

1 A bill to be entitled
 2 An act relating to sales and use taxes; amending s.
 3 212.031, F.S.; providing that separately itemized ad
 4 valorem tax charges paid by certain tenants and
 5 licensees are not subject to the sales and use tax;
 6 specifying the method for calculating the amount not
 7 subject to such tax; providing an effective date.

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

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 11 Section 1. Paragraph (c) of subsection (1) of section
 12 212.031, Florida Statutes, is amended to read:

13 212.031 Tax on rental or license fee for use of real
 14 property.—

15 (1)

16 (c)1. For the exercise of such privilege, a tax is levied
 17 in an amount equal to 6 percent of and on the total rent or
 18 license fee charged for such real property by the person
 19 charging or collecting the rental or license fee. The total rent
 20 or license fee charged for such real property shall include
 21 payments for the granting of a privilege to use or occupy real
 22 property for any purpose and shall include base rent, percentage
 23 rents, or similar charges. Such charges shall be included in the
 24 total rent or license fee subject to tax under this section
 25 whether or not they can be attributed to the ability of the

26 | lessor's or licensor's property as used or operated to attract
27 | customers.

28 | 2. Payments for intrinsically valuable personal property
29 | such as franchises, trademarks, service marks, logos, or patents
30 | are not subject to tax under this section.

31 | 3. Separately itemized charges for ad valorem taxes that
32 | are paid by the tenant or licensee to the lessor, licensor, or
33 | other person on behalf of the lessor or licensor are not subject
34 | to the tax under this section. For purposes of this
35 | subparagraph, the total ad valorem tax charges for one calendar
36 | year that apply to a single parcel of real property may not
37 | exceed the ad valorem taxes actually paid to the tax collector
38 | or the ad valorem taxes that are due on April 1 of the following
39 | calendar year, whichever amount is less. If the total ad valorem
40 | tax charges exceed the taxes actually paid or that are due, the
41 | excess ad valorem tax charges are subject to sales and use tax
42 | and must be remitted in the month of December to the department
43 | in the manner provided in this chapter. When multiple tenants or
44 | licensees occupy a parcel of real property or portions of the
45 | real property are not subject to the lease or license, the
46 | tenants' or licensees' ad valorem tax charges shall be
47 | calculated based on a reasonable allocation related to the real
48 | property occupied by each tenant or used by each licensee.

49 | 4. In the case of a contractual arrangement that provides
50 | for both payments taxable as total rent or license fee and

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51 | payments not subject to tax, the tax shall be based on a
52 | reasonable allocation of such payments and shall not apply to
53 | that portion which is for the nontaxable payments.

54 | Section 2. This act shall take effect January 1, 2018.