

1 A bill to be entitled
2 An act relating to tax exemption for charges for
3 private investigations; amending s. 212.05, F.S.;
4 providing that charges for private investigations by
5 private investigative agencies are not subject to the
6 sales and use tax; defining terms related to such
7 agencies and investigations; providing an effective
8 date.

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

11
12 Section 1. Paragraph (i) of subsection (1) of section
13 212.05, Florida Statutes, is amended to read:

14 212.05 Sales, storage, use tax.—It is hereby declared to
15 be the legislative intent that every person is exercising a
16 taxable privilege who engages in the business of selling
17 tangible personal property at retail in this state, including
18 the business of making or facilitating remote sales; who rents
19 or furnishes any of the things or services taxable under this
20 chapter; or who stores for use or consumption in this state any
21 item or article of tangible personal property as defined herein
22 and who leases or rents such property within the state.

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

26 (i)1. At the rate of 6 percent on charges for all:
27 a. Detective, burglar protection, and other protection
28 services (NAICS National Numbers 561611, 561612, 561613, and
29 561621). However, charges for private investigations provided by
30 a small private investigative agency are not subject to the tax.
31 Fingerprint services required under s. 790.06 or s. 790.062 are
32 not subject to the tax. Any law enforcement officer, as defined
33 in s. 943.10, who is performing approved duties as determined by
34 his or her local law enforcement agency in his or her capacity
35 as a law enforcement officer, and who is subject to the direct
36 and immediate command of his or her law enforcement agency, and
37 in the law enforcement officer's uniform as authorized by his or
38 her law enforcement agency, is performing law enforcement and
39 public safety services and is not performing detective, burglar
40 protection, or other protective services, if the law enforcement
41 officer is performing his or her approved duties in a
42 geographical area in which the law enforcement officer has
43 arrest jurisdiction. Such law enforcement and public safety
44 services are not subject to tax irrespective of whether the duty
45 is characterized as "extra duty," "off-duty," or "secondary
46 employment," and irrespective of whether the officer is paid
47 directly or through the officer's agency by an outside source.
48 The term "law enforcement officer" includes full-time or part-
49 time law enforcement officers, and any auxiliary law enforcement
50 officer, when such auxiliary law enforcement officer is working

51 | under the direct supervision of a full-time or part-time law
52 | enforcement officer.

53 | (I) For purposes of this paragraph, the term "small
54 | private investigative agency" means a person as defined in s.
55 | 212.02(12), licensed as a private investigator under s.
56 | 493.6201, that employs three or fewer employees and that
57 | received less than \$50,000 in compensation during the preceding
58 | calendar year for providing private investigations, as that term
59 | is defined in s. 493.6101(17) for all businesses that are
60 | related through common ownership.

61 | (II) For purposes of this paragraph, the term "employees"
62 | means all full-time and part-time employees currently employed
63 | by a small private investigative agency at all of its business
64 | locations, wherever they are located, including any person
65 | performing services for the small private investigative agency
66 | under an arrangement for employee leasing as that term is
67 | defined in s. 468.520(4).

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

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

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

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

97 5. Each seller of services subject to sales tax pursuant
98 to this paragraph shall maintain a monthly log showing each
99 transaction for which sales tax was not collected because the
100 services meet the requirements of subparagraph 3. for out-of-

HB 763

2022

101 state use. The log must identify the purchaser's name, location
102 and mailing address, and federal employer identification number,
103 if a business, or the social security number, if an individual,
104 the service sold, the price of the service, the date of sale,
105 the reason for the exemption, and the sales invoice number. The
106 monthly log shall be maintained pursuant to the same
107 requirements and subject to the same penalties imposed for the
108 keeping of similar records pursuant to this chapter.

109 Section 2. This act shall take effect July 1, 2022.