

26 requirements for and construction related to dealers
27 accepting certificates in lieu of collecting certain
28 taxes; requiring the department to maintain an online
29 certificate verification system; providing criminal
30 penalties for certain violations; authorizing the
31 department to adopt rules; amending s. 212.13, F.S.;
32 revising recordkeeping requirements for dealers
33 collecting the sales and use tax; amending s. 212.15,
34 F.S.; providing that stolen sales tax revenue may be
35 aggregated for the purposes of determining the grade
36 of certain criminal offenses; amending s. 213.053,
37 F.S.; authorizing the department to publish a list of
38 forwarding agents' addresses on its website;
39 reenacting s. 192.0105(3)(a), F.S., relating to
40 taxpayer rights, to incorporate the amendment made to
41 s. 197.222, F.S., in a reference thereto; reenacting
42 s. 212.07(1)(c), F.S., relating to the sales, storage,
43 and use tax, to incorporate the amendment made to s.
44 212.06, F.S., in a reference thereto; reenacting s.
45 212.08(18)(f), F.S., relating to the sales, rental,
46 use, consumption, distribution, and storage tax, to
47 incorporate the amendment made to s. 212.13, F.S., in
48 a reference thereto; authorizing the department to
49 adopt emergency rules; providing for expiration of
50 that authority; providing effective dates.

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

Section 1. Effective July 1, 2021, paragraph (a) of subsection (1) of section 197.222, Florida Statutes, is amended to read:

197.222 Prepayment of estimated tax by installment method.—

(1) Taxes collected pursuant to this chapter may be prepaid in installments as provided in this section. A taxpayer may elect to prepay by installments for each tax notice for taxes estimated to be more than \$100. A taxpayer who elects to prepay shall make payments based upon an estimated tax equal to the actual taxes levied upon the subject property in the prior year. In order to prepay by installments, the taxpayer must complete and file an application for each tax notice with the tax collector on or before April 30 of the year in which the taxpayer elects to prepay the taxes. After submission of an initial application, a taxpayer is not required to submit additional annual applications as long as he or she continues to elect to prepay taxes in installments. However, if in any year the taxpayer does not so elect, reapplication is required for a subsequent election. Installment payments shall be made according to the following schedule:

(a) The first payment of one-quarter of the total amount

76 of estimated taxes due must be made by June 30 of the year in
 77 which the taxes are assessed. A 6 percent discount applied
 78 against the amount of the installment shall be granted for such
 79 payment. The tax collector shall ~~may~~ accept a late payment of
 80 the first installment through July 31, ~~and the late payment must~~
 81 ~~be accompanied by a penalty of 5 percent of the amount of the~~
 82 ~~installment due.~~

83 Section 2. Paragraph (e) of subsection (3) of section
 84 211.3106, Florida Statutes, is amended to read:

85 211.3106 Levy of tax on severance of heavy minerals; rate,
 86 basis, and distribution of tax.-

87 (3)

88 (e) If ~~In the event~~ the producer price index for titanium
 89 dioxide is discontinued or can no longer be calculated, ~~then~~ a
 90 comparable index must ~~shall~~ be selected by the department and
 91 adopted by rule. If there is no comparable index, the tax rate
 92 for the immediately preceding year must be used.

93 Section 3. Paragraph (m) is added to subsection (2) of
 94 section 212.06, Florida Statutes, and subsection (5) of that
 95 section is amended, to read:

96 212.06 Sales, storage, use tax; collectible from dealers;
 97 "dealer" defined; dealers to collect from purchasers;
 98 legislative intent as to scope of tax.-

99 (2)

100 (m) The term "dealer" also means a forwarding agent as

101 defined in sub-subparagraph (5) (b)1.b. who has applied for and
102 received a Florida Certificate of Forwarding Agent Address from
103 the department.

104 (5) (a)1. Except as provided in subparagraph 2., it is not
105 the intention of this chapter to levy a tax upon tangible
106 personal property imported, produced, or manufactured in this
107 state for export, provided that tangible personal property may
108 not be considered as being imported, produced, or manufactured
109 for export unless the importer, producer, or manufacturer
110 delivers the same to a forwarding agent ~~licensed exporter~~ for
111 exporting or to a common carrier for shipment outside this ~~the~~
112 state or mails the same by United States mail to a destination
113 outside this ~~the~~ state; or, in the case of aircraft being
114 exported under their own power to a destination outside the
115 continental limits of the United States, by submission to the
116 department of a duly signed and validated United States customs
117 declaration, showing the departure of the aircraft from the
118 continental United States; and further with respect to aircraft,
119 the canceled United States registry of said aircraft; or in the
120 case of parts and equipment installed on aircraft of foreign
121 registry, by submission to the department of documentation as ~~r~~
122 ~~the extent of which shall be provided by rule, showing the~~
123 departure of the aircraft from the continental United States;
124 nor is it the intention of this chapter to levy a tax on any
125 sale that ~~which~~ the state is prohibited from taxing under the

126 Constitution or laws of the United States. Every retail sale
 127 made to a person physically present at the time of sale is ~~shall~~
 128 ~~be~~ presumed to have been delivered in this state.

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

143 b. For purposes of this subparagraph, the term "a
 144 cooperating state" means a state ~~is one~~ determined by the
 145 executive director of the department to cooperate satisfactorily
 146 with this state in collecting taxes on mail order sales. To be
 147 determined a cooperating state, a ~~No~~ state must meet ~~shall be so~~
 148 ~~determined unless it meets~~ all the following minimum
 149 requirements:

150 (I) It levies and collects taxes on mail order sales of

151 property transported from that state to persons in this state,
152 as described in s. 212.0596, upon request of the department.

153 (II) The tax so collected is ~~shall be~~ at the rate
154 specified in s. 212.05, not including any local option or
155 tourist or convention development taxes collected pursuant to s.
156 125.0104 or this chapter.

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

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

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

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

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

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

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

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

193 g. In furtherance of this act, dealers selling tangible
194 personal property for delivery in another state shall make
195 available to the department, upon request of the department,
196 records of all tangible personal property so sold. Such records
197 must ~~shall~~ include a description of the property, the name and
198 address of the purchaser, the name and address of the person to
199 whom the property was sent, the purchase price of the property,
200 information regarding whether sales tax was paid in this state

201 on the purchase price, and such other information as the
 202 department may by rule prescribe.

203 (b)1. As used in this subsection, the term:

204 a. "Certificate" means a Florida Certificate of Forwarding
 205 Agent Address.

206 b. "Facilitating" means preparation for or arranging for
 207 export.

208 c. "Forwarding agent" means a person or business whose
 209 principal business activity is facilitating for compensation the
 210 export of property owned by other persons.

211 d. "NAICS" means those classifications contained in the
 212 North American Industry Classification System as published in
 213 2007 by the Office of Management and Budget, Executive Office of
 214 the President.

215 e. "Principal business activity" means the activity from
 216 which the person or business derives the highest percentage of
 217 its total receipts.

218 2. A forwarding agent engaged in international export may
 219 apply to the department for a certificate.

220 3. Each application must include:

221 a. The designation of an address for the forwarding agent.

222 b. A certification that:

223 (I) The tangible personal property delivered to the
 224 designated address for export originates with a United States
 225 vendor;

226 (II) The tangible personal property delivered to the
227 designated address for export is irrevocably committed to export
228 out of the United States through a continuous and unbroken
229 exportation process; and

230 (III) The designated address is used exclusively by the
231 forwarding agent for such export.

232 c. A copy of the forwarding agent's last filed federal
233 income tax return showing the entity's principal business
234 activity classified under NAICS code 488510, except as provided
235 under subparagraph 4. or subparagraph 5.

236 d. A statement of the total revenues of the forwarding
237 agent.

238 e. A statement of the amount of revenues associated with
239 international export of the forwarding agent.

240 f. A description of all business activity that occurs at
241 the designated address.

242 g. The name and contact information of a designated
243 contact person of the forwarding agent.

244 h. The forwarding agent's website address.

245 i. Any additional information the department requires by
246 rule to demonstrate eligibility for the certificate and a
247 signature attesting to the validity of the information provided.

248 4. An applicant that has not filed a federal return for
249 the preceding tax year under NAICS code 488510 shall provide:

250 a. A statement of estimated total revenues.

251 b. A statement of estimated revenues associated with
252 international export.

253 c. The NAICS code under which the forwarding agent intends
254 to file a federal return.

255 5. If an applicant does not file a federal return
256 identifying a NAICS code, the applicant shall provide
257 documentation to support that its principal business activity is
258 that of a forwarding agent as described in sub-subparagraph
259 (b)1.c. and that the applicant is otherwise eligible for the
260 certificate.

261 6. A forwarding agent that applies for and receives a
262 certificate shall register as a dealer with the department.

263 7. A forwarding agent shall remit the tax imposed under
264 this chapter on any tangible personal property shipped to the
265 designated forwarding agent address if no tax was collected and
266 the tangible personal property remained in this state or if
267 delivery to the purchaser or purchaser's representative occurs
268 in this state. This subparagraph does not prohibit the
269 forwarding agent from collecting such tax from the consumer of
270 the tangible personal property.

271 8. A forwarding agent shall maintain the following
272 records:

273 a. Copies of sales invoices or receipts between the vendor
274 and the consumer identifying each purchase.

275 b. Copies of federal returns evidencing the forwarding

276 agent's NAICS principal business activity code.

277 c. Copies of invoices evidencing shipment to the
278 forwarding agent.

279 d. Invoices between the forwarding agent and the consumer
280 or other documentation evidencing the ship-to destination
281 outside the United States.

282 e. Invoices for foreign postal or transportation services.

283 f. Bills of lading.

284 g. Any other export documentation.

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286 Such records must be kept in an electronic format and made
287 available for the department's review pursuant to subparagraph
288 9. and ss. 212.13 and 213.35.

289 9. Each certificate expires 5 years after the date of
290 issuance, except as specified in this subparagraph.

291 a. At least 30 days before expiration, a new application
292 must be submitted to renew the certificate and the application
293 must contain the information required in subparagraph 3. Upon
294 application for renewal, the certificate is subject to the
295 review and reissuance procedures prescribed by this chapter and
296 department rule.

297 b. Each forwarding agent shall update its application
298 information annually or within 30 days after any material
299 change.

300 c. The department shall verify that the forwarding agent

301 is actively engaged in facilitating the international export of
302 tangible personal property.

303 d. The department may suspend or revoke the certificate of
304 any forwarding agent that fails to respond within 30 days to a
305 written request for information regarding its business
306 transactions.

307 10. A dealer may accept a copy of the certificate in lieu
308 of collecting the tax imposed under this chapter when the
309 property is required by terms of the sale to be shipped to the
310 designated address on the certificate.

311 a. A dealer who accepts a valid copy of a certificate in
312 good faith and ships purchased tangible personal property to the
313 address on the certificate is not liable for any tax due on
314 sales made during the effective dates indicated on the
315 certificate.

316 b. The dealer must maintain a copy of the certificate or
317 record of other method of verification in its books and records
318 pursuant to s. 212.13.

319 11. The department shall establish an online system for
320 verification of valid certificates on the department's website
321 and may also provide a list of forwarding agents' addresses on
322 the electronic address database webpage on the department's
323 website.

324 12. The department may revoke a forwarding agent's
325 certificate for noncompliance with this paragraph. Any person

326 found to fraudulently use the address on the certificate for the
327 purpose of evading tax is subject to the penalties provided in
328 s. 212.085.

329 13. The department may adopt rules to administer this
330 paragraph, including, but not limited to, rules relating to
331 procedures, application and eligibility requirements, and forms.

332 (c)1. Notwithstanding the provisions of paragraph (a), it
333 is not the intention of this chapter to levy a tax on the sale
334 of tangible personal property to a nonresident dealer who does
335 not hold a Florida sales tax registration, provided such
336 nonresident dealer furnishes the seller a statement declaring
337 that the tangible personal property will be transported outside
338 this state by the nonresident dealer for resale and for no other
339 purpose. The statement must ~~shall~~ include, but not be limited
340 to, the nonresident dealer's name, address, applicable passport
341 or visa number, arrival-departure card number, and evidence of
342 authority to do business in the nonresident dealer's home state
343 or country, such as his or her business name and address,
344 occupational license number, if applicable, or any other
345 suitable requirement. The statement must ~~shall~~ be signed by the
346 nonresident dealer and must ~~shall~~ include the following
347 sentence: "Under penalties of perjury, I declare that I have
348 read the foregoing, and the facts alleged are true to the best
349 of my knowledge and belief."

350 2. The burden of proof of subparagraph 1. rests with the

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351 seller, who must retain the proper documentation to support the
352 exempt sale. The exempt transaction is subject to verification
353 by the department.

354 (d)~~(e)~~ Notwithstanding ~~the provisions of~~ paragraph (a), it
355 is not the intention of this chapter to levy a tax on the sale
356 by a printer to a nonresident print purchaser of material
357 printed by that printer for that nonresident print purchaser
358 when the print purchaser does not furnish the printer a resale
359 certificate containing a sales tax registration number but does
360 furnish to the printer a statement declaring that such material
361 will be resold by the nonresident print purchaser.

362 Section 4. Effective July 1, 2021, subsection (2) of
363 section 212.13, Florida Statutes, is amended to read:

364 212.13 Records required to be kept; power to inspect;
365 audit procedure.—

366 (2) Each dealer, as defined in this chapter, shall secure,
367 maintain, and keep as long as required by s. 213.35 a complete
368 record of tangible personal property or services received, used,
369 sold at retail, distributed or stored, leased or rented by said
370 dealer, together with invoices, bills of lading, gross receipts
371 from such sales, and other pertinent records and papers as may
372 be required by the department for the reasonable administration
373 of this chapter. † All such records must be made available to the
374 department at reasonable times and places and by reasonable
375 means, including in an electronic format when so kept by the

376 | ~~dealer which are located or maintained in this state shall be~~
377 | ~~open for inspection by the department at all reasonable hours at~~
378 | ~~such dealer's store, sales office, general office, warehouse, or~~
379 | ~~place of business located in this state. Any dealer who~~
380 | ~~maintains such books and records at a point outside this state~~
381 | ~~must make such books and records available for inspection by the~~
382 | ~~department where the general records are kept. Any dealer~~
383 | ~~subject to the provisions of this chapter who violates this~~
384 | ~~subsection commits these provisions is guilty of a misdemeanor~~
385 | ~~of the first degree, punishable as provided in s. 775.082 or s.~~
386 | ~~775.083. If, however, any subsequent offense involves~~
387 | ~~intentional destruction of such records with an intent to evade~~
388 | ~~payment of or deprive the state of any tax revenues, such~~
389 | ~~subsequent offense is ~~shall be~~ a felony of the third degree,~~
390 | ~~punishable as provided in s. 775.082 or s. 775.083.~~

391 | Section 5. Effective July 1, 2021, subsection (2) of
392 | section 212.15, Florida Statutes, is amended to read:

393 | 212.15 Taxes declared state funds; penalties for failure
394 | to remit taxes; due and delinquent dates; judicial review.—

395 | (2) Any person who, with intent to unlawfully deprive or
396 | defraud the state of its moneys or the use or benefit thereof,
397 | fails to remit taxes collected under this chapter commits theft
398 | of state funds, punishable as follows:

399 | (a) If the total amount of stolen revenue is less than
400 | \$1,000, the offense is a misdemeanor of the second degree,

401 punishable as provided in s. 775.082 or s. 775.083. Upon a
402 second conviction, the offender commits a misdemeanor of the
403 first degree, punishable as provided in s. 775.082 or s.
404 775.083. Upon a third or subsequent conviction, the offender
405 commits a felony of the third degree, punishable as provided in
406 s. 775.082, s. 775.083, or s. 775.084.

407 (b) If the total amount of stolen revenue is \$1,000 or
408 more, but less than \$20,000, the offense is a felony of the
409 third degree, punishable as provided in s. 775.082, s. 775.083,
410 or s. 775.084.

411 (c) If the total amount of stolen revenue is \$20,000 or
412 more, but less than \$100,000, the offense is a felony of the
413 second degree, punishable as provided in s. 775.082, s. 775.083,
414 or s. 775.084.

415 (d) If the total amount of stolen revenue is \$100,000 or
416 more, the offense is a felony of the first degree, punishable as
417 provided in s. 775.082, s. 775.083, or s. 775.084.

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419 The amount of stolen revenue may be aggregated in determining
420 the grade of the offense.

421 Section 6. Subsection (5) of section 213.053, Florida
422 Statutes, is amended to read:

423 213.053 Confidentiality and information sharing.—

424 (5) This section does not prevent the department from any
425 of the following:

426 (a) Publishing statistics so classified as to prevent the
 427 identification of particular accounts, reports, declarations, or
 428 returns; ~~or~~

429 (b) Publishing a list of forwarding agents' addresses,
 430 which may not contain the business names of the forwarding
 431 agents, on the electronic database webpage pursuant to s.
 432 212.06(5)(b)11.; or

433 (c) ~~(b)~~ Using telephones, e-mail, facsimile machines, or
 434 other electronic means to do any of the following:

435 1. Distribute information relating to changes in law, tax
 436 rates, interest rates, or other information that is not specific
 437 to a particular taxpayer;

438 2. Remind taxpayers of due dates;

439 3. Respond to a taxpayer to an electronic mail address
 440 that does not support encryption if the use of that address is
 441 authorized by the taxpayer; or

442 4. Notify taxpayers to contact the department.

443 Section 7. For the purpose of incorporating the amendment
 444 made by this act to section 197.222, Florida Statutes, in a
 445 reference thereto, paragraph (a) of subsection (3) of section
 446 192.0105, Florida Statutes, is reenacted to read:

447 192.0105 Taxpayer rights.—There is created a Florida
 448 Taxpayer's Bill of Rights for property taxes and assessments to
 449 guarantee that the rights, privacy, and property of the
 450 taxpayers of this state are adequately safeguarded and protected

451 during tax levy, assessment, collection, and enforcement
452 processes administered under the revenue laws of this state. The
453 Taxpayer's Bill of Rights compiles, in one document, brief but
454 comprehensive statements that summarize the rights and
455 obligations of the property appraisers, tax collectors, clerks
456 of the court, local governing boards, the Department of Revenue,
457 and taxpayers. Additional rights afforded to payors of taxes and
458 assessments imposed under the revenue laws of this state are
459 provided in s. 213.015. The rights afforded taxpayers to assure
460 that their privacy and property are safeguarded and protected
461 during tax levy, assessment, and collection are available only
462 insofar as they are implemented in other parts of the Florida
463 Statutes or rules of the Department of Revenue. The rights so
464 guaranteed to state taxpayers in the Florida Statutes and the
465 departmental rules include:

466 (3) THE RIGHT TO REDRESS.—

467 (a) The right to discounts for early payment on all taxes
468 and non-ad valorem assessments collected by the tax collector,
469 except for partial payments as defined in s. 197.374, the right
470 to pay installment payments with discounts, and the right to pay
471 delinquent personal property taxes under a payment program when
472 implemented by the county tax collector (see ss. 197.162,
473 197.3632(8) and (10)(b)3., 197.222(1), and 197.4155).

474 Section 8. For the purpose of incorporating the amendment
475 made by this act to section 212.06, Florida Statutes, in a

476 reference thereto, paragraph (c) of subsection (1) of section
 477 212.07, Florida Statutes, is reenacted to read:

478 212.07 Sales, storage, use tax; tax added to purchase
 479 price; dealer not to absorb; liability of purchasers who cannot
 480 prove payment of the tax; penalties; general exemptions.—

481 (1)

482 (c) Unless the purchaser of tangible personal property
 483 that is incorporated into tangible personal property
 484 manufactured, produced, compounded, processed, or fabricated for
 485 one's own use and subject to the tax imposed under s.
 486 212.06(1) (b) or is purchased for export under s. 212.06(5) (a)1.
 487 extends a certificate in compliance with the rules of the
 488 department, the dealer shall himself or herself be liable for
 489 and pay the tax.

490 Section 9. For the purpose of incorporating the amendment
 491 made by this act to section 212.13, Florida Statutes, in a
 492 reference thereto, paragraph (f) of subsection (18) of section
 493 212.08, Florida Statutes, is reenacted to read:

494 212.08 Sales, rental, use, consumption, distribution, and
 495 storage tax; specified exemptions.—The sale at retail, the
 496 rental, the use, the consumption, the distribution, and the
 497 storage to be used or consumed in this state of the following
 498 are hereby specifically exempt from the tax imposed by this
 499 chapter.

500 (18) MACHINERY AND EQUIPMENT USED PREDOMINANTLY FOR

501 RESEARCH AND DEVELOPMENT.—

502 (f) Purchasers shall maintain all documentation necessary
 503 to prove the exempt status of purchases and fabrication activity
 504 and make such documentation available for inspection pursuant to
 505 the requirements of s. 212.13(2).

506 Section 10. (1) The Department of Revenue is authorized,
 507 and all conditions are deemed met, to adopt emergency rules
 508 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
 509 implementing the amendment made by this act to s. 212.06,
 510 Florida Statutes.

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

516 (3) This section shall take effect upon becoming a law and
 517 expires January 1, 2025.

518 Section 11. Except as otherwise expressly provided in this
 519 act and except for this section, which shall take effect upon
 520 becoming a law, this act shall take effect January 1, 2022.