

By the Committee on Commerce and Tourism; and Senator Ring

577-01839-14

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1 A bill to be entitled
2 An act relating to the sales, storage, and use tax;
3 amending s. 212.05, F.S.; removing the tax from
4 security systems services; making technical
5 corrections; providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Paragraph (i) of subsection (1) of section
10 212.05, Florida Statutes, is amended to read:

11 212.05 Sales, storage, use tax.—It is hereby declared to be
12 the legislative intent that every person is exercising a taxable
13 privilege who engages in the business of selling tangible
14 personal property at retail in this state, including the
15 business of making mail order sales, or who rents or furnishes
16 any of the things or services taxable under this chapter, or who
17 stores for use or consumption in this state any item or article
18 of tangible personal property as defined herein and who leases
19 or rents such property within the state.

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

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

24 a. Investigative services ~~Detective~~, security guard and
25 patrol services ~~burglar protection~~, and armored car services,
26 ~~other protection services~~ (NAICS National Numbers 561611,
27 561612, and 561613, ~~and 561621~~). A ~~Any~~ law enforcement officer,
28 as defined in s. 943.10, who is performing approved duties as
29 determined by his or her local law enforcement agency in his or

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30 her capacity as a law enforcement officer, and who is subject to
31 the direct and immediate command of the ~~his or her~~ law
32 enforcement agency, and wearing a ~~in the~~ law enforcement
33 officer's uniform ~~as~~ authorized by the ~~his or her~~ law
34 enforcement agency, is performing law enforcement and public
35 safety services and is not performing investigative services
36 ~~detective, security guard and patrol services burglar~~
37 ~~protection, or armored car other protective services,~~ if the law
38 enforcement officer is performing his or her approved duties in
39 a geographical area in which the law enforcement officer has
40 arrest jurisdiction. Such law enforcement and public safety
41 services are not subject to tax irrespective of whether the duty
42 is characterized as "extra duty," "off-duty," or "secondary
43 employment," and irrespective of whether the officer is paid
44 directly or through the officer's agency by an outside source.
45 The term "law enforcement officer" includes a full-time or part-
46 time law enforcement officer ~~officers,~~ and an ~~any~~ auxiliary law
47 enforcement officer if the, ~~when such~~ auxiliary law enforcement
48 officer is working under the direct supervision of a full-time
49 or part-time law enforcement officer.

50 b. Nonresidential janitorial services ~~cleaning,~~ excluding
51 cleaning of the interiors of transportation equipment, and
52 nonresidential building exterminating and pest control services,
53 ~~(NAICS National Numbers 561710 and 561720).~~

54 2. As used in this paragraph, "NAICS" means those
55 classifications contained in the North American Industry
56 Classification System, as published in 2012 ~~2007~~ by the Office
57 of Management and Budget, Executive Office of the President.

58 3. Charges for investigative services ~~detective, security~~

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59 guard and patrol services ~~burglar protection~~, and armored car
60 ~~other protection security~~ services performed in this state but
61 used outside this state are exempt from taxation. Charges for
62 investigative services ~~detective~~, security guard and patrol
63 services ~~burglar protection~~, and armored car ~~other protection~~
64 ~~security~~ services performed outside this state and used in this
65 state are subject to tax.

66 4. If a transaction involves both the sale or use of a
67 service taxable under this paragraph and the sale or use of a
68 service or any other item not taxable under this chapter, the
69 consideration paid must be separately identified and stated with
70 respect to the taxable and exempt portions of the transaction or
71 the entire transaction is ~~shall be~~ presumed taxable. The burden
72 is ~~shall be~~ on the seller of the service or the purchaser of the
73 service, as ~~whichever~~ applicable, to overcome this presumption
74 by providing documentary evidence as to which portion of the
75 transaction is exempt from tax. The department may ~~is authorized~~
76 ~~to~~ adjust the amount of consideration identified as the taxable
77 and exempt portions of the transaction; however, a determination
78 that the taxable and exempt portions are inaccurately stated and
79 that the adjustment is applicable must be supported by
80 substantial competent evidence.

81 5. Each seller of services subject to sales tax pursuant to
82 this paragraph shall maintain a monthly log showing each
83 transaction for which sales tax was not collected because the
84 services meet the requirements of subparagraph 3. for out-of-
85 state use. The log must identify the purchaser's name, location
86 and mailing address, and federal employer identification number,
87 if a business, or ~~the~~ social security number, if an individual,

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88 the service sold, the price of the service, the date of sale,
89 the reason for the exemption, and the sales invoice number. The
90 monthly log shall be maintained pursuant to the same
91 requirements and subject to the same penalties imposed for the
92 keeping of similar records pursuant to this chapter.

93 Section 2. This act shall take effect July 1, 2014.