



973828

LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
04/25/2014	.	
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The Committee on Appropriations (Galvano) recommended the following:

1 **Senate Amendment to Amendment (477076) (with title**
2 **amendment)**

3
4 Delete lines 16 - 98
5 and insert:

6 (a) Except as otherwise provided in this subsection, at a
7 rate of 6.13 ~~6.65~~ percent applied to the sales price of the
8 communications service that ~~which~~:

- 9 1. Originates and terminates in this state;; or
10 2. Originates or terminates in this state and is charged to



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11 a service address in this state,
12
13 when sold at retail, computed on each taxable sale for the
14 purpose of remitting the tax due. The gross receipts tax imposed
15 by chapter 203 shall be collected on the same taxable
16 transactions and remitted with the tax imposed by this
17 paragraph. If no tax is imposed by this paragraph due to the
18 exemption provided under ~~by reason of~~ s. 202.125(1), the tax
19 imposed by chapter 203 shall nevertheless be collected and
20 remitted in the manner and at the time prescribed for tax
21 collections and remittances under this chapter.

22 (b) At the rate of 10.28 ~~10.8~~ percent on the retail sales
23 price of any direct-to-home satellite service received in this
24 state. The proceeds of the tax imposed under this paragraph
25 shall be accounted for and distributed in accordance with s.
26 202.18(2). The gross receipts tax imposed by chapter 203 shall
27 be collected on the same taxable transactions and remitted with
28 the tax imposed by this paragraph.

29 Section 2. Section 202.12001, Florida Statutes, is amended
30 to read:

31 202.12001 Combined rate for tax collected pursuant to ss.
32 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.
33 2010-149, Laws of Florida, the dealer of communication services
34 may collect a combined rate of 6.28 ~~6.8~~ percent comprised of
35 6.13 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a)
36 and 203.01(1)(b)3., respectively, if ~~as long as~~ the provider
37 properly reflects the tax collected with respect to the two
38 provisions as required in the return to the Department of
39 Revenue.



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40 Section 3. Subsection (2) of section 202.18, Florida
41 Statutes, is amended to read:

42 202.18 Allocation and disposition of tax proceeds.—The
43 proceeds of the communications services taxes remitted under
44 this chapter shall be treated as follows:

45 (2) The proceeds of the taxes remitted under s.
46 202.12(1)(b) shall be allocated ~~divided~~ as follows:

47 (a) The portion of such proceeds that constitute ~~which~~
48 ~~constitutes~~ gross receipts taxes, imposed at the rate prescribed
49 in chapter 203, shall be deposited as provided by law and in
50 accordance with s. 9, Art. XII of the State Constitution.

51 (b) Sixty and nine-tenths ~~Sixty-three~~ percent of the
52 remainder shall be allocated to the state and distributed
53 pursuant to s. 212.20(6), except that the proceeds allocated
54 pursuant to s. 212.20(6)(d)2. shall be prorated to the
55 participating counties in the same proportion as that month's
56 collection of the taxes and fees imposed pursuant to chapter 212
57 and paragraph (1)(b).

58 (c)1. During each calendar year, the remaining portion of
59 such proceeds shall be transferred to the Local Government Half-
60 cent Sales Tax Clearing Trust Fund. Seventy percent of such
61 proceeds shall be allocated in the same proportion as the
62 allocation of total receipts of the half-cent sales tax under s.
63 218.61 and the emergency distribution under s. 218.65 in the
64 prior state fiscal year. Thirty percent of such proceeds shall
65 be distributed pursuant to s. 218.67.

66 2. The proportion of the proceeds allocated based on the
67 emergency distribution under s. 218.65 shall be distributed
68 pursuant to s. 218.65.



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69 3. In each calendar year, the proportion of the proceeds
70 allocated based on the half-cent sales tax under s. 218.61 shall
71 be allocated to each county in the same proportion as the
72 county's percentage of total sales tax allocation for the prior
73 state fiscal year and distributed pursuant to s. 218.62.

74 4. The department shall distribute the appropriate amount
75 to each municipality and county each month at the same time that
76 local communications services taxes are distributed pursuant to
77 subsection (3).

78 Section 4. Section 203.001, Florida Statutes, is amended to
79 read:

80 203.001 Combined rate for tax collected pursuant to ss.
81 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.
82 2010-149, Laws of Florida, the dealer of communication services
83 may collect a combined rate of 6.28 ~~6.8~~ percent comprised of
84 6.13 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a)
85 and 203.01(1)(b)3., respectively, if as long as the provider
86 properly reflects the tax collected with respect to the two
87 provisions as required in the return to the Department of
88 Revenue.

89 Section 5. Subsection (9) of section 202.11, Florida
90 Statutes, is amended to read:

91 202.11 Definitions.—As used in this chapter, the term:

92 (9) "Prepaid calling arrangement" means: the separately
93 ~~stated retail sale by advance payment of~~

94 (a) A right to use communications services, other than
95 mobile communications services, for which a separately stated
96 price must be paid in advance, which is sold at retail in
97 predetermined units that decline in number with use on a



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98 predetermined basis, and which ~~that~~ consist exclusively of
99 telephone calls originated by using an access number,
100 authorization code, or other means that may be manually,
101 electronically, or otherwise entered; or ~~and that are sold in~~
102 ~~predetermined units or dollars of which the number declines with~~
103 ~~use in a known amount.~~

104 (b) A right to use mobile communications services that must
105 be paid for in advance and is sold at retail in predetermined
106 units that expire or decline in number on a predetermined basis
107 if:

108 1. The purchaser's right to use mobile communications
109 services terminates upon all purchased units expiring or being
110 exhausted unless the purchaser pays for additional units;

111 2. The purchaser is not required to purchase additional
112 units; and

113 3. Any right of the purchaser to use units to obtain
114 communications services other than mobile communications
115 services is limited to services that are provided to or through
116 the same handset or other electronic device that is used by the
117 purchaser to access mobile communications services.

118
119 Predetermined units described in this subsection may be
120 quantified as amounts of usage, time, money, or a combination of
121 these or other means of measurement.

122 Section 6. Paragraph (e) of subsection (1) of section
123 212.05, Florida Statutes, is amended to read:

124 212.05 Sales, storage, use tax.—It is hereby declared to be
125 the legislative intent that every person is exercising a taxable
126 privilege who engages in the business of selling tangible



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127 personal property at retail in this state, including the
128 business of making mail order sales, or who rents or furnishes
129 any of the things or services taxable under this chapter, or who
130 stores for use or consumption in this state any item or article
131 of tangible personal property as defined herein and who leases
132 or rents such property within the state.

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

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

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

140 (I) "Prepaid calling arrangement" has the same meaning as
141 provided in s. 202.11 ~~means the separately stated retail sale by~~
142 ~~advance payment of communications services that consist~~
143 ~~exclusively of telephone calls originated by using an access~~
144 ~~number, authorization code, or other means that may be manually,~~
145 ~~electronically, or otherwise entered and that are sold in~~
146 ~~predetermined units or dollars whose number declines with use in~~
147 ~~a known amount.~~

148 (II) If the sale or recharge of the prepaid calling
149 arrangement does not take place at the dealer's place of
150 business, it shall be deemed to have taken ~~take~~ place at the
151 customer's shipping address or, if no item is shipped, at the
152 customer's address or the location associated with the
153 customer's mobile telephone number.

154 (III) The sale or recharge of a prepaid calling arrangement
155 shall be treated as a sale of tangible personal property for



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156 purposes of this chapter, whether or not a tangible item
157 evidencing such arrangement is furnished to the purchaser, and
158 such sale within this state subjects the selling dealer to the
159 jurisdiction of this state for purposes of this subsection.

160 (IV) No additional tax under this chapter or chapter 202 is
161 due or payable if a purchaser of a prepaid calling arrangement,
162 who has paid tax under this chapter on the sale or recharge of
163 such arrangement, applies one or more units of the prepaid
164 calling arrangement to obtain communications services as
165 described in s. 202.11(9)(b)3., other services that are not
166 communications services, or products.

167 b. The installation of telecommunication and telegraphic
168 equipment.

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

171 2. The provisions of s. 212.17(3), regarding credit for tax
172 paid on charges subsequently found to be worthless, are shall be
173 equally applicable to any tax paid under the provisions of this
174 section on charges for prepaid calling arrangements,
175 telecommunication or telegraph services, or electric power
176 subsequently found to be uncollectible. The term word "charges"
177 under ~~in~~ this paragraph does not include any excise or similar
178 tax levied by the Federal Government, any political subdivision
179 of ~~this the~~ state, or any municipality upon the purchase, sale,
180 or recharge of prepaid calling arrangements or upon the purchase
181 or sale of telecommunication, television system program, or
182 telegraph service or electric power, which tax is collected by
183 the seller from the purchaser.

184 Section 7. The amendments made to ss. 202.11 and 212.05,



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185 Florida Statutes, by this act are intended to be remedial in
186 nature and apply retroactively, but do not provide a basis for
187 an assessment of any tax not paid or create a right to a refund
188 or credit of any tax paid before the effective date of this act.

189

190 ===== T I T L E A M E N D M E N T =====

191 And the title is amended as follows:

192 Delete line 387

193 and insert:

194 the communications services tax; amending ss. 202.11
195 and 212.05, F.S.; revising the term "prepaid calling
196 arrangement" to clarify and update which services are
197 included under that definition and subject to a sales
198 tax; providing for retroactive application; amending
199 s. 212.20,