, rentals, admissions, and other  
 1422 transactions by this chapter and communications services as  
 1423 defined for purposes of chapter 202. The surtax, if levied,  
 1424 shall be computed as the applicable rate or rates authorized  
 1425 pursuant to s. 212.055 times the amount of taxable sales and  
 1426 taxable purchases representing such transactions. If the surtax  
 1427 is levied on the sale of an item of tangible personal property  
 1428 or on the sale of a service, the surtax shall be computed by

1429 multiplying the rate imposed by the county within which the sale  
 1430 occurs by the amount of the taxable sale. The sale of an item of  
 1431 tangible personal property or the sale of a service is not  
 1432 subject to the surtax if the property, the service, or the  
 1433 tangible personal property representing the service is delivered  
 1434 within a county that does not impose a discretionary sales  
 1435 surtax.

1436 (b) However:

1437 1. The sales amount above \$5,000 on a motor vehicle,  
 1438 aircraft, boat, manufactured home, modular home, or mobile home  
 1439 is any item of tangible personal property shall not be subject  
 1440 to the surtax. ~~However, charges for prepaid calling~~  
 1441 ~~arrangements, as defined in s. 212.05(1)(c)1.a., shall be~~  
 1442 ~~subject to the surtax. For purposes of administering the \$5,000~~  
 1443 ~~limitation on an item of tangible personal property, if two or~~  
 1444 ~~more taxable items of tangible personal property are sold to the~~  
 1445 ~~same purchaser at the same time and, under generally accepted~~  
 1446 ~~business practice or industry standards or usage, are normally~~  
 1447 ~~sold in bulk or are items that, when assembled, comprise a~~  
 1448 ~~working unit or part of a working unit, such items must be~~  
 1449 ~~considered a single item for purposes of the \$5,000 limitation~~  
 1450 ~~when supported by a charge ticket, sales slip, invoice, or other~~  
 1451 ~~tangible evidence of a single sale or rental.~~

1452 2. In the case of utility services covering a period  
 1453 starting before and ending after the effective date of the  
 1454 surtax, the rate applies as follows:

1455 a. In the case of a rate adoption or increase, the new  
 1456 rate applies to the first billing period starting on or after

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1457 | the effective date of the surtax adoption or increase.

1458 |       b. In the case of a rate decrease or termination, the new  
1459 | rate applies to bills rendered on or after the effective date of  
1460 | the rate change billed on or after the effective date of any  
1461 | such surtax, the entire amount of the charge for utility  
1462 | services shall be subject to the surtax. In the case of utility  
1463 | services billed after the last day the surtax is in effect, the  
1464 | entire amount of the charge on said items shall not be subject  
1465 | to the surtax. "Utility service," as used in this section, does  
1466 | not include any communications services as defined in chapter  
1467 | 202.

1468 |       3. In the case of written contracts which are signed prior  
1469 | to the effective date of any such surtax for the construction of  
1470 | improvements to real property or for remodeling of existing  
1471 | structures, the surtax shall be paid by the contractor  
1472 | responsible for the performance of the contract. However, the  
1473 | contractor may apply for one refund of any such surtax paid on  
1474 | materials necessary for the completion of the contract. Any  
1475 | application for refund shall be made no later than 15 months  
1476 | following initial imposition of the surtax in that county. The  
1477 | application for refund shall be in the manner prescribed by the  
1478 | department by rule. A complete application shall include proof  
1479 | of the written contract and of payment of the surtax. The  
1480 | application shall contain a sworn statement, signed by the  
1481 | applicant or its representative, attesting to the validity of  
1482 | the application. The department shall, within 30 days after  
1483 | approval of a complete application, certify to the county  
1484 | information necessary for issuance of a refund to the applicant.

1485 Counties are hereby authorized to issue refunds for this purpose  
 1486 and shall set aside from the proceeds of the surtax a sum  
 1487 sufficient to pay any refund lawfully due. Any person who  
 1488 fraudulently obtains or attempts to obtain a refund pursuant to  
 1489 this subparagraph, in addition to being liable for repayment of  
 1490 any refund fraudulently obtained plus a mandatory penalty of 100  
 1491 percent of the refund, is guilty of a felony of the third  
 1492 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1493 775.084.

1494 4. In the case of any vessel, railroad, or motor vehicle  
 1495 common carrier entitled to partial exemption from tax imposed  
 1496 under this chapter pursuant to s. 212.08(4), (8), or (9), the  
 1497 basis for imposition of surtax shall be the same as provided in  
 1498 s. 212.08 and the ratio shall be applied each month to total  
 1499 purchases in this state of property qualified for proration  
 1500 which is delivered or sold in the taxing county to establish the  
 1501 portion used and consumed in intracounty movement and subject to  
 1502 surtax.

1503 (3) Except as otherwise provided in this section, a surtax  
 1504 applies to a retail sale, lease, or rental of tangible personal  
 1505 property, a digital good, or a service when, under s.  
 1506 212.06(17), the transaction occurs in a county that imposes a  
 1507 surtax under s. 212.055.

1508 ~~(4)(3) To determine whether a transaction occurs in a~~  
 1509 ~~county imposing a surtax, the following provisions apply For the~~  
 1510 ~~purpose of this section, a transaction shall be deemed to have~~  
 1511 ~~occurred in a county imposing the surtax when:~~

1512 (a)~~1.~~ The retail sale of a modular or manufactured home,

1513 not including a mobile home, occurs in the county to which the  
 1514 house is delivered ~~includes an item of tangible personal~~  
 1515 ~~property, a service, or tangible personal property representing~~  
 1516 ~~a service, and the item of tangible personal property, the~~  
 1517 ~~service, or the tangible personal property representing the~~  
 1518 ~~service is delivered within the county. If there is no~~  
 1519 ~~reasonable evidence of delivery of a service, the sale of a~~  
 1520 ~~service is deemed to occur in the county in which the purchaser~~  
 1521 ~~accepts the bill of sale.~~

1522 (b)2. The retail sale, excluding a lease or rental, of any  
 1523 motor vehicle that does not qualify as transportation equipment,  
 1524 as defined in s. 212.06(17) (g), or the retail sale of a of any  
 1525 ~~motor vehicle or mobile home of a class or type that which~~ is  
 1526 required to be registered in this state or in any other state is  
 1527 shall be deemed to occur have occurred only in the county  
 1528 identified from as the residence address of the purchaser on the  
 1529 registration or title document for the such property.

1530 (c)(b) Admission charged for an event occurs ~~The event for~~  
 1531 ~~which an admission is charged is located in the county in which~~  
 1532 the event is held.

1533 (d)(e) A lease or rental of real property occurs in the  
 1534 county in which the real property is located. ~~The consumer of~~  
 1535 ~~utility services is located in the county.~~

1536 (e)(d)1. The retail sale, excluding a lease or rental, of  
 1537 any aircraft that does not qualify as transportation equipment,  
 1538 as defined in s. 212.06(17) (g), or of any boat of a class or  
 1539 type that is required to be registered, licensed, titled, or  
 1540 documented in this state or by the Federal Government occurs in

1541 | the county to which the aircraft or boat is delivered.

1542 |       2. The user of any aircraft or boat of a class or type  
 1543 | that ~~which~~ is required to be registered, licensed, titled, or  
 1544 | documented in this state or by the United States Government  
 1545 | imported into the county for use, consumption, distribution, or  
 1546 | storage to be used or consumed occurs in the county in which the  
 1547 | user is located ~~in the county.~~

1548 |       ~~3.2.~~ However, it shall be presumed that such items used  
 1549 | outside the county imposing the surtax for 6 months or longer  
 1550 | before being imported into the county were not purchased for use  
 1551 | in the county, except as provided in s. 212.06(8)(b).

1552 |       ~~4.3.~~ This paragraph does not apply to the use or  
 1553 | consumption of items upon which a like tax of equal or greater  
 1554 | amount has been lawfully imposed and paid outside the county.

1555 |       ~~(f)(e)~~ The purchase purchaser of any motor vehicle or  
 1556 | mobile home of a class or type that ~~which~~ is required to be  
 1557 | registered in this state occurs in the county identified from  
 1558 | the residential address of the purchaser ~~is a resident of the~~  
 1559 | ~~taxing county as determined by the address appearing on or to be~~  
 1560 | ~~reflected~~ on the registration document for the ~~such~~ property.

1561 |       ~~(g)(f)~~1. The use, consumption, distribution, or storage of  
 1562 | a ~~Any~~ motor vehicle or mobile home of a class or type that ~~which~~  
 1563 | is required to be registered in this state and that is imported  
 1564 | from another state occurs in the county to which it is imported  
 1565 | ~~into the taxing county by a user residing therein for the~~  
 1566 | ~~purpose of use, consumption, distribution, or storage in the~~  
 1567 | ~~taxing county.~~

1568 |       2. However, it shall be presumed that such items used



1569 outside the taxing county for 6 months or longer before being  
 1570 imported into the county were not purchased for use in the  
 1571 county.

1572 ~~(g) The real property which is leased or rented is located~~  
 1573 ~~in the county.~~

1574 (h) A The transient rental transaction occurs in the  
 1575 county in which the rental property is located.

1576 ~~(i) The delivery of any aircraft or boat of a class or~~  
 1577 ~~type which is required to be registered, licensed, titled, or~~  
 1578 ~~documented in this state or by the United States Government is~~  
 1579 ~~to a location in the county. However, this paragraph does not~~  
 1580 ~~apply to the use or consumption of items upon which a like tax~~  
 1581 ~~of equal or greater amount has been lawfully imposed and paid~~  
 1582 ~~outside the county.~~

1583 (i)-(j) A transaction occurs in a county imposing the  
 1584 surtax if the dealer owing a use tax on purchases or leases is  
 1585 located in that the county.

1586 ~~(k) The delivery of tangible personal property other than~~  
 1587 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~  
 1588 ~~is made to a location outside the county, but the property is~~  
 1589 ~~brought into the county within 6 months after delivery, in which~~  
 1590 ~~event, the owner must pay the surtax as a use tax.~~

1591 (j)-(l) The use of a coin-operated amusement or vending  
 1592 machine occurs is located in the county in which the machine is  
 1593 located.

1594 (k)-(m) An The florist taking the original order to sell  
 1595 tangible personal property taken by a florist occurs is located  
 1596 in the county in which the florist taking the order is located.

1597 | ~~notwithstanding any other provision of this section.~~

1598 |       (5)~~(4)~~(a) The department shall administer, collect, and  
 1599 | enforce the tax authorized under s. 212.055 pursuant to the same  
 1600 | procedures used in the administration, collection, and  
 1601 | enforcement of the general state sales tax imposed under the  
 1602 | provisions of this chapter, except as provided in this section.  
 1603 | The provisions of this chapter regarding interest and penalties  
 1604 | on delinquent taxes shall apply to the surtax. Discretionary  
 1605 | sales surtaxes shall not be included in the computation of  
 1606 | estimated taxes pursuant to s. 212.11. Notwithstanding any other  
 1607 | provision of law, a dealer need not separately state the amount  
 1608 | of the surtax on the charge ticket, sales slip, invoice, or  
 1609 | other tangible evidence of sale. For the purposes of this  
 1610 | section and s. 212.055, the "proceeds" of any surtax means all  
 1611 | funds collected and received by the department pursuant to a  
 1612 | specific authorization and levy under s. 212.055, including any  
 1613 | interest and penalties on delinquent surtaxes.

1614 |       (b) The proceeds of a discretionary sales surtax collected  
 1615 | by the selling dealer located in a county imposing the surtax  
 1616 | shall be returned, less the cost of administration, to the  
 1617 | county where the selling dealer is located. The proceeds shall  
 1618 | be transferred to the Discretionary Sales Surtax Clearing Trust  
 1619 | Fund. A separate account shall be established in the trust fund  
 1620 | for each county imposing a discretionary surtax. The amount  
 1621 | deducted for the costs of administration may not exceed 3  
 1622 | percent of the total revenue generated for all counties levying  
 1623 | a surtax authorized in s. 212.055. The amount deducted for the  
 1624 | costs of administration may be used only for costs that are

1625 solely and directly attributable to the surtax. The total cost  
1626 of administration shall be prorated among those counties levying  
1627 the surtax on the basis of the amount collected for a particular  
1628 county to the total amount collected for all counties. The  
1629 department shall distribute the moneys in the trust fund to the  
1630 appropriate counties each month, unless otherwise provided in s.  
1631 212.055.

1632 (c)1. Any dealer located in a county that does not impose  
1633 a discretionary sales surtax but who collects the surtax due to  
1634 sales of tangible personal property or services delivered  
1635 outside the county shall remit monthly the proceeds of the  
1636 surtax to the department to be deposited into an account in the  
1637 Discretionary Sales Surtax Clearing Trust Fund which is separate  
1638 from the county surtax collection accounts. The department shall  
1639 distribute funds in this account using a distribution factor  
1640 determined for each county that levies a surtax and multiplied  
1641 by the amount of funds in the account and available for  
1642 distribution. The distribution factor for each county equals the  
1643 product of:

1644 a. The county's latest official population determined  
1645 pursuant to s. 186.901;  
1646 b. The county's rate of surtax; and  
1647 c. The number of months the county has levied a surtax  
1648 during the most recent distribution period;  
1649 divided by the sum of all such products of the counties levying  
1650 the surtax during the most recent distribution period.

1651 2. The department shall compute distribution factors for  
1652 eligible counties once each quarter and make appropriate

1653 | quarterly distributions.

1654 |         3. A county that fails to timely provide the information  
 1655 | required by this section to the department authorizes the  
 1656 | department, by such action, to use the best information  
 1657 | available to it in distributing surtax revenues to the county.  
 1658 | If this information is unavailable to the department, the  
 1659 | department may partially or entirely disqualify the county from  
 1660 | receiving surtax revenues under this paragraph. A county that  
 1661 | fails to provide timely information waives its right to  
 1662 | challenge the department's determination of the county's share,  
 1663 | if any, of revenues provided under this paragraph.

1664 |         ~~(5) No discretionary sales surtax or increase or decrease~~  
 1665 | ~~in the rate of any discretionary sales surtax shall take effect~~  
 1666 | ~~on a date other than January 1. No discretionary sales surtax~~  
 1667 | ~~shall terminate on a day other than December 31.~~

1668 |         (6) The governing body of any county levying a  
 1669 | discretionary sales surtax shall enact an ordinance levying the  
 1670 | surtax in accordance with the procedures described in s.  
 1671 | 125.66(2).

1672 |         (7) (a) Any adoption, repeal, or rate change of the surtax  
 1673 | by the governing body of any county levying a discretionary  
 1674 | sales surtax or the school board of any county levying the  
 1675 | school capital outlay surtax authorized by s. 212.055(6) is  
 1676 | effective on April 1. A county or school board adopting,  
 1677 | repealing, or changing the rate of such surtax shall notify the  
 1678 | department within 10 days after final adoption by ordinance or  
 1679 | referendum of an adoption, repeal, imposition, termination, or  
 1680 | rate change of the surtax, but no later than October 20

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1681 immediately before such April 1 ~~November 16~~ ~~prior to the~~  
1682 ~~effective date~~. The notice must specify the time period during  
1683 which the surtax will be in effect and the rate and must include  
1684 a copy of the ordinance and such other information as the  
1685 department requires by rule. Failure to timely provide such  
1686 notification to the department shall result in the delay of the  
1687 effective date for a period of 1 year.

1688 (b) In addition to the notification required by paragraph  
1689 (a), the governing body of any county proposing to levy a  
1690 discretionary sales surtax or the school board of any county  
1691 proposing to levy the school capital outlay surtax authorized by  
1692 s. 212.055(6) shall notify the department by October 1 if the  
1693 referendum or consideration of the ordinance that would result  
1694 in imposition, termination, or rate change of the surtax is  
1695 scheduled to occur on or after October 1 of that year. Failure  
1696 to timely provide such notification to the department shall  
1697 result in the delay of the effective date for a period of 1  
1698 year.

1699 (c) The department shall provide notice of the adoption,  
1700 repeal, or rate change of the surtax to affected sellers by  
1701 February 1 immediately before the April 1 effective date.

1702 (d) Notwithstanding the date set in an ordinance for the  
1703 termination of a surtax, a surtax terminates only on March 31. A  
1704 surtax imposed before January 1, 2014, for which an ordinance  
1705 provides a different termination date, also terminates on the  
1706 March 31 after the termination date established in the  
1707 ordinance.

1708 (8) With respect to any motor vehicle or mobile home of a

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1709 class or type which is required to be registered in this state,  
1710 the tax due on a transaction occurring in the taxing county as  
1711 herein provided shall be collected from the purchaser or user  
1712 incident to the titling and registration of such property,  
1713 irrespective of whether such titling or registration occurs in  
1714 the taxing county.

1715 (9) The department may certify vendor databases, and shall  
1716 purchase or otherwise make available a database or databases,  
1717 singly or in combination, which describe boundary changes for  
1718 all taxing jurisdictions, including a description of the change  
1719 and the effective date of a boundary change; provide all sales  
1720 and use tax rates by jurisdiction; assign to each five-digit and  
1721 nine-digit zip code the proper rate and jurisdiction and apply  
1722 the lowest combined rate imposed in the zip code area, if the  
1723 area includes more than one tax rate in any level of taxing  
1724 jurisdiction; and use address-based boundary database records  
1725 for assigning taxing jurisdictions and associated tax rates.

1726 (a) A seller or certified service provider that collects  
1727 and remits the state tax and any local tax imposed by this  
1728 chapter shall be held harmless from any tax, interest, and  
1729 penalties due solely as a result of relying on erroneous data on  
1730 tax rates, boundaries, or taxing jurisdiction assignments  
1731 provided by the state if the seller or certified service  
1732 provider exercises due diligence in applying one or more of the  
1733 following methods to determine the taxing jurisdiction and tax  
1734 rate for a transaction:

1735 1. Employing an electronic database provided by the  
1736 department under this subsection; or

1737 2. Employing a state-certified database.

1738 (b) If a seller or certified service provider is unable to  
1739 determine the applicable rate and jurisdiction using an address-  
1740 based database record after exercising due diligence, the seller  
1741 or certified service provider may apply the nine-digit zip code  
1742 designation applicable to a purchaser.

1743 (c) If a nine-digit zip code designation is not available  
1744 for a street address or if a seller or certified service  
1745 provider is unable to determine the nine-digit zip code  
1746 designation applicable to a purchase after exercising due  
1747 diligence to determine the designation, the seller or certified  
1748 service provider may apply the rate for the five-digit zip code  
1749 area.

1750 (d) There is a rebuttable presumption that a seller or  
1751 certified service provider has exercised due diligence if the  
1752 seller or certified service provider has attempted to determine  
1753 the tax rate and jurisdiction by using state-certified software  
1754 that makes this assignment from the address and zip code  
1755 information applicable to the purchase.

1756 (e) There is a rebuttable presumption that a seller or  
1757 certified service provider has exercised due diligence if the  
1758 seller or certified service provider has attempted to determine  
1759 the nine-digit zip code designation by using state-certified  
1760 software that makes this designation from the street address and  
1761 the five-digit zip code applicable to a purchase.

1762 (f) If a seller or certified service provider does not use  
1763 one of the methods specified in paragraph (a), the seller or  
1764 certified service provider may be held liable to the department

1765 for tax, interest, and penalties that are due for charging and  
1766 collecting the incorrect amount of tax.

1767 (10) A purchaser shall be held harmless from tax,  
1768 interest, and penalties for having failed to pay the correct  
1769 amount of sales or use tax due solely as a result of any of the  
1770 following circumstances:

1771 (a) The seller or certified service provider relied on  
1772 erroneous data on tax rates, boundaries, or taxing jurisdiction  
1773 assignments provided by the department;

1774 (b) A purchaser holding a direct-pay permit relied on  
1775 erroneous data on tax rates, boundaries, or taxing jurisdiction  
1776 assignments provided by the department; or

1777 (c) A purchaser relied on erroneous data supplied in a  
1778 database described in paragraph (9) (a).

1779 (11) A seller is not liable for failing to collect tax at  
1780 the new tax rate if:

1781 (a) The new rate takes effect within 30 days after the new  
1782 rate is enacted;

1783 (b) The seller collected the tax at the preceding rate;

1784 (c) The seller's failure to collect the tax at the new  
1785 rate does not extend beyond 30 days after the enactment of the  
1786 new rate; and

1787 (d) The seller did not fraudulently fail to collect at the  
1788 new rate or solicit purchasers based on the preceding rate.

1789 Section 8. Paragraph (c) of subsection (2) and subsections  
1790 (3) and (5) of section 212.06, Florida Statutes, are amended,  
1791 and subsection (17) is added to that section, to read:

1792 212.06 Sales, storage, use tax; collectible from dealers;



1793 "dealer" defined; dealers to collect from purchasers;  
 1794 legislative intent as to scope of tax.-

1795 (2)

1796 (c) The term "dealer" is further defined to mean every  
 1797 person, as used in this chapter, who sells at retail or who  
 1798 offers for sale at retail, or who has in his or her possession  
 1799 for sale at retail; or for use, consumption, or distribution; or  
 1800 for storage to be used or consumed in this state, tangible  
 1801 personal property as defined herein, ~~including a retailer who~~  
 1802 ~~transacts a mail order sale.~~

1803 (3) (a) Except as provided in paragraph (b), every dealer  
 1804 making sales, whether within or outside the state, of tangible  
 1805 personal property for distribution, storage, or use or other  
 1806 consumption, in this state, shall, at the time of making sales,  
 1807 collect the tax imposed by this chapter from the purchaser.

1808 (b)1. Notwithstanding subsection (17), a purchaser of  
 1809 direct mail which is not a holder of a direct-pay permit shall  
 1810 provide to the seller in conjunction with the purchase a direct-  
 1811 mail form or information to show the jurisdictions to which the  
 1812 direct mail is delivered to recipients.

1813 2. Upon receipt of information from the purchaser showing  
 1814 the jurisdictions to which the direct mail is delivered to  
 1815 recipients, the seller shall collect the tax according to the  
 1816 delivery information provided by the purchaser. In the absence  
 1817 of bad faith, the seller is relieved of any further obligation  
 1818 to collect tax on any transaction for which the seller has  
 1819 collected tax pursuant to the delivery information provided by  
 1820 the purchaser.

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1821 3. If the purchaser of direct mail does not have a direct-  
1822 pay permit and does not provide the seller with a direct-mail  
1823 form or delivery information as required by subparagraph 1., the  
1824 seller shall collect the tax according to subparagraph (17)(d)5.  
1825 This paragraph does not limit a purchaser's obligation to remit  
1826 sales or use tax to any state to which the direct mail is  
1827 delivered.

1828 4. If a purchaser of direct mail provides the seller with  
1829 documentation of direct-pay authority, the purchaser is not  
1830 required to provide a direct-mail form or delivery information  
1831 to the seller. A purchaser of printed materials shall have sole  
1832 responsibility for the taxes imposed by this chapter on those  
1833 materials when the printer of the materials delivers them to the  
1834 United States Postal Service for mailing to persons other than  
1835 the purchaser located within and outside this state. Printers of  
1836 materials delivered by mail to persons other than the purchaser  
1837 located within and outside this state shall have no obligation  
1838 or responsibility for the payment or collection of any taxes  
1839 imposed under this chapter on those materials. However, printers  
1840 are obligated to collect the taxes imposed by this chapter on  
1841 printed materials when all, or substantially all, of the  
1842 materials will be mailed to persons located within this state.  
1843 For purposes of the printer's tax collection obligation, there  
1844 is a rebuttable presumption that all materials printed at a  
1845 facility are mailed to persons located within the same state as  
1846 that in which the facility is located. A certificate provided by  
1847 the purchaser to the printer concerning the delivery of the  
1848 printed materials for that purchase or all purchases shall be

1849 ~~sufficient for purposes of rebutting the presumption created~~  
 1850 ~~herein.~~

1851 5.2. The Department of Revenue is authorized to adopt  
 1852 rules and forms to implement the provisions of this paragraph.

1853 (5) (a)1. ~~Except as provided in subparagraph 2., It is not~~  
 1854 ~~the intention of This chapter~~ does not ~~to~~ levy a tax upon  
 1855 tangible personal property imported, produced, or manufactured  
 1856 in this state for export:

1857 1. ~~If, provided that tangible personal property may not be~~  
 1858 ~~considered as being imported, produced, or manufactured for~~  
 1859 ~~export unless the importer, producer, or manufacturer:~~

1860 a. Delivers the tangible personal property same to a  
 1861 licensed exporter for exporting or to a common carrier for  
 1862 shipment outside the state or mails the same by United States  
 1863 mail to a destination outside the state; ~~or, in the case of~~  
 1864 ~~aircraft being exported under their own power to a destination~~  
 1865 ~~outside the continental limits of the United States, by~~  
 1866 ~~submission~~

1867 b. Submits to the department ~~of~~ a duly signed and  
 1868 validated United States customs declaration, showing the  
 1869 departure of an ~~the~~ aircraft from the continental United States  
 1870 ~~and; and further with respect to aircraft,~~ the canceled United  
 1871 States registry of the said aircraft for an aircraft that is  
 1872 exported under its own power to a destination outside of the  
 1873 continental United States; or in the case of

1874 c. Submits documentation as required by rule to the  
 1875 department showing the departure of an aircraft of foreign  
 1876 registry from the continental United States on which parts and

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1877 | ~~equipment have been installed on aircraft of foreign registry,~~  
1878 | ~~by submission to the department of documentation, the extent of~~  
1879 | ~~which shall be provided by rule, showing the departure of the~~  
1880 | ~~aircraft from the continental United States; or nor is it the~~  
1881 | ~~intention of this chapter to levy a tax on any sale which~~

1882 |       2. If the state is prohibited from taxing the sale under  
1883 | the Constitution or laws of the United States.

1884 | Every retail sale made to a person physically present at the  
1885 | time of sale shall be presumed to have been delivered in this  
1886 | state.

1887 |       ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~  
1888 | ~~each sale of tangible personal property to be transported to a~~  
1889 | ~~cooperating state as defined in sub-subparagraph c., at the rate~~  
1890 | ~~specified in sub-subparagraph d. However, a Florida dealer will~~  
1891 | ~~be relieved from the requirements of collecting taxes pursuant~~  
1892 | ~~to this subparagraph if the Florida dealer obtains from the~~  
1893 | ~~purchaser an affidavit setting forth the purchaser's name,~~  
1894 | ~~address, state taxpayer identification number, and a statement~~  
1895 | ~~that the purchaser is aware of his or her state's use tax laws,~~  
1896 | ~~is a registered dealer in Florida or another state, or is~~  
1897 | ~~purchasing the tangible personal property for resale or is~~  
1898 | ~~otherwise not required to pay the tax on the transaction. The~~  
1899 | ~~department may, by rule, provide a form to be used for the~~  
1900 | ~~purposes set forth herein.~~

1901 |       ~~b. For purposes of this subparagraph, "a cooperating~~  
1902 | ~~state" is one determined by the executive director of the~~  
1903 | ~~department to cooperate satisfactorily with this state in~~  
1904 | ~~collecting taxes on mail order sales. No state shall be so~~

1905 ~~determined unless it meets all the following minimum~~  
1906 ~~requirements:~~

1907 ~~(I) It levies and collects taxes on mail order sales of~~  
1908 ~~property transported from that state to persons in this state,~~  
1909 ~~as described in s. 212.0596, upon request of the department.~~

1910 ~~(II) The tax so collected shall be at the rate specified~~  
1911 ~~in s. 212.05, not including any local option or tourist or~~  
1912 ~~convention development taxes collected pursuant to s. 125.0104~~  
1913 ~~or this chapter.~~

1914 ~~(III) Such state agrees to remit to the department all~~  
1915 ~~taxes so collected no later than 30 days from the last day of~~  
1916 ~~the calendar quarter following their collection.~~

1917 ~~(IV) Such state authorizes the department to audit dealers~~  
1918 ~~within its jurisdiction who make mail order sales that are the~~  
1919 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~  
1920 ~~the department for auditing them with its own personnel.~~

1921 ~~(V) Such state agrees to provide to the department records~~  
1922 ~~obtained by it from retailers or dealers in such state showing~~  
1923 ~~delivery of tangible personal property into this state upon~~  
1924 ~~which no sales or use tax has been paid in a manner similar to~~  
1925 ~~that provided in sub-subparagraph g.~~

1926 ~~e. For purposes of this subparagraph, "sales of tangible~~  
1927 ~~personal property to be transported to a cooperating state"~~  
1928 ~~means mail order sales to a person who is in the cooperating~~  
1929 ~~state at the time the order is executed, from a dealer who~~  
1930 ~~receives that order in this state.~~

1931 ~~d. The tax levied by sub-subparagraph a. shall be at the~~  
1932 ~~rate at which such a sale would have been taxed pursuant to the~~

1933 ~~cooperating state's tax laws if consummated in the cooperating~~  
1934 ~~state by a dealer and a purchaser, both of whom were physically~~  
1935 ~~present in that state at the time of the sale.~~

1936 ~~e. The tax levied by sub-subparagraph a., when collected,~~  
1937 ~~shall be held in the State Treasury in trust for the benefit of~~  
1938 ~~the cooperating state and shall be paid to it at a time agreed~~  
1939 ~~upon between the department, acting for this state, and the~~  
1940 ~~cooperating state or the department or agency designated by it~~  
1941 ~~to act for it; however, such payment shall in no event be made~~  
1942 ~~later than 30 days from the last day of the calendar quarter~~  
1943 ~~after the tax was collected. Funds held in trust for the benefit~~  
1944 ~~of a cooperating state shall not be subject to the service~~  
1945 ~~charges imposed by s. 215.20.~~

1946 ~~f. The department is authorized to perform such acts and~~  
1947 ~~to provide such cooperation to a cooperating state with~~  
1948 ~~reference to the tax levied by sub-subparagraph a. as is~~  
1949 ~~required of the cooperating state by sub-subparagraph b.~~

1950 ~~g. In furtherance of this act, dealers selling tangible~~  
1951 ~~personal property for delivery in another state shall make~~  
1952 ~~available to the department, upon request of the department,~~  
1953 ~~records of all tangible personal property so sold. Such records~~  
1954 ~~shall include a description of the property, the name and~~  
1955 ~~address of the purchaser, the name and address of the person to~~  
1956 ~~whom the property was sent, the purchase price of the property,~~  
1957 ~~information regarding whether sales tax was paid in this state~~  
1958 ~~on the purchase price, and such other information as the~~  
1959 ~~department may by rule prescribe.~~

1960 (b)1. Notwithstanding the provisions of paragraph (a), it

1961 is not the intention of this chapter to levy a tax on the sale  
1962 of tangible personal property to a nonresident dealer who does  
1963 not hold a Florida sales tax registration, provided such  
1964 nonresident dealer furnishes the seller a statement declaring  
1965 that the tangible personal property will be transported outside  
1966 this state by the nonresident dealer for resale and for no other  
1967 purpose. The statement shall include, but not be limited to, the  
1968 nonresident dealer's name, address, applicable passport or visa  
1969 number, arrival-departure card number, and evidence of authority  
1970 to do business in the nonresident dealer's home state or  
1971 country, such as his or her business name and address,  
1972 occupational license number, if applicable, or any other  
1973 suitable requirement. The statement shall be signed by the  
1974 nonresident dealer and shall include the following sentence:  
1975 "Under penalties of perjury, I declare that I have read the  
1976 foregoing, and the facts alleged are true to the best of my  
1977 knowledge and belief."

1978 2. The burden of proof of subparagraph 1. rests with the  
1979 seller, who must retain the proper documentation to support the  
1980 exempt sale. The exempt transaction is subject to verification  
1981 by the department.

1982 (c) Notwithstanding the provisions of paragraph (a), it is  
1983 not the intention of this chapter to levy a tax on the sale by a  
1984 printer to a nonresident print purchaser of material printed by  
1985 that printer for that nonresident print purchaser when the print  
1986 purchaser does not furnish the printer a resale certificate  
1987 containing a sales tax registration number but does furnish to  
1988 the printer a statement declaring that such material will be

1989 | resold by the nonresident print purchaser.

1990 |       (17) This subsection shall be used to determine the

1991 | location where a transaction occurs for purposes of applying the

1992 | tax imposed by this chapter.

1993 |       (a) For purposes of this subsection, the terms "receive"

1994 | and "receipt" mean:

1995 |       1. Taking possession of tangible personal property;

1996 |       2. Making first use of services; or

1997 |       3. Taking possession or making first use of digital goods,

1998 | whichever occurs first.

1999 |

2000 | The terms do not include possession by a shipping company on

2001 | behalf of the purchaser.

2002 |       (b) For purposes of this subsection, the term "product"

2003 | means tangible personal property, a digital good, or a service.

2004 |       (c) This section does not apply to sales or use taxes

2005 | levied on:

2006 |       1. The retail sale or transfer of a boat, modular home,

2007 | manufactured home, or mobile home.

2008 |       2. The retail sale, excluding a lease or rental, of a

2009 | motor vehicle or aircraft that does not qualify as

2010 | transportation equipment, as defined in paragraph (g). The lease

2011 | or rental of these items shall be deemed to have occurred in

2012 | accordance with paragraph (f).

2013 |       3. The retail sale of tangible personal property by a

2014 | florist.

2015 |

2016 | Such retail sales are deemed to take place at the location



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2017 determined under s. 212.054(4).

2018 (d) The retail sale of a product, excluding a lease or  
2019 rental, shall be deemed to take place:

2020 1. When the product is received by the purchaser at a  
2021 business location of the seller, at that business location;

2022 2. When the product is not received by the purchaser at a  
2023 business location of the seller, at the location of receipt by  
2024 the purchaser, or the purchaser's donee, designated as such by  
2025 the purchaser, including the location indicated by instructions  
2026 for delivery to the purchaser or donee, known to the seller;

2027 3. When subparagraphs 1. and 2. do not apply, at the  
2028 location indicated by an address for the purchaser which is  
2029 available from the business records of the seller which are  
2030 maintained in the ordinary course of the seller's business, if  
2031 use of this address does not constitute bad faith;

2032 4. When subparagraphs 1., 2., and 3. do not apply, at the  
2033 location indicated by an address for the purchaser obtained  
2034 during the consummation of the sale, including the address of a  
2035 purchaser's payment instrument, if no other address is available  
2036 and use of this address does not constitute bad faith; or

2037 5. When subparagraphs 1., 2., 3., and 4. do not apply,  
2038 including when the seller is without sufficient information to  
2039 apply the previous subparagraphs, at the address from which  
2040 tangible personal property was shipped, from which the digital  
2041 good or the computer software delivered electronically was first  
2042 available for transmission by the seller, or from which the  
2043 service was provided, disregarding any location that merely  
2044 provided the digital transfer of the product sold.

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2045 (e) The lease or rental of tangible personal property,  
2046 other than property identified in paragraphs (f) and (g), shall  
2047 be deemed to have occurred as follows:

2048 1. For a lease or rental that requires recurring periodic  
2049 payments, the first periodic payment is deemed to take place in  
2050 accordance with paragraph (d), notwithstanding the exclusion of  
2051 lease or rental in paragraph (d). Subsequent periodic payments  
2052 are deemed to have occurred at the primary property location for  
2053 each period covered by the payment. The primary property  
2054 location is determined by an address for the property provided  
2055 by the lessee which is available to the lessor from its records  
2056 maintained in the ordinary course of business, if use of this  
2057 address does not constitute bad faith. The property location is  
2058 not altered by intermittent use of the property at different  
2059 locations, such as use of business property that accompanies  
2060 employees on business trips and service calls.

2061 2. For a lease or rental that does not require recurring  
2062 periodic payments, the payment is deemed to take place in  
2063 accordance with paragraph (d), notwithstanding the exclusion of  
2064 a lease or rental in paragraph (d).

2065 3. This paragraph does not affect the imposition or  
2066 computation of sales or use tax on leases or rentals based on a  
2067 lump sum or accelerated basis or on the acquisition of property  
2068 for lease.

2069 (f) The lease or rental of a motor vehicle or aircraft  
2070 that does not qualify as transportation equipment, as defined in  
2071 paragraph (g), shall be sourced as follows:

2072 1. For a lease or rental that requires recurring periodic

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2073 payments, each periodic payment is deemed to take place at the  
2074 primary property location. The primary property location shall  
2075 be determined by an address for the property provided by the  
2076 lessee which is available to the lessor from its records  
2077 maintained in the ordinary course of business, if use of this  
2078 address does not constitute bad faith. This location may not be  
2079 altered by intermittent use at different locations.

2080 2. For a lease or rental that does not require recurring  
2081 periodic payments, the payment is deemed to take place in  
2082 accordance with paragraph (d), notwithstanding the exclusion of  
2083 a lease or rental in paragraph (d).

2084 3. This paragraph does not affect the imposition or  
2085 computation of sales or use tax on leases or rentals based on a  
2086 lump sum or accelerated basis or on the acquisition of property  
2087 for lease.

2088 (g) The retail sale, including a lease or rental, of  
2089 transportation equipment shall be deemed to take place in  
2090 accordance with paragraph (d), notwithstanding the exclusion of  
2091 a lease or rental in paragraph (d). The term "transportation  
2092 equipment" means:

2093 1. Locomotives and rail cars that are used for the  
2094 carriage of persons or property in interstate commerce;

2095 2. Trucks and truck tractors with a gross vehicle weight  
2096 rating (GVWR) of 10,001 pounds or greater, trailers,  
2097 semitrailers, or passenger buses that are registered through the  
2098 International Registration Plan and operated under authority of  
2099 a carrier authorized and certificated by the United States  
2100 Department of Transportation or another federal authority to

2101 engage in the carriage of persons or property in interstate  
 2102 commerce;

2103 3. Aircraft that are operated by air carriers authorized  
 2104 and certificated by the United States Department of  
 2105 Transportation or another federal or a foreign authority to  
 2106 engage in the carriage of persons or property in interstate or  
 2107 foreign commerce; or

2108 4. Containers designed for use on and component parts  
 2109 attached or secured on the items set forth in subparagraphs 1.-  
 2110 3.

2111 Section 9. Paragraph (c) of subsection (1) of section  
 2112 212.07, Florida Statutes, is amended, and subsection (10) is  
 2113 added that section, to read:

2114 212.07 Sales, storage, use tax; tax added to purchase  
 2115 price; dealer not to absorb; liability of purchasers who cannot  
 2116 prove payment of the tax; penalties; general exemptions.-

2117 (1)

2118 (c) Unless the purchaser of tangible personal property  
 2119 that is incorporated into tangible personal property  
 2120 manufactured, produced, compounded, processed, or fabricated for  
 2121 one's own use and subject to the tax imposed under s.

2122 212.06(1)(b) or is purchased for export under s. 212.06(5)(a)~~1-~~  
 2123 extends a certificate in compliance with the rules of the  
 2124 department, the dealer shall himself or herself be liable for  
 2125 and pay the tax.

2126 (10) (a) The executive director is authorized to maintain  
 2127 and publish a taxability matrix in a downloadable format that  
 2128 has been approved by the governing board of the Streamlined

2129 Sales and Use Tax Agreement.

2130 (b) The state shall provide notice of changes to the  
2131 taxability of the products or services listed in the taxability  
2132 matrix.

2133 (c) A seller or certified service provider who collects  
2134 and remits the state and local tax imposed by this chapter shall  
2135 be held harmless from tax, interest, and penalties for having  
2136 charged and collected the incorrect amount of sales or use tax  
2137 due solely as a result of relying on erroneous data provided by  
2138 the state in the taxability matrix.

2139 (d) A purchaser shall be held harmless from penalties for  
2140 having failed to pay the correct amount of sales or use tax due  
2141 solely as a result of any of the following circumstances:

2142 1. The seller or certified service provider relied on  
2143 erroneous data provided by the state in the taxability matrix  
2144 completed by the state;

2145 2. A purchaser relied on erroneous data provided by the  
2146 state in the taxability matrix completed by the state; or

2147 3. A purchaser holding a direct-pay permit relied on  
2148 erroneous data provided by the state in the taxability matrix  
2149 completed by the state.

2150 (e) A purchaser shall be held harmless from tax and  
2151 interest for having failed to pay the correct amount of sales or  
2152 use tax due solely as a result of the state's erroneous  
2153 classification in the taxability matrix of terms included in the  
2154 library of definitions as "taxable" or "exempt," "included in  
2155 sales price" or "excluded from sales price," or "included in the  
2156 definition" or "excluded from the definition."

2157 Section 10. Subsections (1) and (2) and paragraphs (b) and  
 2158 (c) of subsection (17) of section 212.08, Florida Statutes, are  
 2159 amended to read:

2160 212.08 Sales, rental, use, consumption, distribution, and  
 2161 storage tax; specified exemptions.—The sale at retail, the  
 2162 rental, the use, the consumption, the distribution, and the  
 2163 storage to be used or consumed in this state of the following  
 2164 are hereby specifically exempt from the tax imposed by this  
 2165 chapter.

2166 (1) EXEMPTIONS; GENERAL GROCERIES.—

2167 (a) Food and food ingredients products for human  
 2168 consumption are exempt from the tax imposed by this chapter.

2169 (b) For the purpose of this chapter, as used in this  
 2170 subsection, the term "food and food ingredients products" means  
 2171 substances, whether in liquid, concentrated, solid, frozen,  
 2172 dried, or dehydrated form, which are sold for ingestion or  
 2173 chewing by humans and are consumed for their taste or  
 2174 nutritional value ~~edible commodities, whether processed, cooked,~~  
 2175 ~~raw, canned, or in any other form, which are generally regarded~~  
 2176 ~~as food~~. This includes, but is not limited to, all of the  
 2177 following:

2178 1. ~~Cereals and cereal products, baked goods,~~  
 2179 ~~oleomargarine, meat and meat products, fish and seafood~~  
 2180 ~~products, frozen foods and dinners, poultry, eggs and egg~~  
 2181 ~~products, vegetables and vegetable products, fruit and fruit~~  
 2182 ~~products, spices, salt, sugar and sugar products, milk and dairy~~  
 2183 ~~products, and products intended to be mixed with milk.~~

2184 2. ~~Natural fruit or vegetable juices or their concentrates~~

2185 ~~or reconstituted natural concentrated fruit or vegetable juices,~~  
 2186 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~  
 2187 ~~sweetened or unsweetened, seasoned with salt or spice, or~~  
 2188 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~  
 2189 ~~unless it is sold in a liquid form.~~

2190 1.3. Bakery products sold by bakeries, pastry shops, or  
 2191 like establishments, if sold without eating utensils. For  
 2192 purposes of this subparagraph, bakery products include bread,  
 2193 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,  
 2194 danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and  
 2195 tortillas that do not have eating facilities.

2196 2. Dietary supplements are any product, other than  
 2197 tobacco, intended to supplement the diet which contains one or  
 2198 more of the following dietary ingredients: a vitamin; a mineral;  
 2199 an herb or other botanical; an amino acid; a dietary substance  
 2200 for use by humans to supplement the diet by increasing the total  
 2201 dietary intake; or a concentrate, metabolite, constituent,  
 2202 extract, or combination of any ingredient described in this  
 2203 subparagraph which is intended for ingestion in tablet, capsule,  
 2204 powder, softgel, gelcap, or liquid form or, if not intended for  
 2205 ingestion in such a form, is not represented as conventional  
 2206 food and is not represented for use as a sole item of a meal or  
 2207 of the diet, and which is required to be labeled as a dietary  
 2208 supplement, identifiable by the supplemental facts panel found  
 2209 on the label and as required pursuant to 21 C.F.R. s. 101.36.

2210 (c) The exemption provided by this subsection does not  
 2211 apply to:

2212 ~~1. Food products sold as meals for consumption on or off~~

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2213 ~~the premises of the dealer.~~

2214 ~~2. Food products furnished, prepared, or served for~~  
2215 ~~consumption at tables, chairs, or counters or from trays,~~  
2216 ~~glasses, dishes, or other tableware, whether provided by the~~  
2217 ~~dealer or by a person with whom the dealer contracts to furnish,~~  
2218 ~~prepare, or serve food products to others.~~

2219 ~~3. Food products ordinarily sold for immediate consumption~~  
2220 ~~on the seller's premises or near a location at which parking~~  
2221 ~~facilities are provided primarily for the use of patrons in~~  
2222 ~~consuming the products purchased at the location, even though~~  
2223 ~~such products are sold on a "take out" or "to go" order and are~~  
2224 ~~actually packaged or wrapped and taken from the premises of the~~  
2225 ~~dealer.~~

2226 ~~4. Sandwiches sold ready for immediate consumption on or~~  
2227 ~~off the seller's premises.~~

2228 ~~5. Food products sold ready for immediate consumption~~  
2229 ~~within a place, the entrance to which is subject to an admission~~  
2230 ~~charge.~~

2231 1.6. Food and food ingredients sold as prepared food. The  
2232 term "prepared food" means:

2233 a. Food sold in a heated state or heated by the seller;

2234 b. Two or more food ingredients mixed or combined by the  
2235 seller for sale as a single item; or

2236 c. Food sold with eating utensils provided by the seller,  
2237 including plates, knives, forks, spoons, glasses, cups, napkins,  
2238 or straws. A plate does not include a container or packaging  
2239 used to transport food.

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2241 Prepared food does not include food that is only cut,  
2242 repackaged, or pasteurized by the seller; eggs, fish, meat,  
2243 poultry; and foods containing these raw animal foods requiring  
2244 cooking by the consumer as recommended by the Food and Drug  
2245 Administration in chapter 3, subpart 401.11 of its food code so  
2246 as to prevent food-borne illness. ~~Food products sold as hot~~  
2247 ~~prepared food products.~~

2248 2.7. ~~Soft drinks, including, but not limited to, any~~  
2249 ~~nonalcoholic beverage, any preparation or beverage commonly~~  
2250 ~~referred to as a "soft drink," or any noncarbonated drink made~~  
2251 ~~from milk derivatives or tea, if sold in cans or similar~~  
2252 ~~containers.~~ The term "soft drinks" means nonalcoholic beverages  
2253 that contain natural or artificial sweeteners. Soft drinks do  
2254 not include beverages that contain milk or milk products, soy,  
2255 rice, or similar milk substitutes, or greater than 50 percent of  
2256 vegetable or fruit juice by volume.

2257 ~~8.~~ ~~Ice cream, frozen yogurt, and similar frozen dairy or~~  
2258 ~~nondairy products in cones, small cups, or pints, popsicles,~~  
2259 ~~frozen fruit bars, or other novelty items, whether or not sold~~  
2260 ~~separately.~~

2261 ~~9.~~ ~~Food that is prepared, whether on or off the premises,~~  
2262 ~~and sold for immediate consumption. This does not apply to food~~  
2263 ~~prepared off the premises and sold in the original sealed~~  
2264 ~~container, or the slicing of products into smaller portions.~~

2265 3.10. ~~Food and food ingredients products~~ sold through a  
2266 vending machine, ~~pushcart, motor vehicle, or any other form of~~  
2267 ~~vehicle.~~

2268 4.11. Candy and any similar product regarded as candy or

2269 ~~confection, based on its normal use, as indicated on the label~~  
 2270 ~~or advertising thereof. The term "candy" means a preparation of~~  
 2271 ~~sugar, honey, or other natural or artificial sweeteners in~~  
 2272 ~~combination with chocolate, fruits, nuts, or other ingredients~~  
 2273 ~~or flavorings in the form of bars, drops, or pieces. Candy does~~  
 2274 ~~not include any preparation that contains flour and does not~~  
 2275 ~~require refrigeration.~~

2276 5. To tobacco.

2277 ~~12. Bakery products sold by bakeries, pastry shops, or~~  
 2278 ~~like establishments having eating facilities, except when sold~~  
 2279 ~~for consumption off the seller's premises.~~

2280 ~~13. Food products served, prepared, or sold in or by~~  
 2281 ~~restaurants, lunch counters, cafeterias, hotels, taverns, or~~  
 2282 ~~other like places of business.~~

2283 ~~(d) As used in this subsection, the term:~~

2284 ~~1. "For consumption off the seller's premises" means that~~  
 2285 ~~the food or drink is intended by the customer to be consumed at~~  
 2286 ~~a place away from the dealer's premises.~~

2287 ~~2. "For consumption on the seller's premises" means that~~  
 2288 ~~the food or drink sold may be immediately consumed on the~~  
 2289 ~~premises where the dealer conducts his or her business. In~~  
 2290 ~~determining whether an item of food is sold for immediate~~  
 2291 ~~consumption, the customary consumption practices prevailing at~~  
 2292 ~~the selling facility shall be considered.~~

2293 ~~3. "Premises" shall be construed broadly, and means, but~~  
 2294 ~~is not limited to, the lobby, aisle, or auditorium of a theater;~~  
 2295 ~~the seating, aisle, or parking area of an arena, rink, or~~  
 2296 ~~stadium; or the parking area of a drive in or outdoor theater.~~

2297 | ~~The premises of a caterer with respect to catered meals or~~  
 2298 | ~~beverages shall be the place where such meals or beverages are~~  
 2299 | ~~served.~~

2300 | ~~4. "Hot prepared food products" means those products,~~  
 2301 | ~~items, or components which have been prepared for sale in a~~  
 2302 | ~~heated condition and which are sold at any temperature that is~~  
 2303 | ~~higher than the air temperature of the room or place where they~~  
 2304 | ~~are sold. "Hot prepared food products," for the purposes of this~~  
 2305 | ~~subsection, includes a combination of hot and cold food items or~~  
 2306 | ~~components where a single price has been established for the~~  
 2307 | ~~combination and the food products are sold in such combination,~~  
 2308 | ~~such as a hot meal, a hot specialty dish or serving, or a hot~~  
 2309 | ~~sandwich or hot pizza, including cold components or side items.~~

2310 | ~~(d)~~(e)1. Food or drinks not exempt under paragraphs (a),  
 2311 | (b), and (c), ~~and (d)~~ are exempt, notwithstanding those  
 2312 | paragraphs, when purchased with food coupons or Special  
 2313 | Supplemental Food Program for Women, Infants, and Children  
 2314 | vouchers issued under authority of federal law.

2315 | 2. This paragraph is effective only while federal law  
 2316 | prohibits a state's participation in the federal food coupon  
 2317 | program or Special Supplemental Food Program for Women, Infants,  
 2318 | and Children if there is an official determination that state or  
 2319 | local sales taxes are collected within that state on purchases  
 2320 | of food or drinks with such coupons.

2321 | 3. This paragraph does ~~shall~~ not apply to any food or  
 2322 | drinks on which federal law permits ~~shall permit~~ sales taxes  
 2323 | without penalty, such as termination of the state's  
 2324 | participation.

2325 (e) Dietary supplements that are sold as prepared food are  
 2326 not exempt.

2327 (2) EXEMPTIONS; MEDICAL.—

2328 (a) There shall be exempt from the tax imposed by this  
 2329 chapter:

2330 1. Drugs.

2331 2. Durable medical equipment, mobility-enhancing  
 2332 equipment, or prosthetic devices ~~any medical products and~~  
 2333 ~~supplies or medicine~~ dispensed according to an individual  
 2334 prescription or prescriptions. ~~written by a prescriber~~  
 2335 ~~authorized by law to prescribe medicinal drugs;~~

2336 3. Hypodermic needles; ~~hypodermic syringes;~~

2337 4. Chemical compounds and test kits used for the diagnosis  
 2338 or treatment of human disease, illness, or injury and intended  
 2339 for one-time use.

2340 5. Over-the-counter drugs ~~and common household remedies~~  
 2341 ~~recommended and generally sold for internal or external use in~~  
 2342 ~~the cure, mitigation, treatment, or prevention of illness or~~  
 2343 ~~disease in human beings, but not including grooming and hygiene~~  
 2344 products.

2345 6. Band-aids, gauze, bandages, and adhesive tape.

2346 7. Funerals. However, tangible personal property used by  
 2347 funeral directors in their business is taxable. ~~cosmetics or~~  
 2348 ~~toilet articles, notwithstanding the presence of medicinal~~  
 2349 ~~ingredients therein, according to a list prescribed and approved~~  
 2350 ~~by the Department of Business and Professional Regulation, which~~  
 2351 ~~list shall be certified to the Department of Revenue from time~~  
 2352 ~~to time and included in the rules promulgated by the Department~~

2353 ~~of Revenue. There shall also be exempt from the tax imposed by~~  
 2354 ~~this chapter artificial eyes and limbs; orthopedic shoes;~~  
 2355 ~~prescription eyeglasses and items incidental thereto or which~~  
 2356 ~~become a part thereof; dentures; hearing aids; crutches;~~  
 2357 ~~prosthetic and orthopedic appliances; and funerals. In addition,~~  
 2358 ~~any~~

2359 8. Items intended for one-time use which transfer  
 2360 essential optical characteristics to contact lenses. ~~shall be~~  
 2361 ~~exempt from the tax imposed by this chapter;~~ However, this  
 2362 exemption applies ~~shall apply only~~ after \$100,000 of the tax  
 2363 imposed by this chapter on such items has been paid in any  
 2364 calendar year by a taxpayer who claims the exemption in such  
 2365 year. ~~Funeral directors shall pay tax on all tangible personal~~  
 2366 ~~property used by them in their business.~~

2367 (b) For the purposes of this subsection, the term:

2368 1. "Drug" means a compound, substance, or preparation, and  
 2369 any component of a compound, substance, or preparation, other  
 2370 than food and food ingredients, dietary supplements, and  
 2371 alcoholic beverages, which is:

2372 a. Recognized in the official United States Pharmacopeia,  
 2373 the Homeopathic Pharmacopoeia of the United States, or the  
 2374 National Formulary, or the supplement to any of them;

2375 b. Intended for use in the diagnosis, cure, mitigation,  
 2376 treatment, or prevention of disease; or

2377 c. Intended to affect the structure or any function of the  
 2378 body.

2379 2. "Durable medical equipment" means equipment, including  
 2380 repair and replacement parts to such equipment, but excluding

2381 mobility-enhancing equipment, which can withstand repeated use,  
 2382 is primarily and customarily used to serve a medical purpose,  
 2383 generally is not useful to a person in the absence of illness or  
 2384 injury, and is not worn on or in the body.

2385 3. "Mobility-enhancing equipment" means equipment,  
 2386 including repair and replacement parts to such equipment, but  
 2387 excluding durable medical equipment, which:

2388 a. Is primarily and customarily used to provide or  
 2389 increase the ability to move from one place to another and which  
 2390 is appropriate for use in a home or a motor vehicle.

2391 b. Is not generally used by persons with normal mobility.

2392 c. Does not include any motor vehicle or any equipment on  
 2393 a motor vehicle normally provided by a motor vehicle  
 2394 manufacturer.

2395 4. "Prosthetic device" means a replacement, corrective, or  
 2396 supportive device, including repair or replacement parts to such  
 2397 equipment, which is worn on or in the body to:

2398 a. Artificially replace a missing portion of the body;

2399 b. Prevent or correct physical deformity or malfunction;

2400 or

2401 c. Support a weak or deformed portion of the body.

2402 5. "Grooming and hygiene products" mean soaps and cleaning  
 2403 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and  
 2404 suntan lotions and screens, regardless of whether the items meet  
 2405 the definition of an over-the-counter drug.

2406 6. "Over-the-counter drug" means a drug the packaging for  
 2407 which contains a label that identifies the product as a drug as  
 2408 required by 21 C.F.R. s. 201.66. The over-the-counter drug label

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2409 includes a drug-facts panel or a statement of the active  
2410 ingredients, with a list of those ingredients contained in the  
2411 compound, substance, or preparation. ~~"Prosthetic and orthopedic~~  
2412 ~~appliances" means any apparatus, instrument, device, or~~  
2413 ~~equipment used to replace or substitute for any missing part of~~  
2414 ~~the body, to alleviate the malfunction of any part of the body,~~  
2415 ~~or to assist any disabled person in leading a normal life by~~  
2416 ~~facilitating such person's mobility. Such apparatus, instrument,~~  
2417 ~~device, or equipment shall be exempted according to an~~  
2418 ~~individual prescription or prescriptions written by a physician~~  
2419 ~~licensed under chapter 458, chapter 459, chapter 460, chapter~~  
2420 ~~461, or chapter 466, or according to a list prescribed and~~  
2421 ~~approved by the Department of Health, which list shall be~~  
2422 ~~certified to the Department of Revenue from time to time and~~  
2423 ~~included in the rules promulgated by the Department of Revenue.~~

2424 2. ~~"Cosmetics" means articles intended to be rubbed,~~  
2425 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~  
2426 ~~applied to the human body for cleansing, beautifying, promoting~~  
2427 ~~attractiveness, or altering the appearance and also means~~  
2428 ~~articles intended for use as a compound of any such articles,~~  
2429 ~~including, but not limited to, cold creams, suntan lotions,~~  
2430 ~~makeup, and body lotions.~~

2431 3. ~~"Toilet articles" means any article advertised or held~~  
2432 ~~out for sale for grooming purposes and those articles that are~~  
2433 ~~customarily used for grooming purposes, regardless of the name~~  
2434 ~~by which they may be known, including, but not limited to, soap,~~  
2435 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~  
2436 ~~shampoo, deodorant, and mouthwash.~~

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2437        7.4. "Prescription" means an order, formula, or recipe  
2438 issued in any form of oral, written, electronic, or other means  
2439 of transmission by a practitioner licensed under chapter 458,  
2440 chapter 459, chapter 460, chapter 461, or chapter 466. The term  
2441 also includes an orally transmitted order by the lawfully  
2442 designated agent of such practitioner. The term also includes an  
2443 order written or transmitted by a practitioner licensed to  
2444 practice in a jurisdiction other than this state, but only if  
2445 the pharmacist called upon to dispense the order determines, in  
2446 the exercise of his or her professional judgment, that the order  
2447 is valid and necessary for the treatment of a chronic or  
2448 recurrent illness. ~~includes any order for drugs or medicinal~~  
2449 ~~supplies written or transmitted by any means of communication by~~  
2450 ~~a duly licensed practitioner authorized by the laws of the state~~  
2451 ~~to prescribe such drugs or medicinal supplies and intended to be~~  
2452 ~~dispensed by a pharmacist. The term also includes an orally~~  
2453 ~~transmitted order by the lawfully designated agent of such~~  
2454 ~~practitioner. The term also includes an order written or~~  
2455 ~~transmitted by a practitioner licensed to practice in a~~  
2456 ~~jurisdiction other than this state, but only if the pharmacist~~  
2457 ~~called upon to dispense such order determines, in the exercise~~  
2458 ~~of his or her professional judgment, that the order is valid and~~  
2459 ~~necessary for the treatment of a chronic or recurrent illness.~~  
2460 ~~The term also includes a pharmacist's order for a product~~  
2461 ~~selected from the formulary created pursuant to s. 465.186. A~~  
2462 ~~prescription may be retained in written form, or the pharmacist~~  
2463 ~~may cause it to be recorded in a data processing system,~~  
2464 ~~provided that such order can be produced in printed form upon~~



2465 ~~lawful request.~~

2466 (c) Chlorine is ~~shall~~ not be exempt from the tax imposed  
 2467 by this chapter when used for the treatment of water in swimming  
 2468 pools.

2469 ~~(d) Lithotripters are exempt.~~

2470 (d) ~~(e)~~ Human organs are exempt.

2471 ~~(f) Sales of drugs to or by physicians, dentists,~~  
 2472 ~~veterinarians, and hospitals in connection with medical~~  
 2473 ~~treatment are exempt.~~

2474 ~~(g) Medical products and supplies used in the cure,~~  
 2475 ~~mitigation, alleviation, prevention, or treatment of injury,~~  
 2476 ~~disease, or incapacity which are temporarily or permanently~~  
 2477 ~~incorporated into a patient or client by a practitioner of the~~  
 2478 ~~healing arts licensed in the state are exempt.~~

2479 ~~(h) The purchase by a veterinarian of commonly recognized~~  
 2480 ~~substances possessing curative or remedial properties which are~~  
 2481 ~~ordered and dispensed as treatment for a diagnosed health~~  
 2482 ~~disorder by or on the prescription of a duly licensed~~  
 2483 ~~veterinarian, and which are applied to or consumed by animals~~  
 2484 ~~for alleviation of pain or the cure or prevention of sickness,~~  
 2485 ~~disease, or suffering are exempt. Also exempt are the purchase~~  
 2486 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~  
 2487 ~~bandages, lotions, vitamins, and worm remedies.~~

2488 ~~(i) X-ray opaques, also known as opaque drugs and~~  
 2489 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~  
 2490 ~~when used in connection with medical X rays for treatment of~~  
 2491 ~~bodies of humans and animals, are exempt.~~

2492 (e) ~~(j)~~ Parts, special attachments, special lettering, and

2493 other like items that are added to or attached to tangible  
 2494 personal property so that a handicapped person can use them are  
 2495 exempt when such items are purchased by a person pursuant to an  
 2496 individual prescription.

2497 ~~(f)(k)~~ This subsection shall be strictly construed and  
 2498 enforced.

2499 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

2500 (b) As used in this subsection, the term "overhead  
 2501 materials" means all tangible personal property, other than  
 2502 qualifying property as defined in s. 212.02 (34) ~~(14)~~ (a) and  
 2503 electricity, which is used or consumed in the performance of a  
 2504 qualifying contract, title to which property vests in or passes  
 2505 to the government under the contract.

2506 (c) As used in this subsection and in s.  
 2507 212.02 (34) ~~(14)~~ (a), the term "qualifying contract" means a  
 2508 contract with the United States Department of Defense or the  
 2509 National Aeronautics and Space Administration, or a subcontract  
 2510 thereunder, but does not include a contract or subcontract for  
 2511 the repair, alteration, improvement, or construction of real  
 2512 property, except to the extent that purchases under such a  
 2513 contract would otherwise be exempt from the tax imposed by this  
 2514 chapter.

2515 Section 11. Section 212.094, Florida Statutes, is created  
 2516 to read:

2517 212.094 Purchaser request for refund or credit from  
 2518 dealer.—

2519 (1) If a purchaser seeks from a dealer a refund of or  
 2520 credit against a tax collected under this chapter by that

2521 dealer, the purchaser shall submit a written request for the  
 2522 refund or credit to the dealer in accordance with this section.  
 2523 The request must contain all the information necessary for the  
 2524 dealer to determine the validity of the purchaser's request.

2525 (2) The purchaser may not take any other action against  
 2526 the dealer with respect to the requested refund or credit until  
 2527 the dealer has had 60 days after receiving a completed request  
 2528 in which to respond.

2529 (3) This section does not affect a person's standing to  
 2530 claim a refund.

2531 (4) This section does not apply to refunds resulting from  
 2532 merchandise returned by a customer to a dealer.

2533 Section 12. Section 212.12, Florida Statutes, is amended  
 2534 to read:

2535 212.12 Dealer's credit for collecting tax; penalties for  
 2536 noncompliance; powers of Department of Revenue in dealing with  
 2537 delinquents; ~~brackets applicable to taxable transactions;~~  
 2538 records required.-

2539 (1) (a) ~~1-~~ Notwithstanding any other law and for the purpose  
 2540 of compensating persons granting licenses for and the lessors of  
 2541 real and personal property taxed hereunder, for the purpose of  
 2542 compensating dealers in tangible personal property, for the  
 2543 purpose of compensating dealers providing communication services  
 2544 and taxable services, for the purpose of compensating owners of  
 2545 places where admissions are collected, and for the purpose of  
 2546 compensating remitters of any taxes or fees reported on the same  
 2547 documents utilized for the sales and use tax, as compensation  
 2548 for the keeping of prescribed records, filing timely tax

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2549 returns, and the proper accounting and remitting of taxes by  
2550 them, such seller, person, lessor, dealer, owner, and remitter  
2551 ~~(except dealers who make mail order sales)~~ who files the return  
2552 required pursuant to s. 212.11 only by electronic means and who  
2553 pays the amount due on such return only by electronic means  
2554 shall be allowed 2.5 percent of the amount of the tax due,  
2555 accounted for, and remitted to the department in the form of a  
2556 deduction. However, if the amount of the tax due and remitted to  
2557 the department by electronic means for the reporting period  
2558 exceeds \$1,200, an allowance is not allowed for all amounts in  
2559 excess of \$1,200. For purposes of this subparagraph, the term  
2560 "electronic means" has the same meaning as provided in s.  
2561 213.755(2)(c).

2562 ~~2. The executive director of the department is authorized~~  
2563 ~~to negotiate a collection allowance, pursuant to rules~~  
2564 ~~promulgated by the department, with a dealer who makes mail~~  
2565 ~~order sales. The rules of the department shall provide~~  
2566 ~~guidelines for establishing the collection allowance based upon~~  
2567 ~~the dealer's estimated costs of collecting the tax, the volume~~  
2568 ~~and value of the dealer's mail order sales to purchasers in this~~  
2569 ~~state, and the administrative and legal costs and likelihood of~~  
2570 ~~achieving collection of the tax absent the cooperation of the~~  
2571 ~~dealer. However, in no event shall the collection allowance~~  
2572 ~~negotiated by the executive director exceed 10 percent of the~~  
2573 ~~tax remitted for a reporting period.~~

2574 (b) The Department of Revenue may deny the collection  
2575 allowance if a taxpayer files an incomplete return or if the  
2576 required tax return or tax is delinquent at the time of payment.

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2577 | 1. An "incomplete return" is, for purposes of this  
2578 | chapter, a return which is lacking such uniformity,  
2579 | completeness, and arrangement that the physical handling,  
2580 | verification, review of the return, or determination of other  
2581 | taxes and fees reported on the return may not be readily  
2582 | accomplished.

2583 | 2. The department shall adopt rules requiring such  
2584 | information as it may deem necessary to ensure that the tax  
2585 | levied hereunder is properly collected, reviewed, compiled,  
2586 | reported, and enforced, including, but not limited to: the  
2587 | amount of gross sales; the amount of taxable sales; the amount  
2588 | of tax collected or due; the amount of lawful refunds,  
2589 | deductions, or credits claimed; the amount claimed as the  
2590 | dealer's collection allowance; the amount of penalty and  
2591 | interest; the amount due with the return; and such other  
2592 | information as the Department of Revenue may specify. The  
2593 | department shall require that transient rentals and agricultural  
2594 | equipment transactions be separately shown. Sales made through  
2595 | vending machines as defined in s. 212.0515 must be separately  
2596 | shown on the return. Sales made through coin-operated amusement  
2597 | machines as defined by s. 212.02 and the number of machines  
2598 | operated must be separately shown on the return or on a form  
2599 | prescribed by the department. If a separate form is required,  
2600 | the same penalties for late filing, incomplete filing, or  
2601 | failure to file as provided for the sales tax return shall apply  
2602 | to the form.

2603 | (c) The collection allowance and other credits or  
2604 | deductions provided in this chapter shall be applied

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2605 | proportionally to any taxes or fees reported on the same  
2606 | documents used for the sales and use tax.

2607 |       (d)1. A dealer entitled to the collection allowance  
2608 | provided in this section may elect to forego the collection  
2609 | allowance and direct that the amount be transferred into the  
2610 | Educational Enhancement Trust Fund. Such an election must be  
2611 | made with the timely filing of a return and may not be rescinded  
2612 | once made. If a dealer who makes such an election files a  
2613 | delinquent return, underpays the tax, or files an incomplete  
2614 | return, the amount transferred into the Educational Enhancement  
2615 | Trust Fund shall be the amount of the collection allowance  
2616 | remaining after resolution of liability for all of the tax,  
2617 | interest, and penalty due on that return or underpayment of tax.  
2618 | The Department of Education shall distribute the remaining  
2619 | amount from the trust fund to the school districts that have  
2620 | adopted resolutions stating that those funds will be used to  
2621 | ensure that up-to-date technology is purchased for the  
2622 | classrooms in the district and that teachers are trained in the  
2623 | use of that technology. Revenues collected in districts that do  
2624 | not adopt such a resolution shall be equally distributed to  
2625 | districts that have adopted such resolutions.

2626 |       2. This paragraph applies to all taxes, surtaxes, and any  
2627 | local option taxes administered under this chapter and remitted  
2628 | directly to the department. This paragraph does not apply to a  
2629 | locally imposed and self-administered convention development  
2630 | tax, tourist development tax, or tourist impact tax administered  
2631 | under this chapter.

2632 |       3. Revenues from the dealer-collection allowances shall be

2633 transferred quarterly from the General Revenue Fund to the  
2634 Educational Enhancement Trust Fund. The Department of Revenue  
2635 shall provide to the Department of Education quarterly  
2636 information about such revenues by county to which the  
2637 collection allowance was attributed.

2638  
2639 Notwithstanding any provision of chapter 120 to the contrary,  
2640 the Department of Revenue may adopt rules to carry out the  
2641 amendment made by chapter 2006-52, Laws of Florida, to this  
2642 section.

2643 (e) Notwithstanding paragraphs (b) and (c), a Model 1  
2644 seller under the Streamlined Sales and Use Tax Agreement is not  
2645 entitled to the collection allowance described in paragraphs (a)  
2646 and (b).

2647 (f)1. In addition to any collection allowance that may be  
2648 provided under this subsection, the department may provide the  
2649 monetary allowances required to be provided by the state to  
2650 certified service providers and voluntary sellers pursuant to  
2651 Article VI of the Streamlined Sales and Use Tax Agreement, as  
2652 amended.

2653 2. Such monetary allowances must be in the form of  
2654 collection allowances that certified service providers or  
2655 voluntary sellers are permitted to retain from the tax revenues  
2656 collected on remote sales to be remitted to the state pursuant  
2657 to this chapter.

2658 3. For purposes of this paragraph, the term "voluntary  
2659 seller" or "volunteer seller" means a seller that is not  
2660 required to register in this state to collect a tax. The term

2661 "remote sales" means revenues generated by such a seller for  
 2662 this state for which the seller is not required to register to  
 2663 collect the tax imposed by this chapter.

2664 (2) (a) When any person required hereunder to make any  
 2665 return or to pay any tax or fee imposed by this chapter either  
 2666 fails to timely file such return or fails to pay the tax or fee  
 2667 shown due on the return within the time required hereunder, in  
 2668 addition to all other penalties provided herein and by the laws  
 2669 of this state in respect to such taxes or fees, a specific  
 2670 penalty shall be added to the tax or fee in the amount of 10  
 2671 percent of either the tax or fee shown on the return that is not  
 2672 timely filed or any tax or fee not paid timely. The penalty may  
 2673 not be less than \$50 for failure to timely file a tax return  
 2674 required by s. 212.11(1) or timely pay the tax or fee shown due  
 2675 on the return except as provided in s. 213.21(10). If a person  
 2676 fails to timely file a return required by s. 212.11(1) and to  
 2677 timely pay the tax or fee shown due on the return, only one  
 2678 penalty of 10 percent, which may not be less than \$50, shall be  
 2679 imposed.

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



2689 | not more than 30 days, with an additional 10 percent of any such  
2690 | unpaid tax or fee for each additional 30 days, or fraction  
2691 | thereof, while the failure continues, not to exceed a total  
2692 | penalty of 50 percent, in the aggregate, of any unpaid tax or  
2693 | fee.

2694 |       (c) Any person who knowingly and with a willful intent to  
2695 | evade any tax imposed under this chapter fails to file six  
2696 | consecutive returns as required by law commits a felony of the  
2697 | third degree, punishable as provided in s. 775.082 or s.  
2698 | 775.083.

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

2717 imposed herein for failure to comply with a written notice  
 2718 alerting the person of the requirement to register the person's  
 2719 business as a dealer or to collect tax on specific transactions  
 2720 shall not apply if the person timely files a written challenge  
 2721 to such notice in accordance with procedures established by the  
 2722 department by rule or the notice fails to clearly advise that  
 2723 failure to comply with or timely challenge the notice will  
 2724 result in the imposition of the civil and criminal penalties  
 2725 imposed herein.

2726 1. If the total amount of unreported or uncollected taxes  
 2727 or fees is less than \$300, the first offense resulting in  
 2728 conviction is a misdemeanor of the second degree, the second  
 2729 offense resulting in conviction is a misdemeanor of the first  
 2730 degree, and the third and all subsequent offenses resulting in  
 2731 conviction is a misdemeanor of the first degree, and the third  
 2732 and all subsequent offenses resulting in conviction are felonies  
 2733 of the third degree.

2734 2. If the total amount of unreported or uncollected taxes  
 2735 or fees is \$300 or more but less than \$20,000, the offense is a  
 2736 felony of the third degree.

2737 3. If the total amount of unreported or uncollected taxes  
 2738 or fees is \$20,000 or more but less than \$100,000, the offense  
 2739 is a felony of the second degree.

2740 4. If the total amount of unreported or uncollected taxes  
 2741 or fees is \$100,000 or more, the offense is a felony of the  
 2742 first degree.

2743 (e) A person who willfully attempts in any manner to evade  
 2744 any tax, surcharge, or fee imposed under this chapter or the

2745 | payment thereof is, in addition to any other penalties provided  
 2746 | by law, liable for a specific penalty in the amount of 100  
 2747 | percent of the tax, surcharge, or fee, and commits a felony of  
 2748 | the third degree, punishable as provided in s. 775.082, s.  
 2749 | 775.083, or s. 775.084.

2750 |         (f) When any person, firm, or corporation fails to timely  
 2751 | remit the proper estimated payment required under s. 212.11, a  
 2752 | specific penalty shall be added in an amount equal to 10 percent  
 2753 | of any unpaid estimated tax. Beginning with January 1, 1985,  
 2754 | returns, the department, upon a showing of reasonable cause, is  
 2755 | authorized to waive or compromise penalties imposed by this  
 2756 | paragraph. However, other penalties and interest shall be due  
 2757 | and payable if the return on which the estimated payment was due  
 2758 | was not timely or properly filed.

2759 |         (g) A dealer who files a consolidated return pursuant to  
 2760 | s. 212.11(1)(e) is subject to the penalty established in  
 2761 | paragraph (e) unless the dealer has paid the required estimated  
 2762 | tax for his or her consolidated return as a whole without regard  
 2763 | to each location. If the dealer fails to pay the required  
 2764 | estimated tax for his or her consolidated return as a whole,  
 2765 | each filing location shall stand on its own with respect to  
 2766 | calculating penalties pursuant to paragraph (f).

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

2773 | day of the month following the month for which the tax is due,  
 2774 | except as otherwise provided in this chapter.

2775 |         (4) All penalties and interest imposed by this chapter  
 2776 | shall be payable to and collectible by the department in the  
 2777 | same manner as if they were a part of the tax imposed. The  
 2778 | department may settle or compromise any such interest or  
 2779 | penalties pursuant to s. 213.21.

2780 |         (5) (a) The department is authorized to audit or inspect  
 2781 | the records and accounts of dealers defined herein, ~~including~~  
 2782 | ~~audits or inspections of dealers who make mail order sales to~~  
 2783 | ~~the extent permitted by another state,~~ and to correct by credit  
 2784 | any overpayment of tax, and, in the event of a deficiency, an  
 2785 | assessment shall be made and collected. No administrative  
 2786 | finding of fact is necessary prior to the assessment of any tax  
 2787 | deficiency.

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

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2801 personal property imported by the dealer for use or consumption  
2802 or distribution or storage to be used or consumed in this state,  
2803 or of the sales or cost price of all services the sale or use of  
2804 which is taxable under this chapter, together with interest,  
2805 plus penalty, if such have accrued, as the case may be. Then the  
2806 department shall proceed to collect such taxes, interest, and  
2807 penalty on the basis of such assessment which shall be  
2808 considered prima facie correct, and the burden to show the  
2809 contrary shall rest upon the dealer, seller, owner, or lessor,  
2810 as the case may be.

2811 (6) (a) The department is given the power to prescribe the  
2812 records to be kept by all persons subject to taxes imposed by  
2813 this chapter. It shall be the duty of every person required to  
2814 make a report and pay any tax under this chapter, every person  
2815 receiving rentals or license fees, and owners of places of  
2816 admission, to keep and preserve suitable records of the sales,  
2817 leases, rentals, license fees, admissions, or purchases, as the  
2818 case may be, taxable under this chapter; such other books of  
2819 account as may be necessary to determine the amount of the tax  
2820 due hereunder; and other information as may be required by the  
2821 department. It shall be the duty of every such person so charged  
2822 with such duty, moreover, to keep and preserve as long as  
2823 required by s. 213.35 all invoices and other records of goods,  
2824 wares, and merchandise; records of admissions, leases, license  
2825 fees and rentals; and records of all other subjects of taxation  
2826 under this chapter. All such books, invoices, and other records  
2827 shall be open to examination at all reasonable hours to the  
2828 department or any of its duly authorized agents.

2829 (b) For the purpose of this subsection, if a dealer does  
2830 not have adequate records of his or her retail sales or  
2831 purchases, the department may, upon the basis of a test or  
2832 sampling of the dealer's available records or other information  
2833 relating to the sales or purchases made by such dealer for a  
2834 representative period, determine the proportion that taxable  
2835 retail sales bear to total retail sales or the proportion that  
2836 taxable purchases bear to total purchases. This subsection does  
2837 not affect the duty of the dealer to collect, or the liability  
2838 of any consumer to pay, any tax imposed by or pursuant to this  
2839 chapter.

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

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2857 proportion that taxable purchases bear to total purchases. Once  
2858 an agreement has been signed, it is final and conclusive with  
2859 respect to the method of sampling fixed assets, and the  
2860 department may not conduct a detailed audit of fixed assets, and  
2861 the taxpayer may not request a detailed audit after the  
2862 agreement is reached.

2863 2. For the purposes of sampling pursuant to subparagraph  
2864 1., the department shall project any deficiencies and  
2865 overpayments derived therefrom over the entire audit period. In  
2866 determining the dealer's compliance, the department shall reduce  
2867 any tax deficiency as derived from the sample by the amount of  
2868 any overpayment derived from the sample. In the event the  
2869 department determines from the sample results that the dealer  
2870 has a net tax overpayment, the department shall provide the  
2871 findings of this overpayment to the Chief Financial Officer for  
2872 repayment of funds paid into the State Treasury through error  
2873 pursuant to s. 215.26.

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

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2885 purchases bear to total purchases. Once an agreement has been  
2886 signed, it is final and conclusive with respect to the method of  
2887 sampling fixed assets, and the department may not conduct a  
2888 detailed audit of fixed assets, and the taxpayer may not request  
2889 a detailed audit after the agreement is reached.

2890       b. Alternatively, a taxpayer is entitled to establish any  
2891 refund or deficiency through any other sampling method agreed  
2892 upon by the taxpayer and the department when the taxpayer's  
2893 records, other than those regarding fixed assets, are adequate  
2894 but voluminous. Whether done through statistical sampling or any  
2895 other sampling method agreed upon by the taxpayer and the  
2896 department, the completed sample must reflect both overpayments  
2897 and underpayments of taxes due. The sample shall be conducted  
2898 through:

2899       (I) A taxpayer request to perform the sampling through the  
2900 certified audit program pursuant to s. 213.285;

2901       (II) Attestation by a certified public accountant as to  
2902 the adequacy of the sampling method utilized and the results  
2903 reached using such sampling method; or

2904       (III) A sampling method that has been submitted by the  
2905 taxpayer and approved by the department before a refund claim is  
2906 submitted. This sub-sub-subparagraph does not prohibit a  
2907 taxpayer from filing a refund claim prior to approval by the  
2908 department of the sampling method; however, a refund claim  
2909 submitted before the sampling method has been approved by the  
2910 department cannot be a complete refund application pursuant to  
2911 s. 213.255 until the sampling method has been approved by the  
2912 department.



2913 c. The department shall prescribe by rule the procedures  
 2914 to be followed under each method of sampling. Such procedures  
 2915 shall follow generally accepted auditing procedures for  
 2916 sampling. The rule shall also set forth other criteria regarding  
 2917 the use of sampling, including, but not limited to, training  
 2918 requirements that must be met before a sampling method may be  
 2919 utilized and the steps necessary for the department and the  
 2920 taxpayer to reach agreement on a sampling method submitted by  
 2921 the taxpayer for approval by the department.

2922 (7) In the event the dealer has imported tangible personal  
 2923 property and he or she fails to produce an invoice showing the  
 2924 cost price of the articles, as defined in this chapter, which  
 2925 are subject to tax, or the invoice does not reflect the true or  
 2926 actual cost price as defined herein, then the department shall  
 2927 ascertain, in any manner feasible, the true cost price, and  
 2928 assess and collect the tax thereon with interest plus penalties,  
 2929 if such have accrued on the true cost price as assessed by it.  
 2930 The assessment so made shall be considered prima facie correct,  
 2931 and the duty shall be on the dealer to show to the contrary.

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

2941 accrued.

2942 (9) Taxes imposed by this chapter upon the privilege of

2943 the use, consumption, storage for consumption, or sale of

2944 tangible personal property, admissions, license fees, rentals,

2945 communication services, and upon the sale or use of services as

2946 herein taxed shall be collected upon the basis of an addition of

2947 the tax imposed by this chapter to the total price of such

2948 admissions, license fees, rentals, communication or other

2949 services, or sale price of such article or articles that are

2950 purchased, sold, or leased at any one time by or to a customer

2951 or buyer; the dealer, or person charged herein, is required to

2952 pay a privilege tax in the amount of the tax imposed by this

2953 chapter on the total of his or her gross sales of tangible

2954 personal property, admissions, license fees, rentals, and

2955 communication services or to collect a tax upon the sale or use

2956 of services, and such person or dealer shall add the tax imposed

2957 by this chapter to the price, license fee, rental, or

2958 admissions, and communication or other services and collect the

2959 total sum from the purchaser, admittee, licensee, lessee, or

2960 consumer. In computing the tax due or to be collected as the

2961 result of any transaction, the seller may elect to compute the

2962 tax due on a transaction on a per-item basis or on an invoice

2963 basis. The tax rate shall be the sum of the applicable state and

2964 local rates, if any, and the tax computation shall be carried to

2965 the third decimal place. Whenever the third decimal place is

2966 greater than four, the tax shall be rounded to the next whole

2967 cent. ~~The department shall make available in an electronic~~

2968 ~~format or otherwise the tax amounts and the following brackets~~

2969 ~~applicable to all transactions taxable at the rate of 6 percent:~~  
 2970 ~~(a) On single sales of less than 10 cents, no tax shall be~~  
 2971 ~~added.~~  
 2972 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~  
 2973 ~~both inclusive, 1 cent shall be added for taxes.~~  
 2974 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~  
 2975 ~~inclusive, 2 cents shall be added for taxes.~~  
 2976 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~  
 2977 ~~inclusive, 3 cents shall be added for taxes.~~  
 2978 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~  
 2979 ~~inclusive, 4 cents shall be added for taxes.~~  
 2980 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~  
 2981 ~~inclusive, 5 cents shall be added for taxes.~~  
 2982 ~~(g) On sales in amounts from 84 cents to \$1, both~~  
 2983 ~~inclusive, 6 cents shall be added for taxes.~~  
 2984 ~~(h) On sales in amounts of more than \$1, 6 percent shall~~  
 2985 ~~be charged upon each dollar of price, plus the appropriate~~  
 2986 ~~bracket charge upon any fractional part of a dollar.~~  
 2987 ~~(10) In counties which have adopted a discretionary sales~~  
 2988 ~~surtax at the rate of 1 percent, the department shall make~~  
 2989 ~~available in an electronic format or otherwise the tax amounts~~  
 2990 ~~and the following brackets applicable to all taxable~~  
 2991 ~~transactions that would otherwise have been transactions taxable~~  
 2992 ~~at the rate of 6 percent:~~  
 2993 ~~(a) On single sales of less than 10 cents, no tax shall be~~  
 2994 ~~added.~~  
 2995 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~  
 2996 ~~both inclusive, 1 cent shall be added for taxes.~~

2997 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~  
 2998 ~~inclusive, 2 cents shall be added for taxes.~~

2999 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~  
 3000 ~~inclusive, 3 cents shall be added for taxes.~~

3001 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~  
 3002 ~~inclusive, 4 cents shall be added for taxes.~~

3003 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~  
 3004 ~~inclusive, 5 cents shall be added for taxes.~~

3005 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~  
 3006 ~~inclusive, 6 cents shall be added for taxes.~~

3007 ~~(h) On sales in amounts from 86 cents to \$1, both~~  
 3008 ~~inclusive, 7 cents shall be added for taxes.~~

3009 ~~(i) On sales in amounts from \$1 up to, and including, the~~  
 3010 ~~first \$5,000 in price, 7 percent shall be charged upon each~~  
 3011 ~~dollar of price, plus the appropriate bracket charge upon any~~  
 3012 ~~fractional part of a dollar.~~

3013 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~  
 3014 ~~percent shall be added upon the first \$5,000 in price, and 6~~  
 3015 ~~percent shall be added upon each dollar of price in excess of~~  
 3016 ~~the first \$5,000 in price, plus the bracket charges upon any~~  
 3017 ~~fractional part of a dollar as provided for in subsection (9).~~

3018 ~~(11) The department shall make available in an electronic~~  
 3019 ~~format or otherwise the tax amounts and brackets applicable to~~  
 3020 ~~all taxable transactions that occur in counties that have a~~  
 3021 ~~surtax at a rate other than 1 percent which transactions would~~  
 3022 ~~otherwise have been transactions taxable at the rate of 6~~  
 3023 ~~percent. Likewise, the department shall make available in an~~  
 3024 ~~electronic format or otherwise the tax amounts and brackets~~

3025 | ~~applicable to transactions taxable at 7 percent pursuant to s.~~  
 3026 | ~~212.05(1)(c) and on transactions which would otherwise have been~~  
 3027 | ~~so taxable in counties which have adopted a discretionary sales~~  
 3028 | ~~surtax.~~

3029 |       (10)~~(12)~~ It is hereby declared to be the legislative  
 3030 | intent that, whenever in the construction, administration, or  
 3031 | enforcement of this chapter there may be any question respecting  
 3032 | a duplication of the tax, the end consumer, or last retail sale,  
 3033 | be the sale intended to be taxed and insofar as may be  
 3034 | practicable there be no duplication or pyramiding of the tax.

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

3053 agent to keep and maintain such records and to make such reports  
 3054 upon the forms and in the manner prescribed, such owner;  
 3055 property manager; lessor; landlord; hotel, apartment house,  
 3056 roominghouse, tourist or trailer camp operator; receiver of rent  
 3057 or license fees; or real estate agent is guilty of a misdemeanor  
 3058 of the second degree, punishable as provided in s. 775.082 or s.  
 3059 775.083, for the first offense; for subsequent offenses, they  
 3060 are each guilty of a misdemeanor of the first degree, punishable  
 3061 as provided in s. 775.082 or s. 775.083. If, however, any  
 3062 subsequent offense involves intentional destruction of such  
 3063 records with an intent to evade payment of or deprive the state  
 3064 of any tax revenues, such subsequent offense shall be a felony  
 3065 of the third degree, punishable as provided in s. 775.082 or s.  
 3066 775.083.

3067 ~~(14) If it is determined upon audit that a dealer has~~  
 3068 ~~collected and remitted taxes by applying the applicable tax rate~~  
 3069 ~~to each transaction as described in subsection (9) and rounding~~  
 3070 ~~the tax due to the nearest whole cent rather than applying the~~  
 3071 ~~appropriate bracket system provided by law or department rule,~~  
 3072 ~~the dealer shall not be held liable for additional tax, penalty,~~  
 3073 ~~and interest resulting from such failure if:~~

3074 ~~(a) The dealer acted in a good faith belief that rounding~~  
 3075 ~~to the nearest whole cent was the proper method of determining~~  
 3076 ~~the amount of tax due on each taxable transaction.~~

3077 ~~(b) The dealer timely reported and remitted all taxes~~  
 3078 ~~collected on each taxable transaction.~~

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

3081 ~~dealer's transactions.~~

3082 Section 13. Subsection (3) of section 212.17, Florida  
 3083 Statutes, is amended to read:

3084 212.17 Credits for returned goods, rentals, or admissions;  
 3085 goods acquired for dealer's own use and subsequently resold;  
 3086 additional powers of department.—

3087 (3) A dealer who has paid the tax imposed by this chapter  
 3088 on tangible personal property or services may take a credit or  
 3089 obtain a refund for any tax paid by the dealer on the unpaid  
 3090 balance due on worthless accounts within 12 months following the  
 3091 month in which the bad debt has been charged off for federal  
 3092 income tax purposes. A dealer that has paid the tax imposed by  
 3093 this chapter on tangible personal property or services and that  
 3094 is not required to file federal income tax returns may take a  
 3095 credit against or obtain a refund for any tax paid by the dealer  
 3096 on the unpaid balance due on worthless accounts within 12 months  
 3097 after the month in which the bad debt is written off as  
 3098 uncollectible in the dealer's books and records and would be  
 3099 eligible for a bad-debt deduction for federal income tax  
 3100 purposes if the dealer was required to file a federal income tax  
 3101 return.

3102 (a) A dealer that is taking a credit against or obtaining  
 3103 a refund on worthless accounts shall base the bad-debt-recovery  
 3104 calculation in accordance with 26 U.S.C. s. 166.

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

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3109 which the bad debt could first be claimed.

3110 (c) If any accounts so charged off for which a credit or  
3111 refund has been obtained are thereafter in whole or in part paid  
3112 to the dealer, the amount so paid shall be included in the first  
3113 return filed after such collection and the tax paid accordingly.

3114 (d) If filing responsibilities have been assumed by a  
3115 certified service provider, the certified service provider shall  
3116 claim, on behalf of the seller, any bad-debt allowance provided  
3117 by this subsection. The certified service provider shall credit  
3118 or refund to the seller the full amount of any bad-debt  
3119 allowance or refund received.

3120 (e) For the purposes of reporting a payment received on a  
3121 previously claimed bad debt, any payments made on a debt or  
3122 account shall first be applied proportionally to the taxable  
3123 price of the property or service and the sales tax on such  
3124 property, and second to any interest, service charges, and any  
3125 other charges.

3126 (f) In situations in which the books and records of the  
3127 party claiming the bad-debt allowance support an allocation of  
3128 the bad debts among states that are members of the Streamlined  
3129 Sales and Use Tax Agreement, the allocation is permitted among  
3130 those states.

3131 Section 14. Paragraphs (a) and (e) of subsection (3) of  
3132 section 212.18, Florida Statutes, are amended to read:

3133 212.18 Administration of law; registration of dealers;  
3134 rules.-

3135 (3) (a) Every person desiring to engage in or conduct  
3136 business in this state as a dealer, as defined in this chapter,



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

3165 | states of the Streamlined Sales and Use Tax Agreement.

3166 |       (e) As used in this paragraph, the term "exhibitor" means  
3167 | a person who enters into an agreement authorizing the display of  
3168 | tangible personal property or services at a convention or a  
3169 | trade show. The following provisions apply to the registration  
3170 | of exhibitors as dealers under this chapter:

3171 |       1. An exhibitor whose agreement prohibits the sale of  
3172 | tangible personal property or services subject to the tax  
3173 | imposed in this chapter is not required to register as a dealer.

3174 |       2. An exhibitor whose agreement provides for the sale at  
3175 | wholesale only of tangible personal property or services subject  
3176 | to the tax imposed in this chapter must obtain a resale  
3177 | certificate from the purchasing dealer but is not required to  
3178 | register as a dealer.

3179 |       3. An exhibitor whose agreement authorizes the retail sale  
3180 | of tangible personal property or services subject to the tax  
3181 | imposed in this chapter must register as a dealer and collect  
3182 | the tax imposed under this chapter on such sales.

3183 |       ~~4. Any exhibitor who makes a mail order sale pursuant to~~  
3184 | ~~s. 212.0596 must register as a dealer.~~

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 Department of  
3315 Economic Opportunity to the Department of Revenue that an  
3316 applicant has been certified as the professional golf hall of  
3317 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
3318 shall be distributed monthly, for up to 300 months, to the  
3319 applicant.

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



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 finally resolved,  
 3371 including any related administrative and judicial processes.

3372 (4) The amnesty is not available for sales or use taxes  
 3373 already paid or remitted to the state or to taxes collected by  
 3374 the seller.

3375 (5) The amnesty is fully effective, absent the seller's  
 3376 fraud or intentional misrepresentation of a material fact, as  
 3377 long as the seller continues registration and continues payment  
 3378 or collection and remittance of applicable sales or use taxes  
 3379 for at least 36 months.

3380 (6) The amnesty applies only to sales or use taxes due  
 3381 from a seller in its capacity as a seller and not to sales or  
 3382 use taxes due from a seller in its capacity as a buyer.

3383 Section 19. Subsections (1) and (2) of section 213.256,  
 3384 Florida Statutes, are amended to read:

3385 213.256 Simplified Sales and Use Tax Administration Act.—

3386 (1) As used in this section and ss. 213.2562 and 213.2567,  
 3387 the term:

3388 (a) "Agent" means, for purposes of carrying out the

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3389 responsibilities placed on a dealer, a person appointed by the  
3390 seller to represent the seller before the department.

3391 ~~"Department" means the Department of Revenue.~~

3392 (b) "Agreement" means the Streamlined Sales and Use Tax  
3393 Agreement ~~as amended and adopted on January 27, 2001, by the~~  
3394 ~~Executive Committee of the National Conference of State~~  
3395 ~~Legislatures.~~

3396 (c) "Certified automated system" means software certified  
3397 jointly by the state ~~states that are signatories to the~~  
3398 ~~agreement~~ to calculate the tax imposed by each jurisdiction on a  
3399 transaction, determine the amount of tax to remit to the  
3400 appropriate state, and maintain a record of the transaction.

3401 (d) "Certified service provider" means an agent certified  
3402 ~~jointly by the states that are signatories to the agreement~~ to  
3403 perform all of the seller's sales tax functions other than the  
3404 seller's obligation to remit tax on its own purchases.

3405 (e) "Department" means the Department of Revenue.

3406 (f) "Governing board" means the governing board of the  
3407 agreement.

3408 (g)1. "Model 1 seller" means a seller that has selected a  
3409 certified service provider as the seller's agent to perform all  
3410 of the seller's sales and use tax functions other than the  
3411 seller's obligation to remit tax on the seller's purchases.

3412 2. "Model 2 seller" means a seller that has selected a  
3413 certified automated system to perform part of the seller's sales  
3414 and use tax functions, but retains responsibility for remitting  
3415 the tax.

3416 3. "Model 3 seller" means a seller that has sales in at

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

3422  
 3423 As used in this paragraph, a seller includes an affiliated group  
 3424 of sellers using the same proprietary system.

3425 (h)~~(e)~~ "Person" means an individual, trust, estate,  
 3426 fiduciary, partnership, limited liability company, limited  
 3427 liability partnership, corporation, or any other legal entity.

3428 (i) "Registered under this agreement" means registration  
 3429 by a seller with the member states under the central  
 3430 registration system.

3431 (j)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

3432 (k)~~(g)~~ "Seller" means any person making sales, leases, or  
 3433 rentals of personal property or services.

3434 (l)~~(h)~~ "State" means any state of the United States and  
 3435 the District of Columbia.

3436 (m)~~(i)~~ "Use tax" means the tax levied under chapter 212.

3437 (2) (a) The executive director of the department is  
 3438 authorized to ~~shall~~ enter into an agreement ~~the Streamlined~~  
 3439 ~~Sales and Use Tax Agreement~~ with one or more states to simplify  
 3440 and modernize sales and use tax administration in order to  
 3441 substantially reduce the burden of tax compliance for all  
 3442 sellers and for all types of commerce. In furtherance of the  
 3443 agreement, the executive director of the department or his or  
 3444 her designee shall act jointly with other states that are

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3445 members of the agreement to establish standards for  
3446 certification of a certified service provider and certified  
3447 automated systems ~~system~~ and central registration systems  
3448 ~~establish performance standards for multistate sellers.~~

3449 (b) The executive director of the department or his or her  
3450 designee shall take other actions reasonably required to  
3451 administer this section. Other actions authorized by this  
3452 section include, but are not limited to, the adoption of rules  
3453 and the joint procurement, with other member states, of goods  
3454 and services in furtherance of the cooperative agreement.

3455 (c) The executive director of the department or his or her  
3456 designee may represent this state before the other states that  
3457 are signatories to the agreement.

3458 (d) The executive director of the department or his or her  
3459 designee is authorized to prepare and submit from time to time  
3460 such reports and certifications as may be determined necessary  
3461 according to the terms of an agreement and to enter into such  
3462 other agreements with the governing board, member states, and  
3463 service providers as are determined by the executive director to  
3464 facilitate the administration of the tax laws of this state.

3465 Section 20. Section 213.2562, Florida Statutes, is created  
3466 to read:

3467 213.2562 Approval of software to calculate tax.—The  
3468 department shall review software submitted to the governing  
3469 board for certification as a certified automated system. If the  
3470 software accurately reflects the taxability of product  
3471 categories included in the program, the department shall certify  
3472 the approval of the software to the governing board.

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3473 Section 21. Section 213.2567, Florida Statutes, is created  
3474 to read:

3475 213.2567 Simplified Sales and Use Tax Agreement  
3476 registration, certification, liability, and audit.-

3477 (1) A seller that registers under the agreement agrees to  
3478 collect and remit sales and use taxes for all taxable sales into  
3479 the member states, including member states joining after the  
3480 seller's registration. Withdrawal or revocation of this state  
3481 does not relieve a seller of its responsibility to remit taxes  
3482 previously or subsequently collected on behalf of the state.

3483 (a) When registering, the seller may select a model 1,  
3484 model 2, or model 3 method of remittance or other method allowed  
3485 by state law to remit the taxes collected.

3486 (b) A seller may be registered by an agent. Such an  
3487 appointment must be in writing and submitted to a member state.

3488 (2) (a) A certified service provider is the agent of a  
3489 model 1 seller with whom the certified service provider has  
3490 contracted for the collection and remittance of sales and use  
3491 taxes. As the model 1 seller's agent, the certified service  
3492 provider is liable for sales and use tax due this state on all  
3493 sales transactions it processes for the model 1 seller, except  
3494 as set out in paragraph (b).

3495 (b) A model 1 seller is not liable to the state for sales  
3496 or use tax due on transactions processed by the certified  
3497 service provider unless the model 1 seller has misrepresented  
3498 the type of items it sells or has committed fraud. In the  
3499 absence of probable cause to believe that the model 1 seller has  
3500 committed fraud or made a material misrepresentation, the model

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

3510 (3) A model 2 seller that uses a certified automated  
3511 system remains responsible and is liable to this state for  
3512 reporting and remitting tax. However, a model 2 seller is not  
3513 responsible for errors in reliance on a certified automated  
3514 system.

3515 (4) A model 3 seller is liable for the failure of the  
3516 proprietary system to meet the performance standard.

3517 (5) A person that provides a certified automated system is  
3518 not liable for errors contained in software that was approved by  
3519 the department and certified to the governing board. However,  
3520 such person:

3521 (a) Is responsible for the proper functioning of that  
3522 system;

3523 (b) Is liable to this state for underpayments of tax  
3524 attributable to errors in the functioning of the certified  
3525 automated system; and

3526 (c) Is liable for the misclassification of an item or  
3527 transaction that is not corrected within 10 days after the  
3528 receipt of notice from the department.

3529 (6) The executive director of the department or his or her  
3530 designee may certify a person as a certified service provider if  
3531 the person meets all of the following requirements:

3532 (a) Uses a certified automated system;

3533 (b) Integrates its certified automated system with the  
3534 system of a seller for whom the person collects tax so that the  
3535 tax due on a sale is determined at the time of the sale;

3536 (c) Agrees to remit the taxes it collects at the time and  
3537 in the manner specified by chapter 212;

3538 (d) Agrees to file returns on behalf of the sellers for  
3539 whom it collects tax;

3540 (e) Agrees to protect the privacy of tax information it  
3541 obtains in accordance with s. 213.053; and

3542 (f) Enters into a contract with the department and agrees  
3543 to comply with the terms of the contract.

3544 (7) The department shall review software submitted to the  
3545 governing board for certification as a certified automated  
3546 system. The executive director of the department shall certify  
3547 the approval of the software to the governing board if the  
3548 software:

3549 (a) Determines the applicable state and local sales and  
3550 use tax rate for a transaction in accordance with s. 212.06(3)  
3551 and (4);

3552 (b) Determines whether an item is exempt from tax;

3553 (c) Determines the amount of tax to be remitted for each  
3554 taxpayer for a reporting period; and

3555 (d) Can generate reports and returns as required by the  
3556 governing board.

3557           (8) The department may by rule establish one or more sales  
 3558 tax performance standards for model 3 sellers.

3559           (9) Disclosure of information necessary under this section  
 3560 must be made according to a written agreement between the  
 3561 executive director of the department or his or her designee and  
 3562 the certified service provider. The certified service provider  
 3563 is bound by the same requirements of confidentiality as the  
 3564 department employees. Breach of confidentiality is a misdemeanor  
 3565 of the first degree, punishable as provided in s. 775.082 or s.  
 3566 775.083.

3567           Section 22. It is the intent of the Legislature to urge  
 3568 the United States Congress to consider adequate protections for  
 3569 small businesses engaging in both offline and online  
 3570 transactions from added costs, administrative burdens, and  
 3571 requirements imposed on intermediaries relating to the  
 3572 collection and remittance of sales and use tax.

3573           Section 23. The executive director of the Department of  
 3574 Revenue may adopt emergency rules to implement this act.  
 3575 Notwithstanding any other law, the emergency rules shall remain  
 3576 effective for 6 months after the date of adoption and may be  
 3577 renewed during the pendency of procedures to adopt rules  
 3578 addressing the subject of the emergency rules.

3579           Section 24. Paragraph (a) of subsection (5) of section  
 3580 11.45, Florida Statutes, is amended to read:

3581           11.45 Definitions; duties; authorities; reports; rules.—

3582           (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

3583           (a) The Legislative Auditing Committee shall direct the  
 3584 Auditor General to make an audit of any municipality whenever



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

3603 Section 25. Subsection (6) of section 196.012, Florida  
 3604 Statutes, is amended to read:

3605 196.012 Definitions.—For the purpose of this chapter, the  
 3606 following terms are defined as follows, except where the context  
 3607 clearly indicates otherwise:

3608 (6) Governmental, municipal, or public purpose or function  
 3609 shall be deemed to be served or performed when the lessee under  
 3610 any leasehold interest created in property of the United States,  
 3611 the state or any of its political subdivisions, or any  
 3612 municipality, agency, special district, authority, or other

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

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

3669 promotion of air commerce provided that the real property is  
 3670 designated as an aviation area on an airport layout plan  
 3671 approved by the Federal Aviation Administration. For purposes of  
 3672 determination of "ownership," buildings and other real property  
 3673 improvements which will revert to the airport authority or other  
 3674 governmental unit upon expiration of the term of the lease shall  
 3675 be deemed "owned" by the governmental unit and not the lessee.  
 3676 Providing two-way telecommunications services to the public for  
 3677 hire by the use of a telecommunications facility, as defined in  
 3678 s. 364.02(14), and for which a certificate is required under  
 3679 chapter 364 does not constitute an exempt use for purposes of s.  
 3680 196.199, unless the telecommunications services are provided by  
 3681 the operator of a public-use airport, as defined in s. 332.004,  
 3682 for the operator's provision of telecommunications services for  
 3683 the airport or its tenants, concessionaires, or licensees, or  
 3684 unless the telecommunications services are provided by a public  
 3685 hospital.

3686 Section 26. Paragraph (b) of subsection (1) and paragraph  
 3687 (b) of subsection (2) of section 202.18, Florida Statutes, are  
 3688 amended to read:

3689 202.18 Allocation and disposition of tax proceeds.—The  
 3690 proceeds of the communications services taxes remitted under  
 3691 this chapter shall be treated as follows:

3692 (1) The proceeds of the taxes remitted under s.  
 3693 202.12(1)(a) shall be divided as follows:

3694 (b) The remaining portion shall be distributed according  
 3695 to s. 212.20 (5) ~~(6)~~.

3696 (2) The proceeds of the taxes remitted under s.

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

3705 Section 27. Paragraphs (f), (g), (h), and (i) of  
 3706 subsection (1) of section 203.01, Florida Statutes, are amended  
 3707 to read:

3708 203.01 Tax on gross receipts for utility and  
 3709 communications services.—

3710 (1)

3711 (f) Any person who imports into this state electricity,  
 3712 natural gas, or manufactured gas, or severs natural gas, for  
 3713 that person's own use or consumption as a substitute for  
 3714 purchasing utility, transportation, or delivery services taxable  
 3715 under this chapter and who cannot demonstrate payment of the tax  
 3716 imposed by this chapter must register with the Department of  
 3717 Revenue and pay into the State Treasury each month an amount  
 3718 equal to the cost price of such electricity, natural gas, or  
 3719 manufactured gas times the rate set forth in paragraph (b),  
 3720 reduced by the amount of any like tax lawfully imposed on and  
 3721 paid by the person from whom the electricity, natural gas, or  
 3722 manufactured gas was purchased or any person who provided  
 3723 delivery service or transportation service in connection with  
 3724 the electricity, natural gas, or manufactured gas. For purposes

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

3729 (g) Electricity produced by cogeneration or by small power  
 3730 producers which is transmitted and distributed by a public  
 3731 utility between two locations of a customer of the utility  
 3732 pursuant to s. 366.051 is subject to the tax imposed by this  
 3733 section. The tax shall be applied to the cost price of such  
 3734 electricity as provided in s. 212.02~~(4)~~ and shall be paid each  
 3735 month by the producer of such electricity.

3736 (h) Electricity produced by cogeneration or by small power  
 3737 producers during the 12-month period ending June 30 of each year  
 3738 which is in excess of nontaxable electricity produced during the  
 3739 12-month period ending June 30, 1990, is subject to the tax  
 3740 imposed by this section. The tax shall be applied to the cost  
 3741 price of such electricity as provided in s. 212.02~~(4)~~ and shall  
 3742 be paid each month, beginning with the month in which total  
 3743 production exceeds the production of nontaxable electricity for  
 3744 the 12-month period ending June 30, 1990. For purposes of this  
 3745 paragraph, "nontaxable electricity" means electricity produced  
 3746 by cogeneration or by small power producers which is not subject  
 3747 to tax under paragraph (g). Taxes paid pursuant to paragraph (g)  
 3748 may be credited against taxes due under this paragraph.

3749 Electricity generated as part of an industrial manufacturing  
 3750 process which manufactures products from phosphate rock, raw  
 3751 wood fiber, paper, citrus, or any agricultural product shall not  
 3752 be subject to the tax imposed by this paragraph. "Industrial

3753 manufacturing process" means the entire process conducted at the  
 3754 location where the process takes place.

3755 (i) Any person other than a cogenerator or small power  
 3756 producer described in paragraph (h) who produces for his or her  
 3757 own use electrical energy which is a substitute for electrical  
 3758 energy produced by an electric utility as defined in s. 366.02  
 3759 is subject to the tax imposed by this section. The tax shall be  
 3760 applied to the cost price of such electrical energy as provided  
 3761 in s. 212.02~~(4)~~ and shall be paid each month. The provisions of  
 3762 this paragraph do not apply to any electrical energy produced  
 3763 and used by an electric utility.

3764 Section 28. Paragraph (a) of subsection (1) of section  
 3765 212.031, Florida Statutes, is amended to read:

3766 212.031 Tax on rental or license fee for use of real  
 3767 property.—

3768 (1) (a) It is declared to be the legislative intent that  
 3769 every person is exercising a taxable privilege who engages in  
 3770 the business of renting, leasing, letting, or granting a license  
 3771 for the use of any real property unless such property is:

- 3772 1. Assessed as agricultural property under s. 193.461.
- 3773 2. Used exclusively as dwelling units.
- 3774 3. Property subject to tax on parking, docking, or storage  
 3775 spaces under s. 212.03(6).
- 3776 4. Recreational property or the common elements of a  
 3777 condominium when subject to a lease between the developer or  
 3778 owner thereof and the condominium association in its own right  
 3779 or as agent for the owners of individual condominium units or  
 3780 the owners of individual condominium units. However, only the

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

3785 |         5. A public or private street or right-of-way and poles,  
 3786 | conduits, fixtures, and similar improvements located on such  
 3787 | streets or rights-of-way, occupied or used by a utility or  
 3788 | provider of communications services, as defined by s. 202.11,  
 3789 | for utility or communications or television purposes. For  
 3790 | purposes of this subparagraph, the term "utility" means any  
 3791 | person providing utility services as defined in s. 203.012. This  
 3792 | exception also applies to property, wherever located, on which  
 3793 | the following are placed: towers, antennas, cables, accessory  
 3794 | structures, or equipment, not including switching equipment,  
 3795 | used in the provision of mobile communications services as  
 3796 | defined in s. 202.11. For purposes of this chapter, towers used  
 3797 | in the provision of mobile communications services, as defined  
 3798 | in s. 202.11, are considered to be fixtures.

3799 |         6. A public street or road which is used for  
 3800 | transportation purposes.

3801 |         7. Property used at an airport exclusively for the purpose  
 3802 | of aircraft landing or aircraft taxiing or property used by an  
 3803 | airline for the purpose of loading or unloading passengers or  
 3804 | property onto or from aircraft or for fueling aircraft.

3805 |         8.a. Property used at a port authority, as defined in s.  
 3806 | 315.02(2), exclusively for the purpose of oceangoing vessels or  
 3807 | tugs docking, or such vessels mooring on property used by a port  
 3808 | authority for the purpose of loading or unloading passengers or



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

3814 b. The amount charged for the use of any property at the  
3815 port in excess of the amount charged for tonnage actually  
3816 imported or exported shall remain subject to tax except as  
3817 provided in sub-subparagraph a.

3818 9. Property used as an integral part of the performance of  
3819 qualified production services. As used in this subparagraph, the  
3820 term "qualified production services" means any activity or  
3821 service performed directly in connection with the production of  
3822 a qualified motion picture, as defined in s. 212.06(1)(b), and  
3823 includes:

3824 a. Photography, sound and recording, casting, location  
3825 managing and scouting, shooting, creation of special and optical  
3826 effects, animation, adaptation (language, media, electronic, or  
3827 otherwise), technological modifications, computer graphics, set  
3828 and stage support (such as electricians, lighting designers and  
3829 operators, greensmen, prop managers and assistants, and grips),  
3830 wardrobe (design, preparation, and management), hair and makeup  
3831 (design, production, and application), performing (such as  
3832 acting, dancing, and playing), designing and executing stunts,  
3833 coaching, consulting, writing, scoring, composing,  
3834 choreographing, script supervising, directing, producing,  
3835 transmitting dailies, dubbing, mixing, editing, cutting,  
3836 looping, printing, processing, duplicating, storing, and

3837 distributing;

3838       b. The design, planning, engineering, construction,  
 3839 alteration, repair, and maintenance of real or personal property  
 3840 including stages, sets, props, models, paintings, and facilities  
 3841 principally required for the performance of those services  
 3842 listed in sub-subparagraph a.; and

3843       c. Property management services directly related to  
 3844 property used in connection with the services described in sub-  
 3845 subparagraphs a. and b.

3846 This exemption will inure to the taxpayer upon presentation of  
 3847 the certificate of exemption issued to the taxpayer under the  
 3848 provisions of s. 288.1258.

3849       10. Leased, subleased, licensed, or rented to a person  
 3850 providing food and drink concessionaire services within the  
 3851 premises of a convention hall, exhibition hall, auditorium,  
 3852 stadium, theater, arena, civic center, performing arts center,  
 3853 publicly owned recreational facility, or any business operated  
 3854 under a permit issued pursuant to chapter 550. A person  
 3855 providing retail concessionaire services involving the sale of  
 3856 food and drink or other tangible personal property within the  
 3857 premises of an airport shall be subject to tax on the rental of  
 3858 real property used for that purpose, but shall not be subject to  
 3859 the tax on any license to use the property. For purposes of this  
 3860 subparagraph, the term "sale" shall not include the leasing of  
 3861 tangible personal property.

3862       11. Property occupied pursuant to an instrument calling  
 3863 for payments which the department has declared, in a Technical  
 3864 Assistance Advisement issued on or before March 15, 1993, to be

3865 nontaxable pursuant to rule 12A-1.070(19)(c), Florida  
 3866 Administrative Code; provided that this subparagraph shall only  
 3867 apply to property occupied by the same person before and after  
 3868 the execution of the subject instrument and only to those  
 3869 payments made pursuant to such instrument, exclusive of renewals  
 3870 and extensions thereof occurring after March 15, 1993.

3871 12. Property used or occupied predominantly for space  
 3872 flight business purposes. As used in this subparagraph, "space  
 3873 flight business" means the manufacturing, processing, or  
 3874 assembly of a space facility, space propulsion system, space  
 3875 vehicle, satellite, or station of any kind possessing the  
 3876 capacity for space flight, as defined by s. 212.02~~(23)~~, or  
 3877 components thereof, and also means the following activities  
 3878 supporting space flight: vehicle launch activities, flight  
 3879 operations, ground control or ground support, and all  
 3880 administrative activities directly related thereto. Property  
 3881 shall be deemed to be used or occupied predominantly for space  
 3882 flight business purposes if more than 50 percent of the  
 3883 property, or improvements thereon, is used for one or more space  
 3884 flight business purposes. Possession by a landlord, lessor, or  
 3885 licensor of a signed written statement from the tenant, lessee,  
 3886 or licensee claiming the exemption shall relieve the landlord,  
 3887 lessor, or licensor from the responsibility of collecting the  
 3888 tax, and the department shall look solely to the tenant, lessee,  
 3889 or licensee for recovery of such tax if it determines that the  
 3890 exemption was not applicable.

3891 13. Rented, leased, subleased, or licensed to a person  
 3892 providing telecommunications, data systems management, or

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

3904 Section 29. Paragraph (b) of subsection (1) of section  
 3905 212.052, Florida Statutes, is amended to read:

3906 212.052 Research or development costs; exemption.—

3907 (1) For the purposes of the exemption provided in this  
 3908 section:

3909 (b) The term "costs" means cost price as defined in s.  
 3910 212.02~~(4)~~.

3911 Section 30. Paragraph (c) of subsection (2), paragraph (c)  
 3912 of subsection (3), and paragraphs (c) and (i) of subsection (8)  
 3913 of section 212.055, Florida Statutes, are amended to read:

3914 212.055 Discretionary sales surtaxes; legislative intent;  
 3915 authorization and use of proceeds.—It is the legislative intent  
 3916 that any authorization for imposition of a discretionary sales  
 3917 surtax shall be published in the Florida Statutes as a  
 3918 subsection of this section, irrespective of the duration of the  
 3919 levy. Each enactment shall specify the types of counties  
 3920 authorized to levy; the rate or rates which may be imposed; the

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

3927 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

3928 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax  
 3929 levied under this subsection shall be distributed to the county  
 3930 and the municipalities within such county in which the surtax  
 3931 was collected, according to:

3932 1. An interlocal agreement between the county governing  
 3933 authority and the governing bodies of the municipalities  
 3934 representing a majority of the county's municipal population,  
 3935 which agreement may include a school district with the consent  
 3936 of the county governing authority and the governing bodies of  
 3937 the municipalities representing a majority of the county's  
 3938 municipal population; or

3939 2. If there is no interlocal agreement, according to the  
 3940 formula provided in s. 218.62.

3941 Any change in the distribution formula must take effect on the  
 3942 first day of any month that begins at least 60 days after  
 3943 written notification of that change has been made to the  
 3944 department.

3945 (3) SMALL COUNTY SURTAX.—

3946 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax  
 3947 levied under this subsection shall be distributed to the county  
 3948 and the municipalities within the county in which the surtax was

3949 collected, according to:

3950 1. An interlocal agreement between the county governing  
 3951 authority and the governing bodies of the municipalities  
 3952 representing a majority of the county's municipal population,  
 3953 which agreement may include a school district with the consent  
 3954 of the county governing authority and the governing bodies of  
 3955 the municipalities representing a majority of the county's  
 3956 municipal population; or

3957 2. If there is no interlocal agreement, according to the  
 3958 formula provided in s. 218.62.

3959 Any change in the distribution formula shall take effect on the  
 3960 first day of any month that begins at least 60 days after  
 3961 written notification of that change has been made to the  
 3962 department.

3963 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

3964 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the  
 3965 discretionary sales surtax collected under this subsection, less  
 3966 an administrative fee that may be retained by the Department of  
 3967 Revenue, shall be distributed by the department to the county.  
 3968 The county shall distribute the proceeds it receives from the  
 3969 department to the participating jurisdictions that have entered  
 3970 into an interlocal agreement with the county under this  
 3971 subsection. The county may also charge an administrative fee for  
 3972 receiving and distributing the surtax in the amount of the  
 3973 actual costs incurred, not to exceed 2 percent of the surtax  
 3974 collected.

3975 (i) Surtax collections shall be initiated on January 1 of  
 3976 the year following a successful referendum ~~in order to coincide~~

3977 | ~~with s. 212.054(5).~~

3978 | Section 31. Subsection (3) of section 212.13, Florida  
 3979 | Statutes, is amended to read:

3980 | 212.13 Records required to be kept; power to inspect;  
 3981 | audit procedure.—

3982 | (3) For the purpose of enforcement of this chapter, every  
 3983 | manufacturer and seller of tangible personal property or  
 3984 | services licensed within this state is required to permit the  
 3985 | department to examine his or her books and records at all  
 3986 | reasonable hours, and, upon his or her refusal, the department  
 3987 | may require him or her to permit such examination by resort to  
 3988 | the circuit courts of this state, subject however to the right  
 3989 | of removal of the cause to the judicial circuit wherein such  
 3990 | person's business is located or wherein such person's books and  
 3991 | records are kept, provided further that such person's books and  
 3992 | records are kept within the state. When the dealer has made an  
 3993 | allocation or attribution pursuant to the definition of sales  
 3994 | price in s. 212.02(~~16~~), the department may prescribe by rule the  
 3995 | books and records that must be made available during an audit of  
 3996 | the dealer's books and records and examples of methods for  
 3997 | determining the reasonableness thereof. Books and records kept  
 3998 | in the regular course of business include, but are not limited  
 3999 | to, general ledgers, price lists, cost records, customer  
 4000 | billings, billing system reports, tariffs, and other regulatory  
 4001 | filings and rules of regulatory authorities. Such record may be  
 4002 | required to be made available to the department in an electronic  
 4003 | format when so kept by the dealer. The dealer may support the  
 4004 | allocation of charges with books and records kept in the regular

4005 course of business covering the dealer's entire service area,  
 4006 including territories outside this state. During an audit, the  
 4007 department may reasonably require production of any additional  
 4008 books and records found necessary to assist in its  
 4009 determination.

4010 Section 32. Subsection (1) of section 212.15, Florida  
 4011 Statutes, is amended to read:

4012 212.15 Taxes declared state funds; penalties for failure  
 4013 to remit taxes; due and delinquent dates; judicial review.—

4014 (1) The taxes imposed by this chapter shall, ~~except as~~  
 4015 ~~provided in s. 212.06(5)(a)2.e.,~~ become state funds at the  
 4016 moment of collection and shall for each month be due to the  
 4017 department on the first day of the succeeding month and be  
 4018 delinquent on the 21st day of such month. All returns postmarked  
 4019 after the 20th day of such month are delinquent.

4020 Section 33. Subsection (3) of section 213.015, Florida  
 4021 Statutes, is amended to read:

4022 213.015 Taxpayer rights.—There is created a Florida  
 4023 Taxpayer's Bill of Rights to guarantee that the rights, privacy,  
 4024 and property of Florida taxpayers are adequately safeguarded and  
 4025 protected during tax assessment, collection, and enforcement  
 4026 processes administered under the revenue laws of this state. The  
 4027 Taxpayer's Bill of Rights compiles, in one document, brief but  
 4028 comprehensive statements which explain, in simple, nontechnical  
 4029 terms, the rights and obligations of the Department of Revenue  
 4030 and taxpayers. Section 192.0105 provides additional rights  
 4031 afforded to payors of property taxes and assessments. The rights  
 4032 afforded taxpayers to ensure that their privacy and property are



4033 safeguarded and protected during tax assessment and collection  
 4034 are available only insofar as they are implemented in other  
 4035 parts of the Florida Statutes or rules of the Department of  
 4036 Revenue. The rights so guaranteed Florida taxpayers in the  
 4037 Florida Statutes and the departmental rules are:

4038 (3) The right to be represented or advised by counsel or  
 4039 other qualified representatives at any time in administrative  
 4040 interactions with the department, the right to procedural  
 4041 safeguards with respect to recording of interviews during tax  
 4042 determination or collection processes conducted by the  
 4043 department, the right to be treated in a professional manner by  
 4044 department personnel, and the right to have audits, inspections  
 4045 of records, and interviews conducted at a reasonable time and  
 4046 place except in criminal and internal investigations (see ss.  
 4047 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3),  
 4048 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (11) ~~(13)~~,  
 4049 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

4050 Section 34. Subsection (3) of section 218.245, Florida  
 4051 Statutes, is amended to read:

4052 218.245 Revenue sharing; apportionment.—

4053 (3) Revenues attributed to the increase in distribution to  
 4054 the Revenue Sharing Trust Fund for Municipalities pursuant to s.  
 4055 212.20 (5) ~~(6)~~ (d) 5. from 1.0715 percent to 1.3409 percent provided  
 4056 in chapter 2003-402, Laws of Florida, shall be distributed to  
 4057 each eligible municipality and any unit of local government that  
 4058 is consolidated as provided by s. 9, Art. VIII of the State  
 4059 Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968  
 4060 revised constitution, as follows: each eligible local

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

4078 Section 35. Subsections (5), (6), and (7) of section  
 4079 218.65, Florida Statutes, are amended to read:

4080 218.65 Emergency distribution.—

4081 (5) At the beginning of each fiscal year, the Department  
 4082 of Revenue shall calculate a base allocation for each eligible  
 4083 county equal to the difference between the current per capita  
 4084 limitation times the county's population, minus prior year  
 4085 ordinary distributions to the county pursuant to ss.  
 4086 212.20 (5) ~~(6)~~ (d) 2., 218.61, and 218.62. If moneys deposited into  
 4087 the Local Government Half-cent Sales Tax Clearing Trust Fund  
 4088 pursuant to s. 212.20 (5) ~~(6)~~ (d) 3., excluding moneys appropriated

4089 for supplemental distributions pursuant to subsection (8), for  
 4090 the current year are less than or equal to the sum of the base  
 4091 allocations, each eligible county shall receive a share of the  
 4092 appropriated amount proportional to its base allocation. If the  
 4093 deposited amount exceeds the sum of the base allocations, each  
 4094 county shall receive its base allocation, and the excess  
 4095 appropriated amount, less any amounts distributed under  
 4096 subsection (6), shall be distributed equally on a per capita  
 4097 basis among the eligible counties.

4098 (6) If moneys deposited in the Local Government Half-cent  
 4099 Sales Tax Clearing Trust Fund pursuant to s. 212.20 (5) ~~(6)~~ (d) 3.  
 4100 exceed the amount necessary to provide the base allocation to  
 4101 each eligible county, the moneys in the trust fund may be used  
 4102 to provide a transitional distribution, as specified in this  
 4103 subsection, to certain counties whose population has increased.  
 4104 The transitional distribution shall be made available to each  
 4105 county that qualified for a distribution under subsection (2) in  
 4106 the prior year but does not, because of the requirements of  
 4107 paragraph (2) (a), qualify for a distribution in the current  
 4108 year. Beginning on July 1 of the year following the year in  
 4109 which the county no longer qualifies for a distribution under  
 4110 subsection (2), the county shall receive two-thirds of the  
 4111 amount received in the prior year, and beginning July 1 of the  
 4112 second year following the year in which the county no longer  
 4113 qualifies for a distribution under subsection (2), the county  
 4114 shall receive one-third of the amount it received in the last  
 4115 year it qualified for the distribution under subsection (2). If  
 4116 insufficient moneys are available in the Local Government Half-

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4117 cent Sales Tax Clearing Trust Fund to fully provide such a  
4118 transitional distribution to each county that meets the  
4119 eligibility criteria in this section, each eligible county shall  
4120 receive a share of the available moneys proportional to the  
4121 amount it would have received had moneys been sufficient to  
4122 fully provide such a transitional distribution to each eligible  
4123 county.

4124 (7) There is hereby annually appropriated from the Local  
4125 Government Half-cent Sales Tax Clearing Trust Fund the  
4126 distribution provided in s. 212.20 (5) ~~(6)~~ (d) 3. to be used for  
4127 emergency and supplemental distributions pursuant to this  
4128 section.

4129 Section 36. Paragraph (q) of subsection (1) of section  
4130 288.1045, Florida Statutes, is amended to read:

4131 288.1045 Qualified defense contractor and space flight  
4132 business tax refund program.—

4133 (1) DEFINITIONS.—As used in this section:

4134 (q) "Space flight business" means the manufacturing,  
4135 processing, or assembly of space flight technology products,  
4136 space flight facilities, space flight propulsion systems, or  
4137 space vehicles, satellites, or stations of any kind possessing  
4138 the capability for space flight, as defined by s. 212.02 ~~(23)~~, or  
4139 components thereof, and includes, in supporting space flight,  
4140 vehicle launch activities, flight operations, ground control or  
4141 ground support, and all administrative activities directly  
4142 related to such activities. The term does not include products  
4143 that are designed or manufactured for general commercial  
4144 aviation or other uses even if those products may also serve an

4145 incidental use in space flight applications.

4146 Section 37. Paragraphs (a) and (d) of subsection (3) of  
4147 section 288.11621, Florida Statutes, are amended to read:

4148 288.11621 Spring training baseball franchises.—

4149 (3) USE OF FUNDS.—

4150 (a) A certified applicant may use funds provided under s.  
4151 212.20 (5) ~~(6)~~ (d) 6.b. only to:

4152 1. Serve the public purpose of acquiring, constructing,  
4153 reconstructing, or renovating a facility for a spring training  
4154 franchise.

4155 2. Pay or pledge for the payment of debt service on, or to  
4156 fund debt service reserve funds, arbitrage rebate obligations,  
4157 or other amounts payable with respect thereto, bonds issued for  
4158 the acquisition, construction, reconstruction, or renovation of  
4159 such facility, or for the reimbursement of such costs or the  
4160 refinancing of bonds issued for such purposes.

4161 3. Assist in the relocation of a spring training franchise  
4162 from one unit of local government to another only if the  
4163 governing board of the current host local government by a  
4164 majority vote agrees to relocation.

4165 (d)1. All certified applicants must place unexpended state  
4166 funds received pursuant to s. 212.20 (5) ~~(6)~~ (d) 6.b. in a trust  
4167 fund or separate account for use only as authorized in this  
4168 section.

4169 2. A certified applicant may request that the Department  
4170 of Revenue suspend further distributions of state funds made  
4171 available under s. 212.20 (5) ~~(6)~~ (d) 6.b. for 12 months after  
4172 expiration of an existing agreement with a spring training

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4173 franchise to provide the certified applicant with an opportunity  
4174 to enter into a new agreement with a spring training franchise,  
4175 at which time the distributions shall resume.

4176 3. The expenditure of state funds distributed to an  
4177 applicant certified before July 1, 2010, must begin within 48  
4178 months after the initial receipt of the state funds. In  
4179 addition, the construction of, or capital improvements to, a  
4180 spring training facility must be completed within 24 months  
4181 after the project's commencement.

4182 Section 38. Subsection (6) of section 288.1169, Florida  
4183 Statutes, is amended to read:

4184 288.1169 International Game Fish Association World Center  
4185 facility.—

4186 (6) The department must recertify every 10 years that the  
4187 facility is open, that the International Game Fish Association  
4188 World Center continues to be the only international  
4189 administrative headquarters, fishing museum, and Hall of Fame in  
4190 the United States recognized by the International Game Fish  
4191 Association, and that the project is meeting the minimum  
4192 projections for attendance or sales tax revenues as required at  
4193 the time of original certification. If the facility is not  
4194 recertified during this 10-year review as meeting the minimum  
4195 projections, then funding shall be abated until certification  
4196 criteria are met. If the project fails to generate \$1 million of  
4197 annual revenues pursuant to paragraph (2)(e), the distribution  
4198 of revenues pursuant to s. 212.20 (5) ~~(6)~~ (d) 6.d. shall be reduced  
4199 to an amount equal to \$83,333 multiplied by a fraction, the  
4200 numerator of which is the actual revenues generated and the

4201 denominator of which is \$1 million. Such reduction remains in  
 4202 effect until revenues generated by the project in a 12-month  
 4203 period equal or exceed \$1 million.

4204 Section 39. Subsection (8) of section 551.102, Florida  
 4205 Statutes, is amended to read:

4206 551.102 Definitions.—As used in this chapter, the term:

4207 (8) "Slot machine" means any mechanical or electrical  
 4208 contrivance, terminal that may or may not be capable of  
 4209 downloading slot games from a central server system, machine, or  
 4210 other device that, upon insertion of a coin, bill, ticket,  
 4211 token, or similar object or upon payment of any consideration  
 4212 whatsoever, including the use of any electronic payment system  
 4213 except a credit card or debit card, is available to play or  
 4214 operate, the play or operation of which, whether by reason of  
 4215 skill or application of the element of chance or both, may  
 4216 deliver or entitle the person or persons playing or operating  
 4217 the contrivance, terminal, machine, or other device to receive  
 4218 cash, billets, tickets, tokens, or electronic credits to be  
 4219 exchanged for cash or to receive merchandise or anything of  
 4220 value whatsoever, whether the payoff is made automatically from  
 4221 the machine or manually. The term includes associated equipment  
 4222 necessary to conduct the operation of the contrivance, terminal,  
 4223 machine, or other device. Slot machines may use spinning reels,  
 4224 video displays, or both. A slot machine is not a "coin-operated  
 4225 amusement machine" as defined in s. 212.02~~(24)~~ or an amusement  
 4226 game or machine as described in s. 849.161, and slot machines  
 4227 are not subject to the tax imposed by s. 212.05(1)(h).

4228 Section 40. Paragraph (a) of subsection (1) of section

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4229 | 790.0655, Florida Statutes, is amended to read:

4230 |       790.0655 Purchase and delivery of handguns; mandatory  
4231 | waiting period; exceptions; penalties.—

4232 |       (1)(a) There shall be a mandatory 3-day waiting period,  
4233 | which shall be 3 days, excluding weekends and legal holidays,  
4234 | between the purchase and the delivery at retail of any handgun.  
4235 | "Purchase" means the transfer of money or other valuable  
4236 | consideration to the retailer. "Handgun" means a firearm capable  
4237 | of being carried and used by one hand, such as a pistol or  
4238 | revolver. "Retailer" means and includes every person engaged in  
4239 | the business of making sales at retail or for distribution, or  
4240 | use, or consumption, or storage to be used or consumed in this  
4241 | state, as defined in s. 212.02~~(13)~~.

4242 |       Section 41. Section 212.0596, Florida Statutes, is  
4243 | repealed.

4244 |       Section 42. This act shall take effect January 1, 2014.