

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Ways & Means Committee
 2 Representative Clemons offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. 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).

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

18 Section 2. Section 212.05, Florida Statutes, is amended to
19 read:

20 212.05 Sales, storage, use tax.—It is hereby declared to
21 be the legislative intent that every person is exercising a
22 taxable privilege who engages in the business of selling
23 tangible personal property at retail in this state, including
24 the business of making or facilitating remote ~~mail-order~~ sales;
25 ~~or~~ who rents or furnishes any of the things or services taxable
26 under this chapter;
27 or who stores for use or consumption in
28 this state any item or article of tangible personal property as
29 defined herein and who leases or rents such property within the
state.

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

33 (a)1.a. At the rate of 6 percent of the sales price of
34 each item or article of tangible personal property when sold at
35 retail in this state, computed on each taxable sale for the
36 purpose of remitting the amount of tax due the state, and
37 including each and every retail sale.

38 b. Each occasional or isolated sale of an aircraft, boat,
39 mobile home, or motor vehicle of a class or type which is
40 required to be registered, licensed, titled, or documented in

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41 this state or by the United States Government shall be subject
42 to tax at the rate provided in this paragraph. The department
43 shall by rule adopt any nationally recognized publication for
44 valuation of used motor vehicles as the reference price list for
45 any used motor vehicle which is required to be licensed pursuant
46 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
47 party to an occasional or isolated sale of such a vehicle
48 reports to the tax collector a sales price which is less than 80
49 percent of the average loan price for the specified model and
50 year of such vehicle as listed in the most recent reference
51 price list, the tax levied under this paragraph shall be
52 computed by the department on such average loan price unless the
53 parties to the sale have provided to the tax collector an
54 affidavit signed by each party, or other substantial proof,
55 stating the actual sales price. Any party to such sale who
56 reports a sales price less than the actual sales price is guilty
57 of a misdemeanor of the first degree, punishable as provided in
58 s. 775.082 or s. 775.083. The department shall collect or
59 attempt to collect from such party any delinquent sales taxes.
60 In addition, such party shall pay any tax due and any penalty
61 and interest assessed plus a penalty equal to twice the amount
62 of the additional tax owed. Notwithstanding any other provision
63 of law, the Department of Revenue may waive or compromise any
64 penalty imposed pursuant to this subparagraph.

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

83 a. The purchaser removes a qualifying boat, as described
84 in sub-subparagraph f., from the state within 90 days after the
85 date of purchase or extension, or the purchaser removes a
86 nonqualifying boat or an aircraft from this state within 10 days
87 after the date of purchase or, when the boat or aircraft is
88 repaired or altered, within 20 days after completion of the

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89 repairs or alterations; or if the aircraft will be registered in
90 a foreign jurisdiction and:

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

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

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

100

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

104 b. The purchaser, within 90 days from the date of
105 departure, provides the department with written proof that the
106 purchaser licensed, registered, titled, or documented the boat
107 or aircraft outside the state. If such written proof is
108 unavailable, within 90 days the purchaser shall provide proof
109 that the purchaser applied for such license, title,
110 registration, or documentation. The purchaser shall forward to
111 the department proof of title, license, registration, or
112 documentation upon receipt;

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113 c. The purchaser, within 30 days after removing the boat
114 or aircraft from Florida, furnishes the department with proof of
115 removal in the form of receipts for fuel, dockage, slippage,
116 tie-down, or hangaring from outside of Florida. The information
117 so provided must clearly and specifically identify the boat or
118 aircraft;

119 d. The selling dealer, within 30 days after the date of
120 sale, provides to the department a copy of the sales invoice,
121 closing statement, bills of sale, and the original affidavit
122 signed by the purchaser attesting that he or she has read the
123 provisions of this section;

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

126 f. Unless the nonresident purchaser of a boat of 5 net
127 tons of admeasurement or larger intends to remove the boat from
128 this state within 10 days after the date of purchase or when the
129 boat is repaired or altered, within 20 days after completion of
130 the repairs or alterations, the nonresident purchaser applies to
131 the selling dealer for a decal which authorizes 90 days after
132 the date of purchase for removal of the boat. The nonresident
133 purchaser of a qualifying boat may apply to the selling dealer
134 within 60 days after the date of purchase for an extension decal
135 that authorizes the boat to remain in this state for an
136 additional 90 days, but not more than a total of 180 days,
137 before the nonresident purchaser is required to pay the tax

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138 imposed by this chapter. The department is authorized to issue
139 decals in advance to dealers. The number of decals issued in
140 advance to a dealer shall be consistent with the volume of the
141 dealer's past sales of boats which qualify under this sub-
142 subparagraph. The selling dealer or his or her agent shall mark
143 and affix the decals to qualifying boats in the manner
144 prescribed by the department, before delivery of the boat.

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

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

150 (III) Decals shall display information to identify the
151 boat as a qualifying boat under this sub-subparagraph,
152 including, but not limited to, the decal's date of expiration.

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

157 (V) Any dealer or his or her agent who issues a decal
158 falsely, fails to affix a decal, mismarks the expiration date of
159 a decal, or fails to properly account for decals will be
160 considered prima facie to have committed a fraudulent act to
161 evade the tax and will be liable for payment of the tax plus a
162 mandatory penalty of 200 percent of the tax, and shall be liable

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163 for fine and punishment as provided by law for a conviction of a
164 misdemeanor of the first degree, as provided in s. 775.082 or s.
165 775.083.

166 (VI) Any nonresident purchaser of a boat who removes a
167 decal before permanently removing the boat from the state, or
168 defaces, changes, modifies, or alters a decal in a manner
169 affecting its expiration date before its expiration, or who
170 causes or allows the same to be done by another, will be
171 considered prima facie to have committed a fraudulent act to
172 evade the tax and will be liable for payment of the tax plus a
173 mandatory penalty of 200 percent of the tax, and shall be liable
174 for fine and punishment as provided by law for a conviction of a
175 misdemeanor of the first degree, as provided in s. 775.082 or s.
176 775.083.

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

180 (VIII) The department is hereby authorized to adopt
181 emergency rules pursuant to s. 120.54(4) to administer and
182 enforce the provisions of this subparagraph.

183

184 If the purchaser fails to remove the qualifying boat from this
185 state within the maximum 180 days after purchase or a
186 nonqualifying boat or an aircraft from this state within 10 days
187 after purchase or, when the boat or aircraft is repaired or

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

201 (b) At the rate of 6 percent of the cost price of each
202 item or article of tangible personal property when the same is
203 not sold but is used, consumed, distributed, or stored for use
204 or consumption in this state; however, for tangible property
205 originally purchased exempt from tax for use exclusively for
206 lease and which is converted to the owner's own use, tax may be
207 paid on the fair market value of the property at the time of
208 conversion. If the fair market value of the property cannot be
209 determined, use tax at the time of conversion shall be based on
210 the owner's acquisition cost. Under no circumstances may the
211 aggregate amount of sales tax from leasing the property and use
212 tax due at the time of conversion be less than the total sales

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213 tax that would have been due on the original acquisition cost
214 paid by the owner.

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

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

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

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

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

233 3. The tax imposed by this chapter does not apply to the
234 lease or rental of a commercial motor vehicle as defined in s.
235 316.003(13)(a) to one lessee or rentee for a period of not less
236 than 12 months when tax was paid on the purchase price of such
237 vehicle by the lessor. To the extent tax was paid with respect

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238 to the purchase of such vehicle in another state, territory of
239 the United States, or the District of Columbia, the Florida tax
240 payable shall be reduced in accordance with the provisions of s.
241 212.06(7). This subparagraph shall only be available when the
242 lease or rental of such property is an established business or
243 part of an established business or the same is incidental or
244 germane to such business.

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

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

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

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

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

261 (III) The sale or recharge of a prepaid calling
262 arrangement shall be treated as a sale of tangible personal

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263 property for purposes of this chapter, regardless of whether a
264 tangible item evidencing such arrangement is furnished to the
265 purchaser, and such sale within this state subjects the selling
266 dealer to the jurisdiction of this state for purposes of this
267 subsection.

268 (IV) No additional tax under this chapter or chapter 202
269 is due or payable if a purchaser of a prepaid calling
270 arrangement who has paid tax under this chapter on the sale or
271 recharge of such arrangement applies one or more units of the
272 prepaid calling arrangement to obtain communications services as
273 described in s. 202.11(9)(b)3., other services that are not
274 communications services, or products.

275 b. The installation of telecommunication and telegraphic
276 equipment.

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

281 2. Section 212.17(3), regarding credit for tax paid on
282 charges subsequently found to be worthless, is equally
283 applicable to any tax paid under this section on charges for
284 prepaid calling arrangements, telecommunication or telegraph
285 services, or electric power subsequently found to be
286 uncollectible. As used in this paragraph, the term "charges"
287 does not include any excise or similar tax levied by the Federal

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288 Government, a political subdivision of this state, or a
289 municipality upon the purchase, sale, or recharge of prepaid
290 calling arrangements or upon the purchase or sale of
291 telecommunication, television system program, or telegraph
292 service or electric power, which tax is collected by the seller
293 from the purchaser.

294 (f) At the rate of 6 percent on the sale, rental, use,
295 consumption, or storage for use in this state of machines and
296 equipment, and parts and accessories therefor, used in
297 manufacturing, processing, compounding, producing, mining, or
298 quarrying personal property for sale or to be used in furnishing
299 communications, transportation, or public utility services.

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

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

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

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

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

319 (h)1. A tax is imposed at the rate of 4 percent on the
320 charges for the use of coin-operated amusement machines. The tax
321 shall be calculated by dividing the gross receipts from such
322 charges for the applicable reporting period by a divisor,
323 determined as provided in this subparagraph, to compute gross
324 taxable sales, and then subtracting gross taxable sales from
325 gross receipts to arrive at the amount of tax due. For counties
326 that do not impose a discretionary sales surtax, the divisor is
327 equal to 1.04; for counties that impose a 0.5 percent
328 discretionary sales surtax, the divisor is equal to 1.045; for
329 counties that impose a 1 percent discretionary sales surtax, the
330 divisor is equal to 1.050; and for counties that impose a 2
331 percent sales surtax, the divisor is equal to 1.060. If a county
332 imposes a discretionary sales surtax that is not listed in this
333 subparagraph, the department shall make the applicable divisor
334 available in an electronic format or otherwise. Additional
335 divisors shall bear the same mathematical relationship to the
336 next higher and next lower divisors as the new surtax rate bears
337 to the next higher and next lower surtax rates for which

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338 divisors have been established. When a machine is activated by a
339 slug, token, coupon, or any similar device which has been
340 purchased, the tax is on the price paid by the user of the
341 device for such device.

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

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

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

354 c. If the proprietor of the business where the machine is
355 located does not own the machine, he or she shall be deemed to
356 be the lessee and operator of the machine and is responsible for
357 the payment of the tax on sales, unless such responsibility is
358 otherwise provided for in a written agreement between him or her
359 and the machine owner.

360 3.a. An operator of a coin-operated amusement machine may
361 not operate or cause to be operated in this state any such
362 machine until the operator has registered with the department

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363 and has conspicuously displayed an identifying certificate
364 issued by the department. The identifying certificate shall be
365 issued by the department upon application from the operator. The
366 identifying certificate shall include a unique number, and the
367 certificate shall be permanently marked with the operator's
368 name, the operator's sales tax number, and the maximum number of
369 machines to be operated under the certificate. An identifying
370 certificate shall not be transferred from one operator to
371 another. The identifying certificate must be conspicuously
372 displayed on the premises where the coin-operated amusement
373 machines are being operated.

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

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387 the number of additional machines identified on the application
388 form times \$30.

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

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

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

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

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

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

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411 a. Detective, burglar protection, and other protection
412 services (NAICS National Numbers 561611, 561612, 561613, and
413 561621). Fingerprint services required under s. 790.06 or s.
414 790.062 are not subject to the tax. Any law enforcement officer,
415 as defined in s. 943.10, who is performing approved duties as
416 determined by his or her local law enforcement agency in his or
417 her capacity as a law enforcement officer, and who is subject to
418 the direct and immediate command of his or her law enforcement
419 agency, and in the law enforcement officer's uniform as
420 authorized by his or her law enforcement agency, is performing
421 law enforcement and public safety services and is not performing
422 detective, burglar protection, or other protective services, if
423 the law enforcement officer is performing his or her approved
424 duties in a geographical area in which the law enforcement
425 officer has arrest jurisdiction. Such law enforcement and public
426 safety services are not subject to tax irrespective of whether
427 the duty is characterized as "extra duty," "off-duty," or
428 "secondary employment," and irrespective of whether the officer
429 is paid directly or through the officer's agency by an outside
430 source. The term "law enforcement officer" includes full-time or
431 part-time law enforcement officers, and any auxiliary law
432 enforcement officer, when such auxiliary law enforcement officer
433 is working under the direct supervision of a full-time or part-
434 time law enforcement officer.

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

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

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

449 4. If a transaction involves both the sale or use of a
450 service taxable under this paragraph and the sale or use of a
451 service or any other item not taxable under this chapter, the
452 consideration paid must be separately identified and stated with
453 respect to the taxable and exempt portions of the transaction or
454 the entire transaction shall be presumed taxable. The burden
455 shall be on the seller of the service or the purchaser of the
456 service, whichever applicable, to overcome this presumption by
457 providing documentary evidence as to which portion of the
458 transaction is exempt from tax. The department is authorized to
459 adjust the amount of consideration identified as the taxable and

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460 exempt portions of the transaction; however, a determination
461 that the taxable and exempt portions are inaccurately stated and
462 that the adjustment is applicable must be supported by
463 substantial competent evidence.

464 5. Each seller of services subject to sales tax pursuant
465 to this paragraph shall maintain a monthly log showing each
466 transaction for which sales tax was not collected because the
467 services meet the requirements of subparagraph 3. for out-of-
468 state use. The log must identify the purchaser's name, location
469 and mailing address, and federal employer identification number,
470 if a business, or the social security number, if an individual,
471 the service sold, the price of the service, the date of sale,
472 the reason for the exemption, and the sales invoice number. The
473 monthly log shall be maintained pursuant to the same
474 requirements and subject to the same penalties imposed for the
475 keeping of similar records pursuant to this chapter.

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

- 480 a. Is not legal tender;
481 b. If legal tender, is sold, exchanged, or traded at a
482 rate in excess of its face value; or
483 c. Is sold, exchanged, or traded at a rate based on its
484 precious metal content.

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

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

496 4. With respect to any transaction that involves the sale
497 of coins or currency taxable under this paragraph in which the
498 taxable amount represented by the sale of such coins or currency
499 exceeds \$500, the entire amount represented by the sale of such
500 coins or currency is exempt from the tax imposed under this
501 paragraph. The dealer must maintain proper documentation, as
502 prescribed by rule of the department, to identify that portion
503 of a transaction which involves the sale of coins or currency
504 and is exempt under this subparagraph.

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

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

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

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

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

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

527 (5) Notwithstanding any other provision of this chapter,
528 the maximum amount of tax imposed under this chapter and
529 collected on each sale or use of a boat in this state may not
530 exceed \$18,000 and on each repair of a boat in this state may
531 not exceed \$60,000.

532 Section 3. Paragraph (c) of subsection (4) of section
533 212.054, Florida Statutes, is amended to read:

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534 212.054 Discretionary sales surtax; limitations,
535 administration, and collection.—

536 (4)

537 (c)1. Any dealer located in a county that does not impose
538 a discretionary sales surtax, as well as a marketplace provider
539 located outside of this state which makes or facilitates a
540 substantial number of remote sales or a person located outside
541 this state who is required to report remote sales, but who
542 collects the surtax due to sales of tangible personal property
543 or services delivered to a county imposing a surtax ~~outside the~~
544 ~~county~~ shall remit monthly the proceeds of the surtax to the
545 department to be deposited into an account in the Discretionary
546 Sales Surtax Clearing Trust Fund which is separate from the
547 county surtax collection accounts. The department shall
548 distribute funds in this account using a distribution factor
549 determined for each county that levies a surtax and multiplied
550 by the amount of funds in the account and available for
551 distribution. The distribution factor for each county equals the
552 product of:

553 a. The county's latest official population determined
554 pursuant to s. 186.901;

555 b. The county's rate of surtax; and

556 c. The number of months the county has levied a surtax
557 during the most recent distribution period;

558

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559 divided by the sum of all such products of the counties levying
560 the surtax during the most recent distribution period.

561 2. The department shall compute distribution factors for
562 eligible counties once each quarter and make appropriate
563 quarterly distributions.

564 3. A county that fails to timely provide the information
565 required by this section to the department authorizes the
566 department, by such action, to use the best information
567 available to it in distributing surtax revenues to the county.
568 If this information is unavailable to the department, the
569 department may partially or entirely disqualify the county from
570 receiving surtax revenues under this paragraph. A county that
571 fails to provide timely information waives its right to
572 challenge the department's determination of the county's share,
573 if any, of revenues provided under this paragraph.

574 Section 4. Section 212.0596, Florida Statutes, is amended
575 to read:

576 (Substantial rewording of section. See

577 s. 212.0596, F.S., for present text.)

578 212.0596 Taxation of remote sales.—

579 (1) As used in this chapter, the term:

580 (a) "Remote sale" means a retail sale of tangible personal
581 property ordered by mail, telephone, the Internet, or other
582 means of communication from a person who receives the order
583 outside of this state and transports the property or causes the

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584 property to be transported from any jurisdiction, including this
585 state, to a location in this state. For purposes of this
586 paragraph, tangible personal property delivered to a location
587 within this state is presumed to be used, consumed, distributed,
588 or stored to be used or consumed in this state.

589 (b) "Substantial number of remote sales" means any number
590 of taxable remote sales in the previous calendar year in which
591 the sum of the sales prices, as defined in s. 212.02(16),
592 exceeded \$100,000.

593 (2) Every person making a substantial number of remote
594 sales is a dealer for purposes of this chapter.

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

602 (4) A marketplace provider that makes or facilitates a
603 substantial number of remote sales or a person who is required
604 to report remote sales is required to collect surtax when the
605 taxable item of tangible personal property is delivered within a
606 county imposing a surtax as provided in s. 212.054(3)(a).

607 Section 5. Section 212.05965, Florida Statutes, is created
608 to read:

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609 212.05965 Taxation of marketplace sales.-

610 (1) As used in this chapter, the term:

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

614 (b) "Marketplace provider" means a person who facilitates
615 a retail sale by a marketplace seller by listing or advertising
616 for sale by the marketplace seller tangible personal property in
617 a marketplace and who directly, or indirectly through agreements
618 or arrangements with third parties, collects payment from the
619 customer and transmits all or part of the payment to the
620 marketplace seller, regardless of whether the marketplace
621 provider receives compensation or other consideration in
622 exchange for its services.

623 1. The term does not include a person who solely provides
624 travel agency services. As used in this subparagraph, the term
625 "travel agency services" means arranging, booking, or otherwise
626 facilitating for a commission, fee, or other consideration
627 vacation or travel packages, rental cars, or other travel
628 reservations; tickets for domestic or foreign travel by air,
629 rail, ship, bus, or other mode of transportation; or hotel or
630 other lodging accommodations.

631 2. The term does not include a person who is a delivery
632 network company unless the delivery network company is a
633 registered dealer for purposes of this chapter and the delivery

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634 network company notifies all local merchants that sell through
635 the delivery network company's website or mobile application
636 that the delivery network company is subject to the requirements
637 of a marketplace provider under this section. As used in this
638 subparagraph, the term:

639 a. "Delivery network company" means a person who maintains
640 a website or mobile application used to facilitate delivery
641 services, the sale of local products, or both.

642 b. "Delivery network courier" means a person who provides
643 delivery services through a delivery network company website or
644 mobile application using a personal means of transportation,
645 such as a motor vehicle as defined in s. 320.01(1), bicycle,
646 scooter, or other similar means of transportation; using public
647 transportation; or by walking.

648 c. "Delivery services" means the pickup and delivery by a
649 delivery network courier of one or more local products from a
650 local merchant to a customer, which may include the selection,
651 collection, and purchase of the local product in connection with
652 the delivery. The term does not include any delivery requiring
653 more than 75 miles of travel from the local merchant to the
654 customer.

655 d. "Local merchant" means a kitchen, a restaurant, or a
656 third-party merchant, including a grocery store, retail store,
657 convenience store, or business of another type, which is not

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658 under common ownership or control of the delivery network
659 company.

660 e. "Local product" means any tangible personal property,
661 including food, but excluding freight, mail, or a package to
662 which postage has been affixed.

663 3. The term does not include a payment processor business
664 that is appointed to handle payment transactions from various
665 channels, such as charge cards, credit cards, or debit cards,
666 and whose sole activity with respect to marketplace sales is to
667 handle payment transactions between two parties.

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

672 (2) A marketplace provider who has a physical presence in
673 this state or who is making or facilitating through a
674 marketplace a substantial number of remote sales as defined in
675 s. 212.0596(1) is a dealer for purposes of this chapter.

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

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

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

693 2. A marketplace seller making a substantial number of
694 remote sales as defined in s. 212.0596(1) shall register and
695 shall collect and remit the tax imposed under this chapter on
696 all taxable retail sales made outside of the marketplace. For
697 the purposes of determining whether a marketplace seller made a
698 substantial number of remote sales, the marketplace seller shall
699 consider only those sales made outside of a marketplace.

700 (5) (a) A marketplace provider shall allow the department
701 to examine and audit its books and records pursuant to s.
702 212.13. For retail sales facilitated through a marketplace, the
703 department may not examine or audit the books and records of
704 marketplace sellers, nor may the department assess marketplace
705 sellers except to the extent that the marketplace provider seeks
706 relief under paragraph (b). The department may examine, audit,

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707 and assess a marketplace seller for retail sales made outside of
708 a marketplace under paragraph (4)(b). This paragraph does not
709 provide relief to a marketplace seller who is under audit; has
710 been issued a bill, notice, or demand for payment; or is under
711 an administrative or judicial proceeding before July 1, 2021.

712 (b) The marketplace provider is relieved of liability for
713 the tax on the retail sale and the marketplace seller or
714 customer is liable for the tax imposed under this chapter if the
715 marketplace provider demonstrates to the department's
716 satisfaction that the marketplace provider made a reasonable
717 effort to obtain accurate information related to the retail
718 sales facilitated through the marketplace from the marketplace
719 seller, but that the failure to collect and remit the correct
720 amount of tax imposed under this chapter was due to the
721 provision of incorrect or incomplete information to the
722 marketplace provider by the marketplace seller. This paragraph
723 does not apply to a retail sale for which the marketplace
724 provider is the seller if the marketplace provider and the
725 marketplace seller are related parties or if transactions
726 between a marketplace seller and marketplace buyer are not
727 conducted at arm's length.

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

730 (7) A marketplace provider and a marketplace seller may
731 agree by contract or otherwise that if a marketplace provider

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732 pays the tax imposed under this chapter on a retail sale
733 facilitated through a marketplace for a marketplace seller as a
734 result of an audit or otherwise, the marketplace provider has
735 the right to recover such tax and any associated interest and
736 penalties from the marketplace seller.

737 (8) This section may not be construed to authorize the
738 state to collect sales tax from both the marketplace provider
739 and the marketplace seller on the same retail sale.

740 (9) Chapter 213 applies to the administration of this
741 section to the extent that chapter does not conflict with this
742 section.

743 Section 6. Effective April 1, 2022, subsections (10) and
744 (11) are added to section 212.05965, Florida Statutes, as
745 created by this act, to read:

746 212.05965 Taxation of marketplace sales.—

747 (10) Notwithstanding any other law, the marketplace
748 provider is also responsible for collecting and remitting any
749 prepaid wireless E911 fee under s. 365.172, waste tire fee under
750 s. 403.718, and lead-acid battery fee under s. 403.7185 at the
751 time of sale for taxable retail sales made through its
752 marketplace.

753 (11) The marketplace provider and the marketplace seller
754 may contractually agree to have the marketplace seller collect
755 and remit all applicable taxes and fees if the marketplace
756 seller:

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757 (a) Has annual U.S. gross sales of more than \$1 billion,
758 including the gross sales of any related entities, and in the
759 case of franchised entities, including the combined sales of all
760 franchisees of a single franchisor;

761 (b) Provides evidence to the marketplace provider that it
762 is registered under s. 212.18; and

763 (c) Notifies the department in a manner prescribed by the
764 department that the marketplace seller will collect and remit
765 all applicable taxes and fees on its sales through the
766 marketplace and is liable for failure to collect or remit
767 applicable taxes and fees on its sales.

768 Section 7. Paragraph (c) of subsection (2) and paragraph
769 (a) of subsection (5) of section 212.06, Florida Statutes, are
770 amended to read:

771 212.06 Sales, storage, use tax; collectible from dealers;
772 "dealer" defined; dealers to collect from purchasers;
773 legislative intent as to scope of tax.-

774 (2)

775 (c) The term "dealer" is further defined to mean every
776 person, as used in this chapter, who sells at retail or who
777 offers for sale at retail, or who has in his or her possession
778 for sale at retail; or for use, consumption, or distribution; or
779 for storage to be used or consumed in this state, tangible
780 personal property as defined herein, including a retailer who
781 transacts a substantial number of remote sales or a person who

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782 is a marketplace provider making or facilitating a substantial
783 number of remote sales ~~mail order sale.~~

784 (5) (a)1. Except as provided in subparagraph 2., it is not
785 the intention of this chapter to levy a tax upon tangible
786 personal property imported, produced, or manufactured in this
787 state for export, provided that tangible personal property may
788 not be considered as being imported, produced, or manufactured
789 for export unless the importer, producer, or manufacturer
790 delivers the same to a licensed exporter for exporting or to a
791 common carrier for shipment outside the state or mails the same
792 by United States mail to a destination outside the state; or, in
793 the case of aircraft being exported under their own power to a
794 destination outside the continental limits of the United States,
795 by submission to the department of a duly signed and validated
796 United States customs declaration, showing the departure of the
797 aircraft from the continental United States; and further with
798 respect to aircraft, the canceled United States registry of said
799 aircraft; or in the case of parts and equipment installed on
800 aircraft of foreign registry, by submission to the department of
801 documentation, the extent of which shall be provided by rule,
802 showing the departure of the aircraft from the continental
803 United States; nor is it the intention of this chapter to levy a
804 tax on any sale which the state is prohibited from taxing under
805 the Constitution or laws of the United States. Every retail sale

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806 made to a person physically present at the time of sale shall be
807 presumed to have been delivered in this state.

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

822 b. For purposes of this subparagraph, "a cooperating
823 state" is one determined by the executive director of the
824 department to cooperate satisfactorily with this state in
825 collecting taxes on remote ~~mail-order~~ sales. No state shall be
826 so determined unless it meets all the following minimum
827 requirements:

828 (I) It levies and collects taxes on remote ~~mail-order~~
829 sales of property transported from that state to persons in this

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830 state, as described in s. 212.0596, upon request of the
831 department.

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

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

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

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

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

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854 d. The tax levied by sub-subparagraph a. shall be at the
855 rate at which such a sale would have been taxed pursuant to the
856 cooperating state's tax laws if consummated in the cooperating
857 state by a dealer and a purchaser, both of whom were physically
858 present in that state at the time of the sale.

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

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

873 g. In furtherance of this act, dealers selling tangible
874 personal property for delivery in another state shall make
875 available to the department, upon request of the department,
876 records of all tangible personal property so sold. Such records
877 shall include a description of the property, the name and
878 address of the purchaser, the name and address of the person to

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879 | whom the property was sent, the purchase price of the property,
880 | information regarding whether sales tax was paid in this state
881 | on the purchase price, and such other information as the
882 | department may by rule prescribe.

883 | Section 8. Paragraph (b) of subsection (1) of section
884 | 212.07, Florida Statutes, is amended to read:

885 | 212.07 Sales, storage, use tax; tax added to purchase
886 | price; dealer not to absorb; liability of purchasers who cannot
887 | prove payment of the tax; penalties; general exemptions.—

888 | (1)

889 | (b) A resale must be in strict compliance with s. 212.18
890 | and the rules and regulations adopted thereunder. A dealer who
891 | makes a sale for resale that is not in strict compliance with s.
892 | 212.18 and the rules and regulations adopted thereunder is
893 | liable for and must pay the tax. A dealer who makes a sale for
894 | resale shall document the exempt nature of the transaction, as
895 | established by rules adopted by the department, by retaining a
896 | copy of the purchaser's resale certificate. In lieu of
897 | maintaining a copy of the certificate, a dealer may document,
898 | before the time of sale, an authorization number provided
899 | telephonically or electronically by the department, or by such
900 | other means established by rule of the department. The dealer
901 | may rely on a resale certificate issued pursuant to s.
902 | 212.18(3)(e) ~~s. 212.18(3)(d)~~, valid at the time of receipt from
903 | the purchaser, without seeking annual verification of the resale

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904 certificate if the dealer makes recurring sales to a purchaser
905 in the normal course of business on a continual basis. For
906 purposes of this paragraph, "recurring sales to a purchaser in
907 the normal course of business" refers to a sale in which the
908 dealer extends credit to the purchaser and records the debt as
909 an account receivable, or in which the dealer sells to a
910 purchaser who has an established cash or C.O.D. account, similar
911 to an open credit account. For purposes of this paragraph,
912 purchases are made from a selling dealer on a continual basis if
913 the selling dealer makes, in the normal course of business,
914 sales to the purchaser at least once in every 12-month period. A
915 dealer may, through the informal protest provided for in s.
916 213.21 and the rules of the department, provide the department
917 with evidence of the exempt status of a sale. Consumer
918 certificates of exemption executed by those exempt entities that
919 were registered with the department at the time of sale, resale
920 certificates provided by purchasers who were active dealers at
921 the time of sale, and verification by the department of a
922 purchaser's active dealer status at the time of sale in lieu of
923 a resale certificate shall be accepted by the department when
924 submitted during the protest period, but may not be accepted in
925 any proceeding under chapter 120 or any circuit court action
926 instituted under chapter 72.

927 Section 9. Paragraphs (f) is added to subsection (4) of
928 section 212.11, Florida Statutes, to read:

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929 212.11 Tax returns and regulations.—

930 (4)

931 (f) A marketplace provider that makes or facilitates a
932 substantial number of remote sales or a person who is required
933 to report remote sales shall file returns and pay taxes by
934 electronic means under s. 213.755.

935 Section 10. Paragraph (a) of subsection (1) and paragraph
936 (a) of subsection (5) of section 212.12, Florida Statutes, are
937 amended to read:

938 212.12 Dealer's credit for collecting tax; penalties for
939 noncompliance; powers of Department of Revenue in dealing with
940 delinquents; brackets applicable to taxable transactions;
941 records required.—

942 (1) (a) ~~1.~~ Notwithstanding any other law and for the purpose
943 of compensating persons granting licenses for and the lessors of
944 real and personal property taxed hereunder, for the purpose of
945 compensating dealers in tangible personal property, for the
946 purpose of compensating dealers providing communication services
947 and taxable services, for the purpose of compensating owners of
948 places where admissions are collected, and for the purpose of
949 compensating remitters of any taxes or fees reported on the same
950 documents utilized for the sales and use tax, as compensation
951 for the keeping of prescribed records, filing timely tax
952 returns, and the proper accounting and remitting of taxes by
953 them, such seller, person, lessor, dealer, owner, and remitter

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954 ~~(except dealers who make mail order sales)~~ who files the return
955 required pursuant to s. 212.11 only by electronic means and who
956 pays the amount due on such return only by electronic means
957 shall be allowed 2.5 percent of the amount of the tax due,
958 accounted for, and remitted to the department in the form of a
959 deduction. However, if the amount of the tax due and remitted to
960 the department by electronic means for the reporting period
961 exceeds \$1,200, an allowance is not allowed for all amounts in
962 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
963 the term "electronic means" has the same meaning as provided in
964 s. 213.755(2) (c).

965 ~~2. The executive director of the department is authorized~~
966 ~~to negotiate a collection allowance, pursuant to rules~~
967 ~~promulgated by the department, with a dealer who makes mail~~
968 ~~order sales. The rules of the department shall provide~~
969 ~~guidelines for establishing the collection allowance based upon~~
970 ~~the dealer's estimated costs of collecting the tax, the volume~~
971 ~~and value of the dealer's mail order sales to purchasers in this~~
972 ~~state, and the administrative and legal costs and likelihood of~~
973 ~~achieving collection of the tax absent the cooperation of the~~
974 ~~dealer. However, in no event shall the collection allowance~~
975 ~~negotiated by the executive director exceed 10 percent of the~~
976 ~~tax remitted for a reporting period.~~

977 (5) (a) The department is authorized to audit or inspect
978 the records and accounts of dealers defined herein, including

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979 audits or inspections of dealers who make remote ~~mail order~~
980 sales ~~to the extent permitted by another state~~, and to correct
981 by credit any overpayment of tax, and, in the event of a
982 deficiency, an assessment shall be made and collected. No
983 administrative finding of fact is necessary prior to the
984 assessment of any tax deficiency.

985 Section 11. Present paragraphs (c) through (f) of
986 subsection (3) of section 212.18, Florida Statutes, are
987 redesignated as paragraphs (d) through (g), respectively, a new
988 paragraph (c) is added to that subsection, and present paragraph
989 (f) of that subsection is amended, to read:

990 212.18 Administration of law; registration of dealers;
991 rules.-

992 (3)

993 (c) A marketplace provider that makes or facilitates a
994 substantial number of remote sales or a person who is required
995 to report remote sales must file with the department an
996 application for a certificate of registration electronically.

997 (g) ~~(f)~~ As used in this paragraph, the term "exhibitor"
998 means a person who enters into an agreement authorizing the
999 display of tangible personal property or services at a
1000 convention or a trade show. The following provisions apply to
1001 the registration of exhibitors as dealers under this chapter:

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1002 1. An exhibitor whose agreement prohibits the sale of
1003 tangible personal property or services subject to the tax
1004 imposed in this chapter is not required to register as a dealer.

1005 2. An exhibitor whose agreement provides for the sale at
1006 wholesale only of tangible personal property or services subject
1007 to the tax imposed by this chapter must obtain a resale
1008 certificate from the purchasing dealer but is not required to
1009 register as a dealer.

1010 3. An exhibitor whose agreement authorizes the retail sale
1011 of tangible personal property or services subject to the tax
1012 imposed by this chapter must register as a dealer and collect
1013 the tax on such sales.

1014 4. An exhibitor who makes a remote ~~mail-order~~ sale
1015 pursuant to s. 212.0596 must register as a dealer.

1016
1017 A person who conducts a convention or a trade show must make his
1018 or her exhibitor's agreements available to the department for
1019 inspection and copying.

1020 Section 12. Subsection (4) of section 212.20, Florida
1021 Statutes, is amended to read:

1022 212.20 Funds collected, disposition; additional powers of
1023 department; operational expense; refund of taxes adjudicated
1024 unconstitutionally collected.—

1025 (4) When there has been a final adjudication that any tax
1026 pursuant to s. 212.0596 or s. 212.05965 was levied, collected,

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1027 or both, contrary to the Constitution of the United States or
1028 the State Constitution, the department shall, in accordance with
1029 rules, determine, based upon claims for refund and other
1030 evidence and information, who paid such tax or taxes, and refund
1031 to each such person the amount of tax paid. For purposes of this
1032 subsection, a "final adjudication" is a decision of a court of
1033 competent jurisdiction from which no appeal can be taken or from
1034 which the official or officials of this state with authority to
1035 make such decisions has or have decided not to appeal.

1036 Section 13. Subsection (5) of section 213.27, Florida
1037 Statutes, is amended to read:

1038 213.27 Contracts with debt collection agencies and certain
1039 vendors.—

1040 (5) The department may, for the purpose of ascertaining
1041 the amount of or collecting any taxes due from a person making
1042 or facilitating remote sales under s. 212.0596 or s. 212.05965
1043 ~~doing mail order business~~ in this state, contract with any
1044 auditing agency doing business within or without this state for
1045 the purpose of conducting an audit of such person ~~mail order~~
1046 ~~business~~; however, such audit agency may not conduct an audit on
1047 behalf of the department of any person domiciled in this state,
1048 person registered for sales and use tax purposes in this state,
1049 or corporation filing a Florida corporate tax return, if any
1050 such person or corporation objects to such audit in writing to
1051 the department and the auditing agency. The department shall

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1052 notify the taxpayer by mail at least 30 days before the
1053 department assigns the collection of such taxes.

1054 Section 14. For the purpose of incorporating the amendment
1055 made by this act to section 212.054, Florida Statutes, in
1056 references thereto, paragraph (c) of subsection (2), paragraph
1057 (c) of subsection (3), paragraph (c) of subsection (8), and
1058 paragraph (c) of subsection (9) of section 212.055, Florida
1059 Statutes, are reenacted to read:

1060 212.055 Discretionary sales surtaxes; legislative intent;
1061 authorization and use of proceeds.—It is the legislative intent
1062 that any authorization for imposition of a discretionary sales
1063 surtax shall be published in the Florida Statutes as a
1064 subsection of this section, irrespective of the duration of the
1065 levy. Each enactment shall specify the types of counties
1066 authorized to levy; the rate or rates which may be imposed; the
1067 maximum length of time the surtax may be imposed, if any; the
1068 procedure which must be followed to secure voter approval, if
1069 required; the purpose for which the proceeds may be expended;
1070 and such other requirements as the Legislature may provide.

1071 Taxable transactions and administrative procedures shall be as
1072 provided in s. 212.054.

1073 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

1074 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
1075 levied under this subsection shall be distributed to the county

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1076 and the municipalities within such county in which the surtax
1077 was collected, according to:

1078 1. An interlocal agreement between the county governing
1079 authority and the governing bodies of the municipalities
1080 representing a majority of the county's municipal population,
1081 which agreement may include a school district with the consent
1082 of the county governing authority and the governing bodies of
1083 the municipalities representing a majority of the county's
1084 municipal population; or

1085 2. If there is no interlocal agreement, according to the
1086 formula provided in s. 218.62.

1087
1088 Any change in the distribution formula must take effect on the
1089 first day of any month that begins at least 60 days after
1090 written notification of that change has been made to the
1091 department.

1092 (3) SMALL COUNTY SURTAX.—

1093 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
1094 levied under this subsection shall be distributed to the county
1095 and the municipalities within the county in which the surtax was
1096 collected, according to:

1097 1. An interlocal agreement between the county governing
1098 authority and the governing bodies of the municipalities
1099 representing a majority of the county's municipal population,
1100 which agreement may include a school district with the consent

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1101 of the county governing authority and the governing bodies of
1102 the municipalities representing a majority of the county's
1103 municipal population; or

1104 2. If there is no interlocal agreement, according to the
1105 formula provided in s. 218.62.

1106
1107 Any change in the distribution formula shall take effect on the
1108 first day of any month that begins at least 60 days after
1109 written notification of that change has been made to the
1110 department.

1111 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

1112 (c) Pursuant to s. 212.054(4), the proceeds of the
1113 discretionary sales surtax collected under this subsection, less
1114 an administrative fee that may be retained by the Department of
1115 Revenue, shall be distributed by the department to the county.
1116 The county shall distribute the proceeds it receives from the
1117 department to each local government entity providing emergency
1118 fire rescue services in the county. The surtax proceeds, less an
1119 administrative fee not to exceed 2 percent of the surtax
1120 collected, shall be distributed by the county based on each
1121 entity's average annual expenditures for fire control and
1122 emergency fire rescue services in the 5 fiscal years preceding
1123 the fiscal year in which the surtax takes effect in proportion
1124 to the average annual total of the expenditures for such
1125 entities in the 5 fiscal years preceding the fiscal year in

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1126 | which the surtax takes effect. The county shall revise the
1127 | distribution proportions to reflect a change in the service area
1128 | of an entity receiving a distribution of the surtax proceeds. If
1129 | an entity declines its share of surtax revenue, such revenue
1130 | shall be redistributed proportionally to the entities that are
1131 | participating in the sharing of such revenue based on each
1132 | participating entity's average annual expenditures for fire
1133 | control and emergency fire rescue services in the preceding 5
1134 | fiscal years in proportion to the average annual total of the
1135 | expenditures for the participating entities in the preceding 5
1136 | fiscal years.

1137 | (9) PENSION LIABILITY SURTAX.—

1138 | (c) Pursuant to s. 212.054(4), the proceeds of the surtax
1139 | collected under this subsection, less an administrative fee that
1140 | may be retained by the department, shall be distributed by the
1141 | department to the local government.

1142 | Section 15. This act first applies to remote sales made or
1143 | facilitated on or after July 1, 2021, by a person who made or
1144 | facilitated a substantial number of remote sales in calendar
1145 | year 2020. A marketplace seller shall consider only those sales
1146 | made outside of a marketplace to determine whether it made a
1147 | substantial number of remote sales in calendar year 2020.

1148 | Section 16. (1) A person subject to the requirements of
1149 | this act to collect and remit the tax under chapter 212, Florida
1150 | Statutes, on remote sales is relieved of liability for tax,

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1151 penalty, and interest due on remote sales that occurred before
1152 the effective date of this act, provided that the person
1153 registers with the department before October 1, 2021. This
1154 subsection is also intended to provide relief to a marketplace
1155 seller for remote sales made before the effective date of this
1156 act which were facilitated by a marketplace provider. For a
1157 marketplace provider with a physical presence in this state,
1158 this subsection is intended to provide relief only for sales
1159 facilitated by the marketplace provider on behalf of a
1160 marketplace seller. This subsection does not apply to a person
1161 who is under audit; has been issued a bill, notice, or demand
1162 for payment; or is under an administrative or judicial
1163 proceeding before July 1, 2021.

1164 (2) The department may not use data received from
1165 registered marketplace providers or persons making remote sales
1166 for the purposes of identifying use tax liabilities occurring
1167 before July 1, 2021, from unregistered persons who, but for
1168 their purchases from the registered taxpayer, would not be
1169 required to remit sales or use tax directly to the department.
1170 This subsection does not apply to a person who is under audit;
1171 has been issued a bill, notice, or demand for payment; or is
1172 under an administrative or judicial proceeding before July 1,
1173 2021.

1174 (3) This section does not establish a right to a refund of
1175 taxes already paid.

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1176 Section 17. Effective upon this act becoming a law, and
1177 retroactive to June 29, 2020, paragraph (1) is added to
1178 subsection (3) of section 443.131, Florida Statutes, to read:

1179 443.131 Contributions.—

1180 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
1181 EXPERIENCE.—

1182 (1) Assignment of variations from the standard rate for
1183 calendar years 2021 through 2030.—

1184 1. The tax collection service provider shall assign a
1185 variation from the standard rate of contributions for each
1186 calendar year 2021 through 2030 to each eligible employer in
1187 accordance with this paragraph.

1188 2. For each employer whose employment record does not
1189 qualify them for a variation from the standard rate pursuant to
1190 paragraph (d), the tax collection service provider shall assign
1191 the initial rate under paragraph (2)(a) until such time as the
1192 employer is eligible for a variation pursuant to paragraph (d).

1193 3. For each employer who is eligible for a variation from
1194 the standard rate pursuant to paragraph (d), for any one or more
1195 of calendar years 2021 through 2030, the tax collection service
1196 provider shall calculate and assign the rate that would apply
1197 under paragraph (e) without the application of the adjustment
1198 factor for noncharge benefits in sub-subparagraph 2.a.(I), and
1199 without the application of the positive adjustment factor in
1200 sub-subparagraph 2.a.(III).

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1201 4. For payments made in calendar year 2021 only, and
1202 notwithstanding the provisions of s. 443.141(6), if any employer
1203 remits to the tax collection service provider an amount in
1204 excess of the amount that would be due as calculated pursuant to
1205 this paragraph, the tax collection service provider shall refund
1206 the excess amount from the fund.

1207 5. Notwithstanding the foregoing provisions of this
1208 paragraph, if the balance of the Unemployment Compensation Trust
1209 Fund on July 31 of any year subject to adjustments under this
1210 paragraph exceeds \$4,071,519,600, this paragraph is repealed
1211 effective September 1 of that year. If this paragraph is still
1212 in effect on July 31, 2030, then this paragraph is repealed
1213 September 1, 2030, regardless of the balance of the fund.

1214 Section 18. Paragraph (h) is added to subsection (1) of
1215 section 443.191, Florida Statutes, to read:

1216 443.191 Unemployment Compensation Trust Fund;
1217 establishment and control.—

1218 (1) There is established, as a separate trust fund apart
1219 from all other public funds of this state, an Unemployment
1220 Compensation Trust Fund, which shall be administered by the
1221 Department of Economic Opportunity exclusively for the purposes
1222 of this chapter. The fund must consist of:

1223 (h) All money deposited in this account as a distribution
1224 pursuant to s. 212.20(6)(d)6.h.

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1225 Except as otherwise provided in s. 443.1313(4), all moneys in
1226 the fund must be mingled and undivided.

1227 Section 19. Paragraph (d) of subsection (6) of section
1228 212.20, Florida Statutes, is amended to read:

1229 212.20 Funds collected, disposition; additional powers of
1230 department; operational expense; refund of taxes adjudicated
1231 unconstitutionally collected.—

1232 (6) Distribution of all proceeds under this chapter and
1233 ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

1234 (d) The proceeds of all other taxes and fees imposed
1235 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
1236 and (2)(b) shall be distributed as follows:

1237 1. In any fiscal year, the greater of \$500 million, minus
1238 an amount equal to 4.6 percent of the proceeds of the taxes
1239 collected pursuant to chapter 201, or 5.2 percent of all other
1240 taxes and fees imposed pursuant to this chapter or remitted
1241 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
1242 monthly installments into the General Revenue Fund.

1243 2. After the distribution under subparagraph 1., 8.9744
1244 percent of the amount remitted by a sales tax dealer located
1245 within a participating county pursuant to s. 218.61 shall be
1246 transferred into the Local Government Half-cent Sales Tax
1247 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
1248 transferred shall be reduced by 0.1 percent, and the department
1249 shall distribute this amount to the Public Employees Relations

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1250 Commission Trust Fund less \$5,000 each month, which shall be
1251 added to the amount calculated in subparagraph 3. and
1252 distributed accordingly.

1253 3. After the distribution under subparagraphs 1. and 2.,
1254 0.0966 percent shall be transferred to the Local Government
1255 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
1256 to s. 218.65.

1257 4. After the distributions under subparagraphs 1., 2., and
1258 3., 2.0810 percent of the available proceeds shall be
1259 transferred monthly to the Revenue Sharing Trust Fund for
1260 Counties pursuant to s. 218.215.

1261 5. After the distributions under subparagraphs 1., 2., and
1262 3., 1.3653 percent of the available proceeds shall be
1263 transferred monthly to the Revenue Sharing Trust Fund for
1264 Municipalities pursuant to s. 218.215. If the total revenue to
1265 be distributed pursuant to this subparagraph is at least as
1266 great as the amount due from the Revenue Sharing Trust Fund for
1267 Municipalities and the former Municipal Financial Assistance
1268 Trust Fund in state fiscal year 1999-2000, no municipality shall
1269 receive less than the amount due from the Revenue Sharing Trust
1270 Fund for Municipalities and the former Municipal Financial
1271 Assistance Trust Fund in state fiscal year 1999-2000. If the
1272 total proceeds to be distributed are less than the amount
1273 received in combination from the Revenue Sharing Trust Fund for
1274 Municipalities and the former Municipal Financial Assistance

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1275 Trust Fund in state fiscal year 1999-2000, each municipality
1276 shall receive an amount proportionate to the amount it was due
1277 in state fiscal year 1999-2000.

1278 6. Of the remaining proceeds:

1279 a. In each fiscal year, the sum of \$29,915,500 shall be
1280 divided into as many equal parts as there are counties in the
1281 state, and one part shall be distributed to each county. The
1282 distribution among the several counties must begin each fiscal
1283 year on or before January 5th and continue monthly for a total
1284 of 4 months. If a local or special law required that any moneys
1285 accruing to a county in fiscal year 1999-2000 under the then-
1286 existing provisions of s. 550.135 be paid directly to the
1287 district school board, special district, or a municipal
1288 government, such payment must continue until the local or
1289 special law is amended or repealed. The state covenants with
1290 holders of bonds or other instruments of indebtedness issued by
1291 local governments, special districts, or district school boards
1292 before July 1, 2000, that it is not the intent of this
1293 subparagraph to adversely affect the rights of those holders or
1294 relieve local governments, special districts, or district school
1295 boards of the duty to meet their obligations as a result of
1296 previous pledges or assignments or trusts entered into which
1297 obligated funds received from the distribution to county
1298 governments under then-existing s. 550.135. This distribution

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1299 specifically is in lieu of funds distributed under s. 550.135
1300 before July 1, 2000.

1301 b. The department shall distribute \$166,667 monthly to
1302 each applicant certified as a facility for a new or retained
1303 professional sports franchise pursuant to s. 288.1162. Up to
1304 \$41,667 shall be distributed monthly by the department to each
1305 certified applicant as defined in s. 288.11621 for a facility
1306 for a spring training franchise. However, not more than \$416,670
1307 may be distributed monthly in the aggregate to all certified
1308 applicants for facilities for spring training franchises.
1309 Distributions begin 60 days after such certification and
1310 continue for not more than 30 years, except as otherwise
1311 provided in s. 288.11621. A certified applicant identified in
1312 this sub-subparagraph may not receive more in distributions than
1313 expended by the applicant for the public purposes provided in s.
1314 288.1162(5) or s. 288.11621(3).

1315 c. Beginning 30 days after notice by the Department of
1316 Economic Opportunity to the Department of Revenue that an
1317 applicant has been certified as the professional golf hall of
1318 fame pursuant to s. 288.1168 and is open to the public, \$166,667
1319 shall be distributed monthly, for up to 300 months, to the
1320 applicant.

1321 d. Beginning 30 days after notice by the Department of
1322 Economic Opportunity to the Department of Revenue that the
1323 applicant has been certified as the International Game Fish

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1324 Association World Center facility pursuant to s. 288.1169, and
1325 the facility is open to the public, \$83,333 shall be distributed
1326 monthly, for up to 168 months, to the applicant. This
1327 distribution is subject to reduction pursuant to s. 288.1169.

1328 e. The department shall distribute up to \$83,333 monthly
1329 to each certified applicant as defined in s. 288.11631 for a
1330 facility used by a single spring training franchise, or up to
1331 \$166,667 monthly to each certified applicant as defined in s.
1332 288.11631 for a facility used by more than one spring training
1333 franchise. Monthly distributions begin 60 days after such
1334 certification or July 1, 2016, whichever is later, and continue
1335 for not more than 20 years to each certified applicant as
1336 defined in s. 288.11631 for a facility used by a single spring
1337 training franchise or not more than 25 years to each certified
1338 applicant as defined in s. 288.11631 for a facility used by more
1339 than one spring training franchise. A certified applicant
1340 identified in this sub-subparagraph may not receive more in
1341 distributions than expended by the applicant for the public
1342 purposes provided in s. 288.11631(3).

1343 f. Beginning 45 days after notice by the Department of
1344 Economic Opportunity to the Department of Revenue that an
1345 applicant has been approved by the Legislature and certified by
1346 the Department of Economic Opportunity under s. 288.11625 or
1347 upon a date specified by the Department of Economic Opportunity
1348 as provided under s. 288.11625(6)(d), the department shall

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1349 distribute each month an amount equal to one-twelfth of the
1350 annual distribution amount certified by the Department of
1351 Economic Opportunity for the applicant. The department may not
1352 distribute more than \$13 million annually under this sub-
1353 subparagraph.

1354 g. The department shall distribute \$15,333 monthly to the
1355 State Transportation Trust Fund.

1356 h. (I) On July 25th, August 25th, and September 25th, 2021,
1357 the Department shall distribute \$360,000,000 to the Unemployment
1358 Compensation Trust Fund.

1359 (II) Beginning in July 2022, the Department shall
1360 distribute \$90,000,000 on the twenty-fifth day of each month to
1361 the Unemployment Compensation Trust Fund.

1362 (III) This sub-subparagraph is repealed on the last day of
1363 any month in which the ending balance of the Unemployment
1364 Compensation Trust Fund exceeds \$4,071,519,600.

1365 7. All other proceeds must remain in the General Revenue
1366 Fund.

1367 Section 20. (1) The Department of Revenue is authorized,
1368 and all conditions are deemed met, to adopt emergency rules
1369 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
1370 administering this act.

1371 (2) Notwithstanding any other law, emergency rules adopted
1372 pursuant to subsection (1) are effective for 6 months after
1373 adoption and may be renewed during the pendency of procedures to

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1374 adopt permanent rules addressing the subject of the emergency
1375 rules.

1376 (3) This section shall take effect upon this act becoming
1377 a law and expires July 1, 2022.

1378 Section 21. If any provision of this act or its
1379 application to any person or circumstance is held invalid, the
1380 invalidity does not affect other provisions or applications of
1381 the act which can be given effect without the invalid provision
1382 or application, and to this end the provisions of this act are
1383 severable.

1384 Section 22. Except as otherwise expressly provided in this
1385 act and except for this section, which shall take effect upon
1386 this act becoming a law, this act shall take effect July 1,
1387 2021.

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

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Remove everything before the enacting clause and insert:
An act relating to the sales and use tax; amending s. 212.02,
F.S.; expanding the definition of the term "retail sale" to
include sales facilitated through a marketplace; conforming a
provision to changes made by the act; amending s. 212.05, F.S.;
conforming a provision to changes made by the act; amending s.
212.054, F.S.; requiring marketplace providers and persons
located outside of this state to remit discretionary sales

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1399 | surtax when delivering tangible personal property to a county
1400 | imposing a surtax; amending s. 212.0596, F.S.; replacing
1401 | provisions relating to the taxation of mail order sales with
1402 | provisions relating to the taxation of remote sales; defining
1403 | the terms "remote sale" and "substantial number of remote
1404 | sales"; providing that every person making a substantial number
1405 | of remote sales is a dealer for purposes of the sales and use
1406 | tax; authorizing the Department of Revenue to adopt rules for
1407 | collecting use taxes from unregistered persons; requiring
1408 | marketplace providers and persons located outside of this state
1409 | to remit discretionary sales surtax when delivering tangible
1410 | personal property to a county imposing a surtax; creating s.
1411 | 212.05965, F.S.; defining terms; providing that certain
1412 | marketplace providers are dealers for purposes of the sales and
1413 | use tax; requiring marketplace providers to provide a certain
1414 | certification to their marketplace sellers; specifying
1415 | requirements for marketplace sellers; requiring marketplace
1416 | providers to allow the Department of Revenue to examine and
1417 | audit their books and records; specifying the examination and
1418 | audit authority of the department; providing that a marketplace
1419 | seller, rather than the marketplace provider, is liable for
1420 | sales tax collection and remittance under certain circumstances;
1421 | authorizing marketplace providers and marketplace sellers to
1422 | enter into agreements for the recovery of certain taxes,
1423 | interest, and penalties; providing construction and

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1424 applicability; amending s. 212.05965, F.S.; requiring
1425 marketplace providers to collect and remit certain additional
1426 fees at the time of sale; authorizing marketplace providers and
1427 marketplace sellers to contractually agree for marketplace
1428 sellers to collect applicable taxes and fees; specifying
1429 requirements for marketplace sellers who collect such taxes and
1430 fees; providing applicability; providing for liability of
1431 sellers who fail to collect or remit such taxes and fees;
1432 amending s. 212.06, F.S.; revising the definition of the term
1433 "dealer"; conforming provisions to changes made by the act;
1434 amending 212.07, F.S.; conforming a cross-reference; amending
1435 212.11, F.S.; requiring a marketplace provider or a person
1436 required to report remote sales to file returns and pay taxes
1437 electronically; amending s. 212.12, F.S.; deleting the authority
1438 of the department's executive director to negotiate a collection
1439 allowance with certain dealers; conforming provisions to changes
1440 made by the act; amending s. 212.18, F.S.; requiring a
1441 marketplace provider or a person required to report remote sales
1442 to file a registration application electronically; conforming a
1443 provision to changes made by the act; amending s. 212.20, F.S.;
1444 providing applicability of requirements for refund of taxes
1445 adjudicated unconstitutionally collected to taxes levied or
1446 collected pursuant to marketplace provisions; amending s.
1447 213.27, F.S.; conforming provisions to changes made by the act;
1448 reenacting s. 212.055, F.S., relating to discretionary sales

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1449 | surtaxes, to incorporate the amendment made to s. 212.054, F.S.,
1450 | in references thereto; providing applicability; providing relief
1451 | to certain persons for liability for tax, penalty, and interest
1452 | due on certain remote sales and owed on certain purchases that
1453 | occurred before the effective date of the act; providing
1454 | applicability; prohibiting the department from using data
1455 | received from marketplace providers or persons making remote
1456 | sales for certain purposes; providing applicability; providing
1457 | construction; amending s. 443.131, F.S.; providing alternative
1458 | method of calculation for reemployment contribution amounts for
1459 | certain employers in specified years; amending s. 443.191, F.S.;
1460 | allowing for the deposit of certain funds in the Unemployment
1461 | Compensation Trust Fund; amending s. 212.20, F.S.; providing for
1462 | distributions to specified trust fund; authorizing the
1463 | department to adopt emergency rules; providing for expiration of
1464 | that authority; providing for severability; providing effective
1465 | dates.