

By Senators Galvano, Gibson, Stargel, Abruzzo, Soto, Altman, and Garcia

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

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (9) of section 202.11, Florida
 13 Statutes, is amended to read:

14 202.11 Definitions.—As used in this chapter, the term:

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

17 (a) A right to use communications services, other than
 18 mobile communications services, for which a separately stated
 19 price must be paid in advance, which is sold at retail in
 20 predetermined units that decline in number with use on a
 21 predetermined basis, and which ~~that~~ consist exclusively of
 22 telephone calls originated by using an access number,
 23 authorization code, or other means that may be manually,
 24 electronically, or otherwise entered; or ~~and that are sold in~~
 25 ~~predetermined units or dollars of which the number declines with~~
 26 ~~use in a known amount.~~

27 (b) A right to use mobile communications services that must
 28 be paid for in advance and is sold at retail in predetermined
 29 units that expire or decline in number on a predetermined basis

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30 if:

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

34 2. The purchaser is not required to purchase additional
35 units; and

36 3. Any right of the purchaser to use units to obtain
37 communications services other than mobile communications
38 services is limited to services that are provided to or through
39 the same handset or other electronic device that is used by the
40 purchaser to access mobile communications services.

41
42 Predetermined units described in this subsection may be
43 quantified as amounts of usage, time, money, or a combination of
44 these or other means of measurement.

45 Section 2. Paragraph (e) of subsection (1) of section
46 212.05, Florida Statutes, is amended to read:

47 212.05 Sales, storage, use tax.—It is hereby declared to be
48 the legislative intent that every person is exercising a taxable
49 privilege who engages in the business of selling tangible
50 personal property at retail in this state, including the
51 business of making mail order sales, or who rents or furnishes
52 any of the things or services taxable under this chapter, or who
53 stores for use or consumption in this state any item or article
54 of tangible personal property as defined herein and who leases
55 or rents such property within the state.

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

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

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

63 (I) "Prepaid calling arrangement" has the same meaning as
64 provided in s. 202.11 ~~means the separately stated retail sale by~~
65 ~~advance payment of communications services that consist~~
66 ~~exclusively of telephone calls originated by using an access~~
67 ~~number, authorization code, or other means that may be manually,~~
68 ~~electronically, or otherwise entered and that are sold in~~
69 ~~predetermined units or dollars whose number declines with use in~~
70 ~~a known amount.~~

71 (II) If the sale or recharge of the prepaid calling
72 arrangement does not take place at the dealer's place of
73 business, it shall be deemed to have taken ~~take~~ place at the
74 customer's shipping address or, if no item is shipped, at the
75 customer's address or the location associated with the
76 customer's mobile telephone number.

77 (III) The sale or recharge of a prepaid calling arrangement
78 shall be treated as a sale of tangible personal property for
79 purposes of this chapter, whether or not a tangible item
80 evidencing such arrangement is furnished to the purchaser, and
81 such sale within this state subjects the selling dealer to the
82 jurisdiction of this state for purposes of this subsection.

83 (IV) No additional tax under this chapter or chapter 202 is
84 due or payable if a purchaser of a prepaid calling arrangement,
85 who has paid tax under this chapter on the sale or recharge of
86 such arrangement, applies one or more units of the prepaid
87 calling arrangement to obtain communications services as

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88 described in s. 202.11(9)(b)3., other services that are not
89 communications services, or products.

90 b. The installation of telecommunication and telegraphic
91 equipment.

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

94 2. The provisions of s. 212.17(3), regarding credit for tax
95 paid on charges subsequently found to be worthless, are ~~shall be~~
96 equally applicable to any tax paid under ~~the provisions of~~ this
97 section on charges for prepaid calling arrangements,
98 telecommunication or telegraph services, or electric power
99 subsequently found to be uncollectible. The term ~~word~~ "charges"
100 under ~~in~~ this paragraph does not include any excise or similar
101 tax levied by the Federal Government, any political subdivision
102 of this ~~the~~ state, or any municipality upon the purchase, sale,
103 or recharge of prepaid calling arrangements or upon the purchase
104 or sale of telecommunication, television system program, or
105 telegraph service or electric power, which tax is collected by
106 the seller from the purchaser.

107 Section 3. The amendments made by this act are intended to
108 be remedial in nature and apply retroactively, but do not
109 provide a basis for an assessment of any tax not paid or create
110 a right to a refund or credit of any tax paid before the
111 effective date of this act.

112 Section 4. Except as otherwise expressly provided in
113 section 3 of this act, this act shall take effect July 1, 2014.