By the Committee on Finance and Tax; and Senators Gruters, Gainer, and Baxley

593-04453-19 20191112c1

A bill to be entitled

An act relating to taxation; amending s. 192.001, F.S.; revising the definition of the term "inventory," for purposes of ad valorem taxation except for school district levies, to include certain construction equipment owned by a heavy equipment rental dealer; defining the terms "heavy equipment rental dealer" and "short-term rental"; providing construction; amending s. 196.1978, F.S.; increasing the discount under the affordable housing property exemption; amending s. 212.02, F.S.; revising the definition of the term "retail sale" for purposes of the sales and use tax; amending s. 212.031, F.S.; reducing the rate of the tax on rental or licensee fees for the use of real property; amending s. 212.05, F.S.; conforming a provision to changes made by the act; amending s. 212.0596, F.S.; renaming the term "mail order sale" as "remote sale" and revising the definition; providing that certain activities of a dealer that result in making a substantial number of remote sales subject the dealer to the sales and use tax; deleting a condition that certain connections with or relationships to this state or its residents subject a dealer to the tax; deleting a prohibition against imposing a fee on certain dealers; defining the term "making a substantial number of remote sales"; deleting an exemption for certain dealers from collecting local option surtaxes under certain circumstances; creating s. 212.05965, F.S.; defining

terms; providing that certain marketplace providers are subject to dealer registration requirements and requirements for collecting and remitting sales taxes; requiring marketplace providers to provide a certain certification to their marketplace sellers; prohibiting marketplace sellers from collecting and remitting sales taxes, and requiring such sellers to exclude certain sales from their sales tax returns, under certain circumstances; requiring certain marketplace sellers to register and to collect and remit sales taxes on all taxable retail sales made outside of the marketplace; requiring marketplace providers to allow the Department of Revenue to examine and audit their books and records; specifying the department's authority in examinations, audits, and assessments of marketplace sellers; providing that the marketplace seller or customer, and not the marketplace provider, is liable for sales taxes under certain circumstances; authorizing marketplace providers and marketplace sellers to enter into certain agreements for the recovery of tax, interest, and penalties; authorizing the department to compromise any tax, interest, or penalty on certain sales; providing applicability and construction; amending s. 212.06, F.S.; revising the definition of the term "dealer"; conforming provisions to changes made by the act; creating s. 212.094, F.S.; defining terms; providing a sales tax refund to an eligible job training organization on its sales of goods donated to

the organization; specifying requirements on the use of refunds; specifying limitations and requirements on refunds issued and granted; specifying requirements and procedures for applying for certification with the Department of Economic Opportunity; specifying requirements and procedures for certified eligible job training organizations in applying for refunds with the Department of Revenue; providing construction; requiring certain organizations to provide a specified report to the Department of Economic Opportunity by a certain date; authorizing the Department of Economic Opportunity to adopt rules; providing requirements if the Department of Economic Opportunity determines an organization no longer qualifies for the refund; providing for repayment and interest of certain issued refunds; amending s. 212.12, F.S.; deleting the authority of the Department of Revenue's executive director to negotiate a certain collection allowance; conforming provisions to changes made by the act; amending s. 212.18, F.S.; conforming a provision to changes made by the act; amending s. 220.191, F.S.; revising definitions; defining the term "intellectual property"; revising the capital investment tax credit to include certain qualifying projects for the creation of intellectual property; specifying the amount and maximum period of the tax credit for such projects; specifying the limit of the credit as to certain tax liabilities; specifying minimum required capital investments in such projects; specifying

procedures and requirements for carrying forward and transferring the tax credit for such projects; creating s. 220.197, F.S.; providing a corporate income tax credit, during a certain timeframe, for certain health insurers and health maintenance organizations that cover services provided by telehealth; specifying a condition for eligibility; authorizing the credit to be carried forward for a certain period; authorizing the department to conduct certain audits and investigations; requiring the Office of Insurance Regulation to provide technical assistance to the department; requiring the department to pursue recovery of funds from taxpayers claiming the credit under certain circumstances; specifying requirements and procedures for transferring the credit to another taxpayer; authorizing the department and the Financial Services Commission to adopt certain rules; amending s. 624.509, F.S.; providing an insurance premium tax credit, during a certain timeframe, for certain health insurers and health maintenance organizations that cover services provided by telehealth; requiring the Office of Insurance Regulation to confirm certain coverage with the department at certain timeframes; authorizing the credit to be carried forward for a certain period; authorizing the department to conduct certain audits and investigations; requiring the Office of Insurance Regulation to provide technical assistance to the department; requiring the department to pursue

recovery of funds from taxpayers claiming the credit under certain circumstances; specifying requirements and procedures for transferring the credit to another taxpayer; authorizing the department and the Financial Services Commission to adopt certain rules; providing that an insurer is not required to pay additional retaliatory tax as a result of claiming such credit; providing construction; defining terms; reenacting s. 212.20(4), F.S., relating to refunds of taxes adjudicated unconstitutionally collected, to incorporate the amendment made to s. 212.0596, F.S., in a reference thereto; authorizing the department to adopt emergency rules; providing for expiration of the authorization; providing for severability; providing effective dates.

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

Section 1. Effective January 1, 2020, paragraph (c) of subsection (11) of section 192.001, Florida Statutes, is amended to read:

192.001 Definitions.—All definitions set out in chapters 1 and 200 that are applicable to this chapter are included herein. In addition, the following definitions shall apply in the imposition of ad valorem taxes:

(11) "Personal property," for the purposes of ad valorem taxation, shall be divided into four categories as follows:

(c)1. "Inventory" means only those chattels consisting of items commonly referred to as goods, wares, and merchandise (as

well as inventory) which are held for sale or lease to customers in the ordinary course of business. Supplies and raw materials shall be considered to be inventory only to the extent that they are acquired for sale or lease to customers in the ordinary course of business or will physically become a part of merchandise intended for sale or lease to customers in the ordinary course of business. Partially finished products which when completed will be held for sale or lease to customers in the ordinary course of business shall be deemed items of inventory. All livestock shall be considered inventory. Items of inventory held for lease to customers in the ordinary course of business, rather than for sale, shall be deemed inventory only prior to the initial lease of such items. For the purposes of this section, fuels used in the production of electricity shall be considered inventory.

2. "Inventory" also means construction and agricultural equipment weighing 1,000 pounds or more that is returned to a dealership under a rent-to-purchase option and held for sale to customers in the ordinary course of business. This subparagraph may not be considered in determining whether property that is not construction and agricultural equipment weighing 1,000 pounds or more that is returned under a rent-to-purchase option is inventory under subparagraph 1.

3. Notwithstanding any provision in this subsection to the contrary, the term "inventory," for all levies other than school district levies, also means construction equipment owned by a heavy equipment rental dealer for sale or short-term rental in the normal course of business on the annual assessment date. For the purposes of this chapter and chapter 196, the term "heavy

equipment rental dealer" means a person or entity principally engaged in the business of the short-term rental and sale of equipment described under 532412 of the North American Industry Classification System, including attachments for the equipment or other ancillary equipment. As used in this subparagraph, the term "short-term rental" means the rental of a dealer's heavy equipment rental property for a period of less than 365 days, under an open-ended contract, or under a contract with unlimited terms. The prior short-term rental of any construction or industrial equipment does not disqualify such property from qualifying as inventory under this paragraph following the term of such rental. This section may not be construed to consider as inventory heavy equipment rented with an operator.

Section 2. Effective January 1, 2020, paragraphs (a) and (c) of subsection (2) of section 196.1978, Florida Statutes, are amended to read:

196.1978 Affordable housing property exemption.—

(2)(a) Notwithstanding ss. 196.195 and 196.196, property in a multifamily project that meets the requirements of this paragraph is considered property used for a charitable purpose and shall receive a 100 ~~50~~ percent discount from the amount of ad valorem tax otherwise owed beginning with the January 1 assessment after the 15th completed year of the term of the recorded agreement on those portions of the affordable housing property that provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004. The multifamily project must:

1. Contain more than 70 units that are used to provide affordable housing to natural persons or families meeting the

extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004; and

2. Be subject to an agreement with the Florida Housing Finance Corporation recorded in the official records of the county in which the property is located to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004.

This discount terminates if the property no longer serves extremely-low-income, very-low-income, or low-income persons pursuant to the recorded agreement.

(c) The property appraiser shall apply the discount by reducing the taxable value on those portions of the affordable housing property that provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004 before certifying the tax roll to the tax collector.

1. The property appraiser shall first ascertain all other applicable exemptions, including exemptions provided pursuant to local option, and deduct all other exemptions from the assessed value.

2. <u>One hundred</u> ~~Fifty~~ percent of the remaining value shall be subtracted to yield the discounted taxable value.

3. The resulting taxable value shall be included in the certification for use by taxing authorities in setting millage.

4. The property appraiser shall place the discounted amount on the tax roll when it is extended.

Section 3. Effective October 1, 2019, paragraph (e) of

subsection (14) of section 212.02, Florida Statutes, is amended, and paragraph (f) is added to that subsection, to read:

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

(14)

(e) The term "retail sale" includes a remote ~~mail order~~ sale~~,~~ as defined in s. 212.0596(1).

(f) The term "retail sale" includes a sale facilitated through a marketplace as defined in s. 212.05965(1).

Section 4. Effective January 1, 2020, paragraphs (c) and (d) of subsection (1) of section 212.031, Florida Statutes, are amended to read:

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

(1)

(c) For the exercise of such privilege, a tax is levied at the rate of 3.5 ~~5.7~~ percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. The total rent or license fee charged for such real property shall include payments for the granting of a privilege to use or occupy real property for any purpose and shall include base rent, percentage rents, or similar charges. Such charges shall be included in the total rent or license fee subject to tax under this section whether or not they can be attributed to the ability of the lessor's or licensor's property as used or operated to attract customers. Payments for intrinsically valuable personal property such as

franchises, trademarks, service marks, logos, or patents are not subject to tax under this section. In the case of a contractual arrangement that provides for both payments taxable as total rent or license fee and payments not subject to tax, the tax shall be based on a reasonable allocation of such payments and shall not apply to that portion which is for the nontaxable payments.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 3.5 ~~5.7~~ percent of the value of the property, goods, wares, merchandise, services, or other thing of value.

Section 5. Effective October 1, 2019, section 212.05, Florida Statutes, is amended to read:

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

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

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the

purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

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

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in a foreign jurisdiction and:

(I) Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The purchaser removes the aircraft from the state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and

(III) The aircraft is operated in the state solely to remove it from the state to a foreign jurisdiction.

For purposes of this sub-subparagraph, the term "foreign jurisdiction" means any jurisdiction outside of the United States or any of its territories;

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

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

d. The selling dealer, within 5 days of the date of sale, provides to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions

of this section;

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

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

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

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

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but

not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

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

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

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

(VIII) The department is hereby authorized to adopt

emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

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

(b) At the rate of 6 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state; however, for tangible property originally purchased exempt from tax for use exclusively for lease and which is converted to the owner’s own use, tax may be paid on the fair market value of the property at the time of conversion. If the fair market value of the property cannot be determined, use tax at the time of conversion shall be based on

the owner's acquisition cost. Under no circumstances may the aggregate amount of sales tax from leasing the property and use tax due at the time of conversion be less than the total sales tax that would have been due on the original acquisition cost paid by the owner.

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

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

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

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

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

3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s. 316.003(13)(a) to one lessee or rentee for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of

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

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

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

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

(I) "Prepaid calling arrangement" has the same meaning as provided in s. 202.11.

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

(III) The sale or recharge of a prepaid calling arrangement shall be treated as a sale of tangible personal property for purposes of this chapter, regardless of whether a tangible item evidencing such arrangement is furnished to the purchaser, and such sale within this state subjects the selling dealer to the jurisdiction of this state for purposes of this subsection.

(IV) No additional tax under this chapter or chapter 202 is

due or payable if a purchaser of a prepaid calling arrangement who has paid tax under this chapter on the sale or recharge of such arrangement applies one or more units of the prepaid calling arrangement to obtain communications services as described in s. 202.11(9)(b)3., other services that are not communications services, or products.

b. The installation of telecommunication and telegraphic equipment.

c. Electrical power or energy, except that the tax rate for charges for electrical power or energy is 4.35 percent. Charges for electrical power and energy do not include taxes imposed under ss. 166.231 and 203.01(1)(a)3.

2. Section 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, is equally applicable to any tax paid under this section on charges for prepaid calling arrangements, telecommunication or telegraph services, or electric power subsequently found to be uncollectible. As used in this paragraph, the term "charges" does not include any excise or similar tax levied by the Federal Government, a political subdivision of this state, or a municipality upon the purchase, sale, or recharge of prepaid calling arrangements or upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

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

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

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

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

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

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

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

(h)1. A tax is imposed at the rate of 4 percent on the charges for the use of coin-operated amusement machines. The tax shall be calculated by dividing the gross receipts from such charges for the applicable reporting period by a divisor, determined as provided in this subparagraph, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. For counties that do not impose a discretionary sales surtax, the divisor is

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

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

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

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

c. If the proprietor of the business where the machine is located does not own the machine, he or she shall be deemed to

be the lessee and operator of the machine and is responsible for the payment of the tax on sales, unless such responsibility is otherwise provided for in a written agreement between him or her and the machine owner.

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

b. The operator of the machine must obtain an identifying certificate before the machine is first operated in the state and by July 1 of each year thereafter. The annual fee for each certificate shall be based on the number of machines identified on the application times $30 and is due and payable upon application for the identifying device. The application shall contain the operator's name, sales tax number, business address where the machines are being operated, and the number of machines in operation at that place of business by the operator. No operator may operate more machines than are listed on the certificate. A new certificate is required if more machines are

being operated at that location than are listed on the certificate. The fee for the new certificate shall be based on the number of additional machines identified on the application form times $30.

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

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

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

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

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

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

a. Detective, burglar protection, and other protection services (NAICS National Numbers 561611, 561612, 561613, and 561621). Fingerprint services required under s. 790.06 or s.

790.062 are not subject to the tax. Any law enforcement officer, as defined in s. 943.10, who is performing approved duties as determined by his or her local law enforcement agency in his or her capacity as a law enforcement officer, and who is subject to the direct and immediate command of his or her law enforcement agency, and in the law enforcement officer's uniform as authorized by his or her law enforcement agency, is performing law enforcement and public safety services and is not performing detective, burglar protection, or other protective services, if the law enforcement officer is performing his or her approved duties in a geographical area in which the law enforcement officer has arrest jurisdiction. Such law enforcement and public safety services are not subject to tax irrespective of whether the duty is characterized as "extra duty," "off-duty," or "secondary employment," and irrespective of whether the officer is paid directly or through the officer's agency by an outside source. The term "law enforcement officer" includes full-time or part-time law enforcement officers, and any auxiliary law enforcement officer, when such auxiliary law enforcement officer is working under the direct supervision of a full-time or part-time law enforcement officer.

b. Nonresidential cleaning, excluding cleaning of the interiors of transportation equipment, and nonresidential building pest control services (NAICS National Numbers 561710 and 561720).

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

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

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

5. Each seller of services subject to sales tax pursuant to this paragraph shall maintain a monthly log showing each transaction for which sales tax was not collected because the services meet the requirements of subparagraph 3. for out-of-state use. The log must identify the purchaser’s name, location and mailing address, and federal employer identification number, if a business, or the social security number, if an individual, the service sold, the price of the service, the date of sale,

the reason for the exemption, and the sales invoice number. The monthly log shall be maintained pursuant to the same requirements and subject to the same penalties imposed for the keeping of similar records pursuant to this chapter.

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

a. Is not legal tender;

b. If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or

c. Is sold, exchanged, or traded at a rate based on its precious metal content.

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

3. There are exempt from this tax exchanges of coins or currency which are in general circulation in, and legal tender of, one nation for coins or currency which are in general circulation in, and legal tender of, another nation when exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange.

4. With respect to any transaction that involves the sale of coins or currency taxable under this paragraph in which the taxable amount represented by the sale of such coins or currency exceeds $500, the entire amount represented by the sale of such coins or currency is exempt from the tax imposed under this

paragraph. The dealer must maintain proper documentation, as prescribed by rule of the department, to identify that portion of a transaction which involves the sale of coins or currency and is exempt under this subparagraph.

(k) At the rate of 6 percent of the sales price of each gallon of diesel fuel not taxed under chapter 206 purchased for use in a vessel, except dyed diesel fuel that is exempt pursuant to s. 212.08(4)(a)4.

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

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

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

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

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

(5) Notwithstanding any other provision of this chapter, the maximum amount of tax imposed under this chapter and collected on each sale or use of a boat in this state may not

exceed $18,000 and on each repair of a boat in this state may not exceed $60,000.

Section 6. Effective October 1, 2019, section 212.0596, Florida Statutes, is amended to read:

212.0596 Taxation of remote ~~mail order~~ sales.—

(1) For purposes of this chapter, a "remote ~~mail order~~ sale" is a retail sale of tangible personal property, ordered by mail, telephone, the Internet, or other means of communication, from a dealer who receives the order outside of this state ~~in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States,~~ and transports the property or causes the property to be transported~~, whether or not by mail,~~ from any jurisdiction ~~of the United States~~, including this state, to a person in this state, including the person who ordered the property.

(2) Every dealer as defined in s. 212.06(2)(c) who makes a remote ~~mail order~~ sale is subject to the power of this state to levy and collect the tax imposed by this chapter when any of the following applies:

(a) The dealer is a corporation doing business under the laws of this state or is a person domiciled in, a resident of, or a citizen of, this state.~~;~~

(b) The dealer maintains retail establishments or offices in this state, regardless of whether the remote ~~mail order~~ sales thus subject to taxation by this state result from or are related in any other way to the activities of such establishments or offices.~~;~~

(c) The dealer has agents in this state who solicit business or transact business on behalf of the dealer,

regardless of whether the remote ~~mail order~~ sales thus subject to taxation by this state result from or are related in any other way to such solicitation or transaction of business, except that a printer who mails or delivers for an out-of-state print purchaser material the printer printed for it is ~~shall~~ not ~~be~~ deemed to be the print purchaser's agent for purposes of this paragraph.~~;~~

(d) The property was delivered in this state in fulfillment of a sales contract that was entered into in this state, in accordance with applicable conflict of laws rules, when a person in this state accepted an offer by ordering the property.~~;~~

(e) The dealer, by purposefully or systematically exploiting the market provided by this state by any media-assisted, media-facilitated, or media-solicited means, including, but not limited to, direct mail advertising, unsolicited distribution of catalogs, computer-assisted shopping, television, radio, or other electronic media, or magazine or newspaper advertisements or other media, creates nexus with this state.~~;~~

(f) Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of this state's taxing power.~~;~~

(g) The dealer consents, expressly or by implication, to the imposition of the tax imposed under ~~by~~ this chapter.~~;~~

(h) The dealer is subject to service of process under s. 48.181.~~;~~

(i) The dealer's remote ~~mail order~~ sales are subject to the power of this state to tax sales or to require the dealer to

collect use taxes under a statute or statutes of the United States.~~;~~

(j) The dealer owns real property or tangible personal property that is physically in this state. For purposes of this paragraph, ~~except that~~ a dealer whose only property, ~~(~~including property owned by an affiliate,~~)~~ in this state is located at the premises of a printer with which the vendor has contracted for printing~~,~~ and is either a final printed product, ~~or~~ property that ~~which~~ becomes a part of the final printed product, or property from which the printed product is produced, is not deemed to own such property. ~~for purposes of this paragraph;~~

(k) The dealer, while not having nexus with this state on any of the bases described in paragraphs (a)-(j) or paragraph (l), is a corporation that is a member of an affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code, whose members are includable under s. 1504(b) of the Internal Revenue Code and whose members are eligible to file a consolidated tax return for federal corporate income tax purposes and any parent or subsidiary corporation in the affiliated group has nexus with this state on one or more of the bases described in paragraphs (a)-(j) or paragraph (l).~~; or~~

(l) ~~The dealer or~~ The dealer's activities, ~~have sufficient connection with or relationship to this state or its residents of some type~~ other than those described in paragraphs (a)-(k), result in making a substantial number of remote sales under subsection (3) ~~to create nexus empowering this state to tax its mail order sales or to require the dealer to collect sales tax or accrue use tax~~.

(3)(a) Every person ~~dealer~~ engaged in the business of

making a substantial number of remote ~~mail order~~ sales is a dealer for purposes of this chapter ~~subject to the requirements of this chapter for cooperation of dealers in collection of taxes and in administration of this chapter, except that no fee shall be imposed upon such dealer for carrying out any required activity~~.

(b) As used in this section, the term "making a substantial number of remote sales" means:

1. In the previous calendar year, conducting 200 or more retail sales of tangible personal property to be delivered to a location within this state; or

2. In the previous calendar year, conducting any number of retail sales of tangible personal property to be delivered to a location within this state, in an amount exceeding $100,000.

For purposes of this paragraph, tangible personal property delivered to a location within this state is presumed to be used, consumed, distributed, or stored to be used or consumed in this state.

(4) The department shall, with the consent of another jurisdiction of the United States whose cooperation is needed, enforce this chapter in that jurisdiction, either directly or, at the option of that jurisdiction, through its officers or employees.

(5) The tax required under this section to be collected and any amount unreturned to a purchaser that is not tax but was collected from the purchaser under the representation that it was tax constitute funds of the State of Florida from the moment of collection.

~~(6) Notwithstanding other provisions of law, a dealer who makes a mail order sale in this state is exempt from collecting and remitting any local option surtax on the sale, unless the dealer is located in a county that imposes a surtax within the meaning of s. 212.054(3)(a), the order is placed through the dealer's location in such county, and the property purchased is delivered into such county or into another county in this state that levies the surtax, in which case the provisions of s. 212.054(3)(a) are applicable.~~

~~(7)~~ The department may establish by rule procedures for collecting the use tax from unregistered persons who but for their remote ~~mail order~~ purchases would not be required to remit sales or use tax directly to the department. The procedures may provide for waiver of registration, provisions for irregular remittance of tax, elimination of the collection allowance, and nonapplication of local option surtaxes.

Section 7. Effective October 1, 2019, section 212.05965, Florida Statutes, is created to read:

212.05965 Taxation of marketplace sales.—

(1) As used in this section, the term:

(a) "Marketplace" means any physical place or electronic medium through which tangible personal property is offered for sale.

(b) "Marketplace provider" means any person who:

1. Facilitates a retail sale by a marketplace seller by listing or advertising for sale by the marketplace seller tangible personal property in a marketplace; and

2. Directly, or indirectly through agreements or arrangements with third parties, collects payment from the

customer and transmits the payment to the marketplace seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for its services.

The term does not include any person who solely provides handling or transportation services not subject to tax under this chapter or travel agency services. For purposes of this paragraph, the term "travel agency services" means arranging, booking, or otherwise facilitating, for a commission, fee, or other consideration, vacation or travel packages, a rental car, or other travel reservations; tickets for domestic or foreign travel by air, rail, ship, bus, or other medium of transportation; or hotel or other lodging accommodations.

(c) "Marketplace seller" means a person who has an agreement with a marketplace provider and who makes retail sales of tangible personal property through a marketplace owned, operated, or controlled by a marketplace provider.

(2) Every marketplace provider with a physical presence in this state or who is making or facilitating through a marketplace a substantial number of remote sales as defined in s. 212.0596(3)(b) is subject to the requirements imposed by this chapter on dealers for registration and for the collection and remittance of taxes and the administration of this chapter.

(3) A marketplace provider shall certify to its marketplace sellers that it will collect and remit the tax imposed under this chapter on taxable retail sales made through the marketplace. Such certification may be included in the agreement between the marketplace provider and marketplace seller.

(4)(a) A marketplace seller may not collect and remit the tax under this chapter on a taxable retail sale when the sale is made through the marketplace and the marketplace provider certifies, as required under subsection (3), that it will collect and remit such tax. A marketplace seller shall exclude such sales made through the marketplace from the marketplace seller's tax return under s. 212.11.

(b)1. A marketplace seller with a physical presence in this state shall register and shall collect and remit the tax imposed under this chapter on all taxable retail sales made outside of the marketplace.

2. A marketplace seller making a substantial number of remote sales as defined in s. 212.0596(3)(b) shall register and shall collect and remit the tax imposed under this chapter on all taxable retail sales made outside of the marketplace. Sales made through the marketplace are not considered for purposes of determining if the seller has made a substantial number of remote sales.

(5)(a) A marketplace provider shall allow the department to examine and audit its books and records pursuant to s. 212.13. For retail sales facilitated through a marketplace, the department may not examine or audit the books and records of marketplace sellers, nor may the department assess marketplace sellers except to the extent the marketplace provider seeks relief under paragraph (b). The department may examine, audit, and assess a marketplace seller for retail sales made outside of the marketplace under paragraph (4)(b).

(b) The marketplace provider is relieved of liability for the tax for the retail sale, and the marketplace seller or

customer is liable for the tax imposed under this chapter, if the marketplace provider demonstrates to the satisfaction of the department that the marketplace provider made a reasonable effort to obtain accurate information related to the retail sales facilitated through the marketplace from the marketplace seller, but that the failure to collect and pay the correct amount of tax imposed under this chapter was due to incorrect or incomplete information provided by the marketplace seller to the marketplace provider. This paragraph does not apply to a retail sale for which the marketplace provider is the seller, if the marketplace provider and marketplace seller are related parties or if transactions between a marketplace seller and marketplace buyer are not conducted at arm's length.

(6) For purposes of registration pursuant to s. 212.18, a marketplace is deemed a separate place of business.

(7) A marketplace provider and marketplace seller may agree by contract or otherwise that if a marketplace provider pays the tax imposed under this chapter on a retail sale facilitated through a marketplace for a marketplace seller as a result of an audit or otherwise, the marketplace provider has the right to recover such tax and any associated interest and penalties from the marketplace seller.

(8) Consistent with s. 213.21, the department may compromise any tax, interest, or penalty assessed on retail sales conducted through a marketplace.

(9) For purposes of this section, the limitations in ss. 213.30(3) and 213.756(2) apply.

(10) This section may not be construed to authorize the state to collect sales tax from both the marketplace provider

and the marketplace seller on the same retail sale.

Section 8. Effective October 1, 2019, paragraph (c) of subsection (2) and paragraph (a) of subsection (5) of section 212.06, Florida Statutes, are amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(2)

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

(5)(a)1. Except as provided in subparagraph 2., it is not the intention of this chapter to levy a tax upon tangible personal property imported, produced, or manufactured in this state for export, provided that tangible personal property may not be considered as being imported, produced, or manufactured for export unless the importer, producer, or manufacturer delivers the same to a licensed exporter for exporting or to a common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by submission to the department of a duly signed and validated United States customs declaration, showing the departure of the

aircraft from the continental United States; and further with respect to aircraft, the canceled United States registry of said aircraft; or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on any sale which the state is prohibited from taxing under the Constitution or laws of the United States. Every retail sale made to a person physically present at the time of sale shall be presumed to have been delivered in this state.

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

b. For purposes of this subparagraph, "a cooperating state" is one determined by the executive director of the department to cooperate satisfactorily with this state in collecting taxes on <u>remote</u> ~~mail order~~ sales. No state shall be so determined unless

it meets all the following minimum requirements:

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

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

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

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

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

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

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

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

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

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

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

Section 9. Effective July 1, 2019, section 212.094, Florida Statutes, is created to read:

212.094 Sales tax refund for eligible job training organizations.—

(1) As used in this section, the term:

(a) "Eligible job training organization" means an organization that:

1. Is an exempt organization under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended;

2. Provides job training and employment services to low-income persons as defined in s. 420.0004, individuals who have workplace disadvantages, or individuals with barriers to employment; and

3. Is accredited by the Commission on Accreditation of Rehabilitation Facilities.

(b) "Growth in employment hours" means the growth in the number of hours worked by employees at an eligible job training organization in the most recently completed state fiscal year, compared to the number of hours worked by employees at the eligible job training organization in the state fiscal year immediately preceding the most recently completed state fiscal year.

(c) "Job training and employment services" means programs and services that are provided to improve job readiness, to assist workers in gaining employment and adapting to the changing labor market, and to help workers achieve success through self-sufficiency.

(2) An eligible job training organization is entitled to a refund of 10 percent of the sales tax remitted to the department during the most recently completed state fiscal year on its sales of goods donated to the organization. The organization

must reserve the refund exclusively for use in any of the following:

(a) Growth in employment hours.

(b) Job training and employment services to low-income persons as defined in s. 420.0004, individuals who have workplace disadvantages, and individuals with barriers to employment.

(c) Job training and employment services for veterans.

(3) The total amount of refunds that the department may issue under this section may not exceed $2 million in any state fiscal year. Refunds must be granted on a first-come, first-served basis.

(4) An organization seeking a refund under this section must first submit an application to the Department of Economic Opportunity by July 15, which sets forth that the organization meets the requirements under paragraph (1)(a) and that the refund will be used exclusively for the purposes listed in subsection (2). The organization must submit supporting information as prescribed by the Department of Economic Opportunity by rule.

(5)(a) The Department of Economic Opportunity shall verify the application and notify the organization of its determination within 15 days after receiving a complete application. The Department of Economic Opportunity shall communicate its decision in writing or, if agreed to by the applicant, via e-mail.

(b) If the Department of Economic Opportunity approves the application, the notice sent to the eligible job training organization must include a certification that the organization

is eligible to receive a refund of certain sales and use tax remitted under this chapter. The Department of Economic Opportunity shall transmit a copy of the notice and certification, if applicable, to the department.

(c) Upon the Department of Economic Opportunity's issuance of a certification, the certification remains valid so long as the eligible job training organization is in compliance with the requirements of this section.

(6) An eligible job training organization certified under this section must apply to the department between August 1 and August 31 of each year to receive a refund. A copy of the certification must be included in an eligible job training organization's first application for a refund, but is not required to be included in subsequent applications. The organization must submit any information required by the department as part of its application for the refund.

(7) For purposes of this section, an eligible job training organization comprised of commonly owned and controlled entities is deemed to be a single organization.

(8) By August 1 following each state fiscal year in which an eligible job training organization received a refund pursuant to subsection (2), the organization must provide a report to the Department of Economic Opportunity regarding the use of the funds in accordance with subsection (2). The report must include at least all of the following:

(a) The amount of the refund used to create growth in employment hours.

(b) The total growth in employment hours.

(c) The amount of the refund used for job training and

employment services.

(d) The number of individuals who participated in job training and employment services at the eligible job training organization.

(e) A statement declaring that the eligible job training organization continues to meet the requirements of this section.

(9)(a) The Department of Economic Opportunity may adopt rules to administer this section, including rules for the approval and disapproval of applications.

(b) If the Department of Economic Opportunity determines that an eligible job training organization no longer qualifies for the refund under this section, the Department of Economic Opportunity must notify the department by August 31. The department may not issue a refund after receiving such notification.

(c) The overpayment of a refund or a refund issued to an ineligible organization is subject to repayment and interest at the rate calculated pursuant to s. 213.235.

Section 10. Effective October 1, 2019, paragraph (a) of subsection (1) and paragraph (a) of subsection (5) of section 212.12, Florida Statutes, are amended to read:

212.12 Dealer’s credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1)(a)~~1.~~ Notwithstanding any other law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the

purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records, filing timely tax returns, and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter ~~(except dealers who make mail order sales)~~ who files the return required pursuant to s. 212.11 only by electronic means and who pays the amount due on such return only by electronic means shall be allowed 2.5 percent of the amount of the tax due, accounted for, and remitted to the department in the form of a deduction. However, if the amount of the tax due and remitted to the department by electronic means for the reporting period exceeds $1,200, an allowance is not allowed for all amounts in excess of $1,200. For purposes of this paragraph ~~subparagraph~~, the term "electronic means" has the same meaning as provided in s. 213.755(2)(c).

~~2. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance~~

~~negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.~~

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

Section 11. Effective October 1, 2019, paragraph (f) of subsection (3) of section 212.18, Florida Statutes, is amended to read:

212.18 Administration of law; registration of dealers; rules.—

(3)

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

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

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

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

4. An exhibitor who makes a remote ~~mail order~~ sale pursuant to s. 212.0596 must register as a dealer.

A person who conducts a convention or a trade show must make his or her exhibitor's agreements available to the department for inspection and copying.

Section 12. Paragraphs (b), (c), and (g) of subsection (1), paragraph (a) of subsection (2), and subsections (4) and (5) of section 220.191, Florida Statutes, are amended, paragraph (h) is added to subsection (1) and paragraph (e) is added to subsection (2) of that section, and paragraph (c) of subsection (2) of that section is republished, to read:

220.191 Capital investment tax credit.—

(1) DEFINITIONS.—For purposes of this section:

(b) "Cumulative capital investment" means the total capital investment in land, buildings, ~~and~~ equipment, and intellectual property made in connection with a qualifying project during the period from the beginning of construction or start date of the project to the commencement of operations or the completion of the project, as applicable.

(c) "Eligible capital costs" means all expenses incurred by a qualifying business in connection with the acquisition, construction, installation, ~~and~~ equipping, and development of a qualifying project during the period from the beginning of construction or start date of the project to the commencement of

operations or the completion of the project, as applicable, including, but not limited to:

1. The costs of acquiring, constructing, installing, equipping, and financing a qualifying project, including all obligations incurred for labor and obligations to contractors, subcontractors, builders, and materialmen.

2. The costs of acquiring land or rights to land and any cost incidental thereto, including recording fees.

3. The costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, environmental mitigation, and supervision of construction, as well as the performance of all duties required by or consequent to the acquisition, construction, installation, and equipping of a qualifying project.

4. The costs associated with the installation of fixtures and equipment; surveys, including archaeological and environmental surveys; site tests and inspections; subsurface site work and excavation; removal of structures, roadways, and other surface obstructions; filling, grading, paving, and provisions for drainage, storm water retention, and installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and offsite construction of utility extensions to the boundaries of the property.

5. For the development of intellectual property, the wages, salaries, or other compensation paid to legal residents of this state and the cost of newly purchased computer software and hardware unique to the project, including servers, data

processing, and visualization technologies, which are located in and used exclusively in this state for the project.

Eligible capital costs shall not include the cost of any property previously owned or leased by the qualifying business.

(g) "Qualifying project" means a facility or project in this state which meets ~~meeting~~ one or more of the following criteria:

1. A new or expanding facility in this state which creates at least 100 new jobs in this state and is in one of the high-impact sectors identified by Enterprise Florida, Inc., and certified by the Department of Economic Opportunity pursuant to s. 288.108(6), including, but not limited to, aviation, aerospace, automotive, and silicon technology industries. However, between July 1, 2011, and June 30, 2014, the requirement that a facility be in a high-impact sector is waived for any otherwise eligible business from another state which locates all or a portion of its business to a Disproportionally Affected County. For purposes of this section, the term "Disproportionally Affected County" means Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County.

2. A new or expanded facility in this state which is engaged in a target industry designated pursuant to the procedure specified in s. 288.106(2) and which is induced by this credit to create or retain at least 1,000 jobs in this state, provided that at least 100 of those jobs are new, pay an annual average wage of at least 130 percent of the average private sector wage in the area as defined in s. 288.106(2), and

make a cumulative capital investment of at least $100 million. Jobs may be considered retained only if there is significant evidence that the loss of jobs is imminent. Notwithstanding subsection (2), annual credits against the tax imposed by this chapter may not exceed 50 percent of the increased annual corporate income tax liability or the premium tax liability generated by or arising out of a project qualifying under this subparagraph. A facility that qualifies under this subparagraph for an annual credit against the tax imposed by this chapter may take the tax credit for a period not to exceed 5 years.

3. A new or expanded headquarters facility in this state which locates in an enterprise zone and brownfield area and is induced by this credit to create at least 1,500 jobs which on average pay at least 200 percent of the statewide average annual private sector wage, as published by the Department of Economic Opportunity, and which new or expanded headquarters facility makes a cumulative capital investment in this state of at least $250 million.

4. For the creation of intellectual property, a project that may be made up of one or more projects with different start and completion dates. The annual average wage of the project jobs in this state must be at least 150 percent of the average private sector wage in the area. For purposes of this subparagraph, the term "average private sector wage in the area" has the same meaning as in s. 288.106(2).

(h) "Intellectual property" means a copyrightable project for which the eligible capital costs are principally paid directly or indirectly for the development of a software product. For purposes of this paragraph, the term "software

product" includes a copyrighted application and its expansion content made available to an end user, internal development platforms that support the production of multiple applications, and cloud-based services that support the functionality of multiple applications. The project may not be solely intended for distribution inside of this state, and at least 50 percent of forecasted revenues for the project must be from outside of this state.

(2)(a) An annual credit against the tax imposed by this chapter shall be granted to any qualifying business in an amount equal to 5 percent of the eligible capital costs generated by a qualifying project, for a period not to exceed 20 years beginning with the commencement of operations or the completion date of the project. For a qualifying project that meets the criteria of subparagraph (1)(g)4., the tax credit must equal 5 percent of the eligible capital costs generated by a qualifying project for a period of up to 5 years, beginning on the start date of the project. Unless assigned as described in this subsection, the tax credit shall be granted against only the corporate income tax liability or the premium tax liability generated by or arising out of the qualifying project, and the sum of all tax credits provided pursuant to this section shall not exceed 100 percent of the eligible capital costs of the project. In no event may any credit granted under this section be carried forward or backward by any qualifying business with respect to a subsequent or prior year. The annual tax credit granted under this section shall not exceed the following percentages of the annual corporate income tax liability or the premium tax liability generated by or arising out of a

qualifying project:

1. One hundred percent for a qualifying project which results in a cumulative capital investment of at least $100 million.

2. One hundred percent for a qualifying project established pursuant to subparagraph (1)(g)4. for which the cumulative capital investment of one or more projects is an aggregate of at least $50 million per year for 3 years. The investment on an individual project must be at least $3.75 million.

3.~~2.~~ Seventy-five percent for a qualifying project which results in a cumulative capital investment of at least $50 million but less than $100 million.

4.~~3.~~ Fifty percent for a qualifying project which results in a cumulative capital investment of at least $25 million but less than $50 million.

(c) A qualifying business that establishes a qualifying project that includes locating a new solar panel manufacturing facility in this state that generates a minimum of 400 jobs within 6 months after commencement of operations with an average salary of at least $50,000 may assign or transfer the annual credit, or any portion thereof, granted under this section to any other business. However, the amount of the tax credit that may be transferred in any year shall be the lesser of the qualifying business's state corporate income tax liability for that year, as limited by the percentages applicable under paragraph (a) and as calculated prior to taking any credit pursuant to this section, or the credit amount granted for that year. A business receiving the transferred or assigned credits may use the credits only in the year received, and the credits

may not be carried forward or backward. To perfect the transfer, the transferor shall provide the department with a written transfer statement notifying the department of the transferor's intent to transfer the tax credits to the transferee; the date the transfer is effective; the transferee's name, address, and federal taxpayer identification number; the tax period; and the amount of tax credits to be transferred. The department shall, upon receipt of a transfer statement conforming to the requirements of this paragraph, provide the transferee with a certificate reflecting the tax credit amounts transferred. A copy of the certificate must be attached to each tax return for which the transferee seeks to apply such tax credits.

(e) For a qualifying project that meets the criteria of subparagraph (1)(g)4.:

1. If the credit granted under subparagraph (a)2. is not fully used in any 1 year because of insufficient tax liability on the part of the qualifying business, the unused amounts may be used in any year or years beginning with the 6th year after the completion date of the project and ending the 15th year after the completion date of the project.

2. The qualifying business may elect to transfer, in whole or in part, any unused credit amount granted under this section. The amount of the tax credit that may be transferred in any year may not be greater than the difference between the state corporate income tax liability of the qualifying business for the year of the transfer, as limited by the percentages applicable under paragraph (a) and as calculated before taking any credit pursuant to this section, and the credit amount granted for the year of the transfer. A business receiving the

transferred or assigned credits may use the credits only in the year received, and the credits may not be carried forward or backward. A transfer must be perfected in the same manner as provided in paragraph (c).

(4) Prior to receiving tax credits pursuant to this section, a qualifying business must achieve and maintain the minimum employment goals beginning with the commencement of operations or the completion date of ~~at~~ a qualifying project and continuing each year thereafter during which tax credits are available pursuant to this section.

(5) Applications shall be reviewed and certified pursuant to s. 288.061. The Department of Economic Opportunity, upon a recommendation by Enterprise Florida, Inc., shall first certify a business as eligible to receive tax credits pursuant to this section prior to the commencement of operations or the completion date of a qualifying project, and such certification shall be transmitted to the Department of Revenue. Upon receipt of the certification, the Department of Revenue shall enter into a written agreement with the qualifying business specifying, at a minimum, the method by which income generated by or arising out of the qualifying project will be determined.

Section 13. Section 220.197, Florida Statutes, is created to read:

220.197 Telehealth tax credit.—

(1) For taxable years beginning on or after January 1, 2020, and before January 1, 2023, a credit against the tax imposed by this chapter equal to the credit amount provided in s. 624.509(9)(a) is allowed for taxpayers eligible to receive the tax credit provided in s. 624.509(9)(a), but with

insufficient tax liability under s. 624.509 to use such tax credit.

(2) If the credit allowed under this section is not fully used in any single year because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 5 years.

(3)(a) In addition to its existing audit and investigation authority, the department may perform any additional financial and technical audits and investigations, including examining the accounts, books, and records of the taxpayer, to verify eligibility for the allowable credit and to ensure compliance with this section. The Office of Insurance Regulation shall provide technical assistance when requested by the department on any audits or examinations performed pursuant to this paragraph.

(b) If the department determines, as a result of an audit or examination or from information received from the Office of Insurance Regulation, that a taxpayer received a tax credit under this section to which the taxpayer was not entitled, the department shall pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.

(4) A taxpayer may transfer a credit for which the taxpayer qualifies under subsection (1), in whole or in part, to any taxpayer by written agreement. To perfect the transfer, the transferor shall provide the department with a written transfer statement notifying the department of the transferor’s intent to transfer the tax credit to the transferee; the date that the transfer is effective; the transferee’s name, address, and federal taxpayer identification number; the tax period; and the amount of tax credit to be transferred. The department shall,

upon receipt of the transfer statement, provide the transferee and the Office of Insurance Regulation with a certificate reflecting the tax credit amount transferred. A copy of the certificate must be attached to each tax return for which the transferee seeks to apply such tax credit.

(5) The department and the Financial Services Commission may adopt rules to provide the administrative guidelines and procedures required to administer this section and prescribe:

(a) Any forms necessary to claim a tax credit under this section, the requirements and basis for establishing an entitlement to a credit, and the examination and audit procedures required to administer this section.

(b) The implementation and administration of the provisions to allow a transfer of a tax credit, including reporting requirements, and procedures, guidelines, and requirements necessary to transfer such credit.

Section 14. Present subsection (9) of section 624.509, Florida Statutes, is redesignated as subsection (10) and amended, and a new subsection (9) is added to that section, to read:

624.509 Premium tax; rate and computation.—

(9)(a) For tax years beginning on or after January 1, 2020, and before January 1, 2023, any health insurer or health maintenance organization that covers services provided by telehealth shall be allowed a credit against the tax imposed by this section equal to 0.1 percent of total insurance premiums received on accident and health insurance policies or plans delivered or issued in this state in the previous calendar year that provide medical, major medical, or similar comprehensive

coverage. The office shall confirm such coverage to the Department of Revenue following its annual rate and form review for each health insurance policy or plan.

(b) If the credit allowed under this subsection is not fully used in any single year because of insufficient tax liability on the part of a health insurer or health maintenance organization and the same health insurer or health maintenance organization does not use the credit available pursuant to s. 220.197, the unused amount may be carried forward for a period not to exceed 5 years.

(c)1. In addition to its existing audit and investigation authority, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, and records of the health insurer or health maintenance organization, which are necessary to verify eligibility for the credit allowed under this subsection and to ensure compliance with this subsection. The office shall provide technical assistance when requested by the Department of Revenue on any audits or examinations performed pursuant to this subparagraph.

2. If the Department of Revenue determines, as a result of an audit or examination or from information received from the office, that a taxpayer received a tax credit under this subsection to which the taxpayer was not entitled, the Department of Revenue shall pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.

(d) A health insurer or health maintenance organization may transfer a credit for which it qualifies under paragraph (a), in

whole or in part, to any insurer by written agreement. To perfect the transfer, the transferor shall provide the Department of Revenue with a written transfer statement notifying the department of the transferor's intent to transfer the tax credit to the transferee; the date that the transfer is effective; the transferee's name, address, and federal taxpayer identification number; the tax period; and the amount of tax credit to be transferred. The Department of Revenue shall, upon receipt of the transfer statement, provide the transferee and the office with a certificate reflecting the tax credit amount transferred. A copy of the certificate must be attached to each tax return for which the transferee seeks to apply such tax credit.

(e) The Department of Revenue and the commission may adopt rules to provide the administrative guidelines and procedures required to administer this section and prescribe:

1. Any forms necessary to claim a tax credit under this section, the requirements and basis for establishing an entitlement to a credit, and the examination and audit procedures required to administer this section.

2. The implementation and administration of the provisions to allow a transfer of a tax credit, including reporting requirements, and specific procedures, guidelines, and requirements necessary to transfer such credit.

(f) An insurer that claims a credit against tax liability under this subsection is not required to pay any additional retaliatory tax levied under s. 624.5091 as a result of claiming such a credit. Section 624.5091 does not limit such a credit in any manner.

(10)~~(9)~~ As used in this section, the term:

(a) "Health insurer" means an authorized insurer offering health insurance as defined in s. 624.603.

(b) "Health maintenance organization" has the same meaning as provided in s. 641.19.

(c) "Insurer" includes any entity subject to the tax imposed by this section.

(d) "Telehealth" means the use of synchronous or asynchronous telecommunications technology by a health care provider to provide health care services, including, but not limited to, patient assessment, diagnosis, consultation, treatment, and monitoring; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

Section 15. For the purpose of incorporating the amendment made by this act to section 212.0596, Florida Statutes, in a reference thereto, subsection (4) of section 212.20, Florida Statutes, is reenacted to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(4) When there has been a final adjudication that any tax pursuant to s. 212.0596 was levied, collected, or both, contrary to the Constitution of the United States or the State Constitution, the department shall, in accordance with rules, determine, based upon claims for refund and other evidence and information, who paid such tax or taxes, and refund to each such person the amount of tax paid. For purposes of this subsection,

a "final adjudication" is a decision of a court of competent jurisdiction from which no appeal can be taken or from which the official or officials of this state with authority to make such decisions has or have decided not to appeal.

Section 16. (1) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of administering this act.

(2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires July 1, 2020.

Section 17. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 18. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.