

1                                   A bill to be entitled  
2           An act relating to the Streamlined Sales and Use Tax  
3           Agreement; amending s. 212.02, F.S.; revising  
4           definitions; amending s. 212.03, F.S.; specifying  
5           certain facilities that are exempt from the transient  
6           rentals tax; amending ss. 212.0306, 212.04, and  
7           212.0506, F.S.; deleting the application of brackets  
8           for the calculation of sales and use taxes; amending  
9           s. 212.05, F.S.; deleting criteria establishing  
10          circumstances under which taxes on the lease or rental  
11          of a motor vehicle are due; revising criteria  
12          establishing circumstances under which taxes on the  
13          sale of a prepaid calling arrangement are due;  
14          deleting the application of brackets for the  
15          calculation of sales and use taxes; amending s.  
16          212.054, F.S.; limiting the \$5,000 cap on  
17          discretionary sales surtax to the sale of motor  
18          vehicles, aircraft, boats, manufactured homes, modular  
19          homes, and mobile homes; specifying the time at which  
20          changes in surtaxes may take effect; providing  
21          criteria to determine the situs of certain sales;  
22          providing for databases to identify taxing  
23          jurisdictions; providing criteria to hold purchasers  
24          harmless for failure to pay the correct amount of tax;  
25          holding sellers harmless for failing to collect a tax  
26          at a new rate under certain circumstances; amending s.  
27          212.06, F.S.; defining terms; deleting provisions  
28          relating to mail-order sales to conform; requiring

29 purchasers of direct mail to use direct-mail forms;  
30 providing criteria for determining the location of  
31 transactions involving tangible personal property,  
32 digital goods, or services and for the lease or rental  
33 of tangible personal property; amending s. 212.07,  
34 F.S.; conforming a cross-reference; providing for the  
35 creation of a taxability matrix; providing immunity  
36 from liability for acts in reliance of the taxability  
37 matrix; amending s. 212.08, F.S.; revising exemptions  
38 from sales and use tax for food and medical products;  
39 conforming cross-references; creating s. 212.094,  
40 F.S.; providing a procedure for a purchaser to obtain  
41 a refund of or credit against tax collected by a  
42 dealer; amending s. 212.12, F.S.; authorizing  
43 collection allowances for certified service providers  
44 and voluntary sellers in accordance with the  
45 Streamlined Sales and Use Tax Agreement; providing for  
46 the computation of taxes due based on rounding instead  
47 of brackets; amending s. 212.17, F.S.; providing  
48 additional criteria for a dealer to claim a credit for  
49 or obtain a refund of taxes paid relating to worthless  
50 accounts; amending s. 212.18, F.S.; authorizing the  
51 Department of Revenue to waive the dealer registration  
52 fee for applications submitted through the central  
53 electronic registration system provided by member  
54 states of the Streamlined Sales and Use Tax Agreement;  
55 deleting provisions relating to mail-order sales to  
56 conform; amending s. 212.20, F.S.; deleting procedures

57 | for refunds of tax paid on mail-order sales to  
58 | conform; revising the distribution of certain tax  
59 | proceeds; creating s. 213.052, F.S.; providing for  
60 | notice of state sales or use tax rate changes;  
61 | creating s. 213.0521, F.S.; providing the effective  
62 | date for state sales and use tax rate changes;  
63 | creating s. 213.215, F.S.; providing amnesty for  
64 | uncollected or unpaid sales and use taxes for sellers  
65 | who register under the Streamlined Sales and Use Tax  
66 | Agreement; providing exceptions to the amnesty;  
67 | amending s. 213.256, F.S.; providing and revising  
68 | definitions; providing for entry into agreements with  
69 | other states to simplify and facilitate compliance  
70 | with sales tax laws; providing for certification of  
71 | compliance with agreements; creating s. 213.2562,  
72 | F.S.; providing for the department to review software  
73 | submitted to the governing board for certification as  
74 | a certified automated system; creating s. 213.2567,  
75 | F.S.; providing for the registration of sellers, the  
76 | certification of a person as a certified service  
77 | provider, and the certification of a software program  
78 | as a certified automated system by the governing board  
79 | under the Streamlined Sales and Use Tax Agreement;  
80 | declaring legislative intent; providing for the  
81 | adoption of emergency rules; amending ss. 11.45,  
82 | 196.012, 202.18, 203.01, 212.031, 212.052, 212.055,  
83 | 212.13, 212.15, 213.015, 218.245, 218.65, 288.1045,  
84 | 288.11621, 288.11631, 288.1169, 551.102, and 790.0655,

85 F.S.; conforming cross-references; repealing s.  
 86 212.0596, F.S., relating to provisions pertaining to  
 87 the taxation of mail-order sales; providing an  
 88 effective date.

89  
 90 Be It Enacted by the Legislature of the State of Florida:

91  
 92 Section 1. Section 212.02, Florida Statutes, is amended to  
 93 read:

94 212.02 Definitions.—The following terms and phrases when  
 95 used in this chapter have the meanings ascribed to them in this  
 96 section, except where the context clearly indicates a different  
 97 meaning. The term:

98 (1) ~~The term~~ "Admissions" means and includes the net sum  
 99 of money after deduction of ~~any~~ federal taxes for admitting a  
 100 person or vehicle or persons to a ~~any~~ place of amusement, sport,  
 101 or recreation or for the privilege of entering or staying in a  
 102 ~~any~~ place of amusement, sport, or recreation, including, but not  
 103 limited to, theaters, outdoor theaters, shows, exhibitions,  
 104 games, races, or a ~~any~~ place where charge is made by way of sale  
 105 of tickets, gate charges, seat charges, box charges, season pass  
 106 charges, cover charges, greens fees, participation fees,  
 107 entrance fees, or other fees or receipts of anything of value  
 108 measured on an admission or entrance or length of stay or seat  
 109 box accommodations in a ~~any~~ place where there is an ~~any~~  
 110 exhibition, amusement, sport, or recreation, and all dues and  
 111 fees paid to private clubs and membership clubs providing  
 112 recreational or physical fitness facilities, including, but not

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113 limited to, golf, tennis, swimming, yachting, boating, athletic,  
114 exercise, and fitness facilities, except physical fitness  
115 facilities owned or operated by a ~~any~~ hospital licensed under  
116 chapter 395.

117 (2) "Agricultural commodity" means horticultural,  
118 aquacultural, poultry and farm products, and livestock and  
119 livestock products.

120 (3) "Agricultural production" means the production of  
121 plants and animals useful to humans, including preparing,  
122 planting, cultivating, or harvesting these products or other  
123 practices necessary to accomplish production through the harvest  
124 phase, which includes aquaculture, horticulture, floriculture,  
125 viticulture, forestry, dairy, livestock, poultry, bees, and all  
126 other forms of farm products and farm production.

127 (4) "Bundled transaction" means the retail sale of two or  
128 more products, except real property and services to real  
129 property, in which the products are otherwise distinct and  
130 identifiable and the products are sold for one nonitemized  
131 price. A bundled transaction does not include the sale of  
132 products in which the sales price varies, or is negotiable,  
133 based on the selection by the purchaser of the products included  
134 in the transaction.

135 (a) As used in this subsection, the term:

136 1. "De minimis" means that the seller's purchase price or  
137 sales price of the taxable products is 10 percent or less of the  
138 total purchase price or sales price of the bundled products.

139 a. Sellers shall use the purchase price or sales price of  
140 the products to determine if the taxable products are de

141 minimis. Sellers may not use a combination of the purchase price  
142 and sales price of the products to determine if the taxable  
143 products are de minimis.

144 b. Sellers shall use the full term of a service contract  
145 to determine if the taxable products are de minimis.

146 2. "Distinct and identifiable," when used to describe a  
147 product, does not include:

148 a. Packaging, such as containers, boxes, sacks, bags, and  
149 bottles or other materials, such as wrapping, labels, tags, and  
150 instruction guides, which accompany the retail sale of the  
151 products and are incidental or immaterial to the retail sale of  
152 the products. Examples of packaging that is incidental or  
153 immaterial include grocery sacks, shoeboxes, drycleaning garment  
154 bags, and express delivery envelopes and boxes.

155 b. A product provided free of charge with the required  
156 purchase of another product. A product is provided free of  
157 charge if the sales price of the product purchased does not vary  
158 depending on the inclusion of the product provided free of  
159 charge.

160 3. "One nonitemized price" does not include a price that  
161 is separately identified by product on binding sales or other  
162 supporting sales-related documentation made available to the  
163 customer in paper or electronic form, including, but not limited  
164 to, an invoice, bill of sale, receipt, contract, service  
165 agreement, lease agreement, periodic notice of rates and  
166 services, rate card, or price list.

167 (b)1. A transaction that otherwise satisfies the  
168 definition of a bundled transaction, as defined in this

169 subsection, is not a bundled transaction if it is:

170 a. The retail sale of tangible personal property and a  
 171 service in which the tangible personal property is essential to  
 172 the use of the service, is provided exclusively in connection  
 173 with the service, and the true object of the transaction is the  
 174 service;

175 b. The retail sale of services in which one service is  
 176 provided which is essential to the use or receipt of a second  
 177 service and the first service is provided exclusively in  
 178 connection with the second service and the true object of the  
 179 transaction is the second service;

180 c. A transaction that includes taxable products and  
 181 nontaxable products and the purchase price or sales price of the  
 182 taxable products is de minimis; or

183 d. The retail sale of exempt tangible personal property  
 184 and taxable personal property in which:

185 (I) The transaction includes food and food ingredients,  
 186 drugs, durable medical equipment, mobility-enhancing equipment,  
 187 over-the-counter drugs, prosthetic devices, or medical supplies;  
 188 and

189 (II) The seller's purchase price or sales price of the  
 190 taxable tangible personal property is 50 percent or less of the  
 191 total purchase price or sales price of the bundled tangible  
 192 personal property. Sellers may not use a combination of the  
 193 purchase price and sales price of the tangible personal property  
 194 to make the determination required in this paragraph.

195 2.a. Sellers shall use the purchase price or sales price  
 196 of the products to determine if the taxable products are de

197 minimis. Sellers may not use a combination of the purchase price  
 198 and sales price of the products to determine if the taxable  
 199 products are de minimis.

200 b. Sellers shall use the full term of a service contract  
 201 to determine if the taxable products are de minimis.

202 (5)-(2) "Business" means an ~~any~~ activity engaged in by a  
 203 ~~any~~ person, or caused to be engaged in by him or her, with the  
 204 object of private or public gain, benefit, or advantage, either  
 205 direct or indirect. Except for the sales of an ~~any~~ aircraft,  
 206 boat, mobile home, or motor vehicle, the term "business" shall  
 207 not be construed in this chapter to include occasional or  
 208 isolated sales or transactions involving tangible personal  
 209 property or services by a person who does not hold himself or  
 210 herself out as engaged in business or sales of unclaimed  
 211 tangible personal property under s. 717.122, but includes other  
 212 charges for the sale or rental of tangible personal property,  
 213 sales of services taxable under this chapter, sales of or  
 214 charges of admission, communication services, all rentals and  
 215 leases of living quarters, other than low-rent housing operated  
 216 under chapter 421, sleeping or housekeeping accommodations in  
 217 hotels, apartment houses, roominghouses, tourist or trailer  
 218 camps, and all rentals of or licenses in real property, other  
 219 than low-rent housing operated under chapter 421, all leases or  
 220 rentals of or licenses in parking lots or garages for motor  
 221 vehicles, docking or storage spaces for boats in boat docks or  
 222 marinas as defined in this chapter and made subject to a tax  
 223 imposed by this chapter. The term "business" shall not be  
 224 construed in this chapter to include the leasing, subleasing, or



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225 | licensing of real property by one corporation to another if all  
226 | of the stock of both such corporations is owned, directly or  
227 | through one or more wholly owned subsidiaries, by a common  
228 | parent corporation; the property was in use prior to July 1,  
229 | 1989, title to the property was transferred after July 1, 1988,  
230 | and before July 1, 1989, between members of an affiliated group,  
231 | as defined in s. 1504(a) of the Internal Revenue Code of 1986,  
232 | which group included both such corporations and there is no  
233 | substantial change in the use of the property following the  
234 | transfer of title; the leasing, subleasing, or licensing of the  
235 | property was required by an unrelated lender as a condition of  
236 | providing financing to one or more members of the affiliated  
237 | group; and the corporation to which the property is leased,  
238 | subleased, or licensed had sales subject to the tax imposed by  
239 | this chapter of not less than \$667 million during the most  
240 | recent 12-month period ended June 30. A ~~Any~~ tax on such sales,  
241 | charges, rentals, admissions, or other transactions made subject  
242 | to the tax imposed by this chapter shall be collected by the  
243 | state, county, municipality, a ~~any~~ political subdivision,  
244 | agency, bureau, or department, or other state or local  
245 | governmental instrumentality in the same manner as other  
246 | dealers, unless specifically exempted by this chapter.

247 | (6) "Certified service provider" has the same meaning as  
248 | provided in s. 213.256.

249 | (7) ~~(3)~~ ~~The terms~~ "Cigarettes," "tobacco," or "tobacco  
250 | products" referred to in this chapter include all such products  
251 | as are defined or may be hereafter defined by the laws of the  
252 | state.

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253        (8) "Coin-operated amusement machine" means a machine  
254 operated by coin, slug, token, coupon, or similar device for the  
255 purposes of entertainment or amusement. The term includes, but  
256 is not limited to, coin-operated pinball machines, music  
257 machines, juke boxes, mechanical games, video games, arcade  
258 games, billiard tables, moving picture viewers, shooting  
259 galleries, and all other similar amusement devices.

260        (9) "Computer" means an electronic device that accepts  
261 information in digital or similar form and manipulates such  
262 information for a result based on a sequence of instructions.

263        (10) "Computer software" means a set of coded instructions  
264 designed to cause a computer or automatic data processing  
265 equipment to perform a task.

266        (11)-(4) "Cost price" means the actual cost of articles of  
267 tangible personal property without any deductions therefrom on  
268 account of the cost of materials used, labor or service costs,  
269 transportation charges, or any expenses whatsoever.

270        (12) "Delivery charges" means charges by the seller of  
271 personal property or services for preparation and delivery to a  
272 location designated by the purchaser of such property or  
273 services, including, but not limited to, transportation,  
274 shipping, postage, handling, crating, and packing.  
275 Notwithstanding any other provision of this section, the term  
276 does not include the charges for delivery of direct mail,  
277 transportation, shipping, postage, handling, crating, and  
278 packing or similar charges if those charges are separately  
279 stated on an invoice or similar billing document given to the  
280 purchaser and are invoiced at cost with no markup. The exclusion

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281 of delivery charges for direct mail shall apply to a sale  
282 involving the delivery or mailing of direct mail, printed  
283 material that would otherwise be direct mail that results from a  
284 transaction that this state considers the sale of a service, or  
285 printed material delivered or mailed to a mass audience when the  
286 cost of the printed material is not billed directly to the  
287 recipients and is the result of a transaction that includes the  
288 development of billing information or the provision of data  
289 processing services. If a shipment includes exempt property and  
290 taxable property, the seller shall tax only the percentage of  
291 the delivery charge allocated to the taxable property. The  
292 seller may allocate the delivery charge by using:

293 (a) A percentage based on the total sales price of the  
294 taxable property compared to the sales price of all property in  
295 the shipment; or

296 (b) A percentage based on the total weight of the taxable  
297 property compared to the total weight of all property in the  
298 shipment.

299 (13)(5) The term "Department" means the Department of  
300 Revenue.

301 (14) "Diesel fuel" means a liquid product, gas product, or  
302 a combination thereof, which is used in an internal combustion  
303 engine or motor to propel any form of vehicle, machine, or  
304 mechanical contrivance. The term includes, but is not limited  
305 to, all forms of fuel commonly or commercially known or sold as  
306 diesel fuel or kerosene. The term does not include butane gas,  
307 propane gas, or other forms of liquefied petroleum gas or  
308 compressed natural gas.

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309        (15) "Direct mail" means printed material delivered or  
310 distributed by the United States Postal Service or other  
311 delivery service to a mass audience or to addressees on a  
312 mailing list provided by the purchaser or at the direction of  
313 the purchaser when the cost of the items are not billed directly  
314 to the recipients. The term includes tangible personal property  
315 supplied directly or indirectly by the purchaser to the direct  
316 mail seller for inclusion in the package containing the printed  
317 material. The term does not include multiple items of printed  
318 material delivered to a single address.

319        (16) "Electronic" means relating to technology having  
320 electrical, digital, magnetic, wireless, optical,  
321 electromagnetic, or similar capabilities.

322        (17)~~(6)~~ "Enterprise zone" means an area of the state  
323 designated pursuant to s. 290.0065. This subsection expires on  
324 the date specified in s. 290.016 for the expiration of the  
325 Florida Enterprise Zone Act.

326        (18)~~(7)~~ "Factory-built building" means a structure  
327 manufactured in a manufacturing facility for installation or  
328 erection as a finished building; "factory-built building"  
329 includes, but is not limited to, residential, commercial,  
330 institutional, storage, and industrial structures.

331        (19) "Farmer" means a person who is directly engaged in  
332 the business of producing crops, livestock, or other  
333 agricultural commodities. The term includes, but is not limited  
334 to, horse breeders, nurserymen, dairy farmers, poultry farmers,  
335 cattle ranchers, apiarists, and persons raising fish.

336        (20) "Forest" means the land stocked by trees used in the

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337 production of forest products, or formerly having such tree  
338 cover, and not currently developed for nonforest use.

339 (21) "Fractional aircraft ownership program" means a  
340 program that meets the requirements of 14 C.F.R. part 91,  
341 subpart K, relating to fractional ownership operations, except  
342 that the program must include a minimum of 25 aircraft owned or  
343 leased by the program manager and used in the program.

344 (22)~~(8)~~ "In this state" or "in the state" means within the  
345 state boundaries of Florida as defined in s. 1, Art. II of the  
346 State Constitution and includes all territory within these  
347 limits owned by or ceded to the United States.

348 (23)~~(9)~~ ~~The term~~ "Intoxicating beverages" or "alcoholic  
349 beverages" referred to in this chapter includes all such  
350 beverages as are so defined or may be hereafter defined by the  
351 laws of the state.

352 (24)~~(10)~~ "Lease," "let," or "rental" means leasing or  
353 renting of living quarters or sleeping or housekeeping  
354 accommodations in hotels, apartment houses, roominghouses,  
355 tourist or trailer camps and real property, the same being  
356 defined as follows:

357 (a) Every building or other structure kept, used,  
358 maintained, or advertised as, or held out to the public to be, a  
359 place where sleeping accommodations are supplied for pay to  
360 transient or permanent guests or tenants, in which 10 or more  
361 rooms are furnished for the accommodation of such guests, and  
362 having one or more dining rooms or cafes where meals or lunches  
363 are served to such transient or permanent guests; such sleeping  
364 accommodations and dining rooms or cafes being conducted in the

365 | same building or buildings in connection therewith, shall, for  
 366 | the purpose of this chapter, be deemed a hotel.

367 |       (b) A ~~Any~~ building, or part thereof, where separate  
 368 | accommodations for two or more families living independently of  
 369 | each other are supplied to transient or permanent guests or  
 370 | tenants shall for the purpose of this chapter be deemed an  
 371 | apartment house.

372 |       (c) Every house, boat, vehicle, motor court, trailer  
 373 | court, or other structure or a ~~any~~ place or location kept, used,  
 374 | maintained, or advertised as, or held out to the public to be, a  
 375 | place where living quarters or sleeping or housekeeping  
 376 | accommodations are supplied for pay to transient or permanent  
 377 | guests or tenants, whether in one or adjoining buildings, shall  
 378 | for the purpose of this chapter be deemed a roominghouse.

379 |       (d) In all hotels, apartment houses, and roominghouses  
 380 | within the meaning of this chapter, the parlor, dining room,  
 381 | sleeping porches, kitchen, office, and sample rooms shall be  
 382 | construed to mean "rooms."

383 |       (e) A "tourist camp" is a place where two or more tents,  
 384 | tent houses, or camp cottages are located and offered by a  
 385 | person or municipality for sleeping or eating accommodations,  
 386 | most generally to the transient public for either a direct money  
 387 | consideration or an indirect benefit to the lessor or owner in  
 388 | connection with a related business.

389 |       (f) A "trailer camp," "mobile home park," or "recreational  
 390 | vehicle park" is a place where space is offered, with or without  
 391 | service facilities, by a ~~any~~ persons or municipality to the  
 392 | public for the parking and accommodation of two or more

393 automobile trailers, mobile homes, or recreational vehicles  
 394 which are used for lodging, for either a direct money  
 395 consideration or an indirect benefit to the lessor or owner in  
 396 connection with a related business, such space being hereby  
 397 defined as living quarters, and the rental price thereof shall  
 398 include all service charges paid to the lessor.

399 (g)1. "Lease," "let," or "rental" also means a transfer of  
 400 possession or control of tangible personal property for a fixed  
 401 or indeterminate term for consideration. A clause for a future  
 402 option to purchase or to extend an agreement does not preclude  
 403 an agreement from being a lease or rental. This definition shall  
 404 be used for purposes of the sales and use tax regardless of  
 405 whether a transaction is characterized as a lease or rental  
 406 under generally accepted accounting principles, the Internal  
 407 Revenue Code, the Uniform Commercial Code, or other federal,  
 408 state, or local law. These terms include agreements covering  
 409 motor vehicles and trailers if the amount of consideration may  
 410 be increased or decreased by reference to the amount realized  
 411 upon sale or disposition of the property as provided in 26  
 412 U.S.C. s. 7701(h)(1). These terms do not include:

413 a. A transfer of possession or control of property under a  
 414 security agreement or deferred payment plan that requires the  
 415 transfer of title upon completion of the required payments;

416 b. A transfer of possession or control of property under  
 417 an agreement that requires the transfer of title upon completion  
 418 of required payments and payment of an option price does not  
 419 exceed the greater of \$100 or 1 percent of the total required  
 420 payments; or

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421 c. The provision of tangible personal property along with  
422 an operator for a fixed or indeterminate period of time. A  
423 condition of this exclusion is that the operator is necessary  
424 for the equipment to perform as designed. For the purpose of  
425 this sub-subparagraph, an operator must do more than maintain,  
426 inspect, or set up the tangible personal property ~~the leasing or~~  
427 ~~rental of tangible personal property and the possession or use~~  
428 ~~thereof by the lessee or rentee for a consideration, without~~  
429 ~~transfer of the title of such property, except as expressly~~  
430 ~~provided to the contrary herein.~~

431 2. The term "Lease," "let," or "rental" does not include  
432 ~~mean~~ hourly, daily, or mileage charges, to the extent that such  
433 charges are subject to the jurisdiction of the United States  
434 Interstate Commerce Commission, if ~~when~~ such charges are paid by  
435 reason of the presence of railroad cars owned by another on the  
436 tracks of the taxpayer, or charges made pursuant to car service  
437 agreements.

438 3. The term "Lease," "let," "rental," or "license" does  
439 not include payments made to an owner of high-voltage bulk  
440 transmission facilities in connection with the possession or  
441 control of such facilities by a regional transmission  
442 organization, independent system operator, or similar entity  
443 under the jurisdiction of the Federal Energy Regulatory  
444 Commission. However, where two taxpayers, in connection with the  
445 interchange of facilities, rent or lease property, each to the  
446 other, for use in providing or furnishing any of the services  
447 mentioned in s. 166.231, the term "lease or rental" means only  
448 the net amount of rental involved.



449 (h) "Real property" means the surface land, improvements  
450 thereto, and fixtures, and is synonymous with "realty" and "real  
451 estate."

452 (i) "License," ~~as used in this chapter~~ with reference to  
453 the use of real property, means the granting of a privilege to  
454 use or occupy a building or a parcel of real property for any  
455 purpose.

456 (j) Privilege, franchise, or concession fees, or fees for  
457 a license to do business, paid to an airport are not payments  
458 for leasing, letting, renting, or granting a license for the use  
459 of real property.

460 (25) "Livestock" includes all animals of the equine,  
461 bovine, or swine class, including goats, sheep, mules, horses,  
462 hogs, cattle, ostriches, and other grazing animals raised for  
463 commercial purposes. The term also includes fish raised for  
464 commercial purposes.

465 (26) "Model 1 seller" has the same meaning as provided in  
466 s. 213.256.

467 (27)~~(11)~~ "Motor fuel" means and includes what is commonly  
468 known and sold as gasoline and fuels containing a mixture of  
469 gasoline and other products.

470 (28)~~(12)~~ "Person" includes an ~~any~~ individual, firm,  
471 copartnership, joint adventure, association, corporation,  
472 estate, trust, business trust, receiver, syndicate, or other  
473 group or combination acting as a unit and also includes a ~~any~~  
474 political subdivision, municipality, state agency, bureau, or  
475 department and includes the plural as well as the singular  
476 number.

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477       (29) "Power farm equipment" means moving or stationary  
478 equipment that contains within itself the means for its own  
479 propulsion or power and moving or stationary equipment that is  
480 dependent upon an external power source to perform its  
481 functions.

482       (30) "Prewritten computer software" means computer  
483 software, including prewritten upgrades, which is not designed  
484 and developed by the author or other creator to the  
485 specifications of a specific purchaser. The combining of two or  
486 more prewritten computer software programs or prewritten  
487 portions of such programs does not cause the combination to be  
488 other than prewritten computer software. The term includes  
489 software designed and developed by the author or other creator  
490 to the specifications of a specific purchaser when such software  
491 is sold to a person other than the specific purchaser. Where a  
492 person modifies or enhances computer software of which the  
493 person is not the author or creator, the person shall be deemed  
494 to be the author or creator only of such person's modifications  
495 or enhancements. Prewritten computer software or a prewritten  
496 portion of such software which is modified or enhanced to any  
497 degree, if such modification or enhancement is designed and  
498 developed to the specifications of a specific purchaser, remains  
499 prewritten computer software. However, prewritten computer  
500 software does not include software that has been modified or  
501 enhanced for a particular purchaser if the charge for the  
502 enhancement is reasonable and separately stated on the invoice  
503 or other statement of price given to the purchaser.

504       (31) "Product transferred electronically" means a product,

505 except computer software, which was obtained by a purchaser by  
 506 means other than the purchase of tangible storage media.

507 (32) "Qualified aircraft" means an aircraft having a  
 508 maximum certified takeoff weight of less than 10,000 pounds and  
 509 equipped with twin turbofan engines that meet Stage IV noise  
 510 requirements which is used by a business operating as an on-  
 511 demand air carrier under Federal Aviation Administration  
 512 Regulation Title 14, chapter I, part 135, Code of Federal  
 513 Regulations, which owns or leases and operates a fleet of at  
 514 least 25 of such aircraft in this state.

515 (33)~~(13)~~ "Retailer" means and includes every person  
 516 engaged in the business of making sales at retail or for  
 517 distribution, or use, or consumption, or storage to be used or  
 518 consumed in this state.

519 (34)~~(14)~~(a) "Retail sale" or a "sale at retail" means a  
 520 sale to a consumer or to a ~~any~~ person for a ~~any~~ purpose other  
 521 than for resale in the form of tangible personal property or  
 522 services taxable under this chapter, and includes all such  
 523 transactions that may be made in lieu of retail sales or sales  
 524 at retail. A sale for resale includes a sale of qualifying  
 525 property. As used in this paragraph, the term "qualifying  
 526 property" means tangible personal property, other than  
 527 electricity, which is used or consumed by a government  
 528 contractor in the performance of a qualifying contract as  
 529 defined in s. 212.08(17)(c), to the extent that the cost of the  
 530 property is allocated or charged as a direct item of cost to  
 531 such contract, title to which property vests in or passes to the  
 532 government under the contract. The term "government contractor"

533 includes prime contractors and subcontractors. As used in this  
534 paragraph, a cost is a "direct item of cost" if it is a "direct  
535 cost" as defined in 48 C.F.R. s. 9904.418-30(a)(2), or similar  
536 successor provisions, including costs identified specifically  
537 with a particular contract.

538 (b) ~~The terms~~ "Retail sales," "sales at retail," "use,"  
539 "storage," and "consumption" include the sale, use, storage, or  
540 consumption of all tangible advertising materials imported or  
541 caused to be imported into this state. Tangible advertising  
542 material includes displays, display containers, brochures,  
543 catalogs, price lists, point-of-sale advertising, and technical  
544 manuals or ~~any~~ tangible personal property which does not  
545 accompany the product to the ultimate consumer.

546 (c) "Retail sales," "sale at retail," "use," "storage,"  
547 and "consumption" do not include materials, containers, labels,  
548 sacks, bags, or similar items intended to accompany a product  
549 sold to a customer without which delivery of the product would  
550 be impracticable because of the character of the contents and be  
551 used one time only for packaging tangible personal property for  
552 sale or for the convenience of the customer or for packaging in  
553 the process of providing a service taxable under this chapter.  
554 When a separate charge for packaging materials is made, the  
555 charge shall be considered part of the sales price or rental  
556 charge for purposes of determining the applicability of tax. The  
557 terms do not include the sale, use, storage, or consumption of  
558 industrial materials, including chemicals and fuels except as  
559 provided herein, for future processing, manufacture, or  
560 conversion into articles of tangible personal property for

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561 resale when such industrial materials, including chemicals and  
562 fuels except as provided herein, become a component or  
563 ingredient of the finished product. However, the terms include  
564 the sale, use, storage, or consumption of tangible personal  
565 property, including machinery and equipment or parts thereof,  
566 purchased electricity, and fuels used to power machinery, when  
567 such items are used and dissipated in fabricating, converting,  
568 or processing tangible personal property for sale, even though  
569 they may become ingredients or components of the tangible  
570 personal property for sale through accident, wear, tear,  
571 erosion, corrosion, or similar means. The terms do not include  
572 the sale of materials to a registered repair facility for use in  
573 repairing a motor vehicle, airplane, or boat, when such  
574 materials are incorporated into and sold as part of the repair.  
575 Such a sale shall be deemed a purchase for resale by the repair  
576 facility, even though every material is not separately stated or  
577 separately priced on the repair invoice.

578 (d) "Gross sales" means the sum total of all sales of  
579 tangible personal property as defined herein, without a ~~any~~  
580 deduction whatsoever of any kind or character, except as  
581 provided in this chapter.

582 ~~(c) The term "Retail sale" includes a mail order sale, as~~  
583 ~~defined in s. 212.0596(1).~~

584 ~~(35)-(15)~~ "Sale" means and includes:

585 (a) A ~~Any~~ transfer of title or possession, or both,  
586 exchange, barter, license, lease, or rental, conditional or  
587 otherwise, in any manner or by any means whatsoever, of tangible  
588 personal property for a consideration.

589 (b) The rental of living quarters or sleeping or  
 590 housekeeping accommodations in hotels, apartment houses or  
 591 roominghouses, or tourist or trailer camps, as hereinafter  
 592 defined in this chapter.

593 (c) The producing, fabricating, processing, printing, or  
 594 imprinting of tangible personal property for a consideration for  
 595 consumers who furnish either directly or indirectly the  
 596 materials used in the producing, fabricating, processing,  
 597 printing, or imprinting.

598 (d) The furnishing, preparing, or serving for a  
 599 consideration of ~~any~~ tangible personal property for consumption  
 600 on or off the premises of the person furnishing, preparing, or  
 601 serving such tangible personal property which includes the sale  
 602 of meals or prepared food by an employer to his or her  
 603 employees.

604 (e) A transaction whereby the possession of property is  
 605 transferred but the seller retains title as security for the  
 606 payment of the price.

607 (36) (a) ~~(16)~~ "Sales price" means the measure subject to the  
 608 tax imposed by this chapter and means the total amount of  
 609 consideration, including cash, credit, property, and services,  
 610 for which tangible personal property or personal services are  
 611 sold, leased, or rented, valued in money, whether received in  
 612 money or otherwise, without a deduction for the following:

- 613 1. The seller's cost of the property sold;
- 614 2. The cost of materials used, labor or service cost,  
 615 interest, losses, all costs of transportation to the seller, all  
 616 taxes imposed on the seller, and other expenses of the seller;

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617       3. Charges by the seller for services necessary to  
618 complete the sale, other than delivery and installation charges;

619       4. Delivery charges; or

620       5. Installation charges.

621       (b) "Sales price" does not include:

622       1. Trade-ins allowed and taken at the time of sale if the  
623 amount is separately stated on the invoice, bill of sale, or  
624 similar document given to the purchaser;

625       2. Discounts, including cash, term, or coupons, which are  
626 not reimbursed by a third party, are allowed by a seller, and  
627 taken by a purchaser at the time of sale;

628       3. Interest, financing, and carrying charges from credit  
629 extended on the sale of personal property or services, if the  
630 amount is separately stated on the invoice, bill of sale, or  
631 similar document given to the purchaser;

632       4. Taxes legally imposed directly on the consumer that are  
633 separately stated on the invoice, bill of sale, or similar  
634 document given to the purchaser; or ~~means the total amount paid~~  
635 ~~for tangible personal property, including any services that are~~  
636 ~~a part of the sale, valued in money, whether paid in money or~~  
637 ~~otherwise, and includes any amount for which credit is given to~~  
638 ~~the purchaser by the seller, without any deduction therefrom on~~  
639 ~~account of the cost of the property sold, the cost of materials~~  
640 ~~used, labor or service cost, interest charged, losses, or any~~  
641 ~~other expense whatsoever. "Sales price" also includes the~~  
642 ~~consideration for a transaction which requires both labor and~~  
643 ~~material to alter, remodel, maintain, adjust, or repair tangible~~  
644 ~~personal property. Trade ins or discounts allowed and taken at~~

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645 ~~the time of sale shall not be included within the purview of~~  
646 ~~this subsection. "Sales price" also includes the full face value~~  
647 ~~of any coupon used by a purchaser to reduce the price paid to a~~  
648 ~~retailer for an item of tangible personal property; where the~~  
649 ~~retailer will be reimbursed for such coupon, in whole or in~~  
650 ~~part, by the manufacturer of the item of tangible personal~~  
651 ~~property; or whenever it is not practicable for the retailer to~~  
652 ~~determine, at the time of sale, the extent to which~~  
653 ~~reimbursement for the coupon will be made. The term "sales~~  
654 ~~price" does not include federal excise taxes imposed upon the~~  
655 ~~retailer on the sale of tangible personal property. The term~~  
656 ~~"sales price" does include federal manufacturers' excise taxes,~~  
657 ~~even if the federal tax is listed as a separate item on the~~  
658 ~~invoice. To the extent required by federal law, the term "sales~~  
659 ~~price" does not include~~

660 5. Charges for Internet access services which are not  
661 itemized on the customer's bill, but which can be reasonably  
662 identified from the selling dealer's books and records kept in  
663 the regular course of business. The dealer may support the  
664 allocation of charges with books and records kept in the regular  
665 course of business covering the dealer's entire service area,  
666 including territories outside this state.

667 (37) "Sea trial" means a voyage for the purpose of testing  
668 repair or modification work, which is in length and scope  
669 reasonably necessary to test repairs or modifications, or a  
670 voyage for the purpose of ascertaining the seaworthiness of a  
671 vessel. If the sea trial is to test repair or modification work,  
672 the owner or repair facility shall certify, in a form required



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673 by the department, what repairs have been tested. The owner and  
674 the repair facility may also be required to certify that the  
675 length and scope of the voyage were reasonably necessary to test  
676 the repairs or modifications.

677 (38) "Seller" means a person making sales, leases, or  
678 rentals of personal property or services.

679 (39) "Solar energy system" means the equipment and  
680 requisite hardware that provide and are used for collecting,  
681 transferring, converting, storing, or using incident solar  
682 energy for water heating, space heating, cooling, or other  
683 applications that would otherwise require the use of a  
684 conventional source of energy such as petroleum products,  
685 natural gas, manufactured gas, or electricity.

686 (40) "Space flight" means a flight designed for  
687 suborbital, orbital, or interplanetary travel of a space  
688 vehicle, satellite, or station of any kind.

689 (41) "Spaceport activities" means activities directed or  
690 sponsored by Space Florida on spaceport territory pursuant to  
691 its powers and responsibilities under the Space Florida Act.

692 ~~(17) "Diesel fuel" means any liquid product, gas product,~~  
693 ~~or combination thereof used in an internal combustion engine or~~  
694 ~~motor to propel any form of vehicle, machine, or mechanical~~  
695 ~~contrivance. This term includes, but is not limited to, all~~  
696 ~~forms of fuel commonly or commercially known or sold as diesel~~  
697 ~~fuel or kerosene. However, the term "diesel fuel" does not~~  
698 ~~include butane gas, propane gas, or any other form of liquefied~~  
699 ~~petroleum gas or compressed natural gas.~~

700 (42)~~(18)~~ "Storage" means and includes any keeping or

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701 retention in this state of tangible personal property for use or  
702 consumption in this state or for a ~~any~~ purpose other than sale  
703 at retail in the regular course of business.

704 (43) "Streamlined Sales and Use Tax Agreement" has the  
705 same meaning as in s. 213.256.

706 (44)~~(19)~~ "Tangible personal property" means ~~and includes~~  
707 personal property that ~~which~~ may be seen, weighed, measured, or  
708 touched or is in a ~~any~~ manner perceptible to the senses,  
709 including electric power or energy, water, gas, steam,  
710 prewritten computer software, boats, motor vehicles and mobile  
711 homes as defined in s. 320.01(1) and (2), aircraft as defined in  
712 s. 330.27, and all other types of vehicles. The term "tangible  
713 personal property" does not include stocks, bonds, notes,  
714 insurance, ~~or~~ other obligations or securities, a product  
715 transferred electronically, or pari-mutuel tickets sold or  
716 issued under the racing laws of the state.

717 (45)~~(20)~~ "Use" means and includes the exercise of a ~~any~~  
718 right or power over tangible personal property incident to the  
719 ownership thereof, or interest therein, except that it does not  
720 include the sale at retail of that property in the regular  
721 course of business. The term "use" does not include:

722 (a) The loan of an automobile by a motor vehicle dealer to  
723 a high school for use in its driver education and safety  
724 program. ~~The term "use" does not include; or~~

725 (b) A contractor's use of "qualifying property" as defined  
726 by paragraph (34) (a) ~~paragraph (14) (a)~~.

727 (46)~~(21)~~ ~~The term~~ "Use tax" referred to in this chapter  
728 includes the use, the consumption, the distribution, and the

729 storage as herein defined.

730 (47) "Voluntary seller" or "volunteer seller" means a  
 731 seller that is not required to register in this state to collect  
 732 the tax imposed by this chapter.

733 ~~(22) "Spaceport activities" means activities directed or~~  
 734 ~~sponsored by Space Florida on spaceport territory pursuant to~~  
 735 ~~its powers and responsibilities under the Space Florida Act.~~

736 ~~(23) "Space flight" means any flight designed for~~  
 737 ~~suborbital, orbital, or interplanetary travel of a space~~  
 738 ~~vehicle, satellite, or station of any kind.~~

739 ~~(24) "Coin-operated amusement machine" means any machine~~  
 740 ~~operated by coin, slug, token, coupon, or similar device for the~~  
 741 ~~purposes of entertainment or amusement. The term includes, but~~  
 742 ~~is not limited to, coin-operated pinball machines, music~~  
 743 ~~machines, juke boxes, mechanical games, video games, arcade~~  
 744 ~~games, billiard tables, moving picture viewers, shooting~~  
 745 ~~galleries, and all other similar amusement devices.~~

746 ~~(25) "Sea trial" means a voyage for the purpose of testing~~  
 747 ~~repair or modification work, which is in length and scope~~  
 748 ~~reasonably necessary to test repairs or modifications, or a~~  
 749 ~~voyage for the purpose of ascertaining the seaworthiness of a~~  
 750 ~~vessel. If the sea trial is to test repair or modification work,~~  
 751 ~~the owner or repair facility shall certify, in a form required~~  
 752 ~~by the department, what repairs have been tested. The owner and~~  
 753 ~~the repair facility may also be required to certify that the~~  
 754 ~~length and scope of the voyage were reasonably necessary to test~~  
 755 ~~the repairs or modifications.~~

756 ~~(26) "Solar energy system" means the equipment and~~

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757 ~~requisite hardware that provide and are used for collecting,~~  
758 ~~transferring, converting, storing, or using incident solar~~  
759 ~~energy for water heating, space heating, cooling, or other~~  
760 ~~applications that would otherwise require the use of a~~  
761 ~~conventional source of energy such as petroleum products,~~  
762 ~~natural gas, manufactured gas, or electricity.~~

763 ~~(27) "Agricultural commodity" means horticultural,~~  
764 ~~aquacultural, poultry and farm products, and livestock and~~  
765 ~~livestock products.~~

766 ~~(28) "Farmer" means a person who is directly engaged in~~  
767 ~~the business of producing crops, livestock, or other~~  
768 ~~agricultural commodities. The term includes, but is not limited~~  
769 ~~to, horse breeders, nurserymen, dairy farmers, poultry farmers,~~  
770 ~~cattle ranchers, apiarists, and persons raising fish.~~

771 ~~(29) "Livestock" includes all animals of the equine,~~  
772 ~~bovine, or swine class, including goats, sheep, mules, horses,~~  
773 ~~hogs, cattle, ostriches, and other grazing animals raised for~~  
774 ~~commercial purposes. The term "livestock" shall also include~~  
775 ~~fish raised for commercial purposes.~~

776 ~~(30) "Power farm equipment" means moving or stationary~~  
777 ~~equipment that contains within itself the means for its own~~  
778 ~~propulsion or power and moving or stationary equipment that is~~  
779 ~~dependent upon an external power source to perform its~~  
780 ~~functions.~~

781 ~~(31) "Forest" means the land stocked by trees of any size~~  
782 ~~used in the production of forest products, or formerly having~~  
783 ~~such tree cover, and not currently developed for nonforest use.~~

784 ~~(32) "Agricultural production" means the production of~~

785 ~~plants and animals useful to humans, including the preparation,~~  
 786 ~~planting, cultivating, or harvesting of these products or any~~  
 787 ~~other practices necessary to accomplish production through the~~  
 788 ~~harvest phase, and includes aquaculture, horticulture,~~  
 789 ~~floriculture, viticulture, forestry, dairy, livestock, poultry,~~  
 790 ~~bees, and any and all forms of farm products and farm~~  
 791 ~~production.~~

792 ~~(33) "Qualified aircraft" means any aircraft having a~~  
 793 ~~maximum certified takeoff weight of less than 10,000 pounds and~~  
 794 ~~equipped with twin turbofan engines that meet Stage IV noise~~  
 795 ~~requirements that is used by a business operating as an on-~~  
 796 ~~demand air carrier under Federal Aviation Administration~~  
 797 ~~Regulation Title 14, chapter I, part 135, Code of Federal~~  
 798 ~~Regulations, that owns or leases and operates a fleet of at~~  
 799 ~~least 25 of such aircraft in this state.~~

800 ~~(34) "Fractional aircraft ownership program" means a~~  
 801 ~~program that meets the requirements of 14 C.F.R. part 91,~~  
 802 ~~subpart K, relating to fractional ownership operations, except~~  
 803 ~~that the program must include a minimum of 25 aircraft owned or~~  
 804 ~~leased by the program manager and used in the program.~~

805 Section 2. Paragraph (c) of subsection (7) of section  
 806 212.03, Florida Statutes, is amended to read:

807 212.03 Transient rentals tax; rate, procedure,  
 808 enforcement, exemptions.—

809 (7)

810 (c) The rental of facilities in a trailer camp, mobile  
 811 home park, or recreational vehicle park facilities, as defined  
 812 in s. 212.02(24) ~~s. 212.02(10)(f)~~, which are intended primarily

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813 for rental as a principal or permanent place of residence is  
814 exempt from the tax imposed by this chapter. The rental of such  
815 facilities that primarily serve transient guests is not exempt  
816 by this subsection. In the application of this law, or in making  
817 a ~~any~~ determination against the exemption, the department shall  
818 consider the facility as primarily serving transient guests  
819 unless the facility owner makes a verified declaration on a form  
820 prescribed by the department that more than half of the total  
821 rental units available are occupied by tenants who have a  
822 continuous residence in excess of 3 months. The owner of a  
823 facility declared to be exempt by this paragraph must make a  
824 determination of the taxable status of the facility at the end  
825 of the owner's accounting year using any consecutive 3-month  
826 period at least one month of which is in the accounting year.  
827 The owner must use a selected consecutive 3-month period during  
828 each annual redetermination. In the event that an exempt  
829 facility no longer qualifies for exemption by this paragraph,  
830 the owner must notify the department on a form prescribed by the  
831 department by the 20th day of the first month of the owner's  
832 next succeeding accounting year that the facility no longer  
833 qualifies for such exemption. The tax levied by this section  
834 shall apply to the rental of facilities that no longer qualify  
835 for exemption under this paragraph beginning the first day of  
836 the owner's next succeeding accounting year. The provisions of  
837 this paragraph do not apply to mobile home lots regulated under  
838 chapter 723.

839 Section 3. Subsection (6) of section 212.0306, Florida  
840 Statutes, is amended to read:

841 212.0306 Local option food and beverage tax; procedure for  
 842 levying; authorized uses; administration.—

843 (6) A ~~Any~~ county levying a tax authorized by this section  
 844 must locally administer the tax using the powers and duties  
 845 enumerated for local administration of the tourist development  
 846 tax by s. 125.0104, 1992 Supplement to the Florida Statutes  
 847 1991. ~~The county's ordinance shall also provide for brackets~~  
 848 ~~applicable to taxable transactions.~~

849 Section 4. Paragraph (b) of subsection (1) of section  
 850 212.04, Florida Statutes, is amended to read:

851 212.04 Admissions tax; rate, procedure, enforcement.—

852 (1)

853 (b) For the exercise of such privilege, a tax is levied at  
 854 the rate of 6 percent of sales price, or the actual value  
 855 received from such admissions, which 6 percent shall be added to  
 856 and collected with all such admissions from the purchaser  
 857 thereof, and such tax shall be paid for the exercise of the  
 858 privilege as defined in the preceding paragraph. Each ticket  
 859 must show on its face the actual sales price of the admission,  
 860 or each dealer selling the admission must prominently display at  
 861 the box office or other place where the admission charge is made  
 862 a notice disclosing the price of the admission, and the tax  
 863 shall be computed and collected on the basis of the actual price  
 864 of the admission charged by the dealer. The sale price or actual  
 865 value of admission shall, for the purpose of this chapter, be  
 866 that price remaining after deduction of federal taxes and state  
 867 or locally imposed or authorized seat surcharges, taxes, or  
 868 fees, if any, imposed upon such admission. The sale price or

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869 actual value does not include separately stated ticket service  
870 charges that are imposed by a facility ticket office or a  
871 ticketing service and added to a separately stated, established  
872 ticket price. ~~The rate of tax on each admission shall be~~  
873 ~~according to the brackets established by s. 212.12(9).~~

874 Section 5. Subsections (6) through (11) of section  
875 212.0506, Florida Statutes, are amended to read:

876 212.0506 Taxation of service warranties.—

877 ~~(6) This tax shall be due and payable according to the~~  
878 ~~brackets set forth in s. 212.12.~~

879 (6) ~~(7)~~ This tax shall not apply to a ~~any~~ portion of the  
880 consideration received by a ~~any~~ person in connection with the  
881 issuance of a ~~any~~ service warranty contract upon which such  
882 person is required to pay a ~~any~~ premium tax imposed under the  
883 Florida Insurance Code or under s. 634.313(1).

884 (7) ~~(8)~~ If a transaction involves both the issuance of a  
885 service warranty that is subject to such tax and the issuance of  
886 a warranty, guaranty, extended warranty or extended guaranty,  
887 contract, agreement, or other written promise that is not  
888 subject to such tax, the consideration shall be separately  
889 identified and stated with respect to the taxable and nontaxable  
890 portions of the transaction. If the consideration is separately  
891 apportioned and identified in good faith, such tax shall apply  
892 to the transaction to the extent that the consideration received  
893 or to be received in connection with the transaction is payment  
894 for a service warranty subject to such tax. If the consideration  
895 is not apportioned in good faith, the department may reform the  
896 contract; such reformation by the department is to be considered



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897 prima facie correct, and the burden to show the contrary rests  
898 upon the dealer. If the consideration for such a transaction is  
899 not separately identified and stated, the entire transaction is  
900 taxable.

901 ~~(8)-(9)~~ A ~~Any~~ claim that ~~which~~ arises under a service  
902 warranty taxable under this section, which claim is paid  
903 directly by the person issuing such warranty, is not subject to  
904 any tax imposed under this chapter.

905 ~~(9)-(10)~~ Materials and supplies used in the performance of  
906 a factory or manufacturer's warranty are exempt if the contract  
907 is furnished at no extra charge with the equipment guaranteed  
908 thereunder and such materials and supplies are paid for by the  
909 factory or manufacturer.

910 ~~(10)-(11)~~ The ~~Any~~ duties imposed by this chapter upon  
911 dealers of tangible personal property with respect to collecting  
912 and remitting taxes; making returns; keeping books, records, and  
913 accounts; and complying with the rules and regulations of the  
914 department apply to all dealers as defined in s. 212.06(2)(1).

915 Section 6. Section 212.05, Florida Statutes, is amended to  
916 read:

917 212.05 Sales, storage, use tax.—It is hereby declared to  
918 be the legislative intent that every person is exercising a  
919 taxable privilege who engages in the business of selling  
920 tangible personal property at retail in this state, ~~including~~  
921 ~~the business of making mail order sales,~~ or who rents or  
922 furnishes ~~any of~~ the things or services taxable under this  
923 chapter, or who stores for use or consumption in this state an  
924 ~~any~~ item or article of tangible personal property as defined

925 herein and who leases or rents such property within the state.

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

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

934 b. Each occasional or isolated sale of an aircraft, boat,  
 935 mobile home, or motor vehicle of a class or type which is  
 936 required to be registered, licensed, titled, or documented in  
 937 this state or by the United States Government shall be subject  
 938 to tax at the rate provided in this paragraph. The department  
 939 shall by rule adopt a ~~any~~ nationally recognized publication for  
 940 valuation of used motor vehicles as the reference price list for  
 941 a ~~any~~ used motor vehicle which is required to be licensed  
 942 pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9).  
 943 If a ~~any~~ party to an occasional or isolated sale of such a  
 944 vehicle reports to the tax collector a sales price which is less  
 945 than 80 percent of the average loan price for the specified  
 946 model and year of such vehicle as listed in the most recent  
 947 reference price list, the tax levied under this paragraph shall  
 948 be computed by the department on such average loan price unless  
 949 the parties to the sale have provided to the tax collector an  
 950 affidavit signed by each party, or other substantial proof,  
 951 stating the actual sales price. A ~~Any~~ party to such sale who  
 952 reports a sales price less than the actual sales price is guilty

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953 of a misdemeanor of the first degree, punishable as provided in  
954 s. 775.082 or s. 775.083. The department shall collect or  
955 attempt to collect from such party any delinquent sales taxes.  
956 In addition, such party shall pay any tax due and any penalty  
957 and interest assessed plus a penalty equal to twice the amount  
958 of the additional tax owed. Notwithstanding any other provision  
959 of law, the Department of Revenue may waive or compromise a ~~any~~  
960 penalty imposed pursuant to this subparagraph.

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

979 a. The purchaser removes a qualifying boat, as described  
980 in sub-subparagraph f., from the state within 90 days after the

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981 date of purchase or extension, or the purchaser removes a  
982 nonqualifying boat or an aircraft from this state within 10 days  
983 after the date of purchase or, when the boat or aircraft is  
984 repaired or altered, within 20 days after completion of the  
985 repairs or alterations;

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

995       c. The purchaser, within 10 days of removing the boat or  
996 aircraft from Florida, shall furnish the department with proof  
997 of removal in the form of receipts for fuel, dockage, slippage,  
998 tie-down, or hangaring from outside of Florida. The information  
999 so provided must clearly and specifically identify the boat or  
1000 aircraft;

1001       d. The selling dealer, within 5 days of the date of sale,  
1002 shall provide to the department a copy of the sales invoice,  
1003 closing statement, bills of sale, and the original affidavit  
1004 signed by the purchaser attesting that he or she has read the  
1005 provisions of this section;

1006       e. The seller makes a copy of the affidavit a part of his  
1007 or her record for as long as required by s. 213.35; and

1008       f. Unless the nonresident purchaser of a boat of 5 net

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1009 | tons of admeasurement or larger intends to remove the boat from  
1010 | this state within 10 days after the date of purchase or when the  
1011 | boat is repaired or altered, within 20 days after completion of  
1012 | the repairs or alterations, the nonresident purchaser shall  
1013 | apply to the selling dealer for a decal which authorizes 90 days  
1014 | after the date of purchase for removal of the boat. The  
1015 | nonresident purchaser of a qualifying boat may apply to the  
1016 | selling dealer within 60 days after the date of purchase for an  
1017 | extension decal that authorizes the boat to remain in this state  
1018 | for an additional 90 days, but not more than a total of 180  
1019 | days, before the nonresident purchaser is required to pay the  
1020 | tax imposed by this chapter. The department is authorized to  
1021 | issue decals in advance to dealers. The number of decals issued  
1022 | in advance to a dealer shall be consistent with the volume of  
1023 | the dealer's past sales of boats which qualify under this sub-  
1024 | subparagraph. The selling dealer or his or her agent shall mark  
1025 | and affix the decals to qualifying boats in the manner  
1026 | prescribed by the department, prior to delivery of the boat.

1027 |       (I) The department is hereby authorized to charge dealers  
1028 | a fee sufficient to recover the costs of decals issued, except  
1029 | the extension decal shall cost \$425.

1030 |       (II) The proceeds from the sale of decals will be  
1031 | deposited into the administrative trust fund.

1032 |       (III) Decals shall display information to identify the  
1033 | boat as a qualifying boat under this sub-subparagraph,  
1034 | including, but not limited to, the decal's date of expiration.

1035 |       (IV) The department is authorized to require dealers who  
1036 | purchase decals to file reports with the department and may

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1037 prescribe all necessary records by rule. All such records are  
1038 subject to inspection by the department.

1039 (V) A ~~Any~~ dealer or his or her agent who issues a decal  
1040 falsely, fails to affix a decal, mismarks the expiration date of  
1041 a decal, or fails to properly account for decals will be  
1042 considered prima facie to have committed a fraudulent act to  
1043 evade the tax and will be liable for payment of the tax plus a  
1044 mandatory penalty of 200 percent of the tax, and shall be liable  
1045 for fine and punishment as provided by law for a conviction of a  
1046 misdemeanor of the first degree, as provided in s. 775.082 or s.  
1047 775.083.

1048 (VI) A ~~Any~~ nonresident purchaser of a boat who removes a  
1049 decal before ~~prior to~~ permanently removing the boat from the  
1050 state, or defaces, changes, modifies, or alters a decal in a  
1051 manner affecting its expiration date prior to its expiration, or  
1052 who causes or allows the same to be done by another, will be  
1053 considered prima facie to have committed a fraudulent act to  
1054 evade the tax and will be liable for payment of the tax plus a  
1055 mandatory penalty of 200 percent of the tax, and shall be liable  
1056 for fine and punishment as provided by law for a conviction of a  
1057 misdemeanor of the first degree, as provided in s. 775.082 or s.  
1058 775.083.

1059 (VII) The department is authorized to adopt rules  
1060 necessary to administer and enforce this subparagraph and to  
1061 publish the necessary forms and instructions.

1062 (VIII) The department is hereby authorized to adopt  
1063 emergency rules pursuant to s. 120.54(4) to administer and  
1064 enforce the provisions of this subparagraph.

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1065 If the purchaser fails to remove the qualifying boat from this  
1066 state within the maximum 180 days after purchase or a  
1067 nonqualifying boat or an aircraft from this state within 10 days  
1068 after purchase or, when the boat or aircraft is repaired or  
1069 altered, within 20 days after completion of such repairs or  
1070 alterations, or permits the boat or aircraft to return to this  
1071 state within 6 months from the date of departure, except as  
1072 provided in s. 212.08(7) (fff), or if the purchaser fails to  
1073 furnish the department with ~~any of~~ the documentation required by  
1074 this subparagraph within the prescribed time period, the  
1075 purchaser shall be liable for use tax on the cost price of the  
1076 boat or aircraft and, in addition thereto, payment of a penalty  
1077 to the Department of Revenue equal to the tax payable. This  
1078 penalty shall be in lieu of the penalty imposed by s. 212.12(2).  
1079 The maximum 180-day period after ~~following~~ the sale of a  
1080 qualifying boat tax-exempt to a nonresident may not be tolled  
1081 for any reason.

1082 (b) At the rate of 6 percent of the cost price of each  
1083 item or article of tangible personal property when the same is  
1084 not sold but is used, consumed, distributed, or stored for use  
1085 or consumption in this state; however, for tangible property  
1086 originally purchased exempt from tax for use exclusively for  
1087 lease and which is converted to the owner's own use, tax may be  
1088 paid on the fair market value of the property at the time of  
1089 conversion. If the fair market value of the property cannot be  
1090 determined, use tax at the time of conversion shall be based on  
1091 the owner's acquisition cost. Under no circumstances may the  
1092 aggregate amount of sales tax from leasing the property and use

1093 tax due at the time of conversion be less than the total sales  
 1094 tax that would have been due on the original acquisition cost  
 1095 paid by the owner.

1096 (c) At the rate of 6 percent of the gross proceeds derived  
 1097 from the lease or rental of tangible personal property, as  
 1098 defined herein; ~~however, the following special provisions apply~~  
 1099 ~~to the lease or rental of motor vehicles:~~

1100 ~~1. When a motor vehicle is leased or rented for a period~~  
 1101 ~~of less than 12 months:~~

1102 ~~a. If the motor vehicle is rented in Florida, the entire~~  
 1103 ~~amount of such rental is taxable, even if the vehicle is dropped~~  
 1104 ~~off in another state.~~

1105 ~~b. If the motor vehicle is rented in another state and~~  
 1106 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

1107 ~~2. Except as provided in subparagraph 3., for the lease or~~  
 1108 ~~rental of a motor vehicle for a period of not less than 12~~  
 1109 ~~months, sales tax is due on the lease or rental payments if the~~  
 1110 ~~vehicle is registered in this state; provided, however, that no~~  
 1111 ~~tax shall be due if the taxpayer documents use of the motor~~  
 1112 ~~vehicle outside this state and tax is being paid on the lease or~~  
 1113 ~~rental payments in another state.~~

1114 ~~3. The tax imposed by this chapter does not apply to the~~  
 1115 ~~lease or rental of a commercial motor vehicle as defined in s.~~  
 1116 ~~316.003(66)(a) to one lessee or rentee for a period of not less~~  
 1117 ~~than 12 months when tax was paid on the purchase price of such~~  
 1118 ~~vehicle by the lessor. To the extent tax was paid with respect~~  
 1119 ~~to the purchase of such vehicle in another state, territory of~~  
 1120 ~~the United States, or the District of Columbia, the Florida tax~~



1121 ~~payable shall be reduced in accordance with the provisions of s.~~  
 1122 ~~212.06(7). This subparagraph shall only be available when the~~  
 1123 ~~lease or rental of such property is an established business or~~  
 1124 ~~part of an established business or the same is incidental or~~  
 1125 ~~germane to such business.~~

1126 (d) At the rate of 6 percent of the lease or rental price  
 1127 paid by a lessee or rentee, or contracted or agreed to be paid  
 1128 by a lessee or rentee, to the owner of the tangible personal  
 1129 property.

1130 (e)1. At the rate of 6 percent on charges for:

1131 a. Prepaid calling arrangements. The tax on charges for  
 1132 prepaid calling arrangements shall be collected at the time of  
 1133 sale and remitted by the selling dealer.

1134 (I) "Prepaid calling arrangement" means the separately  
 1135 stated retail sale by advance payment of communications services  
 1136 that consist exclusively of telephone calls originated by using  
 1137 an access number, authorization code, or other means that may be  
 1138 manually, electronically, or otherwise entered and that are sold  
 1139 in predetermined units or dollars whose number declines with use  
 1140 in a known amount.

1141 (II) The sale or recharge of the prepaid calling  
 1142 arrangement is deemed to take place in accordance with s.  
 1143 ~~212.06(17) (d) If the sale or recharge of the prepaid calling~~  
 1144 ~~arrangement does not take place at the dealer's place of~~  
 1145 ~~business, it shall be deemed to take place at the customer's~~  
 1146 ~~shipping address or, if no item is shipped, at the customer's~~  
 1147 ~~address or the location associated with the customer's mobile~~  
 1148 ~~telephone number.~~

1149 (III) The sale or recharge of a prepaid calling  
 1150 arrangement shall be treated as a sale of tangible personal  
 1151 property for purposes of this chapter, whether or not a tangible  
 1152 item evidencing such arrangement is furnished to the purchaser,  
 1153 and such sale within this state subjects the selling dealer to  
 1154 the jurisdiction of this state for purposes of this subsection.

1155 b. The installation of telecommunication and telegraphic  
 1156 equipment.

1157 c. Electrical power or energy, except that the tax rate  
 1158 for charges for electrical power or energy is 7 percent.

1159 2. The provisions of s. 212.17(3), regarding credit for  
 1160 tax paid on charges subsequently found to be worthless, shall be  
 1161 equally applicable to ~~any~~ tax paid under the provisions of this  
 1162 section on charges for prepaid calling arrangements,  
 1163 telecommunication or telegraph services, or electric power  
 1164 subsequently found to be uncollectible. The word "charges" in  
 1165 this paragraph does not include an ~~any~~ excise or similar tax  
 1166 levied by the Federal Government, a ~~any~~ political subdivision of  
 1167 the state, or a ~~any~~ municipality upon the purchase, sale, or  
 1168 recharge of prepaid calling arrangements or upon the purchase or  
 1169 sale of telecommunication, television system program, or  
 1170 telegraph service or electric power, which tax is collected by  
 1171 the seller from the purchaser.

1172 (f) At the rate of 6 percent on the sale, rental, use,  
 1173 consumption, or storage for use in this state of machines and  
 1174 equipment, and parts and accessories therefor, used in  
 1175 manufacturing, processing, compounding, producing, mining, or  
 1176 quarrying personal property for sale or to be used in furnishing

1177 | communications, transportation, or public utility services.

1178 |         (g)1. At the rate of 6 percent on the retail price of  
1179 | newspapers and magazines sold or used in Florida.

1180 |         2. Notwithstanding any other provision ~~provisions~~ of this  
1181 | chapter, inserts of printed materials which are distributed with  
1182 | a newspaper or magazine are a component part of the newspaper or  
1183 | magazine, and neither the sale nor use of such inserts is  
1184 | subject to tax when:

1185 |             a. Printed by a newspaper or magazine publisher or  
1186 | commercial printer and distributed as a component part of a  
1187 | newspaper or magazine, which means that the items after being  
1188 | printed are delivered directly to a newspaper or magazine  
1189 | publisher by the printer for inclusion in editions of the  
1190 | distributed newspaper or magazine;

1191 |             b. Such publications are labeled as part of the designated  
1192 | newspaper or magazine publication into which they are to be  
1193 | inserted; and

1194 |             c. The purchaser of the insert presents a resale  
1195 | certificate to the vendor stating that the inserts are to be  
1196 | distributed as a component part of a newspaper or magazine.

1197 |         (h)1. A tax is imposed at the rate of 4 percent on the  
1198 | charges for the use of coin-operated amusement machines. The tax  
1199 | shall be calculated by dividing the gross receipts from such  
1200 | charges for the applicable reporting period by a divisor,  
1201 | determined as provided in this subparagraph, to compute gross  
1202 | taxable sales, and then subtracting gross taxable sales from  
1203 | gross receipts to arrive at the amount of tax due. For counties  
1204 | that do not impose a discretionary sales surtax, the divisor is

1205 equal to 1.04; for counties that impose a 0.5 percent  
 1206 discretionary sales surtax, the divisor is equal to 1.045; for  
 1207 counties that impose a 1 percent discretionary sales surtax, the  
 1208 divisor is equal to 1.050; and for counties that impose a 2  
 1209 percent sales surtax, the divisor is equal to 1.060. If a county  
 1210 imposes a discretionary sales surtax that is not listed in this  
 1211 subparagraph, the department shall make the applicable divisor  
 1212 available in an electronic format or otherwise. Additional  
 1213 divisors shall bear the same mathematical relationship to the  
 1214 next higher and next lower divisors as the new surtax rate bears  
 1215 to the next higher and next lower surtax rates for which  
 1216 divisors have been established. When a machine is activated by a  
 1217 slug, token, coupon, or a any similar device that ~~which~~ has been  
 1218 purchased, the tax is on the price paid by the user of the  
 1219 device for such device.

1220 2. As used in this paragraph, the term "operator" means  
 1221 any person who possesses a coin-operated amusement machine for  
 1222 the purpose of generating sales through that machine and who is  
 1223 responsible for removing the receipts from the machine.

1224 a. If the owner of the machine is also the operator of it,  
 1225 he or she shall be liable for payment of the tax without a any  
 1226 deduction for rent or a license fee paid to a location owner for  
 1227 the use of ~~any~~ real property on which the machine is located.

1228 b. If the owner or lessee of the machine is also its  
 1229 operator, he or she shall be liable for payment of the tax on  
 1230 the purchase or lease of the machine, as well as the tax on  
 1231 sales generated through the machine.

1232 c. If the proprietor of the business where the machine is

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1233 | located does not own the machine, he or she shall be deemed to  
1234 | be the lessee and operator of the machine and is responsible for  
1235 | the payment of the tax on sales, unless such responsibility is  
1236 | otherwise provided for in a written agreement between him or her  
1237 | and the machine owner.

1238 |       3.a. An operator of a coin-operated amusement machine may  
1239 | not operate or cause to be operated in this state ~~any~~ such  
1240 | machine until the operator has registered with the department  
1241 | and has conspicuously displayed an identifying certificate  
1242 | issued by the department. The identifying certificate shall be  
1243 | issued by the department upon application from the operator. The  
1244 | identifying certificate shall include a unique number, and the  
1245 | certificate shall be permanently marked with the operator's  
1246 | name, the operator's sales tax number, and the maximum number of  
1247 | machines to be operated under the certificate. An identifying  
1248 | certificate shall not be transferred from one operator to  
1249 | another. The identifying certificate must be conspicuously  
1250 | displayed on the premises where the coin-operated amusement  
1251 | machines are being operated.

1252 |       b. The operator of the machine must obtain an identifying  
1253 | certificate before the machine is first operated in the state  
1254 | and by July 1 of each year thereafter. The annual fee for each  
1255 | certificate shall be based on the number of machines identified  
1256 | on the application times \$30 and is due and payable upon  
1257 | application for the identifying device. The application shall  
1258 | contain the operator's name, sales tax number, business address  
1259 | where the machines are being operated, and the number of  
1260 | machines in operation at that place of business by the operator.

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1261 No operator may operate more machines than are listed on the  
1262 certificate. A new certificate is required if more machines are  
1263 being operated at that location than are listed on the  
1264 certificate. The fee for the new certificate shall be based on  
1265 the number of additional machines identified on the application  
1266 form times \$30.

1267 c. A penalty of \$250 per machine is imposed on the  
1268 operator for failing to properly obtain and display the required  
1269 identifying certificate. A penalty of \$250 is imposed on the  
1270 lessee of any machine placed in a place of business without a  
1271 proper current identifying certificate. Such penalties shall  
1272 apply in addition to all other applicable taxes, interest, and  
1273 penalties.

1274 d. Operators of coin-operated amusement machines must  
1275 obtain a separate sales and use tax certificate of registration  
1276 for each county in which such machines are located. One sales  
1277 and use tax certificate of registration is sufficient for all of  
1278 the operator's machines within a single county.

1279 4. The provisions of this paragraph do not apply to coin-  
1280 operated amusement machines owned and operated by churches or  
1281 synagogues.

1282 5. In addition to ~~any~~ other penalties imposed by this  
1283 chapter, a person who knowingly and willfully violates a ~~any~~  
1284 provision of this paragraph commits a misdemeanor of the second  
1285 degree, punishable as provided in s. 775.082 or s. 775.083.

1286 6. The department may adopt rules necessary to administer  
1287 the provisions of this paragraph.

1288 (i)1. At the rate of 6 percent on charges for all:

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1289 a. Detective, burglar protection, and other protection  
1290 services (NAICS National Numbers 561611, 561612, 561613, and  
1291 561621). A ~~Any~~ law enforcement officer, as defined in s. 943.10,  
1292 who is performing approved duties as determined by his or her  
1293 local law enforcement agency in his or her capacity as a law  
1294 enforcement officer, and who is subject to the direct and  
1295 immediate command of his or her law enforcement agency, and in  
1296 the law enforcement officer's uniform as authorized by his or  
1297 her law enforcement agency, is performing law enforcement and  
1298 public safety services and is not performing detective, burglar  
1299 protection, or other protective services, if the law enforcement  
1300 officer is performing his or her approved duties in a  
1301 geographical area in which the law enforcement officer has  
1302 arrest jurisdiction. Such law enforcement and public safety  
1303 services are not subject to tax irrespective of whether the duty  
1304 is characterized as "extra duty," "off-duty," or "secondary  
1305 employment," and irrespective of whether the officer is paid  
1306 directly or through the officer's agency by an outside source.  
1307 The term "law enforcement officer" includes full-time or part-  
1308 time law enforcement officers, and an ~~any~~ auxiliary law  
1309 enforcement officer, when such auxiliary law enforcement officer  
1310 is working under the direct supervision of a full-time or part-  
1311 time law enforcement officer.

1312 b. Nonresidential cleaning, excluding cleaning of the  
1313 interiors of transportation equipment, and nonresidential  
1314 building pest control services (NAICS National Numbers 561710  
1315 and 561720).

1316 2. As used in this paragraph, "NAICS" means those

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1317 | classifications contained in the North American Industry  
1318 | Classification System, as published in 2007 by the Office of  
1319 | Management and Budget, Executive Office of the President.

1320 |       3. Charges for detective, burglar protection, and other  
1321 | protection security services performed in this state but used  
1322 | outside this state are exempt from taxation. Charges for  
1323 | detective, burglar protection, and other protection security  
1324 | services performed outside this state and used in this state are  
1325 | subject to tax.

1326 |       4. If a transaction involves both the sale or use of a  
1327 | service taxable under this paragraph and the sale or use of a  
1328 | service or ~~any~~ other item not taxable under this chapter, the  
1329 | consideration paid must be separately identified and stated with  
1330 | respect to the taxable and exempt portions of the transaction or  
1331 | the entire transaction shall be presumed taxable. The burden  
1332 | shall be on the seller of the service or the purchaser of the  
1333 | service, whichever applicable, to overcome this presumption by  
1334 | providing documentary evidence as to which portion of the  
1335 | transaction is exempt from tax. The department is authorized to  
1336 | adjust the amount of consideration identified as the taxable and  
1337 | exempt portions of the transaction; however, a determination  
1338 | that the taxable and exempt portions are inaccurately stated and  
1339 | that the adjustment is applicable must be supported by  
1340 | substantial competent evidence.

1341 |       5. Each seller of services subject to sales tax pursuant  
1342 | to this paragraph shall maintain a monthly log showing each  
1343 | transaction for which sales tax was not collected because the  
1344 | services meet the requirements of subparagraph 3. for out-of-



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1345 state use. The log must identify the purchaser's name, location  
1346 and mailing address, and federal employer identification number,  
1347 if a business, or the social security number, if an individual,  
1348 the service sold, the price of the service, the date of sale,  
1349 the reason for the exemption, and the sales invoice number. The  
1350 monthly log shall be maintained pursuant to the same  
1351 requirements and subject to the same penalties imposed for the  
1352 keeping of similar records pursuant to this chapter.

1353 (j)1. Notwithstanding any other provision of this chapter,  
1354 there is hereby levied a tax on the sale, use, consumption, or  
1355 storage for use in this state of a ~~any~~ coin or currency, whether  
1356 in circulation or not, when such coin or currency:

1357 a. Is not legal tender;

1358 b. If legal tender, is sold, exchanged, or traded at a  
1359 rate in excess of its face value; or

1360 c. Is sold, exchanged, or traded at a rate based on its  
1361 precious metal content.

1362 2. Such tax shall be at a rate of 6 percent of the price  
1363 at which the coin or currency is sold, exchanged, or traded,  
1364 except that, with respect to a coin or currency which is legal  
1365 tender of the United States and which is sold, exchanged, or  
1366 traded, such tax shall not be levied.

1367 3. There are exempt from this tax exchanges of coins or  
1368 currency which are in general circulation in, and legal tender  
1369 of, one nation for coins or currency which are in general  
1370 circulation in, and legal tender of, another nation when  
1371 exchanged solely for use as legal tender and at an exchange rate  
1372 based on the relative value of each as a medium of exchange.

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1373           4. With respect to a ~~any~~ transaction that involves the  
1374 sale of coins or currency taxable under this paragraph in which  
1375 the taxable amount represented by the sale of such coins or  
1376 currency exceeds \$500, the entire amount represented by the sale  
1377 of such coins or currency is exempt from the tax imposed under  
1378 this paragraph. The dealer must maintain proper documentation,  
1379 as prescribed by rule of the department, to identify that  
1380 portion of a transaction which involves the sale of coins or  
1381 currency and is exempt under this subparagraph.

1382           (k) At the rate of 6 percent of the sales price of each  
1383 gallon of diesel fuel not taxed under chapter 206 purchased for  
1384 use in a vessel, except dyed diesel fuel that is exempt pursuant  
1385 to s. 212.08(4)(a)4.

1386           (l) Florists located in this state are liable for sales  
1387 tax on sales to retail customers regardless of where or by whom  
1388 the items sold are to be delivered. Florists located in this  
1389 state are not liable for sales tax on payments received from  
1390 other florists for items delivered to customers in this state.

1391           (m) Operators of game concessions or other concessionaires  
1392 who customarily award tangible personal property as prizes may,  
1393 in lieu of paying tax on the cost price of such property, pay  
1394 tax on 25 percent of the gross receipts from such concession  
1395 activity.

1396           (2) The tax shall be collected by the dealer, as defined  
1397 herein, and remitted by the dealer to the state at the time and  
1398 in the manner as hereinafter provided.

1399           (3) The tax so levied is in addition to all other taxes,  
1400 whether levied in the form of excise, license, or privilege

1401 taxes, and in addition to all other fees and taxes levied.

1402 ~~(4) The tax imposed pursuant to this chapter shall be due~~  
 1403 ~~and payable according to the brackets set forth in s. 212.12.~~

1404 (4)~~(5)~~ Notwithstanding any other provision of this  
 1405 chapter, the maximum amount of tax imposed under this chapter  
 1406 and collected on each sale or use of a boat in this state may  
 1407 not exceed \$18,000.

1408 Section 7. Section 212.054, Florida Statutes, is amended  
 1409 to read:

1410 212.054 Discretionary sales surtax; limitations,  
 1411 administration, and collection.-

1412 (1) A ~~No~~ general excise tax on sales may not ~~shall~~ be  
 1413 levied by the governing body of a ~~any~~ county unless specifically  
 1414 authorized in s. 212.055. A ~~Any~~ general excise tax on sales  
 1415 authorized pursuant to said section shall be administered and  
 1416 collected exclusively as provided in this section.

1417 (2) (a) The tax imposed by the governing body of a ~~any~~  
 1418 county authorized to so levy pursuant to s. 212.055 shall be a  
 1419 discretionary surtax on all transactions occurring in the county  
 1420 which transactions are subject to the state tax imposed on  
 1421 sales, use, services, rentals, admissions, and other  
 1422 transactions by this chapter and communications services as  
 1423 defined for purposes of chapter 202. The surtax, if levied,  
 1424 shall be computed as the applicable rate or rates authorized  
 1425 pursuant to s. 212.055 times the amount of taxable sales and  
 1426 taxable purchases representing such transactions. If the surtax  
 1427 is levied on the sale of an item of tangible personal property  
 1428 or on the sale of a service, the surtax shall be computed by

1429 multiplying the rate imposed by the county within which the sale  
 1430 occurs by the amount of the taxable sale. The sale of an item of  
 1431 tangible personal property or the sale of a service is not  
 1432 subject to the surtax if the property, the service, or the  
 1433 tangible personal property representing the service is delivered  
 1434 within a county that does not impose a discretionary sales  
 1435 surtax.

1436 (b) However:

1437 1. The sales amount above \$5,000 on a motor vehicle,  
 1438 aircraft, boat, manufactured home, modular home, or mobile home  
 1439 is any item of tangible personal property shall not be subject  
 1440 to the surtax. ~~However, charges for prepaid calling~~  
 1441 ~~arrangements, as defined in s. 212.05(1)(c)1.a., shall be~~  
 1442 ~~subject to the surtax. For purposes of administering the \$5,000~~  
 1443 ~~limitation on an item of tangible personal property, if two or~~  
 1444 ~~more taxable items of tangible personal property are sold to the~~  
 1445 ~~same purchaser at the same time and, under generally accepted~~  
 1446 ~~business practice or industry standards or usage, are normally~~  
 1447 ~~sold in bulk or are items that, when assembled, comprise a~~  
 1448 ~~working unit or part of a working unit, such items must be~~  
 1449 ~~considered a single item for purposes of the \$5,000 limitation~~  
 1450 ~~when supported by a charge ticket, sales slip, invoice, or other~~  
 1451 ~~tangible evidence of a single sale or rental.~~

1452 2. In the case of utility services covering a period  
 1453 starting before and ending after the effective date of the  
 1454 surtax, the rate applies as follows:

1455 a. In the case of a rate adoption or increase, the new  
 1456 rate applies to the first billing period starting on or after

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1457 | the effective date of the surtax adoption or increase.

1458 |       b. In the case of a rate decrease or termination, the new  
1459 | rate applies to bills rendered on or after the effective date of  
1460 | the rate change billed on or after the effective date of any  
1461 | such surtax, the entire amount of the charge for utility  
1462 | services shall be subject to the surtax. In the case of utility  
1463 | services billed after the last day the surtax is in effect, the  
1464 | entire amount of the charge on said items shall not be subject  
1465 | to the surtax. "Utility service," as used in this section, does  
1466 | not include ~~any~~ communications services as defined in chapter  
1467 | 202.

1468 |       3. In the case of written contracts which are signed prior  
1469 | to the effective date of ~~any~~ such surtax for the construction of  
1470 | improvements to real property or for remodeling of existing  
1471 | structures, the surtax shall be paid by the contractor  
1472 | responsible for the performance of the contract. However, the  
1473 | contractor may apply for one refund of ~~any~~ such surtax paid on  
1474 | materials necessary for the completion of the contract. An ~~Any~~  
1475 | application for refund shall be made no later than 15 months  
1476 | following initial imposition of the surtax in that county. The  
1477 | application for refund shall be in the manner prescribed by the  
1478 | department by rule. A complete application shall include proof  
1479 | of the written contract and of payment of the surtax. The  
1480 | application shall contain a sworn statement, signed by the  
1481 | applicant or its representative, attesting to the validity of  
1482 | the application. The department shall, within 30 days after  
1483 | approval of a complete application, certify to the county  
1484 | information necessary for issuance of a refund to the applicant.

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1485 Counties are hereby authorized to issue refunds for this purpose  
 1486 and shall set aside from the proceeds of the surtax a sum  
 1487 sufficient to pay a ~~any~~ refund lawfully due. A ~~Any~~ person who  
 1488 fraudulently obtains or attempts to obtain a refund pursuant to  
 1489 this subparagraph, in addition to being liable for repayment of  
 1490 a ~~any~~ refund fraudulently obtained plus a mandatory penalty of  
 1491 100 percent of the refund, is guilty of a felony of the third  
 1492 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1493 775.084.

1494 4. In the case of a ~~any~~ vessel, railroad, or motor vehicle  
 1495 common carrier entitled to partial exemption from tax imposed  
 1496 under this chapter pursuant to s. 212.08(4), (8), or (9), the  
 1497 basis for imposition of surtax shall be the same as provided in  
 1498 s. 212.08 and the ratio shall be applied each month to total  
 1499 purchases in this state of property qualified for proration  
 1500 which is delivered or sold in the taxing county to establish the  
 1501 portion used and consumed in intracounty movement and subject to  
 1502 surtax.

1503 (3) Except as otherwise provided in this section, a surtax  
 1504 applies to a retail sale, lease, or rental of tangible personal  
 1505 property, a digital good, or a service when, under s.  
 1506 212.06(17), the transaction occurs in a county that imposes a  
 1507 surtax under s. 212.055.

1508 (4) ~~(3)~~ To determine whether a transaction occurs in a  
 1509 county imposing a surtax, the following provisions apply ~~For the~~  
 1510 ~~purpose of this section, a transaction shall be deemed to have~~  
 1511 ~~occurred in a county imposing the surtax when:~~

1512 (a) ~~1.~~ The retail sale of a modular or manufactured home,

1513 not including a mobile home, occurs in the county to which the  
 1514 house is delivered ~~includes an item of tangible personal~~  
 1515 ~~property, a service, or tangible personal property representing~~  
 1516 ~~a service, and the item of tangible personal property, the~~  
 1517 ~~service, or the tangible personal property representing the~~  
 1518 ~~service is delivered within the county. If there is no~~  
 1519 ~~reasonable evidence of delivery of a service, the sale of a~~  
 1520 ~~service is deemed to occur in the county in which the purchaser~~  
 1521 ~~accepts the bill of sale.~~

1522 (b)2. The retail sale, excluding a lease or rental, of a  
 1523 motor vehicle that does not qualify as transportation equipment,  
 1524 as defined in s. 212.06(17) (g), or the retail sale of a ~~of any~~  
 1525 ~~motor vehicle or mobile home of a class or type that which is~~  
 1526 ~~required to be registered in this state or in any other state is~~  
 1527 ~~shall be deemed to occur have occurred only in the county~~  
 1528 ~~identified from as the residence address of the purchaser on the~~  
 1529 ~~registration or title document for the such property.~~

1530 (c)(b) Admission charged for an event occurs ~~The event for~~  
 1531 ~~which an admission is charged is located in the county in which~~  
 1532 ~~the event is held.~~

1533 (d)(e) A lease or rental of real property occurs in the  
 1534 county in which the real property is located. ~~The consumer of~~  
 1535 ~~utility services is located in the county.~~

1536 (e)(d)1. The retail sale, excluding a lease or rental, of  
 1537 an aircraft that does not qualify as transportation equipment,  
 1538 as defined in s. 212.06(17) (g), or of a boat of a class or type  
 1539 that is required to be registered, licensed, titled, or  
 1540 documented in this state or by the Federal Government occurs in

1541 | the county to which the aircraft or boat is delivered.

1542 |       2. The user of an ~~any~~ aircraft or boat of a class or type  
 1543 | that ~~which~~ is required to be registered, licensed, titled, or  
 1544 | documented in this state or by the United States Government  
 1545 | imported into the county for use, consumption, distribution, or  
 1546 | storage to be used or consumed occurs in the county in which the  
 1547 | user is located ~~in the county.~~

1548 |       ~~3.2.~~ However, it shall be presumed that such items used  
 1549 | outside the county imposing the surtax for 6 months or longer  
 1550 | before being imported into the county were not purchased for use  
 1551 | in the county, except as provided in s. 212.06(8)(b).

1552 |       ~~4.3.~~ This paragraph does not apply to the use or  
 1553 | consumption of items upon which a like tax of equal or greater  
 1554 | amount has been lawfully imposed and paid outside the county.

1555 |       ~~(f)(e)~~ The purchase purchaser of a ~~any~~ motor vehicle or  
 1556 | mobile home of a class or type that ~~which~~ is required to be  
 1557 | registered in this state occurs in the county identified from  
 1558 | the residential address of the purchaser ~~is a resident of the~~  
 1559 | ~~taxing county as determined by the address appearing on or to be~~  
 1560 | ~~reflected~~ on the registration document for the ~~such~~ property.

1561 |       ~~(g)(f)~~1. The use, consumption, distribution, or storage of  
 1562 | a ~~Any~~ motor vehicle or mobile home of a class or type that ~~which~~  
 1563 | is required to be registered in this state and that is imported  
 1564 | from another state occurs in the county to which it is imported  
 1565 | ~~into the taxing county by a user residing therein for the~~  
 1566 | ~~purpose of use, consumption, distribution, or storage in the~~  
 1567 | ~~taxing county.~~

1568 |       2. However, it shall be presumed that such items used



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1569 outside the taxing county for 6 months or longer before being  
 1570 imported into the county were not purchased for use in the  
 1571 county.

1572 ~~(g) The real property which is leased or rented is located~~  
 1573 ~~in the county.~~

1574 (h) A The transient rental transaction occurs in the  
 1575 county in which the rental property is located.

1576 ~~(i) The delivery of any aircraft or boat of a class or~~  
 1577 ~~type which is required to be registered, licensed, titled, or~~  
 1578 ~~documented in this state or by the United States Government is~~  
 1579 ~~to a location in the county. However, this paragraph does not~~  
 1580 ~~apply to the use or consumption of items upon which a like tax~~  
 1581 ~~of equal or greater amount has been lawfully imposed and paid~~  
 1582 ~~outside the county.~~

1583 (i)-(j) A transaction occurs in a county imposing the  
 1584 surtax if the dealer owing a use tax on purchases or leases is  
 1585 located in that the county.

1586 ~~(k) The delivery of tangible personal property other than~~  
 1587 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~  
 1588 ~~is made to a location outside the county, but the property is~~  
 1589 ~~brought into the county within 6 months after delivery, in which~~  
 1590 ~~event, the owner must pay the surtax as a use tax.~~

1591 (j)-(l) The use of a coin-operated amusement or vending  
 1592 machine occurs ~~is located~~ in the county in which the machine is  
 1593 located.

1594 (k)-(m) An ~~The florist taking the original order to sell~~  
 1595 ~~tangible personal property~~ taken by a florist occurs ~~is located~~  
 1596 ~~in the county~~ in which the florist taking the order is located.

1597 | ~~notwithstanding any other provision of this section.~~

1598 |       (5)~~(4)~~(a) The department shall administer, collect, and  
 1599 | enforce the tax authorized under s. 212.055 pursuant to the same  
 1600 | procedures used in the administration, collection, and  
 1601 | enforcement of the general state sales tax imposed under the  
 1602 | provisions of this chapter, except as provided in this section.  
 1603 | The provisions of this chapter regarding interest and penalties  
 1604 | on delinquent taxes shall apply to the surtax. Discretionary  
 1605 | sales surtaxes shall not be included in the computation of  
 1606 | estimated taxes pursuant to s. 212.11. Notwithstanding any other  
 1607 | provision of law, a dealer need not separately state the amount  
 1608 | of the surtax on the charge ticket, sales slip, invoice, or  
 1609 | other tangible evidence of sale. For the purposes of this  
 1610 | section and s. 212.055, the "proceeds" of a ~~any~~ surtax means all  
 1611 | funds collected and received by the department pursuant to a  
 1612 | specific authorization and levy under s. 212.055, including ~~any~~  
 1613 | interest and penalties on delinquent surtaxes.

1614 |       (b) The proceeds of a discretionary sales surtax collected  
 1615 | by the selling dealer located in a county imposing the surtax  
 1616 | shall be returned, less the cost of administration, to the  
 1617 | county where the selling dealer is located. The proceeds shall  
 1618 | be transferred to the Discretionary Sales Surtax Clearing Trust  
 1619 | Fund. A separate account shall be established in the trust fund  
 1620 | for each county imposing a discretionary surtax. The amount  
 1621 | deducted for the costs of administration may not exceed 3  
 1622 | percent of the total revenue generated for all counties levying  
 1623 | a surtax authorized in s. 212.055. The amount deducted for the  
 1624 | costs of administration may be used only for costs that are

1625 solely and directly attributable to the surtax. The total cost  
 1626 of administration shall be prorated among those counties levying  
 1627 the surtax on the basis of the amount collected for a particular  
 1628 county to the total amount collected for all counties. The  
 1629 department shall distribute the moneys in the trust fund to the  
 1630 appropriate counties each month, unless otherwise provided in s.  
 1631 212.055.

1632 (c)1. A ~~Any~~ dealer located in a county that does not  
 1633 impose a discretionary sales surtax but who collects the surtax  
 1634 due to sales of tangible personal property or services delivered  
 1635 outside the county shall remit monthly the proceeds of the  
 1636 surtax to the department to be deposited into an account in the  
 1637 Discretionary Sales Surtax Clearing Trust Fund which is separate  
 1638 from the county surtax collection accounts. The department shall  
 1639 distribute funds in this account using a distribution factor  
 1640 determined for each county that levies a surtax and multiplied  
 1641 by the amount of funds in the account and available for  
 1642 distribution. The distribution factor for each county equals the  
 1643 product of:

- 1644 a. The county's latest official population determined
- 1645 pursuant to s. 186.901;
- 1646 b. The county's rate of surtax; and
- 1647 c. The number of months the county has levied a surtax
- 1648 during the most recent distribution period;
- 1649 divided by the sum of all such products of the counties levying
- 1650 the surtax during the most recent distribution period.

1651 2. The department shall compute distribution factors for  
 1652 eligible counties once each quarter and make appropriate

1653 | quarterly distributions.

1654 |         3. A county that fails to timely provide the information  
 1655 | required by this section to the department authorizes the  
 1656 | department, by such action, to use the best information  
 1657 | available to it in distributing surtax revenues to the county.  
 1658 | If this information is unavailable to the department, the  
 1659 | department may partially or entirely disqualify the county from  
 1660 | receiving surtax revenues under this paragraph. A county that  
 1661 | fails to provide timely information waives its right to  
 1662 | challenge the department's determination of the county's share,  
 1663 | if any, of revenues provided under this paragraph.

1664 |         ~~(5) No discretionary sales surtax or increase or decrease~~  
 1665 | ~~in the rate of any discretionary sales surtax shall take effect~~  
 1666 | ~~on a date other than January 1. No discretionary sales surtax~~  
 1667 | ~~shall terminate on a day other than December 31.~~

1668 |         (6) The governing body of a ~~any~~ county levying a  
 1669 | discretionary sales surtax shall enact an ordinance levying the  
 1670 | surtax in accordance with the procedures described in s.  
 1671 | 125.66(2).

1672 |         (7) (a) An adoption, repeal, or rate change of the surtax  
 1673 | by the governing body of a ~~any~~ county levying a discretionary  
 1674 | sales surtax or the school board of a ~~any~~ county levying the  
 1675 | school capital outlay surtax authorized by s. 212.055(6) is  
 1676 | effective on April 1. A county or school board adopting,  
 1677 | repealing, or changing the rate of such surtax shall notify the  
 1678 | department within 10 days after final adoption by ordinance or  
 1679 | referendum of an adoption, repeal, imposition, termination, or  
 1680 | rate change of the surtax, but no later than October 20

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1681 immediately before the April 1 ~~November 16~~ ~~prior to the~~  
1682 effective date. The notice must specify the time period during  
1683 which the surtax will be in effect and the rate and must include  
1684 a copy of the ordinance and such other information as the  
1685 department requires by rule. Failure to timely provide such  
1686 notification to the department shall result in the delay of the  
1687 effective date for a period of 1 year.

1688 (b) In addition to the notification required by paragraph  
1689 (a), the governing body of a ~~any~~ county proposing to levy a  
1690 discretionary sales surtax or the school board of a ~~any~~ county  
1691 proposing to levy the school capital outlay surtax authorized by  
1692 s. 212.055(6) shall notify the department by October 1 if the  
1693 referendum or consideration of the ordinance that would result  
1694 in imposition, termination, or rate change of the surtax is  
1695 scheduled to occur on or after October 1 of that year. Failure  
1696 to timely provide such notification to the department shall  
1697 result in the delay of the effective date for a period of 1  
1698 year.

1699 (c) The department shall provide notice of the adoption,  
1700 repeal, or rate change of the surtax to affected sellers by  
1701 February 1 immediately before the April 1 effective date.

1702 (d) Notwithstanding the date set in an ordinance for the  
1703 termination of a surtax, a surtax terminates only on March 31. A  
1704 surtax imposed before January 1, 2014, for which an ordinance  
1705 provides a different termination date, also terminates on the  
1706 March 31 after the termination date established in the  
1707 ordinance.

1708 (8) With respect to a ~~any~~ motor vehicle or mobile home of

1709 a class or type which is required to be registered in this  
 1710 state, the tax due on a transaction occurring in the taxing  
 1711 county as herein provided shall be collected from the purchaser  
 1712 or user incident to the titling and registration of such  
 1713 property, irrespective of whether such titling or registration  
 1714 occurs in the taxing county.

1715 (9) The department may certify vendor databases and shall  
 1716 purchase or otherwise make available a database or databases,  
 1717 singly or in combination, which describe boundary changes for  
 1718 all taxing jurisdictions, including a description of the change  
 1719 and the effective date of a boundary change; provide all sales  
 1720 and use tax rates by jurisdiction; assign to each five-digit and  
 1721 nine-digit zip code the proper rate and jurisdiction and apply  
 1722 the lowest combined rate imposed in the zip code area, if the  
 1723 area includes more than one tax rate in any level of taxing  
 1724 jurisdiction; and use address-based boundary database records  
 1725 for assigning taxing jurisdictions and associated tax rates.

1726 (a) A seller or certified service provider that collects  
 1727 and remits the state tax and local tax imposed by this chapter  
 1728 shall be held harmless from tax, interest, and penalties due  
 1729 solely as a result of relying on erroneous data on tax rates,  
 1730 boundaries, or taxing jurisdiction assignments provided by the  
 1731 state if the seller or certified service provider exercises due  
 1732 diligence in applying one or more of the following methods to  
 1733 determine the taxing jurisdiction and tax rate for a  
 1734 transaction:

1735 1. Employing an electronic database provided by the  
 1736 department under this subsection; or

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1737 2. Employing a state-certified database.

1738 (b) If a seller or certified service provider is unable to  
1739 determine the applicable rate and jurisdiction using an address-  
1740 based database record after exercising due diligence, the seller  
1741 or certified service provider may apply the nine-digit zip code  
1742 designation applicable to a purchaser.

1743 (c) If a nine-digit zip code designation is not available  
1744 for a street address or if a seller or certified service  
1745 provider is unable to determine the nine-digit zip code  
1746 designation applicable to a purchase after exercising due  
1747 diligence to determine the designation, the seller or certified  
1748 service provider may apply the rate for the five-digit zip code  
1749 area.

1750 (d) There is a rebuttable presumption that a seller or  
1751 certified service provider has exercised due diligence if the  
1752 seller or certified service provider has attempted to determine  
1753 the tax rate and jurisdiction by using state-certified software  
1754 that makes this assignment from the address and zip code  
1755 information applicable to the purchase.

1756 (e) There is a rebuttable presumption that a seller or  
1757 certified service provider has exercised due diligence if the  
1758 seller or certified service provider has attempted to determine  
1759 the nine-digit zip code designation by using state-certified  
1760 software that makes this designation from the street address and  
1761 the five-digit zip code applicable to a purchase.

1762 (f) If a seller or certified service provider does not use  
1763 one of the methods specified in paragraph (a), the seller or  
1764 certified service provider may be held liable to the department

1765 for tax, interest, and penalties that are due for charging and  
 1766 collecting the incorrect amount of tax.

1767 (10) A purchaser shall be held harmless from tax,  
 1768 interest, and penalties for having failed to pay the correct  
 1769 amount of sales or use tax due solely as a result of the  
 1770 following:

1771 (a) The seller or certified service provider relied on  
 1772 erroneous data on tax rates, boundaries, or taxing jurisdiction  
 1773 assignments provided by the department;

1774 (b) A purchaser holding a direct-pay permit relied on  
 1775 erroneous data on tax rates, boundaries, or taxing jurisdiction  
 1776 assignments provided by the department; or

1777 (c) A purchaser relied on erroneous data supplied in a  
 1778 database described in paragraph (9) (a).

1779 (11) A seller is not liable for failing to collect tax at  
 1780 the new tax rate if:

1781 (a) The new rate takes effect within 30 days after the new  
 1782 rate is enacted;

1783 (b) The seller collected the tax at the preceding rate;

1784 (c) The seller's failure to collect the tax at the new  
 1785 rate does not extend beyond 30 days after the enactment of the  
 1786 new rate; and

1787 (d) The seller did not fraudulently fail to collect at the  
 1788 new rate or solicit purchasers based on the preceding rate.

1789 Section 8. Paragraph (c) of subsection (2) and subsections  
 1790 (3) and (5) of section 212.06, Florida Statutes, are amended,  
 1791 and subsection (17) is added to that section, to read:

1792 212.06 Sales, storage, use tax; collectible from dealers;



1793 "dealer" defined; dealers to collect from purchasers;  
 1794 legislative intent as to scope of tax.-

1795 (2)

1796 (c) The term "dealer" is further defined to mean every  
 1797 person, as used in this chapter, who sells at retail or who  
 1798 offers for sale at retail, or who has in his or her possession  
 1799 for sale at retail; or for use, consumption, or distribution; or  
 1800 for storage to be used or consumed in this state, tangible  
 1801 personal property as defined herein, ~~including a retailer who~~  
 1802 ~~transacts a mail order sale.~~

1803 (3) (a) Except as provided in paragraph (b), every dealer  
 1804 making sales, whether within or outside the state, of tangible  
 1805 personal property for distribution, storage, or use or other  
 1806 consumption, in this state, shall, at the time of making sales,  
 1807 collect the tax imposed by this chapter from the purchaser.

1808 (b)1. Notwithstanding subsection (17), a purchaser of  
 1809 direct mail which is not a holder of a direct-pay permit shall  
 1810 provide to the seller in conjunction with the purchase a direct-  
 1811 mail form or information to show the jurisdictions to which the  
 1812 direct mail is delivered to recipients.

1813 2. Upon receipt of information from the purchaser showing  
 1814 the jurisdictions to which the direct mail is delivered to  
 1815 recipients, the seller shall collect the tax according to the  
 1816 delivery information provided by the purchaser. In the absence  
 1817 of bad faith, the seller is relieved of further obligation to  
 1818 collect tax on a transaction for which the seller has collected  
 1819 tax pursuant to the delivery information provided by the  
 1820 purchaser.

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1821 3. If the purchaser of direct mail does not have a direct-  
1822 pay permit and does not provide the seller with a direct-mail  
1823 form or delivery information as required by subparagraph 1., the  
1824 seller shall collect the tax according to subparagraph (17)(d)5.  
1825 This paragraph does not limit a purchaser's obligation to remit  
1826 sales or use tax to a state to which the direct mail is  
1827 delivered.

1828 4. If a purchaser of direct mail provides the seller with  
1829 documentation of direct-pay authority, the purchaser is not  
1830 required to provide a direct-mail form or delivery information  
1831 to the seller. A purchaser of printed materials shall have sole  
1832 responsibility for the taxes imposed by this chapter on those  
1833 materials when the printer of the materials delivers them to the  
1834 United States Postal Service for mailing to persons other than  
1835 the purchaser located within and outside this state. Printers of  
1836 materials delivered by mail to persons other than the purchaser  
1837 located within and outside this state shall have no obligation  
1838 or responsibility for the payment or collection of any taxes  
1839 imposed under this chapter on those materials. However, printers  
1840 are obligated to collect the taxes imposed by this chapter on  
1841 printed materials when all, or substantially all, of the  
1842 materials will be mailed to persons located within this state.  
1843 For purposes of the printer's tax collection obligation, there  
1844 is a rebuttable presumption that all materials printed at a  
1845 facility are mailed to persons located within the same state as  
1846 that in which the facility is located. A certificate provided by  
1847 the purchaser to the printer concerning the delivery of the  
1848 printed materials for that purchase or all purchases shall be

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1849 ~~sufficient for purposes of rebutting the presumption created~~  
1850 ~~herein.~~

1851 5.2. The Department of Revenue is authorized to adopt  
1852 rules and forms to implement the provisions of this paragraph.

1853 (5) (a)1. ~~Except as provided in subparagraph 2., It is not~~  
1854 ~~the intention of This chapter~~ does not ~~to~~ levy a tax upon  
1855 tangible personal property imported, produced, or manufactured  
1856 in this state for export:

1857 1. ~~If, provided that tangible personal property may not be~~  
1858 ~~considered as being imported, produced, or manufactured for~~  
1859 ~~export unless the importer, producer, or manufacturer:~~

1860 a. Delivers the tangible personal property ~~same~~ to a  
1861 licensed exporter for exporting or to a common carrier for  
1862 shipment outside the state or mails the same by United States  
1863 mail to a destination outside the state; ~~or, in the case of~~  
1864 ~~aircraft being exported under their own power to a destination~~  
1865 ~~outside the continental limits of the United States, by~~  
1866 ~~submission~~

1867 b. Submits to the department ~~of~~ a duly signed and  
1868 validated United States customs declaration, showing the  
1869 departure of an ~~the~~ aircraft from the continental United States  
1870 ~~and; and further with respect to aircraft,~~ the canceled United  
1871 States registry of the said aircraft for an aircraft that is  
1872 exported under its own power to a destination outside of the  
1873 continental United States; ~~or in the case of~~

1874 c. Submits documentation as required by rule to the  
1875 department showing the departure of an aircraft of foreign  
1876 registry from the continental United States on which parts and

1877 | ~~equipment have been installed on aircraft of foreign registry,~~  
 1878 | ~~by submission to the department of documentation, the extent of~~  
 1879 | ~~which shall be provided by rule, showing the departure of the~~  
 1880 | ~~aircraft from the continental United States; or nor is it the~~  
 1881 | ~~intention of this chapter to levy a tax on any sale which~~

1882 |       2. ~~If~~ the state is prohibited from taxing the sale under  
 1883 | the Constitution or laws of the United States;~~;~~

1884 |  
 1885 | Every retail sale made to a person physically present at the  
 1886 | time of sale shall be presumed to have been delivered in this  
 1887 | state.

1888 |       ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~  
 1889 | ~~each sale of tangible personal property to be transported to a~~  
 1890 | ~~cooperating state as defined in sub-subparagraph c., at the rate~~  
 1891 | ~~specified in sub-subparagraph d. However, a Florida dealer will~~  
 1892 | ~~be relieved from the requirements of collecting taxes pursuant~~  
 1893 | ~~to this subparagraph if the Florida dealer obtains from the~~  
 1894 | ~~purchaser an affidavit setting forth the purchaser's name,~~  
 1895 | ~~address, state taxpayer identification number, and a statement~~  
 1896 | ~~that the purchaser is aware of his or her state's use tax laws,~~  
 1897 | ~~is a registered dealer in Florida or another state, or is~~  
 1898 | ~~purchasing the tangible personal property for resale or is~~  
 1899 | ~~otherwise not required to pay the tax on the transaction. The~~  
 1900 | ~~department may, by rule, provide a form to be used for the~~  
 1901 | ~~purposes set forth herein.~~

1902 |       ~~b. For purposes of this subparagraph, "a cooperating~~  
 1903 | ~~state" is one determined by the executive director of the~~  
 1904 | ~~department to cooperate satisfactorily with this state in~~

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1905 ~~collecting taxes on mail order sales. No state shall be so~~  
1906 ~~determined unless it meets all the following minimum~~  
1907 ~~requirements:~~

1908 ~~(I) It levies and collects taxes on mail order sales of~~  
1909 ~~property transported from that state to persons in this state,~~  
1910 ~~as described in s. 212.0596, upon request of the department.~~

1911 ~~(II) The tax so collected shall be at the rate specified~~  
1912 ~~in s. 212.05, not including any local option or tourist or~~  
1913 ~~convention development taxes collected pursuant to s. 125.0104~~  
1914 ~~or this chapter.~~

1915 ~~(III) Such state agrees to remit to the department all~~  
1916 ~~taxes so collected no later than 30 days from the last day of~~  
1917 ~~the calendar quarter following their collection.~~

1918 ~~(IV) Such state authorizes the department to audit dealers~~  
1919 ~~within its jurisdiction who make mail order sales that are the~~  
1920 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~  
1921 ~~the department for auditing them with its own personnel.~~

1922 ~~(V) Such state agrees to provide to the department records~~  
1923 ~~obtained by it from retailers or dealers in such state showing~~  
1924 ~~delivery of tangible personal property into this state upon~~  
1925 ~~which no sales or use tax has been paid in a manner similar to~~  
1926 ~~that provided in sub-subparagraph g.~~

1927 ~~e. For purposes of this subparagraph, "sales of tangible~~  
1928 ~~personal property to be transported to a cooperating state"~~  
1929 ~~means mail order sales to a person who is in the cooperating~~  
1930 ~~state at the time the order is executed, from a dealer who~~  
1931 ~~receives that order in this state.~~

1932 ~~d. The tax levied by sub-subparagraph a. shall be at the~~

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1933 | ~~rate at which such a sale would have been taxed pursuant to the~~  
1934 | ~~cooperating state's tax laws if consummated in the cooperating~~  
1935 | ~~state by a dealer and a purchaser, both of whom were physically~~  
1936 | ~~present in that state at the time of the sale.~~

1937 |       ~~e. The tax levied by sub-subparagraph a., when collected,~~  
1938 | ~~shall be held in the State Treasury in trust for the benefit of~~  
1939 | ~~the cooperating state and shall be paid to it at a time agreed~~  
1940 | ~~upon between the department, acting for this state, and the~~  
1941 | ~~cooperating state or the department or agency designated by it~~  
1942 | ~~to act for it; however, such payment shall in no event be made~~  
1943 | ~~later than 30 days from the last day of the calendar quarter~~  
1944 | ~~after the tax was collected. Funds held in trust for the benefit~~  
1945 | ~~of a cooperating state shall not be subject to the service~~  
1946 | ~~charges imposed by s. 215.20.~~

1947 |       ~~f. The department is authorized to perform such acts and~~  
1948 | ~~to provide such cooperation to a cooperating state with~~  
1949 | ~~reference to the tax levied by sub-subparagraph a. as is~~  
1950 | ~~required of the cooperating state by sub-subparagraph b.~~

1951 |       ~~g. In furtherance of this act, dealers selling tangible~~  
1952 | ~~personal property for delivery in another state shall make~~  
1953 | ~~available to the department, upon request of the department,~~  
1954 | ~~records of all tangible personal property so sold. Such records~~  
1955 | ~~shall include a description of the property, the name and~~  
1956 | ~~address of the purchaser, the name and address of the person to~~  
1957 | ~~whom the property was sent, the purchase price of the property,~~  
1958 | ~~information regarding whether sales tax was paid in this state~~  
1959 | ~~on the purchase price, and such other information as the~~  
1960 | ~~department may by rule prescribe.~~

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1961 (b)1. Notwithstanding the provisions of paragraph (a), it  
1962 is not the intention of this chapter to levy a tax on the sale  
1963 of tangible personal property to a nonresident dealer who does  
1964 not hold a Florida sales tax registration, provided such  
1965 nonresident dealer furnishes the seller a statement declaring  
1966 that the tangible personal property will be transported outside  
1967 this state by the nonresident dealer for resale and for no other  
1968 purpose. The statement shall include, but not be limited to, the  
1969 nonresident dealer's name, address, applicable passport or visa  
1970 number, arrival-departure card number, and evidence of authority  
1971 to do business in the nonresident dealer's home state or  
1972 country, such as his or her business name and address,  
1973 occupational license number, if applicable, or ~~any~~ other  
1974 suitable requirement. The statement shall be signed by the  
1975 nonresident dealer and shall include the following sentence:  
1976 "Under penalties of perjury, I declare that I have read the  
1977 foregoing, and the facts alleged are true to the best of my  
1978 knowledge and belief."

1979 2. The burden of proof of subparagraph 1. rests with the  
1980 seller, who must retain the proper documentation to support the  
1981 exempt sale. The exempt transaction is subject to verification  
1982 by the department.

1983 (c) Notwithstanding the provisions of paragraph (a), it is  
1984 not the intention of this chapter to levy a tax on the sale by a  
1985 printer to a nonresident print purchaser of material printed by  
1986 that printer for that nonresident print purchaser when the print  
1987 purchaser does not furnish the printer a resale certificate  
1988 containing a sales tax registration number but does furnish to

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1989 | the printer a statement declaring that such material will be  
 1990 | resold by the nonresident print purchaser.

1991 | (17) This subsection shall be used to determine the  
 1992 | location where a transaction occurs for purposes of applying the  
 1993 | tax imposed by this chapter.

1994 | (a) For purposes of this subsection, the terms "receive"  
 1995 | and "receipt" mean:

- 1996 | 1. Taking possession of tangible personal property;
- 1997 | 2. Making first use of services; or
- 1998 | 3. Taking possession or making first use of digital goods,  
 1999 | whichever occurs first.

2000 |  
 2001 | The terms do not include possession by a shipping company on  
 2002 | behalf of the purchaser.

2003 | (b) For purposes of this subsection, the term "product"  
 2004 | means tangible personal property, a digital good, or a service.

2005 | (c) This section does not apply to sales or use taxes  
 2006 | levied on:

- 2007 | 1. The retail sale or transfer of a boat, modular home,  
 2008 | manufactured home, or mobile home.
- 2009 | 2. The retail sale, excluding a lease or rental, of a  
 2010 | motor vehicle or aircraft that does not qualify as  
 2011 | transportation equipment, as defined in paragraph (g). The lease  
 2012 | or rental of these items shall be deemed to have occurred in  
 2013 | accordance with paragraph (f).
- 2014 | 3. The retail sale of tangible personal property by a  
 2015 | florist.

2016 |



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2017 Such retail sales are deemed to take place at the location  
2018 determined under s. 212.054(4).

2019 (d) The retail sale of a product, excluding a lease or  
2020 rental, shall be deemed to take place:

2021 1. When the product is received by the purchaser at a  
2022 business location of the seller, at that business location;

2023 2. When the product is not received by the purchaser at a  
2024 business location of the seller, at the location of receipt by  
2025 the purchaser, or the purchaser's donee, designated as such by  
2026 the purchaser, including the location indicated by instructions  
2027 for delivery to the purchaser or donee, known to the seller;

2028 3. When subparagraphs 1. and 2. do not apply, at the  
2029 location indicated by an address for the purchaser which is  
2030 available from the business records of the seller which are  
2031 maintained in the ordinary course of the seller's business, if  
2032 use of this address does not constitute bad faith;

2033 4. When subparagraphs 1., 2., and 3. do not apply, at the  
2034 location indicated by an address for the purchaser obtained  
2035 during the consummation of the sale, including the address of a  
2036 purchaser's payment instrument, if no other address is available  
2037 and use of this address does not constitute bad faith; or

2038 5. When subparagraphs 1., 2., 3., and 4. do not apply,  
2039 including when the seller is without sufficient information to  
2040 apply the previous subparagraphs, at the address from which  
2041 tangible personal property was shipped, from which the digital  
2042 good or the computer software delivered electronically was first  
2043 available for transmission by the seller, or from which the  
2044 service was provided, disregarding a location that merely

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2045 provided the digital transfer of the product sold.

2046 (e) The lease or rental of tangible personal property,  
2047 other than property identified in paragraphs (f) and (g), shall  
2048 be deemed to have occurred as follows:

2049 1. For a lease or rental that requires recurring periodic  
2050 payments, the first periodic payment is deemed to take place in  
2051 accordance with paragraph (d), notwithstanding the exclusion of  
2052 lease or rental in paragraph (d). Subsequent periodic payments  
2053 are deemed to have occurred at the primary property location for  
2054 each period covered by the payment. The primary property  
2055 location is determined by an address for the property provided  
2056 by the lessee which is available to the lessor from its records  
2057 maintained in the ordinary course of business, if use of this  
2058 address does not constitute bad faith. The property location is  
2059 not altered by intermittent use of the property at different  
2060 locations, such as use of business property that accompanies  
2061 employees on business trips and service calls.

2062 2. For a lease or rental that does not require recurring  
2063 periodic payments, the payment is deemed to take place in  
2064 accordance with paragraph (d), notwithstanding the exclusion of  
2065 a lease or rental in paragraph (d).

2066 3. This paragraph does not affect the imposition or  
2067 computation of sales or use tax on leases or rentals based on a  
2068 lump sum or accelerated basis or on the acquisition of property  
2069 for lease.

2070 (f) The lease or rental of a motor vehicle or aircraft  
2071 that does not qualify as transportation equipment, as defined in  
2072 paragraph (g), shall be sourced as follows:

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2073 1. For a lease or rental that requires recurring periodic  
2074 payments, each periodic payment is deemed to take place at the  
2075 primary property location. The primary property location shall  
2076 be determined by an address for the property provided by the  
2077 lessee which is available to the lessor from its records  
2078 maintained in the ordinary course of business, if use of this  
2079 address does not constitute bad faith. This location may not be  
2080 altered by intermittent use at different locations.

2081 2. For a lease or rental that does not require recurring  
2082 periodic payments, the payment is deemed to take place in  
2083 accordance with paragraph (d), notwithstanding the exclusion of  
2084 a lease or rental in paragraph (d).

2085 3. This paragraph does not affect the imposition or  
2086 computation of sales or use tax on leases or rentals based on a  
2087 lump sum or accelerated basis or on the acquisition of property  
2088 for lease.

2089 (g) The retail sale, including a lease or rental, of  
2090 transportation equipment shall be deemed to take place in  
2091 accordance with paragraph (d), notwithstanding the exclusion of  
2092 a lease or rental in paragraph (d). The term "transportation  
2093 equipment" means:

2094 1. Locomotives and rail cars that are used for the  
2095 carriage of persons or property in interstate commerce;

2096 2. Trucks and truck tractors with a gross vehicle weight  
2097 rating (GVWR) of 10,001 pounds or greater, trailers,  
2098 semitrailers, or passenger buses that are registered through the  
2099 International Registration Plan and operated under authority of  
2100 a carrier authorized and certificated by the United States

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2101 Department of Transportation or another federal authority to  
 2102 engage in the carriage of persons or property in interstate  
 2103 commerce;

2104 3. Aircraft that are operated by air carriers authorized  
 2105 and certificated by the United States Department of  
 2106 Transportation or another federal or a foreign authority to  
 2107 engage in the carriage of persons or property in interstate or  
 2108 foreign commerce; or

2109 4. Containers designed for use on and component parts  
 2110 attached or secured on the items set forth in subparagraphs 1.-  
 2111 3.

2112 Section 9. Paragraph (c) of subsection (1) of section  
 2113 212.07, Florida Statutes, is amended, and subsection (10) is  
 2114 added that section, to read:

2115 212.07 Sales, storage, use tax; tax added to purchase  
 2116 price; dealer not to absorb; liability of purchasers who cannot  
 2117 prove payment of the tax; penalties; general exemptions.-

2118 (1)

2119 (c) Unless the purchaser of tangible personal property  
 2120 that is incorporated into tangible personal property  
 2121 manufactured, produced, compounded, processed, or fabricated for  
 2122 one's own use and subject to the tax imposed under s.

2123 212.06(1) (b) or is purchased for export under s. 212.06(5) (a) ~~1-~~  
 2124 extends a certificate in compliance with the rules of the  
 2125 department, the dealer shall himself or herself be liable for  
 2126 and pay the tax.

2127 (10) (a) The executive director is authorized to maintain  
 2128 and publish a taxability matrix in a downloadable format that

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2129 has been approved by the governing board of the Streamlined  
2130 Sales and Use Tax Agreement.

2131 (b) The state shall provide notice of changes to the  
2132 taxability of the products or services listed in the taxability  
2133 matrix.

2134 (c) A seller or certified service provider who collects  
2135 and remits the state and local tax imposed by this chapter shall  
2136 be held harmless from tax, interest, and penalties for having  
2137 charged and collected the incorrect amount of sales or use tax  
2138 due solely as a result of relying on erroneous data provided by  
2139 the state in the taxability matrix.

2140 (d) A purchaser shall be held harmless from penalties for  
2141 having failed to pay the correct amount of sales or use tax due  
2142 solely as a result of the following circumstances:

2143 1. The seller or certified service provider relied on  
2144 erroneous data provided by the state in the taxability matrix  
2145 completed by the state;

2146 2. A purchaser relied on erroneous data provided by the  
2147 state in the taxability matrix completed by the state; or

2148 3. A purchaser holding a direct-pay permit relied on  
2149 erroneous data provided by the state in the taxability matrix  
2150 completed by the state.

2151 (e) A purchaser shall be held harmless from tax and  
2152 interest for having failed to pay the correct amount of sales or  
2153 use tax due solely as a result of the state's erroneous  
2154 classification as "taxable" or "exempt," "included in sales  
2155 price" or "excluded from sales price," or "included in the  
2156 definition" or "excluded from the definition."

2157 Section 10. Subsections (1) and (2) and paragraphs (b) and  
 2158 (c) of subsection (17) of section 212.08, Florida Statutes, are  
 2159 amended to read:

2160 212.08 Sales, rental, use, consumption, distribution, and  
 2161 storage tax; specified exemptions.—The sale at retail, the  
 2162 rental, the use, the consumption, the distribution, and the  
 2163 storage to be used or consumed in this state of the following  
 2164 are hereby specifically exempt from the tax imposed by this  
 2165 chapter.

2166 (1) EXEMPTIONS; GENERAL GROCERIES.—

2167 (a) Food and food ingredients products for human  
 2168 consumption are exempt from the tax imposed by this chapter.

2169 (b) For the purpose of this chapter, as used in this  
 2170 subsection, the term "food and food ingredients products" means  
 2171 substances, whether in liquid, concentrated, solid, frozen,  
 2172 dried, or dehydrated form, which are sold for ingestion or  
 2173 chewing by humans and are consumed for their taste or  
 2174 nutritional value ~~edible commodities, whether processed, cooked,~~  
 2175 ~~raw, canned, or in any other form, which are generally regarded~~  
 2176 ~~as food~~. This includes, but is not limited to, all of the  
 2177 following:

2178 1. ~~Cereals and cereal products, baked goods,~~  
 2179 ~~oleomargarine, meat and meat products, fish and seafood~~  
 2180 ~~products, frozen foods and dinners, poultry, eggs and egg~~  
 2181 ~~products, vegetables and vegetable products, fruit and fruit~~  
 2182 ~~products, spices, salt, sugar and sugar products, milk and dairy~~  
 2183 ~~products, and products intended to be mixed with milk.~~

2184 2. ~~Natural fruit or vegetable juices or their concentrates~~

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2185 ~~or reconstituted natural concentrated fruit or vegetable juices,~~  
 2186 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~  
 2187 ~~sweetened or unsweetened, seasoned with salt or spice, or~~  
 2188 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~  
 2189 ~~unless it is sold in a liquid form.~~

2190 1.3. Bakery products sold by bakeries, pastry shops, or  
 2191 like establishments, if sold without eating utensils. For  
 2192 purposes of this subparagraph, bakery products include bread,  
 2193 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,  
 2194 Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and  
 2195 tortillas that do not have eating facilities.

2196 2. Dietary supplements are a product, other than tobacco,  
 2197 intended to supplement the diet which contains one or more of  
 2198 the following dietary ingredients: a vitamin; a mineral; an herb  
 2199 or other botanical; an amino acid; a dietary substance for use  
 2200 by humans to supplement the diet by increasing the total dietary  
 2201 intake; or a concentrate, metabolite, constituent, extract, or  
 2202 combination of an ingredient described in this subparagraph  
 2203 which is intended for ingestion in tablet, capsule, powder,  
 2204 softgel, gelcap, or liquid form or, if not intended for  
 2205 ingestion in such a form, is not represented as conventional  
 2206 food and is not represented for use as a sole item of a meal or  
 2207 of the diet, and which is required to be labeled as a dietary  
 2208 supplement, identifiable by the supplemental facts panel found  
 2209 on the label and as required pursuant to 21 C.F.R. s. 101.36.

2210 (c) The exemption provided by this subsection does not  
 2211 apply to:

2212 ~~1. Food products sold as meals for consumption on or off~~

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2213 ~~the premises of the dealer.~~

2214 ~~2. Food products furnished, prepared, or served for~~  
2215 ~~consumption at tables, chairs, or counters or from trays,~~  
2216 ~~glasses, dishes, or other tableware, whether provided by the~~  
2217 ~~dealer or by a person with whom the dealer contracts to furnish,~~  
2218 ~~prepare, or serve food products to others.~~

2219 ~~3. Food products ordinarily sold for immediate consumption~~  
2220 ~~on the seller's premises or near a location at which parking~~  
2221 ~~facilities are provided primarily for the use of patrons in~~  
2222 ~~consuming the products purchased at the location, even though~~  
2223 ~~such products are sold on a "take out" or "to go" order and are~~  
2224 ~~actually packaged or wrapped and taken from the premises of the~~  
2225 ~~dealer.~~

2226 ~~4. Sandwiches sold ready for immediate consumption on or~~  
2227 ~~off the seller's premises.~~

2228 ~~5. Food products sold ready for immediate consumption~~  
2229 ~~within a place, the entrance to which is subject to an admission~~  
2230 ~~charge.~~

2231 1.6. Food and food ingredients sold as prepared food. The  
2232 term "prepared food" means:

2233 a. Food sold in a heated state or heated by the seller;

2234 b. Two or more food ingredients mixed or combined by the  
2235 seller for sale as a single item; or

2236 c. Food sold with eating utensils provided by the seller,  
2237 including plates, knives, forks, spoons, glasses, cups, napkins,  
2238 or straws. A plate does not include a container or packaging  
2239 used to transport food.

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2241 Prepared food does not include food that is only cut,  
2242 repackaged, or pasteurized by the seller, and eggs, fish, meat,  
2243 poultry, and foods containing these raw animal foods requiring  
2244 cooking by the consumer as recommended by the Food and Drug  
2245 Administration in chapter 3, subpart 401.11 of its food code so  
2246 as to prevent food-borne illness. ~~Food products sold as hot~~  
2247 ~~prepared food products.~~

2248 2.7. Soft drinks. The term "soft drinks" means  
2249 nonalcoholic beverages that contain natural or artificial  
2250 sweeteners. Soft drinks do not include beverages that contain  
2251 milk or milk products; soy, rice, or similar milk substitutes;  
2252 or greater than 50 percent of vegetable or fruit juice by  
2253 volume, including, but not limited to, any nonalcoholic  
2254 beverage, any preparation or beverage commonly referred to as a  
2255 "soft drink," or any noncarbonated drink made from milk  
2256 derivatives or tea, if sold in cans or similar containers.

2257 ~~8. Ice cream, frozen yogurt, and similar frozen dairy or~~  
2258 ~~nondairy products in cones, small cups, or pints, popsicles,~~  
2259 ~~frozen fruit bars, or other novelty items, whether or not sold~~  
2260 ~~separately.~~

2261 ~~9. Food that is prepared, whether on or off the premises,~~  
2262 ~~and sold for immediate consumption. This does not apply to food~~  
2263 ~~prepared off the premises and sold in the original sealed~~  
2264 ~~container, or the slicing of products into smaller portions.~~

2265 3.10. Food and food ingredients ~~products~~ sold through a  
2266 vending machine, ~~pushcart, motor vehicle, or any other form of~~  
2267 ~~vehicle.~~

2268 4.11. Candy and any similar products ~~product~~ regarded as

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2269 candy or confection. The term "candy" means a preparation of  
2270 sugar, honey, or other natural or artificial sweeteners in  
2271 combination with chocolate, fruits, nuts, or other ingredients  
2272 or flavorings in the form of bars, drops, or pieces. Candy does  
2273 not include a preparation that contains flour and does not  
2274 require refrigeration, based on its normal use, as indicated on  
2275 the label or advertising thereof.

2276 5. Tobacco.

2277 12. Bakery products sold by bakeries, pastry shops, or  
2278 like establishments having eating facilities, except when sold  
2279 for consumption off the seller's premises.

2280 13. Food products served, prepared, or sold in or by  
2281 restaurants, lunch counters, cafeterias, hotels, taverns, or  
2282 other like places of business.

2283 (d) As used in this subsection, the term:

2284 1. "For consumption off the seller's premises" means that  
2285 the food or drink is intended by the customer to be consumed at  
2286 a place away from the dealer's premises.

2287 2. "For consumption on the seller's premises" means that  
2288 the food or drink sold may be immediately consumed on the  
2289 premises where the dealer conducts his or her business. In  
2290 determining whether an item of food is sold for immediate  
2291 consumption, the customary consumption practices prevailing at  
2292 the selling facility shall be considered.

2293 3. "Premises" shall be construed broadly, and means, but  
2294 is not limited to, the lobby, aisle, or auditorium of a theater;  
2295 the seating, aisle, or parking area of an arena, rink, or  
2296 stadium; or the parking area of a drive in or outdoor theater.

2297 | ~~The premises of a caterer with respect to catered meals or~~  
 2298 | ~~beverages shall be the place where such meals or beverages are~~  
 2299 | ~~served.~~

2300 | ~~4. "Hot prepared food products" means those products,~~  
 2301 | ~~items, or components which have been prepared for sale in a~~  
 2302 | ~~heated condition and which are sold at any temperature that is~~  
 2303 | ~~higher than the air temperature of the room or place where they~~  
 2304 | ~~are sold. "Hot prepared food products," for the purposes of this~~  
 2305 | ~~subsection, includes a combination of hot and cold food items or~~  
 2306 | ~~components where a single price has been established for the~~  
 2307 | ~~combination and the food products are sold in such combination,~~  
 2308 | ~~such as a hot meal, a hot specialty dish or serving, or a hot~~  
 2309 | ~~sandwich or hot pizza, including cold components or side items.~~

2310 | (d)~~(e)~~1. Food or drinks not exempt under paragraphs (a),  
 2311 | (b), and (c), ~~and (d)~~ are exempt, notwithstanding those  
 2312 | paragraphs, when purchased with food coupons or Special  
 2313 | Supplemental Food Program for Women, Infants, and Children  
 2314 | vouchers issued under authority of federal law.

2315 | 2. This paragraph is effective only while federal law  
 2316 | prohibits a state's participation in the federal food coupon  
 2317 | program or Special Supplemental Food Program for Women, Infants,  
 2318 | and Children if there is an official determination that state or  
 2319 | local sales taxes are collected within that state on purchases  
 2320 | of food or drinks with such coupons.

2321 | 3. This paragraph does ~~shall~~ not apply to any food or  
 2322 | drinks on which federal law permits ~~shall permit~~ sales taxes  
 2323 | without penalty, such as termination of the state's  
 2324 | participation.

2325 (e) Dietary supplements that are sold as prepared food are  
 2326 not exempt.

2327 (2) EXEMPTIONS; MEDICAL.—

2328 (a) There shall be exempt from the tax imposed by this  
 2329 chapter:

2330 1. Drugs.

2331 2. Durable medical equipment, mobility-enhancing  
 2332 equipment, or prosthetic devices ~~any medical products and~~  
 2333 ~~supplies or medicine~~ dispensed according to an individual  
 2334 prescription or prescriptions. ~~written by a prescriber~~  
 2335 ~~authorized by law to prescribe medicinal drugs;~~

2336 3. Hypodermic needles; ~~hypodermic syringes;~~

2337 4. Chemical compounds and test kits used for the diagnosis  
 2338 or treatment of human disease, illness, or injury and intended  
 2339 for one-time use.

2340 5. Over-the-counter drugs ~~and common household remedies~~  
 2341 ~~recommended and generally sold for internal or external use in~~  
 2342 ~~the cure, mitigation, treatment, or prevention of illness or~~  
 2343 ~~disease in human beings, but not including grooming and hygiene~~  
 2344 products.

2345 6. Adhesive bandages, gauze, bandages, and adhesive tape.

2346 7. Funerals. However, tangible personal property used by  
 2347 funeral directors in their business is taxable. ~~cosmetics or~~  
 2348 ~~toilet articles, notwithstanding the presence of medicinal~~  
 2349 ~~ingredients therein, according to a list prescribed and approved~~  
 2350 ~~by the Department of Business and Professional Regulation, which~~  
 2351 ~~list shall be certified to the Department of Revenue from time~~  
 2352 ~~to time and included in the rules promulgated by the Department~~

2353 ~~of Revenue. There shall also be exempt from the tax imposed by~~  
 2354 ~~this chapter artificial eyes and limbs; orthopedic shoes;~~  
 2355 ~~prescription eyeglasses and items incidental thereto or which~~  
 2356 ~~become a part thereof; dentures; hearing aids; crutches;~~  
 2357 ~~prosthetic and orthopedic appliances; and funerals. In addition,~~  
 2358 ~~any~~

2359 8. Items intended for one-time use which transfer  
 2360 essential optical characteristics to contact lenses. ~~shall be~~  
 2361 ~~exempt from the tax imposed by this chapter;~~ However, this  
 2362 exemption applies ~~shall apply only~~ after \$100,000 of the tax  
 2363 imposed by this chapter on such items has been paid in a ~~any~~  
 2364 calendar year by a taxpayer who claims the exemption in such  
 2365 year. ~~Funeral directors shall pay tax on all tangible personal~~  
 2366 ~~property used by them in their business.~~

2367 (b) For the purposes of this subsection, the term:

2368 1. "Drug" means a compound, substance, or preparation, and  
 2369 a component of a compound, substance, or preparation, other than  
 2370 food and food ingredients, dietary supplements, and alcoholic  
 2371 beverages, which is:

2372 a. Recognized in the official United States Pharmacopeia,  
 2373 the Homeopathic Pharmacopoeia of the United States, or the  
 2374 National Formulary, or the supplement to any of them;

2375 b. Intended for use in the diagnosis, cure, mitigation,  
 2376 treatment, or prevention of disease; or

2377 c. Intended to affect the structure or a function of the  
 2378 body.

2379 2. "Durable medical equipment" means equipment, including  
 2380 repair and replacement parts to such equipment, but excluding

2381 mobility-enhancing equipment, which can withstand repeated use,  
 2382 is primarily and customarily used to serve a medical purpose,  
 2383 generally is not useful to a person in the absence of illness or  
 2384 injury, and is not worn on or in the body.

2385 3. "Mobility-enhancing equipment" means equipment,  
 2386 including repair and replacement parts to such equipment, but  
 2387 excluding durable medical equipment, which:

2388 a. Is primarily and customarily used to provide or  
 2389 increase the ability to move from one place to another and which  
 2390 is appropriate for use in a home or a motor vehicle.

2391 b. Is not generally used by persons with normal mobility.

2392 c. Does not include a motor vehicle or equipment on a  
 2393 motor vehicle normally provided by a motor vehicle manufacturer.

2394 4. "Prosthetic device" means a replacement, corrective, or  
 2395 supportive device, including repair or replacement parts to such  
 2396 equipment, which is worn on or in the body to:

2397 a. Artificially replace a missing portion of the body;

2398 b. Prevent or correct physical deformity or malfunction;

2399 or

2400 c. Support a weak or deformed portion of the body.

2401 5. "Grooming and hygiene products" mean soaps and cleaning  
 2402 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and  
 2403 suntan lotions and screens, regardless of whether the items meet  
 2404 the definition of an over-the-counter drug.

2405 6. "Over-the-counter drug" means a drug the packaging for  
 2406 which contains a label that identifies the product as a drug as  
 2407 required by 21 C.F.R. s. 201.66. The over-the-counter drug label  
 2408 includes a drug-facts panel or a statement of the active

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2409 ingredients, with a list of those ingredients contained in the  
2410 compound, substance, or preparation. ~~"Prosthetic and orthopedic~~  
2411 ~~appliances" means any apparatus, instrument, device, or~~  
2412 ~~equipment used to replace or substitute for any missing part of~~  
2413 ~~the body, to alleviate the malfunction of any part of the body,~~  
2414 ~~or to assist any disabled person in leading a normal life by~~  
2415 ~~facilitating such person's mobility. Such apparatus, instrument,~~  
2416 ~~device, or equipment shall be exempted according to an~~  
2417 ~~individual prescription or prescriptions written by a physician~~  
2418 ~~licensed under chapter 458, chapter 459, chapter 460, chapter~~  
2419 ~~461, or chapter 466, or according to a list prescribed and~~  
2420 ~~approved by the Department of Health, which list shall be~~  
2421 ~~certified to the Department of Revenue from time to time and~~  
2422 ~~included in the rules promulgated by the Department of Revenue.~~

2423 2. ~~"Cosmetics" means articles intended to be rubbed,~~  
2424 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~  
2425 ~~applied to the human body for cleansing, beautifying, promoting~~  
2426 ~~attractiveness, or altering the appearance and also means~~  
2427 ~~articles intended for use as a compound of any such articles,~~  
2428 ~~including, but not limited to, cold creams, suntan lotions,~~  
2429 ~~makeup, and body lotions.~~

2430 3. ~~"Toilet articles" means any article advertised or held~~  
2431 ~~out for sale for grooming purposes and those articles that are~~  
2432 ~~customarily used for grooming purposes, regardless of the name~~  
2433 ~~by which they may be known, including, but not limited to, soap,~~  
2434 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~  
2435 ~~shampoo, deodorant, and mouthwash.~~

2436 7.4. "Prescription" means an order, formula, or recipe

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2437 issued in the form of oral, written, electronic, or other means  
2438 of transmission by a practitioner licensed under chapter 458,  
2439 chapter 459, chapter 460, chapter 461, or chapter 466. The term  
2440 also includes an orally transmitted order by the lawfully  
2441 designated agent of such practitioner. The term also includes an  
2442 order written or transmitted by a practitioner licensed to  
2443 practice in a jurisdiction other than this state, but only if  
2444 the pharmacist called upon to dispense the order determines, in  
2445 the exercise of his or her professional judgment, that the order  
2446 is valid and necessary for the treatment of a chronic or  
2447 recurrent illness. ~~includes any order for drugs or medicinal~~  
2448 ~~supplies written or transmitted by any means of communication by~~  
2449 ~~a duly licensed practitioner authorized by the laws of the state~~  
2450 ~~to prescribe such drugs or medicinal supplies and intended to be~~  
2451 ~~dispensed by a pharmacist. The term also includes an orally~~  
2452 ~~transmitted order by the lawfully designated agent of such~~  
2453 ~~practitioner. The term also includes an order written or~~  
2454 ~~transmitted by a practitioner licensed to practice in a~~  
2455 ~~jurisdiction other than this state, but only if the pharmacist~~  
2456 ~~called upon to dispense such order determines, in the exercise~~  
2457 ~~of his or her professional judgment, that the order is valid and~~  
2458 ~~necessary for the treatment of a chronic or recurrent illness.~~  
2459 ~~The term also includes a pharmacist's order for a product~~  
2460 ~~selected from the formulary created pursuant to s. 465.186. A~~  
2461 ~~prescription may be retained in written form, or the pharmacist~~  
2462 ~~may cause it to be recorded in a data processing system,~~  
2463 ~~provided that such order can be produced in printed form upon~~  
2464 ~~lawful request.~~



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2465           (c) Chlorine is ~~shall~~ not be exempt from the tax imposed  
2466 by this chapter when used for the treatment of water in swimming  
2467 pools.

2468           ~~(d) Lithotripters are exempt.~~

2469           (d)(e) Human organs are exempt.

2470           ~~(f) Sales of drugs to or by physicians, dentists,  
2471 veterinarians, and hospitals in connection with medical  
2472 treatment are exempt.~~

2473           ~~(g) Medical products and supplies used in the cure,  
2474 mitigation, alleviation, prevention, or treatment of injury,  
2475 disease, or incapacity which are temporarily or permanently  
2476 incorporated into a patient or client by a practitioner of the  
2477 healing arts licensed in the state are exempt.~~

2478           ~~(h) The purchase by a veterinarian of commonly recognized  
2479 substances possessing curative or remedial properties which are  
2480 ordered and dispensed as treatment for a diagnosed health  
2481 disorder by or on the prescription of a duly licensed  
2482 veterinarian, and which are applied to or consumed by animals  
2483 for alleviation of pain or the cure or prevention of sickness,  
2484 disease, or suffering are exempt. Also exempt are the purchase  
2485 by a veterinarian of antiseptics, absorbent cotton, gauze for  
2486 bandages, lotions, vitamins, and worm remedies.~~

2487           ~~(i) X-ray opaques, also known as opaque drugs and  
2488 radiopaque, such as the various opaque dyes and barium sulphate,  
2489 when used in connection with medical X rays for treatment of  
2490 bodies of humans and animals, are exempt.~~

2491           (e)(j) Parts, special attachments, special lettering, and  
2492 other like items that are added to or attached to tangible

2493 personal property so that a handicapped person can use them are  
 2494 exempt when such items are purchased by a person pursuant to an  
 2495 individual prescription.

2496 (f) ~~(k)~~ This subsection shall be strictly construed and  
 2497 enforced.

2498 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

2499 (b) As used in this subsection, the term "overhead  
 2500 materials" means all tangible personal property, other than  
 2501 qualifying property as defined in s. 212.02(34)(a) ~~s.~~  
 2502 ~~212.02(14)(a)~~ and electricity, which is used or consumed in the  
 2503 performance of a qualifying contract, title to which property  
 2504 vests in or passes to the government under the contract.

2505 (c) As used in this subsection and in s. 212.02(34)(a) ~~s.~~  
 2506 ~~212.02(14)(a)~~, the term "qualifying contract" means a contract  
 2507 with the United States Department of Defense or the National  
 2508 Aeronautics and Space Administration, or a subcontract  
 2509 thereunder, but does not include a contract or subcontract for  
 2510 the repair, alteration, improvement, or construction of real  
 2511 property, except to the extent that purchases under such a  
 2512 contract would otherwise be exempt from the tax imposed by this  
 2513 chapter.

2514 Section 11. Section 212.094, Florida Statutes, is created  
 2515 to read:

2516 212.094 Purchaser request for refund or credit from  
 2517 dealer.—

2518 (1) If a purchaser seeks from a dealer a refund of or  
 2519 credit against a tax collected under this chapter by that  
 2520 dealer, the purchaser shall submit a written request for the

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2521 refund or credit to the dealer in accordance with this section.  
 2522 The request must contain all the information necessary for the  
 2523 dealer to determine the validity of the purchaser's request.

2524 (2) The purchaser may not take other action against the  
 2525 dealer with respect to the requested refund or credit until the  
 2526 dealer has had 60 days after receiving a completed request in  
 2527 which to respond.

2528 (3) This section does not affect a person's standing to  
 2529 claim a refund.

2530 (4) This section does not apply to refunds resulting from  
 2531 merchandise returned by a customer to a dealer.

2532 Section 12. Section 212.12, Florida Statutes, is amended  
 2533 to read:

2534 212.12 Dealer's credit for collecting tax; penalties for  
 2535 noncompliance; powers of Department of Revenue in dealing with  
 2536 delinquents; ~~brackets applicable to taxable transactions;~~  
 2537 records required.-

2538 (1) (a) ~~1.~~ Notwithstanding any other law and for the purpose  
 2539 of compensating persons granting licenses for and the lessors of  
 2540 real and personal property taxed hereunder, for the purpose of  
 2541 compensating dealers in tangible personal property, for the  
 2542 purpose of compensating dealers providing communication services  
 2543 and taxable services, for the purpose of compensating owners of  
 2544 places where admissions are collected, and for the purpose of  
 2545 compensating remitters of the any taxes or fees reported on the  
 2546 same documents utilized for the sales and use tax, as  
 2547 compensation for the keeping of prescribed records, filing  
 2548 timely tax returns, and the proper accounting and remitting of

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2549 taxes by them, such seller, person, lessor, dealer, owner, and  
2550 remitter ~~(except dealers who make mail order sales)~~ who files  
2551 the return required pursuant to s. 212.11 only by electronic  
2552 means and who pays the amount due on such return only by  
2553 electronic means shall be allowed 2.5 percent of the amount of  
2554 the tax due, accounted for, and remitted to the department in  
2555 the form of a deduction. However, if the amount of the tax due  
2556 and remitted to the department by electronic means for the  
2557 reporting period exceeds \$1,200, an allowance is not allowed for  
2558 all amounts in excess of \$1,200. For purposes of this  
2559 subparagraph, the term "electronic means" has the same meaning  
2560 as provided in s. 213.755(2)(c).

2561 ~~2. The executive director of the department is authorized~~  
2562 ~~to negotiate a collection allowance, pursuant to rules~~  
2563 ~~promulgated by the department, with a dealer who makes mail~~  
2564 ~~order sales. The rules of the department shall provide~~  
2565 ~~guidelines for establishing the collection allowance based upon~~  
2566 ~~the dealer's estimated costs of collecting the tax, the volume~~  
2567 ~~and value of the dealer's mail order sales to purchasers in this~~  
2568 ~~state, and the administrative and legal costs and likelihood of~~  
2569 ~~achieving collection of the tax absent the cooperation of the~~  
2570 ~~dealer. However, in no event shall the collection allowance~~  
2571 ~~negotiated by the executive director exceed 10 percent of the~~  
2572 ~~tax remitted for a reporting period.~~

2573 (b) The Department of Revenue may deny the collection  
2574 allowance if a taxpayer files an incomplete return or if the  
2575 required tax return or tax is delinquent at the time of payment.

2576 1. An "incomplete return" is, for purposes of this

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2577 chapter, a return which is lacking such uniformity,  
2578 completeness, and arrangement that the physical handling,  
2579 verification, review of the return, or determination of other  
2580 taxes and fees reported on the return may not be readily  
2581 accomplished.

2582 2. The department shall adopt rules requiring such  
2583 information as it may deem necessary to ensure that the tax  
2584 levied hereunder is properly collected, reviewed, compiled,  
2585 reported, and enforced, including, but not limited to: the  
2586 amount of gross sales; the amount of taxable sales; the amount  
2587 of tax collected or due; the amount of lawful refunds,  
2588 deductions, or credits claimed; the amount claimed as the  
2589 dealer's collection allowance; the amount of penalty and  
2590 interest; the amount due with the return; and such other  
2591 information as the Department of Revenue may specify. The  
2592 department shall require that transient rentals and agricultural  
2593 equipment transactions be separately shown. Sales made through  
2594 vending machines as defined in s. 212.0515 must be separately  
2595 shown on the return. Sales made through coin-operated amusement  
2596 machines as defined by s. 212.02 and the number of machines  
2597 operated must be separately shown on the return or on a form  
2598 prescribed by the department. If a separate form is required,  
2599 the same penalties for late filing, incomplete filing, or  
2600 failure to file as provided for the sales tax return shall apply  
2601 to the form.

2602 (c) The collection allowance and other credits or  
2603 deductions provided in this chapter shall be applied  
2604 proportionally to the ~~any~~ taxes or fees reported on the same

2605 documents used for the sales and use tax.

2606 (d)1. A dealer entitled to the collection allowance  
 2607 provided in this section may elect to forego the collection  
 2608 allowance and direct that the amount be transferred into the  
 2609 Educational Enhancement Trust Fund. Such an election must be  
 2610 made with the timely filing of a return and may not be rescinded  
 2611 once made. If a dealer who makes such an election files a  
 2612 delinquent return, underpays the tax, or files an incomplete  
 2613 return, the amount transferred into the Educational Enhancement  
 2614 Trust Fund shall be the amount of the collection allowance  
 2615 remaining after resolution of liability for all of the tax,  
 2616 interest, and penalty due on that return or underpayment of tax.  
 2617 The Department of Education shall distribute the remaining  
 2618 amount from the trust fund to the school districts that have  
 2619 adopted resolutions stating that those funds will be used to  
 2620 ensure that up-to-date technology is purchased for the  
 2621 classrooms in the district and that teachers are trained in the  
 2622 use of that technology. Revenues collected in districts that do  
 2623 not adopt such a resolution shall be equally distributed to  
 2624 districts that have adopted such resolutions.

2625 2. This paragraph applies to all taxes, surtaxes, and ~~any~~  
 2626 local option taxes administered under this chapter and remitted  
 2627 directly to the department. This paragraph does not apply to a  
 2628 locally imposed and self-administered convention development  
 2629 tax, tourist development tax, or tourist impact tax administered  
 2630 under this chapter.

2631 3. Revenues from the dealer-collection allowances shall be  
 2632 transferred quarterly from the General Revenue Fund to the

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2633 Educational Enhancement Trust Fund. The Department of Revenue  
2634 shall provide to the Department of Education quarterly  
2635 information about such revenues by county to which the  
2636 collection allowance was attributed.

2637  
2638 Notwithstanding any provision of chapter 120 to the contrary,  
2639 the Department of Revenue may adopt rules to carry out the  
2640 amendment made by chapter 2006-52, Laws of Florida, to this  
2641 section.

2642 (e) Notwithstanding paragraphs (b) and (c), a model 1  
2643 seller under the Streamlined Sales and Use Tax Agreement is not  
2644 entitled to the collection allowance described in paragraphs (a)  
2645 and (b).

2646 (f)1. In addition to a collection allowance that may be  
2647 provided under this subsection, the department may provide the  
2648 monetary allowances required to be provided by the state to  
2649 certified service providers and voluntary sellers pursuant to  
2650 Article VI of the Streamlined Sales and Use Tax Agreement, as  
2651 amended.

2652 2. Such monetary allowances must be in the form of  
2653 collection allowances that certified service providers or  
2654 voluntary sellers are permitted to retain from the tax revenues  
2655 collected on remote sales to be remitted to the state pursuant  
2656 to this chapter.

2657 3. For purposes of this paragraph, the term "voluntary  
2658 seller" or "volunteer seller" means a seller that is not  
2659 required to register in this state to collect a tax. The term  
2660 "remote sales" means revenues generated by such a seller for

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2661 this state for which the seller is not required to register to  
2662 collect the tax imposed by this chapter.

2663 (2) (a) When a ~~any~~ person required hereunder to make a ~~any~~  
2664 return or to pay a ~~any~~ tax or fee imposed by this chapter either  
2665 fails to timely file such return or fails to pay the tax or fee  
2666 shown due on the return within the time required hereunder, in  
2667 addition to all other penalties provided herein and by the laws  
2668 of this state in respect to such taxes or fees, a specific  
2669 penalty shall be added to the tax or fee in the amount of 10  
2670 percent of either the tax or fee shown on the return that is not  
2671 timely filed or a ~~any~~ tax or fee not paid timely. The penalty  
2672 may not be less than \$50 for failure to timely file a tax return  
2673 required by s. 212.11(1) or timely pay the tax or fee shown due  
2674 on the return except as provided in s. 213.21(10). If a person  
2675 fails to timely file a return required by s. 212.11(1) and to  
2676 timely pay the tax or fee shown due on the return, only one  
2677 penalty of 10 percent, which may not be less than \$50, shall be  
2678 imposed.

2679 (b) When a ~~any~~ person required under this section to make  
2680 a return or to pay a tax or fee imposed by this chapter fails to  
2681 disclose the tax or fee on the return within the time required,  
2682 excluding a noncompliant filing event generated by situations  
2683 covered in paragraph (a), in addition to all other penalties  
2684 provided in this section and by the laws of this state in  
2685 respect to such taxes or fees, a specific penalty shall be added  
2686 to the additional tax or fee owed in the amount of 10 percent of  
2687 ~~any~~ such unpaid tax or fee not paid timely if the failure is for  
2688 not more than 30 days, with an additional 10 percent of ~~any~~ such



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2689 unpaid tax or fee for each additional 30 days, or fraction  
2690 thereof, while the failure continues, not to exceed a total  
2691 penalty of 50 percent, in the aggregate, of an ~~any~~ unpaid tax or  
2692 fee.

2693 (c) A ~~Any~~ person who knowingly and with a willful intent  
2694 to evade a ~~any~~ tax imposed under this chapter fails to file six  
2695 consecutive returns as required by law commits a felony of the  
2696 third degree, punishable as provided in s. 775.082 or s.  
2697 775.083.

2698 (d) A ~~Any~~ person who makes a false or fraudulent return  
2699 with a willful intent to evade payment of a ~~any~~ tax or fee  
2700 imposed under this chapter; a ~~any~~ person who, after the  
2701 department's delivery of a written notice to the person's last  
2702 known address specifically alerting the person of the  
2703 requirement to register the person's business as a dealer,  
2704 intentionally fails to register the business; and a ~~any~~ person  
2705 who, after the department's delivery of a written notice to the  
2706 person's last known address specifically alerting the person of  
2707 the requirement to collect tax on specific transactions,  
2708 intentionally fails to collect such tax, shall, in addition to  
2709 the other penalties provided by law, be liable for a specific  
2710 penalty of 100 percent of ~~any~~ unreported or ~~any~~ uncollected tax  
2711 or fee and, upon conviction, for fine and punishment as provided  
2712 in s. 775.082, s. 775.083, or s. 775.084. Delivery of written  
2713 notice may be made by certified mail, or by the use of such  
2714 other method as is documented as being necessary and reasonable  
2715 under the circumstances. The civil and criminal penalties  
2716 imposed herein for failure to comply with a written notice

2717 alerting the person of the requirement to register the person's  
 2718 business as a dealer or to collect tax on specific transactions  
 2719 shall not apply if the person timely files a written challenge  
 2720 to such notice in accordance with procedures established by the  
 2721 department by rule or the notice fails to clearly advise that  
 2722 failure to comply with or timely challenge the notice will  
 2723 result in the imposition of the civil and criminal penalties  
 2724 imposed herein.

2725         1. If the total amount of unreported or uncollected taxes  
 2726 or fees is less than \$300, the first offense resulting in  
 2727 conviction is a misdemeanor of the second degree, the second  
 2728 offense resulting in conviction is a misdemeanor of the first  
 2729 degree, and the third and all subsequent offenses resulting in  
 2730 conviction is a misdemeanor of the first degree, and the third  
 2731 and all subsequent offenses resulting in conviction are felonies  
 2732 of the third degree.

2733         2. If the total amount of unreported or uncollected taxes  
 2734 or fees is \$300 or more but less than \$20,000, the offense is a  
 2735 felony of the third degree.

2736         3. If the total amount of unreported or uncollected taxes  
 2737 or fees is \$20,000 or more but less than \$100,000, the offense  
 2738 is a felony of the second degree.

2739         4. If the total amount of unreported or uncollected taxes  
 2740 or fees is \$100,000 or more, the offense is a felony of the  
 2741 first degree.

2742         (e) A person who willfully attempts in a ~~any~~ manner to  
 2743 evade a ~~any~~ tax, surcharge, or fee imposed under this chapter or  
 2744 the payment thereof is, in addition to ~~any~~ other penalties

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2745 provided by law, liable for a specific penalty in the amount of  
2746 100 percent of the tax, surcharge, or fee, and commits a felony  
2747 of the third degree, punishable as provided in s. 775.082, s.  
2748 775.083, or s. 775.084.

2749 (f) When a ~~any~~ person, firm, or corporation fails to  
2750 timely remit the proper estimated payment required under s.  
2751 212.11, a specific penalty shall be added in an amount equal to  
2752 10 percent of any unpaid estimated tax. Beginning with January  
2753 1, 1985, returns, the department, upon a showing of reasonable  
2754 cause, is authorized to waive or compromise penalties imposed by  
2755 this paragraph. However, other penalties and interest shall be  
2756 due and payable if the return on which the estimated payment was  
2757 due was not timely or properly filed.

2758 (g) A dealer who files a consolidated return pursuant to  
2759 s. 212.11(1)(e) is subject to the penalty established in  
2760 paragraph (e) unless the dealer has paid the required estimated  
2761 tax for his or her consolidated return as a whole without regard  
2762 to each location. If the dealer fails to pay the required  
2763 estimated tax for his or her consolidated return as a whole,  
2764 each filing location shall stand on its own with respect to  
2765 calculating penalties pursuant to paragraph (f).

2766 (3) When a ~~any~~ dealer, or other person charged herein,  
2767 fails to remit the tax, or a ~~any~~ portion thereof, on or before  
2768 the day when such tax is required by law to be paid, there shall  
2769 be added to the amount due interest at the rate of 1 percent per  
2770 month of the amount due from the date due until paid. Interest  
2771 on the delinquent tax shall be calculated beginning on the 21st  
2772 day of the month following the month for which the tax is due,

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2773 | except as otherwise provided in this chapter.

2774 |       (4) All penalties and interest imposed by this chapter  
2775 | shall be payable to and collectible by the department in the  
2776 | same manner as if they were a part of the tax imposed. The  
2777 | department may settle or compromise ~~any~~ such interest or  
2778 | penalties pursuant to s. 213.21.

2779 |       (5) (a) The department is authorized to audit or inspect  
2780 | the records and accounts of dealers defined herein, ~~including~~  
2781 | ~~audits or inspections of dealers who make mail order sales to~~  
2782 | ~~the extent permitted by another state,~~ and to correct by credit  
2783 | an ~~any~~ overpayment of tax, and, in the event of a deficiency, an  
2784 | assessment shall be made and collected. No administrative  
2785 | finding of fact is necessary before ~~prior to~~ the assessment of a  
2786 | ~~any~~ tax deficiency.

2787 |       (b) In the event a ~~any~~ dealer or other person charged  
2788 | herein fails or refuses to make his or her records available for  
2789 | inspection so that no audit or examination has been made of the  
2790 | books and records of such dealer or person, fails or refuses to  
2791 | register as a dealer, fails to make a report and pay the tax as  
2792 | provided by this chapter, makes a grossly incorrect report or  
2793 | makes a report that is false or fraudulent, then, in such event,  
2794 | it shall be the duty of the department to make an assessment  
2795 | from an estimate based upon the best information then available  
2796 | to it for the taxable period of retail sales of such dealer, the  
2797 | gross proceeds from rentals, the total admissions received,  
2798 | amounts received from leases of tangible personal property by  
2799 | such dealer, or of the cost price of all articles of tangible  
2800 | personal property imported by the dealer for use or consumption

2801 or distribution or storage to be used or consumed in this state,  
 2802 or of the sales or cost price of all services the sale or use of  
 2803 which is taxable under this chapter, together with interest,  
 2804 plus penalty, if such have accrued, as the case may be. Then the  
 2805 department shall proceed to collect such taxes, interest, and  
 2806 penalty on the basis of such assessment which shall be  
 2807 considered prima facie correct, and the burden to show the  
 2808 contrary shall rest upon the dealer, seller, owner, or lessor,  
 2809 as the case may be.

2810 (6) (a) The department is given the power to prescribe the  
 2811 records to be kept by all persons subject to taxes imposed by  
 2812 this chapter. It shall be the duty of every person required to  
 2813 make a report and pay a ~~any~~ tax under this chapter, every person  
 2814 receiving rentals or license fees, and owners of places of  
 2815 admission, to keep and preserve suitable records of the sales,  
 2816 leases, rentals, license fees, admissions, or purchases, as the  
 2817 case may be, taxable under this chapter; such other books of  
 2818 account as may be necessary to determine the amount of the tax  
 2819 due hereunder; and other information as may be required by the  
 2820 department. It shall be the duty of every such person so charged  
 2821 with such duty, moreover, to keep and preserve as long as  
 2822 required by s. 213.35 all invoices and other records of goods,  
 2823 wares, and merchandise; records of admissions, leases, license  
 2824 fees and rentals; and records of all other subjects of taxation  
 2825 under this chapter. All such books, invoices, and other records  
 2826 shall be open to examination at all reasonable hours to the  
 2827 department or any of its duly authorized agents.

2828 (b) For the purpose of this subsection, if a dealer does

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2829 not have adequate records of his or her retail sales or  
2830 purchases, the department may, upon the basis of a test or  
2831 sampling of the dealer's available records or other information  
2832 relating to the sales or purchases made by such dealer for a  
2833 representative period, determine the proportion that taxable  
2834 retail sales bear to total retail sales or the proportion that  
2835 taxable purchases bear to total purchases. This subsection does  
2836 not affect the duty of the dealer to collect, or the liability  
2837 of a ~~any~~ consumer to pay, a ~~any~~ tax imposed by or pursuant to  
2838 this chapter.

2839 (c)1. If the records of a dealer are adequate but  
2840 voluminous in nature and substance, the department may sample  
2841 such records and project the audit findings derived therefrom  
2842 over the entire audit period to determine the proportion that  
2843 taxable retail sales bear to total retail sales or the  
2844 proportion that taxable purchases bear to total purchases. In  
2845 order to conduct such a sample, the department must first make a  
2846 good faith effort to reach an agreement with the dealer, which  
2847 agreement provides for the means and methods to be used in the  
2848 sampling process. In the event that no agreement is reached, the  
2849 dealer is entitled to a review by the executive director. In the  
2850 case of fixed assets, a dealer may agree in writing with the  
2851 department for adequate but voluminous records to be  
2852 statistically sampled. Such an agreement shall provide for the  
2853 methodology to be used in the statistical sampling process. The  
2854 audit findings derived therefrom shall be projected over the  
2855 period represented by the sample in order to determine the  
2856 proportion that taxable purchases bear to total purchases. Once

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2857 | an agreement has been signed, it is final and conclusive with  
2858 | respect to the method of sampling fixed assets, and the  
2859 | department may not conduct a detailed audit of fixed assets, and  
2860 | the taxpayer may not request a detailed audit after the  
2861 | agreement is reached.

2862 |         2. For the purposes of sampling pursuant to subparagraph  
2863 | 1., the department shall project any deficiencies and  
2864 | overpayments derived therefrom over the entire audit period. In  
2865 | determining the dealer's compliance, the department shall reduce  
2866 | a any tax deficiency as derived from the sample by the amount of  
2867 | an any overpayment derived from the sample. In the event the  
2868 | department determines from the sample results that the dealer  
2869 | has a net tax overpayment, the department shall provide the  
2870 | findings of this overpayment to the Chief Financial Officer for  
2871 | repayment of funds paid into the State Treasury through error  
2872 | pursuant to s. 215.26.

2873 |         3.a. A taxpayer is entitled, both in connection with an  
2874 | audit and in connection with an application for refund filed  
2875 | independently of an any audit, to establish the amount of a any  
2876 | refund or deficiency through statistical sampling when the  
2877 | taxpayer's records are adequate but voluminous. In the case of  
2878 | fixed assets, a dealer may agree in writing with the department  
2879 | for adequate but voluminous records to be statistically sampled.  
2880 | Such an agreement shall provide for the methodology to be used  
2881 | in the statistical sampling process. The audit findings derived  
2882 | therefrom shall be projected over the period represented by the  
2883 | sample in order to determine the proportion that taxable  
2884 | purchases bear to total purchases. Once an agreement has been

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2885 signed, it is final and conclusive with respect to the method of  
2886 sampling fixed assets, and the department may not conduct a  
2887 detailed audit of fixed assets, and the taxpayer may not request  
2888 a detailed audit after the agreement is reached.

2889       b. Alternatively, a taxpayer is entitled to establish a  
2890 ~~any~~ refund or deficiency through any other sampling method  
2891 agreed upon by the taxpayer and the department when the  
2892 taxpayer's records, other than those regarding fixed assets, are  
2893 adequate but voluminous. Whether done through statistical  
2894 sampling or any other sampling method agreed upon by the  
2895 taxpayer and the department, the completed sample must reflect  
2896 both overpayments and underpayments of taxes due. The sample  
2897 shall be conducted through:

2898       (I) A taxpayer request to perform the sampling through the  
2899 certified audit program pursuant to s. 213.285;

2900       (II) Attestation by a certified public accountant as to  
2901 the adequacy of the sampling method utilized and the results  
2902 reached using such sampling method; or

2903       (III) A sampling method that has been submitted by the  
2904 taxpayer and approved by the department before a refund claim is  
2905 submitted. This sub-sub-subparagraph does not prohibit a  
2906 taxpayer from filing a refund claim prior to approval by the  
2907 department of the sampling method; however, a refund claim  
2908 submitted before the sampling method has been approved by the  
2909 department cannot be a complete refund application pursuant to  
2910 s. 213.255 until the sampling method has been approved by the  
2911 department.

2912       c. The department shall prescribe by rule the procedures



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2913 to be followed under each method of sampling. Such procedures  
2914 shall follow generally accepted auditing procedures for  
2915 sampling. The rule shall also set forth other criteria regarding  
2916 the use of sampling, including, but not limited to, training  
2917 requirements that must be met before a sampling method may be  
2918 utilized and the steps necessary for the department and the  
2919 taxpayer to reach agreement on a sampling method submitted by  
2920 the taxpayer for approval by the department.

2921 (7) In the event the dealer has imported tangible personal  
2922 property and he or she fails to produce an invoice showing the  
2923 cost price of the articles, as defined in this chapter, which  
2924 are subject to tax, or the invoice does not reflect the true or  
2925 actual cost price as defined herein, then the department shall  
2926 ascertain, in any manner feasible, the true cost price, and  
2927 assess and collect the tax thereon with interest plus penalties,  
2928 if such have accrued on the true cost price as assessed by it.  
2929 The assessment so made shall be considered prima facie correct,  
2930 and the duty shall be on the dealer to show to the contrary.

2931 (8) In the case of the lease or rental of tangible  
2932 personal property, or other rentals or license fees as herein  
2933 defined and taxed, if the consideration given or reported by the  
2934 lessor, person receiving rental or license fee, or dealer does  
2935 not, in the judgment of the department, represent the true or  
2936 actual consideration, then the department is authorized to  
2937 ascertain the same and assess and collect the tax thereon in the  
2938 same manner as above provided, with respect to imported tangible  
2939 property, together with interest, plus penalties, if such have  
2940 accrued.

2941 (9) Taxes imposed by this chapter upon the privilege of  
 2942 the use, consumption, storage for consumption, or sale of  
 2943 tangible personal property, admissions, license fees, rentals,  
 2944 communication services, and upon the sale or use of services as  
 2945 herein taxed shall be collected upon the basis of an addition of  
 2946 the tax imposed by this chapter to the total price of such  
 2947 admissions, license fees, rentals, communication or other  
 2948 services, or sale price of such article or articles that are  
 2949 purchased, sold, or leased at ~~any~~ one time by or to a customer  
 2950 or buyer; the dealer, or person charged herein, is required to  
 2951 pay a privilege tax in the amount of the tax imposed by this  
 2952 chapter on the total of his or her gross sales of tangible  
 2953 personal property, admissions, license fees, rentals, and  
 2954 communication services or to collect a tax upon the sale or use  
 2955 of services, and such person or dealer shall add the tax imposed  
 2956 by this chapter to the price, license fee, rental, or  
 2957 admissions, and communication or other services and collect the  
 2958 total sum from the purchaser, admittee, licensee, lessee, or  
 2959 consumer. In computing the tax due or to be collected as the  
 2960 result of a transaction, the seller may elect to compute the tax  
 2961 due on a transaction on a per-item basis or on an invoice basis.  
 2962 The tax rate shall be the sum of the applicable state and local  
 2963 rates, if any, and the tax computation shall be carried to the  
 2964 third decimal place. Whenever the third decimal place is greater  
 2965 than four, the tax shall be rounded to the next whole cent. The  
 2966 ~~department shall make available in an electronic format or~~  
 2967 ~~otherwise the tax amounts and the following brackets applicable~~  
 2968 ~~to all transactions taxable at the rate of 6 percent:~~

2969 ~~(a) On single sales of less than 10 cents, no tax shall be~~  
 2970 ~~added.~~

2971 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~  
 2972 ~~both inclusive, 1 cent shall be added for taxes.~~

2973 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~  
 2974 ~~inclusive, 2 cents shall be added for taxes.~~

2975 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~  
 2976 ~~inclusive, 3 cents shall be added for taxes.~~

2977 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~  
 2978 ~~inclusive, 4 cents shall be added for taxes.~~

2979 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~  
 2980 ~~inclusive, 5 cents shall be added for taxes.~~

2981 ~~(g) On sales in amounts from 84 cents to \$1, both~~  
 2982 ~~inclusive, 6 cents shall be added for taxes.~~

2983 ~~(h) On sales in amounts of more than \$1, 6 percent shall~~  
 2984 ~~be charged upon each dollar of price, plus the appropriate~~  
 2985 ~~bracket charge upon any fractional part of a dollar.~~

2986 ~~(10) In counties which have adopted a discretionary sales~~  
 2987 ~~surtax at the rate of 1 percent, the department shall make~~  
 2988 ~~available in an electronic format or otherwise the tax amounts~~  
 2989 ~~and the following brackets applicable to all taxable~~  
 2990 ~~transactions that would otherwise have been transactions taxable~~  
 2991 ~~at the rate of 6 percent:~~

2992 ~~(a) On single sales of less than 10 cents, no tax shall be~~  
 2993 ~~added.~~

2994 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~  
 2995 ~~both inclusive, 1 cent shall be added for taxes.~~

2996 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~

2997 ~~inclusive, 2 cents shall be added for taxes.~~  
 2998 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~  
 2999 ~~inclusive, 3 cents shall be added for taxes.~~  
 3000 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~  
 3001 ~~inclusive, 4 cents shall be added for taxes.~~  
 3002 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~  
 3003 ~~inclusive, 5 cents shall be added for taxes.~~  
 3004 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~  
 3005 ~~inclusive, 6 cents shall be added for taxes.~~  
 3006 ~~(h) On sales in amounts from 86 cents to \$1, both~~  
 3007 ~~inclusive, 7 cents shall be added for taxes.~~  
 3008 ~~(i) On sales in amounts from \$1 up to, and including, the~~  
 3009 ~~first \$5,000 in price, 7 percent shall be charged upon each~~  
 3010 ~~dollar of price, plus the appropriate bracket charge upon any~~  
 3011 ~~fractional part of a dollar.~~  
 3012 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~  
 3013 ~~percent shall be added upon the first \$5,000 in price, and 6~~  
 3014 ~~percent shall be added upon each dollar of price in excess of~~  
 3015 ~~the first \$5,000 in price, plus the bracket charges upon any~~  
 3016 ~~fractional part of a dollar as provided for in subsection (9).~~  
 3017 ~~(11) The department shall make available in an electronic~~  
 3018 ~~format or otherwise the tax amounts and brackets applicable to~~  
 3019 ~~all taxable transactions that occur in counties that have a~~  
 3020 ~~surtax at a rate other than 1 percent which transactions would~~  
 3021 ~~otherwise have been transactions taxable at the rate of 6~~  
 3022 ~~percent. Likewise, the department shall make available in an~~  
 3023 ~~electronic format or otherwise the tax amounts and brackets~~  
 3024 ~~applicable to transactions taxable at 7 percent pursuant to s.~~

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3025 | ~~212.05(1)(e) and on transactions which would otherwise have been~~  
 3026 | ~~so taxable in counties which have adopted a discretionary sales~~  
 3027 | ~~surtax.~~

3028 |        (10)~~(12)~~ It is hereby declared to be the legislative  
 3029 | intent that, whenever in the construction, administration, or  
 3030 | enforcement of this chapter there may be a ~~any~~ question  
 3031 | respecting a duplication of the tax, the end consumer, or last  
 3032 | retail sale, be the sale intended to be taxed and insofar as may  
 3033 | be practicable there be no duplication or pyramiding of the tax.

3034 |        (11)~~(13)~~ In order to aid the administration and  
 3035 | enforcement of the provisions of this chapter with respect to  
 3036 | the rentals and license fees, each lessor or person granting the  
 3037 | use of a ~~any~~ hotel, apartment house, roominghouse, tourist or  
 3038 | trailer camp, real property, or ~~any~~ interest therein, or a ~~any~~  
 3039 | portion thereof, inclusive of owners; property managers;  
 3040 | lessors; landlords; hotel, apartment house, and roominghouse  
 3041 | operators; and all licensed real estate agents within the state  
 3042 | leasing, granting the use of, or renting such property, shall be  
 3043 | required to keep a record of each and every such lease, license,  
 3044 | or rental transaction which is taxable under this chapter, in  
 3045 | such a manner and upon such forms as the department may  
 3046 | prescribe, and to report such transaction to the department or  
 3047 | its designated agents, and to maintain such records as long as  
 3048 | required by s. 213.35, subject to the inspection of the  
 3049 | department and its agents. Upon the failure by such owner;  
 3050 | property manager; lessor; landlord; hotel, apartment house,  
 3051 | roominghouse, tourist or trailer camp operator; or real estate  
 3052 | agent to keep and maintain such records and to make such reports

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3053 upon the forms and in the manner prescribed, such owner;  
3054 property manager; lessor; landlord; hotel, apartment house,  
3055 roominghouse, tourist or trailer camp operator; receiver of rent  
3056 or license fees; or real estate agent is guilty of a misdemeanor  
3057 of the second degree, punishable as provided in s. 775.082 or s.  
3058 775.083, for the first offense; for subsequent offenses, they  
3059 are each guilty of a misdemeanor of the first degree, punishable  
3060 as provided in s. 775.082 or s. 775.083. If, however, a ~~any~~  
3061 subsequent offense involves intentional destruction of such  
3062 records with an intent to evade payment of or deprive the state  
3063 of ~~any~~ tax revenues, such subsequent offense shall be a felony  
3064 of the third degree, punishable as provided in s. 775.082 or s.  
3065 775.083.

3066 ~~(14) If it is determined upon audit that a dealer has~~  
3067 ~~collected and remitted taxes by applying the applicable tax rate~~  
3068 ~~to each transaction as described in subsection (9) and rounding~~  
3069 ~~the tax due to the nearest whole cent rather than applying the~~  
3070 ~~appropriate bracket system provided by law or department rule,~~  
3071 ~~the dealer shall not be held liable for additional tax, penalty,~~  
3072 ~~and interest resulting from such failure if:~~

3073 ~~(a) The dealer acted in a good faith belief that rounding~~  
3074 ~~to the nearest whole cent was the proper method of determining~~  
3075 ~~the amount of tax due on each taxable transaction.~~

3076 ~~(b) The dealer timely reported and remitted all taxes~~  
3077 ~~collected on each taxable transaction.~~

3078 ~~(c) The dealer agrees in writing to future compliance with~~  
3079 ~~the laws and rules concerning brackets applicable to the~~  
3080 ~~dealer's transactions.~~

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3081 Section 13. Subsection (3) of section 212.17, Florida  
3082 Statutes, is amended to read:

3083 212.17 Credits for returned goods, rentals, or admissions;  
3084 goods acquired for dealer's own use and subsequently resold;  
3085 additional powers of department.—

3086 (3) A dealer who has paid the tax imposed by this chapter  
3087 on tangible personal property or services may take a credit or  
3088 obtain a refund for a ~~any~~ tax paid by the dealer on the unpaid  
3089 balance due on worthless accounts within 12 months following the  
3090 month in which the bad debt has been charged off for federal  
3091 income tax purposes. A dealer that has paid the tax imposed by  
3092 this chapter on tangible personal property or services and that  
3093 is not required to file federal income tax returns may take a  
3094 credit against or obtain a refund for a tax paid by the dealer  
3095 on the unpaid balance due on worthless accounts within 12 months  
3096 after the month in which the bad debt is written off as  
3097 uncollectible in the dealer's books and records and would be  
3098 eligible for a bad-debt deduction for federal income tax  
3099 purposes if the dealer was required to file a federal income tax  
3100 return.

3101 (a) A dealer that is taking a credit against or obtaining  
3102 a refund on worthless accounts shall base the bad-debt-recovery  
3103 calculation in accordance with 26 U.S.C. s. 166.

3104 (b) When the amount of bad debt exceeds the amount of  
3105 taxable sales for the period during which the bad debt is  
3106 written off, a refund claim must be filed, notwithstanding s.  
3107 215.26(2), within 3 years after the due date of the return on  
3108 which the bad debt could first be claimed.

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3109        (c) If ~~any~~ accounts so charged off for which a credit or  
3110 refund has been obtained are thereafter in whole or in part paid  
3111 to the dealer, the amount so paid shall be included in the first  
3112 return filed after such collection and the tax paid accordingly.

3113        (d) If filing responsibilities have been assumed by a  
3114 certified service provider, the certified service provider shall  
3115 claim, on behalf of the seller, a bad-debt allowance provided by  
3116 this subsection. The certified service provider shall credit or  
3117 refund to the seller the full amount of a bad-debt allowance or  
3118 refund received.

3119        (e) For the purposes of reporting a payment received on a  
3120 previously claimed bad debt, the payments made on a debt or  
3121 account shall first be applied proportionally to the taxable  
3122 price of the property or service and the sales tax on such  
3123 property, and second to interest, service charges, and other  
3124 charges.

3125        (f) In situations in which the books and records of the  
3126 party claiming the bad-debt allowance support an allocation of  
3127 the bad debts among states that are members of the Streamlined  
3128 Sales and Use Tax Agreement, the allocation is permitted among  
3129 those states.

3130        Section 14. Paragraphs (a) and (e) of subsection (3) of  
3131 section 212.18, Florida Statutes, are amended to read:

3132        212.18 Administration of law; registration of dealers;  
3133 rules.—

3134        (3) (a) Every person desiring to engage in or conduct  
3135 business in this state as a dealer, as defined in this chapter,  
3136 or to lease, rent, or let or grant licenses in living quarters



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3137 or sleeping or housekeeping accommodations in hotels, apartment  
3138 houses, roominghouses, or tourist or trailer camps that are  
3139 subject to tax under s. 212.03, or to lease, rent, or let or  
3140 grant licenses in real property, as defined in this chapter, and  
3141 every person who sells or receives anything of value by way of  
3142 admissions, must file with the department an application for a  
3143 certificate of registration for each place of business, showing  
3144 the names of the persons who have interests in such business and  
3145 their residences, the address of the business, and such other  
3146 data as the department may reasonably require. However, owners  
3147 and operators of vending machines or newspaper rack machines are  
3148 required to obtain only one certificate of registration for each  
3149 county in which such machines are located. The department, by  
3150 rule, may authorize a dealer that uses independent sellers to  
3151 sell its merchandise to remit tax on the retail sales price  
3152 charged to the ultimate consumer in lieu of having the  
3153 independent seller register as a dealer and remit the tax. The  
3154 department may appoint the county tax collector as the  
3155 department's agent to accept applications for registrations. The  
3156 application must be made to the department before the person,  
3157 firm, copartnership, or corporation may engage in such business,  
3158 and it must be accompanied by a registration fee of \$5. ~~However,~~  
3159 ~~a registration fee is not required to accompany an application~~  
3160 ~~to engage in or conduct business to make mail order sales.~~ The  
3161 department may waive the registration fee for applications  
3162 submitted through the department's Internet registration process  
3163 or central electronic registration system provided by member  
3164 states of the Streamlined Sales and Use Tax Agreement.

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3165 (e) As used in this paragraph, the term "exhibitor" means  
 3166 a person who enters into an agreement authorizing the display of  
 3167 tangible personal property or services at a convention or a  
 3168 trade show. The following provisions apply to the registration  
 3169 of exhibitors as dealers under this chapter:

3170 1. An exhibitor whose agreement prohibits the sale of  
 3171 tangible personal property or services subject to the tax  
 3172 imposed in this chapter is not required to register as a dealer.

3173 2. An exhibitor whose agreement provides for the sale at  
 3174 wholesale only of tangible personal property or services subject  
 3175 to the tax imposed in this chapter must obtain a resale  
 3176 certificate from the purchasing dealer but is not required to  
 3177 register as a dealer.

3178 3. An exhibitor whose agreement authorizes the retail sale  
 3179 of tangible personal property or services subject to the tax  
 3180 imposed in this chapter must register as a dealer and collect  
 3181 the tax imposed under this chapter on such sales.

3182 ~~4. Any exhibitor who makes a mail order sale pursuant to~~  
 3183 ~~s. 212.0596 must register as a dealer.~~

3184 A Any person who conducts a convention or a trade show must make  
 3185 their exhibitor's agreements available to the department for  
 3186 inspection and copying.

3187 Section 15. Section 212.20, Florida Statutes, is amended  
 3188 to read:

3189 212.20 Funds collected, disposition; additional powers of  
 3190 department; operational expense; ~~refund of taxes adjudicated~~  
 3191 ~~unconstitutionally collected.~~—

3192 (1) The department shall pay over to the Chief Financial

3193 Officer of the state all funds received and collected by it  
 3194 under the provisions of this chapter, to be credited to the  
 3195 account of the General Revenue Fund of the state.

3196 (2) The department is authorized to employ all necessary  
 3197 assistants to administer this chapter properly and is also  
 3198 authorized to purchase all necessary supplies and equipment  
 3199 which may be required for this purpose.

3200 (3) The estimated amount of money needed for the  
 3201 administration of this chapter shall be included by the  
 3202 department in its annual legislative budget request for the  
 3203 operation of its office.

3204 ~~(4) When there has been a final adjudication that any tax~~  
 3205 ~~pursuant to s. 212.0596 was levied, collected, or both, contrary~~  
 3206 ~~to the Constitution of the United States or the State~~  
 3207 ~~Constitution, the department shall, in accordance with rules,~~  
 3208 ~~determine, based upon claims for refund and other evidence and~~  
 3209 ~~information, who paid such tax or taxes, and refund to each such~~  
 3210 ~~person the amount of tax paid. For purposes of this subsection,~~  
 3211 ~~a "final adjudication" is a decision of a court of competent~~  
 3212 ~~jurisdiction from which no appeal can be taken or from which the~~  
 3213 ~~official or officials of this state with authority to make such~~  
 3214 ~~decisions has or have decided not to appeal.~~

3215 (4)-(5) For the purposes of this section, the term:

3216 (a) "Proceeds" means all tax or fee revenue collected or  
 3217 received by the department, including interest and penalties.

3218 (b) "Reallocate" means reduction of the accounts of  
 3219 initial deposit and redeposit into the indicated account.

3220 (5)-(6) Distribution of all proceeds under this chapter and

3221 s. 202.18(1)(b) and (2)(b) shall be as follows:

3222 (a) Proceeds from the convention development taxes  
 3223 authorized under s. 212.0305 shall be reallocated to the  
 3224 Convention Development Tax Clearing Trust Fund.

3225 (b) Proceeds from discretionary sales surtaxes imposed  
 3226 pursuant to ss. 212.054 and 212.055 shall be reallocated to the  
 3227 Discretionary Sales Surtax Clearing Trust Fund.

3228 (c) Proceeds from the fees imposed under ss.  
 3229 212.05(1)(h)3. and 212.18(3) shall remain with the General  
 3230 Revenue Fund.

3231 (d) Notwithstanding any other provision of law, an amount  
 3232 equal to online transaction proceeds shall be reallocated to the  
 3233 Educational Enhancement Trust Fund. As used in this paragraph,  
 3234 the term "online transaction proceeds" means all proceeds under  
 3235 this chapter generated from online transactions.

3236 ~~(e)-(d)~~ The proceeds of all other taxes and fees imposed  
 3237 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
 3238 and (2)(b) shall be distributed as follows:

3239 1. In ~~a~~ any fiscal year, the greater of \$500 million,  
 3240 minus an amount equal to 4.6 percent of the proceeds of the  
 3241 taxes collected pursuant to chapter 201, or 5.2 percent of all  
 3242 other taxes and fees imposed pursuant to this chapter or  
 3243 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be  
 3244 deposited in monthly installments into the General Revenue Fund.

3245 2. After the distribution under subparagraph 1., 8.814  
 3246 percent of the amount remitted by a sales tax dealer located  
 3247 within a participating county pursuant to s. 218.61 shall be  
 3248 transferred into the Local Government Half-cent Sales Tax

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3249 Clearing Trust Fund. Beginning July 1, 2003, the amount to be  
3250 transferred shall be reduced by 0.1 percent, and the department  
3251 shall distribute this amount to the Public Employees Relations  
3252 Commission Trust Fund less \$5,000 each month, which shall be  
3253 added to the amount calculated in subparagraph 3. and  
3254 distributed accordingly.

3255 3. After the distribution under subparagraphs 1. and 2.,  
3256 0.095 percent shall be transferred to the Local Government Half-  
3257 cent Sales Tax Clearing Trust Fund and distributed pursuant to  
3258 s. 218.65.

3259 4. After the distributions under subparagraphs 1., 2., and  
3260 3., 2.0440 percent of the available proceeds shall be  
3261 transferred monthly to the Revenue Sharing Trust Fund for  
3262 Counties pursuant to s. 218.215.

3263 5. After the distributions under subparagraphs 1., 2., and  
3264 3., 1.3409 percent of the available proceeds shall be  
3265 transferred monthly to the Revenue Sharing Trust Fund for  
3266 Municipalities pursuant to s. 218.215. If the total revenue to  
3267 be distributed pursuant to this subparagraph is at least as  
3268 great as the amount due from the Revenue Sharing Trust Fund for  
3269 Municipalities and the former Municipal Financial Assistance  
3270 Trust Fund in state fiscal year 1999-2000, no municipality shall  
3271 receive less than the amount due from the Revenue Sharing Trust  
3272 Fund for Municipalities and the former Municipal Financial  
3273 Assistance Trust Fund in state fiscal year 1999-2000. If the  
3274 total proceeds to be distributed are less than the amount  
3275 received in combination from the Revenue Sharing Trust Fund for  
3276 Municipalities and the former Municipal Financial Assistance

3277 Trust Fund in state fiscal year 1999-2000, each municipality  
 3278 shall receive an amount proportionate to the amount it was due  
 3279 in state fiscal year 1999-2000.

3280 6. Of the remaining proceeds:

3281 a. In each fiscal year, the sum of \$29,915,500 shall be  
 3282 divided into as many equal parts as there are counties in the  
 3283 state, and one part shall be distributed to each county. The  
 3284 distribution among the several counties must begin each fiscal  
 3285 year on or before January 5th and continue monthly for a total  
 3286 of 4 months. If a local or special law required that ~~any~~ moneys  
 3287 accruing to a county in fiscal year 1999-2000 under the then-  
 3288 existing provisions of s. 550.135 be paid directly to the  
 3289 district school board, special district, or a municipal  
 3290 government, such payment must continue until the local or  
 3291 special law is amended or repealed. The state covenants with  
 3292 holders of bonds or other instruments of indebtedness issued by  
 3293 local governments, special districts, or district school boards  
 3294 before July 1, 2000, that it is not the intent of this  
 3295 subparagraph to adversely affect the rights of those holders or  
 3296 relieve local governments, special districts, or district school  
 3297 boards of the duty to meet their obligations as a result of  
 3298 previous pledges or assignments or trusts entered into which  
 3299 obligated funds received from the distribution to county  
 3300 governments under then-existing s. 550.135. This distribution  
 3301 specifically is in lieu of funds distributed under s. 550.135  
 3302 before July 1, 2000.

3303 b. The department shall distribute \$166,667 monthly  
 3304 pursuant to s. 288.1162 to each applicant certified as a

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3305 facility for a new or retained professional sports franchise  
3306 pursuant to s. 288.1162. Up to \$41,667 shall be distributed  
3307 monthly by the department to each certified applicant as defined  
3308 in s. 288.11621 for a facility for a spring training franchise.  
3309 However, not more than \$416,670 may be distributed monthly in  
3310 the aggregate to all certified applicants for facilities for  
3311 spring training franchises. Distributions begin 60 days after  
3312 such certification and continue for not more than 30 years,  
3313 except as otherwise provided in s. 288.11621. A certified  
3314 applicant identified in this sub-subparagraph may not receive  
3315 more in distributions than expended by the applicant for the  
3316 public purposes provided for in s. 288.1162(5) or s.  
3317 288.11621(3).

3318 c. Beginning 30 days after notice by the Department of  
3319 Economic Opportunity to the Department of Revenue that an  
3320 applicant has been certified as the professional golf hall of  
3321 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
3322 shall be distributed monthly, for up to 300 months, to the  
3323 applicant.

3324 d. Beginning 30 days after notice by the Department of  
3325 Economic Opportunity to the Department of Revenue that the  
3326 applicant has been certified as the International Game Fish  
3327 Association World Center facility pursuant to s. 288.1169, and  
3328 the facility is open to the public, \$83,333 shall be distributed  
3329 monthly, for up to 168 months, to the applicant. This  
3330 distribution is subject to reduction pursuant to s. 288.1169. A  
3331 lump sum payment of \$999,996 shall be made, after certification  
3332 and before July 1, 2000.

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3333 e. The department shall distribute up to \$55,555 monthly  
3334 to each certified applicant as defined in s. 288.11631 for a  
3335 facility used by a single spring training franchise, or up to  
3336 \$111,110 monthly to each certified applicant as defined in s.  
3337 288.11631 for a facility used by more than one spring training  
3338 franchise. Monthly distributions begin 60 days after such  
3339 certification or July 1, 2016, whichever is later, and continue  
3340 for not more than 30 years, except as otherwise provided in s.  
3341 288.11631. A certified applicant identified in this sub-  
3342 subparagraph may not receive more in distributions than expended  
3343 by the applicant for the public purposes provided in s.  
3344 288.11631(3).

3345 7. All other proceeds must remain in the General Revenue  
3346 Fund.

3347 Section 16. Section 213.052, Florida Statutes, is created  
3348 to read:

3349 213.052 Notice of state sales and use tax rate changes.-

3350 (1) A sales or use tax rate change imposed under chapter  
3351 212 is effective on January 1, April 1, July 1, or October 1.  
3352 The Department of Revenue shall provide notice of such rate  
3353 change to all affected sellers 60 days before the effective date  
3354 of the rate change.

3355 (2) Failure of a seller to receive notice does not relieve  
3356 the seller of its obligation to collect sales or use tax.

3357 Section 17. Section 213.0521, Florida Statutes, is created  
3358 to read:

3359 213.0521 Effective date of state sales and use tax rate  
3360 changes.-The effective date for services covering a period



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3361 starting before and ending after the effective date of a  
3362 legislative act is as follows:

3363 (1) For a rate increase, the new rate applies to the first  
3364 billing period starting on or after the effective date.

3365 (2) For a rate decrease, the new rate applies to bills  
3366 rendered on or after the effective date.

3367 Section 18. Section 213.215, Florida Statutes, is created  
3368 to read:

3369 213.215 Sales and use tax amnesty upon registration in  
3370 accordance with the Streamlined Sales and Use Tax Agreement.—

3371 (1) Amnesty shall be provided for uncollected or unpaid  
3372 sales or use tax to a seller who registers to pay or to collect  
3373 and remit applicable sales or use tax in accordance with the  
3374 terms of the Streamlined Sales and Use Tax Agreement authorized  
3375 under s. 213.256, if the seller was not registered with the  
3376 Department of Revenue in the 12-month period before the  
3377 effective date of participation in the agreement by this state.

3378 (2) The amnesty precludes assessment for uncollected or  
3379 unpaid sales or use tax, together with penalty or interest for  
3380 sales made during the period the seller was not registered with  
3381 the Department of Revenue, if registration occurs within 12  
3382 months after the effective date of this state's participation in  
3383 the agreement.

3384 (3) The amnesty is not available to a seller with respect  
3385 to a matter for which the seller received notice of the  
3386 commencement of an audit if the audit is not finally resolved,  
3387 including related administrative and judicial processes.

3388 (4) The amnesty is not available for sales or use taxes

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3389 already paid or remitted to the state or to taxes collected by  
3390 the seller.

3391 (5) The amnesty is fully effective, absent the seller's  
3392 fraud or intentional misrepresentation of a material fact, as  
3393 long as the seller continues registration and continues payment  
3394 or collection and remittance of applicable sales or use taxes  
3395 for at least 36 months.

3396 (6) The amnesty applies only to sales or use taxes due  
3397 from a seller in its capacity as a seller and not to sales or  
3398 use taxes due from a seller in its capacity as a buyer.

3399 Section 19. Subsections (1) and (2) of section 213.256,  
3400 Florida Statutes, are amended to read:

3401 213.256 Simplified Sales and Use Tax Administration Act.—

3402 (1) As used in this section and ss. 213.2562 and 213.2567,  
3403 the term:

3404 (a) "Agent" means, for purposes of carrying out the  
3405 responsibilities placed on a dealer, a person appointed by the  
3406 seller to represent the seller before the department.

3407 ~~"Department" means the Department of Revenue.~~

3408 (b) "Agreement" means the Streamlined Sales and Use Tax  
3409 Agreement as amended and adopted on January 27, 2001, by the  
3410 Executive Committee of the National Conference of State  
3411 Legislatures.

3412 (c) "Certified automated system" means software certified  
3413 jointly by the state states that are signatories to the  
3414 agreement to calculate the tax imposed by each jurisdiction on a  
3415 transaction, determine the amount of tax to remit to the  
3416 appropriate state, and maintain a record of the transaction.

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3417 (d) "Certified service provider" means an agent certified  
3418 ~~jointly by the states that are signatories to the agreement to~~  
3419 ~~perform all of the seller's sales tax functions~~ other than the  
3420 seller's obligation to remit tax on its own purchases.

3421 (e) "Department" means the Department of Revenue.

3422 (f) "Governing board" means the governing board of the  
3423 agreement.

3424 (g)1. "Model 1 seller" means a seller that has selected a  
3425 certified service provider as the seller's agent to perform all  
3426 of the seller's sales and use tax functions other than the  
3427 seller's obligation to remit tax on the seller's purchases.

3428 2. "Model 2 seller" means a seller that has selected a  
3429 certified automated system to perform part of the seller's sales  
3430 and use tax functions, but retains responsibility for remitting  
3431 the tax.

3432 3. "Model 3 seller" means a seller that has sales in at  
3433 least 5 member states, has total annual sales revenue of at  
3434 least \$500 million, has a proprietary system that calculates the  
3435 amount of tax due each jurisdiction, and has entered into a  
3436 performance agreement with the member states which establishes a  
3437 tax performance standard for the seller.

3438  
3439 As used in this paragraph, a seller includes an affiliated group  
3440 of sellers using the same proprietary system.

3441 (h)~~(e)~~ "Person" means an individual, trust, estate,  
3442 fiduciary, partnership, limited liability company, limited  
3443 liability partnership, corporation, or any other legal entity.

3444 (i) "Registered under this agreement" means registration

3445 | by a seller with the member states under the central  
 3446 | registration system.

3447 | (j)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

3448 | (k)~~(g)~~ "Seller" means a ~~any~~ person making sales, leases,  
 3449 | or rentals of personal property or services.

3450 | (l)~~(h)~~ "State" means a ~~any~~ state of the United States and  
 3451 | the District of Columbia.

3452 | (m)~~(i)~~ "Use tax" means the tax levied under chapter 212.

3453 | (2) (a) The executive director of the department is  
 3454 | authorized to ~~shall~~ enter into an agreement ~~the Streamlined~~  
 3455 | ~~Sales and Use Tax Agreement~~ with one or more states to simplify  
 3456 | and modernize sales and use tax administration in order to  
 3457 | substantially reduce the burden of tax compliance for all  
 3458 | sellers and for all types of commerce. In furtherance of the  
 3459 | agreement, the executive director of the department or his or  
 3460 | her designee shall act jointly with other states that are  
 3461 | members of the agreement to establish standards for  
 3462 | certification of a certified service provider and certified  
 3463 | automated systems ~~system~~ and central registration systems  
 3464 | ~~establish performance standards for multistate sellers.~~

3465 | (b) The executive director of the department or his or her  
 3466 | designee shall take other actions reasonably required to  
 3467 | administer this section. Other actions authorized by this  
 3468 | section include, but are not limited to, the adoption of rules  
 3469 | and the joint procurement, with other member states, of goods  
 3470 | and services in furtherance of the cooperative agreement.

3471 | (c) The executive director of the department or his or her  
 3472 | designee may represent this state before the other states that

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3473 are signatories to the agreement.

3474 (d) The executive director of the department or his or her  
3475 designee is authorized to prepare and submit from time to time  
3476 such reports and certifications as may be determined necessary  
3477 according to the terms of an agreement and to enter into such  
3478 other agreements with the governing board, member states, and  
3479 service providers as are determined by the executive director to  
3480 facilitate the administration of the tax laws of this state.

3481 Section 20. Section 213.2562, Florida Statutes, is created  
3482 to read:

3483 213.2562 Approval of software to calculate tax.—The  
3484 department shall review software submitted to the governing  
3485 board for certification as a certified automated system. If the  
3486 software accurately reflects the taxability of product  
3487 categories included in the program, the department shall certify  
3488 the approval of the software to the governing board.

3489 Section 21. Section 213.2567, Florida Statutes, is created  
3490 to read:

3491 213.2567 Simplified Sales and Use Tax Agreement  
3492 registration, certification, liability, and audit.—

3493 (1) A seller that registers under the agreement agrees to  
3494 collect and remit sales and use taxes for all taxable sales into  
3495 the member states, including member states joining after the  
3496 seller's registration. Withdrawal or revocation of this state  
3497 does not relieve a seller of its responsibility to remit taxes  
3498 previously or subsequently collected on behalf of the state.

3499 (a) When registering, the seller may select a model 1,  
3500 model 2, or model 3 method of remittance or other method allowed

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3501 by state law to remit the taxes collected.

3502 (b) A seller may be registered by an agent. Such a  
3503 registration must be in writing and submitted to a member state.

3504 (2) (a) A certified service provider is the agent of a  
3505 model 1 seller with whom the certified service provider has  
3506 contracted for the collection and remittance of sales and use  
3507 taxes. As the model 1 seller's agent, the certified service  
3508 provider is liable for sales and use tax due this state on all  
3509 sales transactions it processes for the model 1 seller, except  
3510 as set out in paragraph (b).

3511 (b) A model 1 seller is not liable to the state for sales  
3512 or use tax due on transactions processed by the certified  
3513 service provider unless the model 1 seller has misrepresented  
3514 the type of items it sells or has committed fraud. In the  
3515 absence of probable cause to believe that the model 1 seller has  
3516 committed fraud or made a material misrepresentation, the model  
3517 1 seller is not subject to audit on the transactions processed  
3518 by the certified service provider. A model 1 seller is subject  
3519 to audit for transactions that have not been processed by the  
3520 certified service provider. The member states acting jointly may  
3521 perform a system check of the model 1 seller and review the  
3522 model 1 seller's procedures to determine if the certified  
3523 service provider's system is functioning properly and to  
3524 determine the extent to which the model 1 seller's transactions  
3525 are being processed by the certified service provider.

3526 (3) A model 2 seller that uses a certified automated  
3527 system remains responsible and is liable to this state for  
3528 reporting and remitting tax. However, a model 2 seller is not

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3529 responsible for errors in reliance on a certified automated  
3530 system.

3531 (4) A model 3 seller is liable for the failure of the  
3532 proprietary system to meet the performance standard.

3533 (5) A person that provides a certified automated system is  
3534 not liable for errors contained in software that was approved by  
3535 the department and certified to the governing board. However,  
3536 such person:

3537 (a) Is responsible for the proper functioning of that  
3538 system;

3539 (b) Is liable to this state for underpayments of tax  
3540 attributable to errors in the functioning of the certified  
3541 automated system; and

3542 (c) Is liable for the misclassification of an item or  
3543 transaction that is not corrected within 10 days after the  
3544 receipt of notice from the department.

3545 (6) The executive director of the department or his or her  
3546 designee may certify a person as a certified service provider if  
3547 the person meets all of the following requirements:

3548 (a) Uses a certified automated system;

3549 (b) Integrates its certified automated system with the  
3550 system of a seller for whom the person collects tax so that the  
3551 tax due on a sale is determined at the time of the sale;

3552 (c) Agrees to remit the taxes it collects at the time and  
3553 in the manner specified by chapter 212;

3554 (d) Agrees to file returns on behalf of the sellers for  
3555 whom it collects tax;

3556 (e) Agrees to protect the privacy of tax information it

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3557 obtains in accordance with s. 213.053; and

3558 (f) Enters into a contract with the department and agrees  
3559 to comply with the terms of the contract.

3560 (7) The department shall review software submitted to the  
3561 governing board for certification as a certified automated  
3562 system. The executive director of the department shall certify  
3563 the approval of the software to the governing board if the  
3564 software:

3565 (a) Determines the applicable state and local sales and  
3566 use tax rate for a transaction in accordance with s. 212.06(3)  
3567 and (4);

3568 (b) Determines whether an item is exempt from tax;

3569 (c) Determines the amount of tax to be remitted for each  
3570 taxpayer for a reporting period; and

3571 (d) Can generate reports and returns as required by the  
3572 governing board.

3573 (8) The department may by rule establish one or more sales  
3574 tax performance standards for model 3 sellers.

3575 (9) Disclosure of information necessary under this section  
3576 must be made according to a written agreement between the  
3577 executive director of the department or his or her designee and  
3578 the certified service provider. The certified service provider  
3579 is bound by the same requirements of confidentiality as the  
3580 department employees. Breach of confidentiality is a misdemeanor  
3581 of the first degree, punishable as provided in s. 775.082 or s.  
3582 775.083.

3583 Section 22. It is the intent of the Legislature to urge  
3584 the United States Congress to consider adequate protections for



3585 small businesses engaging in both offline and online  
 3586 transactions from added costs, administrative burdens, and  
 3587 requirements imposed on intermediaries relating to the  
 3588 collection and remittance of sales and use tax.

3589 Section 23. The executive director of the Department of  
 3590 Revenue may adopt emergency rules to implement this act.  
 3591 Notwithstanding any other law, the emergency rules shall remain  
 3592 effective for 6 months after the date of adoption and may be  
 3593 renewed during the pendency of procedures to adopt rules  
 3594 addressing the subject of the emergency rules.

3595 Section 24. Paragraph (a) of subsection (5) of section  
 3596 11.45, Florida Statutes, is amended to read:

3597 11.45 Definitions; duties; authorities; reports; rules.—

3598 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

3599 (a) The Legislative Auditing Committee shall direct the  
 3600 Auditor General to make an audit of a ~~any~~ municipality whenever  
 3601 petitioned to do so by at least 20 percent of the registered  
 3602 electors in the last general election of that municipality  
 3603 pursuant to this subsection. The supervisor of elections of the  
 3604 county in which the municipality is located shall certify  
 3605 whether or not the petition contains the signatures of at least  
 3606 20 percent of the registered electors of the municipality. After  
 3607 the completion of the audit, the Auditor General shall determine  
 3608 whether the municipality has the fiscal resources necessary to  
 3609 pay the cost of the audit. The municipality shall pay the cost  
 3610 of the audit within 90 days after the Auditor General's  
 3611 determination that the municipality has the available resources.  
 3612 If the municipality fails to pay the cost of the audit, the

3613 Department of Revenue shall, upon certification of the Auditor  
 3614 General, withhold from that portion of the distribution pursuant  
 3615 to s. 212.20(5)(e)5. ~~s. 212.20(6)(d)5.~~ which is distributable to  
 3616 such municipality, a sum sufficient to pay the cost of the audit  
 3617 and shall deposit that sum into the General Revenue Fund of the  
 3618 state.

3619 Section 25. Subsection (6) of section 196.012, Florida  
 3620 Statutes, is amended to read:

3621 196.012 Definitions.—For the purpose of this chapter, the  
 3622 following terms are defined as follows, except where the context  
 3623 clearly indicates otherwise:

3624 (6) Governmental, municipal, or public purpose or function  
 3625 shall be deemed to be served or performed when the lessee under  
 3626 a any leasehold interest created in property of the United  
 3627 States, the state or ~~any of~~ its political subdivisions, or a any  
 3628 municipality, agency, special district, authority, or other  
 3629 public body corporate of the state is demonstrated to perform a  
 3630 function or serve a governmental purpose which could properly be  
 3631 performed or served by an appropriate governmental unit or which  
 3632 is demonstrated to perform a function or serve a purpose which  
 3633 would otherwise be a valid subject for the allocation of public  
 3634 funds. For purposes of the preceding sentence, an activity  
 3635 undertaken by a lessee which is permitted under the terms of its  
 3636 lease of real property designated as an aviation area on an  
 3637 airport layout plan which has been approved by the Federal  
 3638 Aviation Administration and which real property is used for the  
 3639 administration, operation, business offices and activities  
 3640 related specifically thereto in connection with the conduct of

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3641 an aircraft full service fixed base operation which provides  
3642 goods and services to the general aviation public in the  
3643 promotion of air commerce shall be deemed an activity which  
3644 serves a governmental, municipal, or public purpose or function.  
3645 An ~~Any~~ activity undertaken by a lessee which is permitted under  
3646 the terms of its lease of real property designated as a public  
3647 airport as defined in s. 332.004(14) by municipalities,  
3648 agencies, special districts, authorities, or other public bodies  
3649 corporate and public bodies politic of the state, a spaceport as  
3650 defined in s. 331.303, or which is located in a deepwater port  
3651 identified in s. 403.021(9)(b) and owned by one of the foregoing  
3652 governmental units, subject to a leasehold or other possessory  
3653 interest of a nongovernmental lessee that is deemed to perform  
3654 an aviation, airport, aerospace, maritime, or port purpose or  
3655 operation shall be deemed an activity that serves a  
3656 governmental, municipal, or public purpose. The use by a lessee,  
3657 licensee, or management company of real property or a portion  
3658 thereof as a convention center, visitor center, sports facility  
3659 with permanent seating, concert hall, arena, stadium, park, or  
3660 beach is deemed a use that serves a governmental, municipal, or  
3661 public purpose or function when access to the property is open  
3662 to the general public with or without a charge for admission. If  
3663 property deeded to a municipality by the United States is  
3664 subject to a requirement that the Federal Government, through a  
3665 schedule established by the Secretary of the Interior, determine  
3666 that the property is being maintained for public historic  
3667 preservation, park, or recreational purposes and if those  
3668 conditions are not met the property will revert back to the

3669 Federal Government, then such property shall be deemed to serve  
 3670 a municipal or public purpose. The term "governmental purpose"  
 3671 also includes a direct use of property on federal lands in  
 3672 connection with the Federal Government's Space Exploration  
 3673 Program or spaceport activities as defined in s. 212.02~~(22)~~.  
 3674 Real property and tangible personal property owned by the  
 3675 Federal Government or Space Florida and used for defense and  
 3676 space exploration purposes or which is put to a use in support  
 3677 thereof shall be deemed to perform an essential national  
 3678 governmental purpose and shall be exempt. "Owned by the lessee"  
 3679 as used in this chapter does not include personal property,  
 3680 buildings, or other real property improvements used for the  
 3681 administration, operation, business offices and activities  
 3682 related specifically thereto in connection with the conduct of  
 3683 an aircraft full service fixed based operation which provides  
 3684 goods and services to the general aviation public in the  
 3685 promotion of air commerce provided that the real property is  
 3686 designated as an aviation area on an airport layout plan  
 3687 approved by the Federal Aviation Administration. For purposes of  
 3688 determination of "ownership," buildings and other real property  
 3689 improvements which will revert to the airport authority or other  
 3690 governmental unit upon expiration of the term of the lease shall  
 3691 be deemed "owned" by the governmental unit and not the lessee.  
 3692 Providing two-way telecommunications services to the public for  
 3693 hire by the use of a telecommunications facility, as defined in  
 3694 s. 364.02(14), and for which a certificate is required under  
 3695 chapter 364 does not constitute an exempt use for purposes of s.  
 3696 196.199, unless the telecommunications services are provided by

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3697 the operator of a public-use airport, as defined in s. 332.004,  
 3698 for the operator's provision of telecommunications services for  
 3699 the airport or its tenants, concessionaires, or licensees, or  
 3700 unless the telecommunications services are provided by a public  
 3701 hospital.

3702 Section 26. Paragraph (b) of subsection (1) and paragraph  
 3703 (b) of subsection (2) of section 202.18, Florida Statutes, are  
 3704 amended to read:

3705 202.18 Allocation and disposition of tax proceeds.—The  
 3706 proceeds of the communications services taxes remitted under  
 3707 this chapter shall be treated as follows:

3708 (1) The proceeds of the taxes remitted under s.  
 3709 202.12(1) (a) shall be divided as follows:

3710 (b) The remaining portion shall be distributed according  
 3711 to s. 212.20(5) ~~s. 212.20(6)~~.

3712 (2) The proceeds of the taxes remitted under s.  
 3713 202.12(1) (b) shall be divided as follows:

3714 (b) Sixty-three percent of the remainder shall be  
 3715 allocated to the state and distributed pursuant to s. 212.20(5)  
 3716 ~~s. 212.20(6)~~, except that the proceeds allocated pursuant to s.  
 3717 212.20(5) (e)2. ~~s. 212.20(6) (d)2.~~ shall be prorated to the  
 3718 participating counties in the same proportion as that month's  
 3719 collection of the taxes and fees imposed pursuant to chapter 212  
 3720 and paragraph (1) (b).

3721 Section 27. Paragraphs (f), (g), (h), and (i) of  
 3722 subsection (1) of section 203.01, Florida Statutes, are amended  
 3723 to read:

3724 203.01 Tax on gross receipts for utility and

3725 | communications services.—

3726 |           (1)

3727 |           (f) A ~~Any~~ person who imports into this state electricity,  
 3728 | natural gas, or manufactured gas, or severs natural gas, for  
 3729 | that person's own use or consumption as a substitute for  
 3730 | purchasing utility, transportation, or delivery services taxable  
 3731 | under this chapter and who cannot demonstrate payment of the tax  
 3732 | imposed by this chapter must register with the Department of  
 3733 | Revenue and pay into the State Treasury each month an amount  
 3734 | equal to the cost price of such electricity, natural gas, or  
 3735 | manufactured gas times the rate set forth in paragraph (b),  
 3736 | reduced by the amount of a ~~any~~ like tax lawfully imposed on and  
 3737 | paid by the person from whom the electricity, natural gas, or  
 3738 | manufactured gas was purchased or a ~~any~~ person who provided  
 3739 | delivery service or transportation service in connection with  
 3740 | the electricity, natural gas, or manufactured gas. For purposes  
 3741 | of this paragraph, the term "cost price" has the meaning  
 3742 | ascribed in s. 212.02~~(4)~~. The methods of demonstrating proof of  
 3743 | payment and the amount of such reductions in tax shall be made  
 3744 | according to rules of the Department of Revenue.

3745 |           (g) Electricity produced by cogeneration or by small power  
 3746 | producers which is transmitted and distributed by a public  
 3747 | utility between two locations of a customer of the utility  
 3748 | pursuant to s. 366.051 is subject to the tax imposed by this  
 3749 | section. The tax shall be applied to the cost price of such  
 3750 | electricity as provided in s. 212.02~~(4)~~ and shall be paid each  
 3751 | month by the producer of such electricity.

3752 |           (h) Electricity produced by cogeneration or by small power

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3753 producers during the 12-month period ending June 30 of each year  
3754 which is in excess of nontaxable electricity produced during the  
3755 12-month period ending June 30, 1990, is subject to the tax  
3756 imposed by this section. The tax shall be applied to the cost  
3757 price of such electricity as provided in s. 212.02(4) and shall  
3758 be paid each month, beginning with the month in which total  
3759 production exceeds the production of nontaxable electricity for  
3760 the 12-month period ending June 30, 1990. For purposes of this  
3761 paragraph, "nontaxable electricity" means electricity produced  
3762 by cogeneration or by small power producers which is not subject  
3763 to tax under paragraph (g). Taxes paid pursuant to paragraph (g)  
3764 may be credited against taxes due under this paragraph.

3765 Electricity generated as part of an industrial manufacturing  
3766 process which manufactures products from phosphate rock, raw  
3767 wood fiber, paper, citrus, or an ~~any~~ agricultural product shall  
3768 not be subject to the tax imposed by this paragraph. "Industrial  
3769 manufacturing process" means the entire process conducted at the  
3770 location where the process takes place.

3771 (i) A ~~Any~~ person other than a cogenerator or small power  
3772 producer described in paragraph (h) who produces for his or her  
3773 own use electrical energy which is a substitute for electrical  
3774 energy produced by an electric utility as defined in s. 366.02  
3775 is subject to the tax imposed by this section. The tax shall be  
3776 applied to the cost price of such electrical energy as provided  
3777 in s. 212.02(4) and shall be paid each month. The provisions of  
3778 this paragraph do not apply to an ~~any~~ electrical energy produced  
3779 and used by an electric utility.

3780 Section 28. Paragraph (a) of subsection (1) of section

3781 212.031, Florida Statutes, is amended to read:

3782 212.031 Tax on rental or license fee for use of real  
 3783 property.—

3784 (1) (a) It is declared to be the legislative intent that  
 3785 every person is exercising a taxable privilege who engages in  
 3786 the business of renting, leasing, letting, or granting a license  
 3787 for the use of ~~any~~ real property unless such property is:

- 3788 1. Assessed as agricultural property under s. 193.461.
- 3789 2. Used exclusively as dwelling units.
- 3790 3. Property subject to tax on parking, docking, or storage  
 3791 spaces under s. 212.03(6).

3792 4. Recreational property or the common elements of a  
 3793 condominium when subject to a lease between the developer or  
 3794 owner thereof and the condominium association in its own right  
 3795 or as agent for the owners of individual condominium units or  
 3796 the owners of individual condominium units. However, only the  
 3797 lease payments on such property shall be exempt from the tax  
 3798 imposed by this chapter, and any other use made by the owner or  
 3799 the condominium association shall be fully taxable under this  
 3800 chapter.

3801 5. A public or private street or right-of-way and poles,  
 3802 conduits, fixtures, and similar improvements located on such  
 3803 streets or rights-of-way, occupied or used by a utility or  
 3804 provider of communications services, as defined by s. 202.11,  
 3805 for utility or communications or television purposes. For  
 3806 purposes of this subparagraph, the term "utility" means a ~~any~~  
 3807 person providing utility services as defined in s. 203.012. This  
 3808 exception also applies to property, wherever located, on which



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3809 the following are placed: towers, antennas, cables, accessory  
3810 structures, or equipment, not including switching equipment,  
3811 used in the provision of mobile communications services as  
3812 defined in s. 202.11. For purposes of this chapter, towers used  
3813 in the provision of mobile communications services, as defined  
3814 in s. 202.11, are considered to be fixtures.

3815 6. A public street or road which is used for  
3816 transportation purposes.

3817 7. Property used at an airport exclusively for the purpose  
3818 of aircraft landing or aircraft taxiing or property used by an  
3819 airline for the purpose of loading or unloading passengers or  
3820 property onto or from aircraft or for fueling aircraft.

3821 8.a. Property used at a port authority, as defined in s.  
3822 315.02(2), exclusively for the purpose of oceangoing vessels or  
3823 tugs docking, or such vessels mooring on property used by a port  
3824 authority for the purpose of loading or unloading passengers or  
3825 cargo onto or from such a vessel, or property used at a port  
3826 authority for fueling such vessels, or to the extent that the  
3827 amount paid for the use of ~~any~~ property at the port is based on  
3828 the charge for the amount of tonnage actually imported or  
3829 exported through the port by a tenant.

3830 b. The amount charged for the use of ~~any~~ property at the  
3831 port in excess of the amount charged for tonnage actually  
3832 imported or exported shall remain subject to tax except as  
3833 provided in sub-subparagraph a.

3834 9. Property used as an integral part of the performance of  
3835 qualified production services. As used in this subparagraph, the  
3836 term "qualified production services" means an ~~any~~ activity or

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3837 service performed directly in connection with the production of  
3838 a qualified motion picture, as defined in s. 212.06(1)(b), and  
3839 includes:

3840 a. Photography, sound and recording, casting, location  
3841 managing and scouting, shooting, creation of special and optical  
3842 effects, animation, adaptation (language, media, electronic, or  
3843 otherwise), technological modifications, computer graphics, set  
3844 and stage support (such as electricians, lighting designers and  
3845 operators, greensmen, prop managers and assistants, and grips),  
3846 wardrobe (design, preparation, and management), hair and makeup  
3847 (design, production, and application), performing (such as  
3848 acting, dancing, and playing), designing and executing stunts,  
3849 coaching, consulting, writing, scoring, composing,  
3850 choreographing, script supervising, directing, producing,  
3851 transmitting dailies, dubbing, mixing, editing, cutting,  
3852 looping, printing, processing, duplicating, storing, and  
3853 distributing;

3854 b. The design, planning, engineering, construction,  
3855 alteration, repair, and maintenance of real or personal property  
3856 including stages, sets, props, models, paintings, and facilities  
3857 principally required for the performance of those services  
3858 listed in sub-subparagraph a.; and

3859 c. Property management services directly related to  
3860 property used in connection with the services described in sub-  
3861 subparagraphs a. and b.

3862 This exemption will inure to the taxpayer upon presentation of  
3863 the certificate of exemption issued to the taxpayer under the  
3864 provisions of s. 288.1258.

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3865 10. Leased, subleased, licensed, or rented to a person  
3866 providing food and drink concessionaire services within the  
3867 premises of a convention hall, exhibition hall, auditorium,  
3868 stadium, theater, arena, civic center, performing arts center,  
3869 publicly owned recreational facility, or a ~~any~~ business operated  
3870 under a permit issued pursuant to chapter 550. A person  
3871 providing retail concessionaire services involving the sale of  
3872 food and drink or other tangible personal property within the  
3873 premises of an airport shall be subject to tax on the rental of  
3874 real property used for that purpose, but shall not be subject to  
3875 the tax on a ~~any~~ license to use the property. For purposes of  
3876 this subparagraph, the term "sale" shall not include the leasing  
3877 of tangible personal property.

3878 11. Property occupied pursuant to an instrument calling  
3879 for payments which the department has declared, in a Technical  
3880 Assistance Advisement issued on or before March 15, 1993, to be  
3881 nontaxable pursuant to rule 12A-1.070(19)(c), Florida  
3882 Administrative Code; provided that this subparagraph shall only  
3883 apply to property occupied by the same person before and after  
3884 the execution of the subject instrument and only to those  
3885 payments made pursuant to such instrument, exclusive of renewals  
3886 and extensions thereof occurring after March 15, 1993.

3887 12. Property used or occupied predominantly for space  
3888 flight business purposes. As used in this subparagraph, "space  
3889 flight business" means the manufacturing, processing, or  
3890 assembly of a space facility, space propulsion system, space  
3891 vehicle, satellite, or station of any kind possessing the  
3892 capacity for space flight, as defined by s. 212.02~~(23)~~, or

3893 components thereof, and also means the following activities  
 3894 supporting space flight: vehicle launch activities, flight  
 3895 operations, ground control or ground support, and all  
 3896 administrative activities directly related thereto. Property  
 3897 shall be deemed to be used or occupied predominantly for space  
 3898 flight business purposes if more than 50 percent of the  
 3899 property, or improvements thereon, is used for one or more space  
 3900 flight business purposes. Possession by a landlord, lessor, or  
 3901 licensor of a signed written statement from the tenant, lessee,  
 3902 or licensee claiming the exemption shall relieve the landlord,  
 3903 lessor, or licensor from the responsibility of collecting the  
 3904 tax, and the department shall look solely to the tenant, lessee,  
 3905 or licensee for recovery of such tax if it determines that the  
 3906 exemption was not applicable.

3907       13. Rented, leased, subleased, or licensed to a person  
 3908 providing telecommunications, data systems management, or  
 3909 Internet services at a publicly or privately owned convention  
 3910 hall, civic center, or meeting space at a public lodging  
 3911 establishment as defined in s. 509.013. This subparagraph  
 3912 applies only to that portion of the rental, lease, or license  
 3913 payment that is based upon a percentage of sales, revenue  
 3914 sharing, or royalty payments and not based upon a fixed price.  
 3915 This subparagraph is intended to be clarifying and remedial in  
 3916 nature and shall apply retroactively. This subparagraph does not  
 3917 provide a basis for an assessment of any tax not paid, or create  
 3918 a right to a refund of any tax paid, pursuant to this section  
 3919 before July 1, 2010.

3920       Section 29. Paragraph (b) of subsection (1) of section

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3921 212.052, Florida Statutes, is amended to read:

3922 212.052 Research or development costs; exemption.—

3923 (1) For the purposes of the exemption provided in this  
3924 section:

3925 (b) The term "costs" means cost price as defined in s.  
3926 212.02~~(4)~~.

3927 Section 30. Paragraph (c) of subsection (2), paragraph (c)  
3928 of subsection (3), and paragraphs (c) and (i) of subsection (8)  
3929 of section 212.055, Florida Statutes, are amended to read:

3930 212.055 Discretionary sales surtaxes; legislative intent;  
3931 authorization and use of proceeds.—It is the legislative intent  
3932 that any authorization for imposition of a discretionary sales  
3933 surtax shall be published in the Florida Statutes as a  
3934 subsection of this section, irrespective of the duration of the  
3935 levy. Each enactment shall specify the types of counties  
3936 authorized to levy; the rate or rates which may be imposed; the  
3937 maximum length of time the surtax may be imposed, if any; the  
3938 procedure which must be followed to secure voter approval, if  
3939 required; the purpose for which the proceeds may be expended;  
3940 and such other requirements as the Legislature may provide.  
3941 Taxable transactions and administrative procedures shall be as  
3942 provided in s. 212.054.

3943 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

3944 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax  
3945 levied under this subsection shall be distributed to the county  
3946 and the municipalities within such county in which the surtax  
3947 was collected, according to:

3948 1. An interlocal agreement between the county governing

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3949 authority and the governing bodies of the municipalities  
 3950 representing a majority of the county's municipal population,  
 3951 which agreement may include a school district with the consent  
 3952 of the county governing authority and the governing bodies of  
 3953 the municipalities representing a majority of the county's  
 3954 municipal population; or

3955 2. If there is no interlocal agreement, according to the  
 3956 formula provided in s. 218.62.

3957  
 3958 A ~~Any~~ change in the distribution formula must take effect on the  
 3959 first day of a ~~any~~ month that begins at least 60 days after  
 3960 written notification of that change has been made to the  
 3961 department.

3962 (3) SMALL COUNTY SURTAX.—

3963 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax  
 3964 levied under this subsection shall be distributed to the county  
 3965 and the municipalities within the county in which the surtax was  
 3966 collected, according to:

3967 1. An interlocal agreement between the county governing  
 3968 authority and the governing bodies of the municipalities  
 3969 representing a majority of the county's municipal population,  
 3970 which agreement may include a school district with the consent  
 3971 of the county governing authority and the governing bodies of  
 3972 the municipalities representing a majority of the county's  
 3973 municipal population; or

3974 2. If there is no interlocal agreement, according to the  
 3975 formula provided in s. 218.62.

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3977 | A ~~Any~~ change in the distribution formula shall take effect on  
 3978 | the first day of a ~~any~~ month that begins at least 60 days after  
 3979 | written notification of that change has been made to the  
 3980 | department.

3981 | (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

3982 | (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the  
 3983 | discretionary sales surtax collected under this subsection, less  
 3984 | an administrative fee that may be retained by the Department of  
 3985 | Revenue, shall be distributed by the department to the county.  
 3986 | The county shall distribute the proceeds it receives from the  
 3987 | department to the participating jurisdictions that have entered  
 3988 | into an interlocal agreement with the county under this  
 3989 | subsection. The county may also charge an administrative fee for  
 3990 | receiving and distributing the surtax in the amount of the  
 3991 | actual costs incurred, not to exceed 2 percent of the surtax  
 3992 | collected.

3993 | (i) Surtax collections shall be initiated on January 1 of  
 3994 | the year following a successful referendum ~~in order to coincide~~  
 3995 | ~~with s. 212.054(5)~~.

3996 | Section 31. Subsection (3) of section 212.13, Florida  
 3997 | Statutes, is amended to read:

3998 | 212.13 Records required to be kept; power to inspect;  
 3999 | audit procedure.—

4000 | (3) For the purpose of enforcement of this chapter, every  
 4001 | manufacturer and seller of tangible personal property or  
 4002 | services licensed within this state is required to permit the  
 4003 | department to examine his or her books and records at all  
 4004 | reasonable hours, and, upon his or her refusal, the department

4005 | may require him or her to permit such examination by resort to  
 4006 | the circuit courts of this state, subject however to the right  
 4007 | of removal of the cause to the judicial circuit wherein such  
 4008 | person's business is located or wherein such person's books and  
 4009 | records are kept, provided further that such person's books and  
 4010 | records are kept within the state. When the dealer has made an  
 4011 | allocation or attribution pursuant to the definition of sales  
 4012 | price in s. 212.02(16), the department may prescribe by rule the  
 4013 | books and records that must be made available during an audit of  
 4014 | the dealer's books and records and examples of methods for  
 4015 | determining the reasonableness thereof. Books and records kept  
 4016 | in the regular course of business include, but are not limited  
 4017 | to, general ledgers, price lists, cost records, customer  
 4018 | billings, billing system reports, tariffs, and other regulatory  
 4019 | filings and rules of regulatory authorities. Such record may be  
 4020 | required to be made available to the department in an electronic  
 4021 | format when so kept by the dealer. The dealer may support the  
 4022 | allocation of charges with books and records kept in the regular  
 4023 | course of business covering the dealer's entire service area,  
 4024 | including territories outside this state. During an audit, the  
 4025 | department may reasonably require production of ~~any~~ additional  
 4026 | books and records found necessary to assist in its  
 4027 | determination.

4028 |       Section 32. Subsection (1) of section 212.15, Florida  
 4029 | Statutes, is amended to read:

4030 |       212.15 Taxes declared state funds; penalties for failure  
 4031 | to remit taxes; due and delinquent dates; judicial review.—

4032 |       (1) The taxes imposed by this chapter shall, ~~except as~~



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4033 ~~provided in s. 212.06(5)(a)2.e.,~~ become state funds at the  
4034 moment of collection and shall for each month be due to the  
4035 department on the first day of the succeeding month and be  
4036 delinquent on the 21st day of such month. All returns postmarked  
4037 after the 20th day of such month are delinquent.

4038 Section 33. Subsection (3) of section 213.015, Florida  
4039 Statutes, is amended to read:

4040 213.015 Taxpayer rights.—There is created a Florida  
4041 Taxpayer's Bill of Rights to guarantee that the rights, privacy,  
4042 and property of Florida taxpayers are adequately safeguarded and  
4043 protected during tax assessment, collection, and enforcement  
4044 processes administered under the revenue laws of this state. The  
4045 Taxpayer's Bill of Rights compiles, in one document, brief but  
4046 comprehensive statements which explain, in simple, nontechnical  
4047 terms, the rights and obligations of the Department of Revenue  
4048 and taxpayers. Section 192.0105 provides additional rights  
4049 afforded to payors of property taxes and assessments. The rights  
4050 afforded taxpayers to ensure that their privacy and property are  
4051 safeguarded and protected during tax assessment and collection  
4052 are available only insofar as they are implemented in other  
4053 parts of the Florida Statutes or rules of the Department of  
4054 Revenue. The rights so guaranteed Florida taxpayers in the  
4055 Florida Statutes and the departmental rules are:

4056 (3) The right to be represented or advised by counsel or  
4057 other qualified representatives at any time in administrative  
4058 interactions with the department, the right to procedural  
4059 safeguards with respect to recording of interviews during tax  
4060 determination or collection processes conducted by the

4061 department, the right to be treated in a professional manner by  
 4062 department personnel, and the right to have audits, inspections  
 4063 of records, and interviews conducted at a reasonable time and  
 4064 place except in criminal and internal investigations (see ss.  
 4065 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3),  
 4066 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (11) ~~(13)~~,  
 4067 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

4068 Section 34. Subsection (3) of section 218.245, Florida  
 4069 Statutes, is amended to read:

4070 218.245 Revenue sharing; apportionment.—

4071 (3) Revenues attributed to the increase in distribution to  
 4072 the Revenue Sharing Trust Fund for Municipalities pursuant to s.  
 4073 212.20(5)(e)5. ~~s. 212.20(6)(d)5.~~ from 1.0715 percent to 1.3409  
 4074 percent provided in chapter 2003-402, Laws of Florida, shall be  
 4075 distributed to each eligible municipality and a ~~any~~ unit of  
 4076 local government that is consolidated as provided by s. 9, Art.  
 4077 VIII of the State Constitution of 1885, as preserved by s. 6(e),  
 4078 Art. VIII, 1968 revised constitution, as follows: each eligible  
 4079 local government's allocation shall be based on the amount it  
 4080 received from the half-cent sales tax under s. 218.61 in the  
 4081 prior state fiscal year divided by the total receipts under s.  
 4082 218.61 in the prior state fiscal year for all eligible local  
 4083 governments. However, for the purpose of calculating this  
 4084 distribution, the amount received from the half-cent sales tax  
 4085 under s. 218.61 in the prior state fiscal year by a unit of  
 4086 local government which is consolidated as provided by s. 9, Art.  
 4087 VIII of the State Constitution of 1885, as amended, and as  
 4088 preserved by s. 6(e), Art. VIII, of the Constitution as revised

4089 | in 1968, shall be reduced by 50 percent for such local  
 4090 | government and for the total receipts. For eligible  
 4091 | municipalities that began participating in the allocation of  
 4092 | half-cent sales tax under s. 218.61 in the previous state fiscal  
 4093 | year, their annual receipts shall be calculated by dividing  
 4094 | their actual receipts by the number of months they participated,  
 4095 | and the result multiplied by 12.

4096 |         Section 35. Subsections (5), (6), and (7) of section  
 4097 | 218.65, Florida Statutes, are amended to read:

4098 |             218.65 Emergency distribution.—

4099 |         (5) At the beginning of each fiscal year, the Department  
 4100 | of Revenue shall calculate a base allocation for each eligible  
 4101 | county equal to the difference between the current per capita  
 4102 | limitation times the county's population, minus prior year  
 4103 | ordinary distributions to the county pursuant to ss.  
 4104 | 212.20(5)(e)2. ~~212.20(6)(d)2.~~, 218.61, and 218.62. If moneys  
 4105 | deposited into the Local Government Half-cent Sales Tax Clearing  
 4106 | Trust Fund pursuant to s. 212.20(5)(e)3. ~~s. 212.20(6)(d)3.~~,  
 4107 | excluding moneys appropriated for supplemental distributions  
 4108 | pursuant to subsection (8), for the current year are less than  
 4109 | or equal to the sum of the base allocations, each eligible  
 4110 | county shall receive a share of the appropriated amount  
 4111 | proportional to its base allocation. If the deposited amount  
 4112 | exceeds the sum of the base allocations, each county shall  
 4113 | receive its base allocation, and the excess appropriated amount,  
 4114 | less any amounts distributed under subsection (6), shall be  
 4115 | distributed equally on a per capita basis among the eligible  
 4116 | counties.

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4117 (6) If moneys deposited in the Local Government Half-cent  
 4118 Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(e)3. ~~s.~~  
 4119 ~~212.20(6)(d)3.~~ exceed the amount necessary to provide the base  
 4120 allocation to each eligible county, the moneys in the trust fund  
 4121 may be used to provide a transitional distribution, as specified  
 4122 in this subsection, to certain counties whose population has  
 4123 increased. The transitional distribution shall be made available  
 4124 to each county that qualified for a distribution under  
 4125 subsection (2) in the prior year but does not, because of the  
 4126 requirements of paragraph (2)(a), qualify for a distribution in  
 4127 the current year. Beginning on July 1 of the year following the  
 4128 year in which the county no longer qualifies for a distribution  
 4129 under subsection (2), the county shall receive two-thirds of the  
 4130 amount received in the prior year, and beginning July 1 of the  
 4131 second year following the year in which the county no longer  
 4132 qualifies for a distribution under subsection (2), the county  
 4133 shall receive one-third of the amount it received in the last  
 4134 year it qualified for the distribution under subsection (2). If  
 4135 insufficient moneys are available in the Local Government Half-  
 4136 cent Sales Tax Clearing Trust Fund to fully provide such a  
 4137 transitional distribution to each county that meets the  
 4138 eligibility criteria in this section, each eligible county shall  
 4139 receive a share of the available moneys proportional to the  
 4140 amount it would have received had moneys been sufficient to  
 4141 fully provide such a transitional distribution to each eligible  
 4142 county.

4143 (7) There is hereby annually appropriated from the Local  
 4144 Government Half-cent Sales Tax Clearing Trust Fund the

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4145 distribution provided in s. 212.20(5)(e)3. ~~s. 212.20(6)(d)3.~~ to  
 4146 be used for emergency and supplemental distributions pursuant to  
 4147 this section.

4148 Section 36. Paragraph (q) of subsection (1) of section  
 4149 288.1045, Florida Statutes, is amended to read:

4150 288.1045 Qualified defense contractor and space flight  
 4151 business tax refund program.—

4152 (1) DEFINITIONS.—As used in this section:

4153 (q) "Space flight business" means the manufacturing,  
 4154 processing, or assembly of space flight technology products,  
 4155 space flight facilities, space flight propulsion systems, or  
 4156 space vehicles, satellites, or stations of any kind possessing  
 4157 the capability for space flight, as defined by s. 212.02~~(23)~~, or  
 4158 components thereof, and includes, in supporting space flight,  
 4159 vehicle launch activities, flight operations, ground control or  
 4160 ground support, and all administrative activities directly  
 4161 related to such activities. The term does not include products  
 4162 that are designed or manufactured for general commercial  
 4163 aviation or other uses even if those products may also serve an  
 4164 incidental use in space flight applications.

4165 Section 37. Paragraphs (a) and (d) of subsection (3) of  
 4166 section 288.11621, Florida Statutes, are amended to read:

4167 288.11621 Spring training baseball franchises.—

4168 (3) USE OF FUNDS.—

4169 (a) A certified applicant may use funds provided under s.  
 4170 212.20(5)(e)6.b. ~~s. 212.20(6)(d)6.b.~~ only to:

4171 1. Serve the public purpose of acquiring, constructing,  
 4172 reconstructing, or renovating a facility for a spring training

4173 franchise.

4174         2. Pay or pledge for the payment of debt service on, or to  
 4175 fund debt service reserve funds, arbitrage rebate obligations,  
 4176 or other amounts payable with respect thereto, bonds issued for  
 4177 the acquisition, construction, reconstruction, or renovation of  
 4178 such facility, or for the reimbursement of such costs or the  
 4179 refinancing of bonds issued for such purposes.

4180         3. Assist in the relocation of a spring training franchise  
 4181 from one unit of local government to another only if the  
 4182 governing board of the current host local government by a  
 4183 majority vote agrees to relocation.

4184         (d)1. All certified applicants must place unexpended state  
 4185 funds received pursuant to s. 212.20(5)(e)6.b. ~~s.~~  
 4186 ~~212.20(6)(d)6.b.~~ in a trust fund or separate account for use  
 4187 only as authorized in this section.

4188         2. A certified applicant may request that the Department  
 4189 of Revenue suspend further distributions of state funds made  
 4190 available under s. 212.20(5)(e)6.b. ~~s. 212.20(6)(d)6.b.~~ for 12  
 4191 months after expiration of an existing agreement with a spring  
 4192 training franchise to provide the certified applicant with an  
 4193 opportunity to enter into a new agreement with a spring training  
 4194 franchise, at which time the distributions shall resume.

4195         3. The expenditure of state funds distributed to an  
 4196 applicant certified before July 1, 2010, must begin within 48  
 4197 months after the initial receipt of the state funds. In  
 4198 addition, the construction of, or capital improvements to, a  
 4199 spring training facility must be completed within 24 months  
 4200 after the project's commencement.

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4201 Section 38. Paragraphs (a), (c), and (d) of subsection (3)  
 4202 of section 288.11631, Florida Statutes, are amended to read:

4203 288.11631 Retention of Major League Baseball spring  
 4204 training baseball franchises.—

4205 (3) USE OF FUNDS.—

4206 (a) A certified applicant may use funds provided under s.  
 4207 212.20(5)(e)6.e. ~~s. 212.20(6)(d)6.e.~~ only to:

4208 1. Serve the public purpose of constructing or renovating  
 4209 a facility for a spring training franchise.

4210 2. Pay or pledge for the payment of debt service on, or to  
 4211 fund debt service reserve funds, arbitrage rebate obligations,  
 4212 or other amounts payable with respect thereto, bonds issued for  
 4213 the construction or renovation of such facility, or for the  
 4214 reimbursement of such costs or the refinancing of bonds issued  
 4215 for such purposes.

4216 (c) The Department of Revenue may not distribute funds  
 4217 under s. 212.20(5)(e)6.e. ~~s. 212.20(6)(d)6.e.~~ until July 1,  
 4218 2016. Further, the Department of Revenue may not distribute  
 4219 funds to an applicant certified on or after July 1, 2013, until  
 4220 it receives notice from the department that:

4221 1. The certified applicant has encumbered funds under  
 4222 either subparagraph (a)1. or subparagraph (a)2.; and

4223 2. If applicable, any existing agreement with a spring  
 4224 training franchise for the use of a facility has expired.

4225 (d)1. All certified applicants shall place unexpended  
 4226 state funds received pursuant to s. 212.20(5)(e)6.e. ~~s.~~  
 4227 ~~212.20(6)(d)6.e.~~ in a trust fund or separate account for use  
 4228 only as authorized in this section.

4229           2. A certified applicant may request that the department  
 4230 notify the Department of Revenue to suspend further  
 4231 distributions of state funds made available under s.  
 4232 212.20(5)(e)6.e. ~~s. 212.20(6)(d)6.e.~~ for 12 months after  
 4233 expiration of an existing agreement with a spring training  
 4234 franchise to provide the certified applicant with an opportunity  
 4235 to enter into a new agreement with a spring training franchise,  
 4236 at which time the distributions shall resume.

4237           3. The expenditure of state funds distributed to an  
 4238 applicant certified after July 1, 2013, must begin within 48  
 4239 months after the initial receipt of the state funds. In  
 4240 addition, the construction or renovation of a spring training  
 4241 facility must be completed within 24 months after the project's  
 4242 commencement.

4243           Section 39. Subsection (6) of section 288.1169, Florida  
 4244 Statutes, is amended to read:

4245           288.1169 International Game Fish Association World Center  
 4246 facility.—

4247           (6) The department must recertify every 10 years that the  
 4248 facility is open, that the International Game Fish Association  
 4249 World Center continues to be the only international  
 4250 administrative headquarters, fishing museum, and Hall of Fame in  
 4251 the United States recognized by the International Game Fish  
 4252 Association, and that the project is meeting the minimum  
 4253 projections for attendance or sales tax revenues as required at  
 4254 the time of original certification. If the facility is not  
 4255 recertified during this 10-year review as meeting the minimum  
 4256 projections, then funding shall be abated until certification



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4257 criteria are met. If the project fails to generate \$1 million of  
4258 annual revenues pursuant to paragraph (2)(e), the distribution  
4259 of revenues pursuant to s. 212.20(5)(e)6.d. ~~s. 212.20(6)(d)6.d.~~  
4260 shall be reduced to an amount equal to \$83,333 multiplied by a  
4261 fraction, the numerator of which is the actual revenues  
4262 generated and the denominator of which is \$1 million. Such  
4263 reduction remains in effect until revenues generated by the  
4264 project in a 12-month period equal or exceed \$1 million.

4265 Section 40. Subsection (8) of section 551.102, Florida  
4266 Statutes, is amended to read:

4267 551.102 Definitions.—As used in this chapter, the term:

4268 (8) "Slot machine" means a ~~any~~ mechanical or electrical  
4269 contrivance, terminal that may or may not be capable of  
4270 downloading slot games from a central server system, machine, or  
4271 other device that, upon insertion of a coin, bill, ticket,  
4272 token, or similar object or upon payment of any consideration  
4273 whatsoever, including the use of an ~~any~~ electronic payment  
4274 system except a credit card or debit card, is available to play  
4275 or operate, the play or operation of which, whether by reason of  
4276 skill or application of the element of chance or both, may  
4277 deliver or entitle the person or persons playing or operating  
4278 the contrivance, terminal, machine, or other device to receive  
4279 cash, billets, tickets, tokens, or electronic credits to be  
4280 exchanged for cash or to receive merchandise or anything of  
4281 value whatsoever, whether the payoff is made automatically from  
4282 the machine or manually. The term includes associated equipment  
4283 necessary to conduct the operation of the contrivance, terminal,  
4284 machine, or other device. Slot machines may use spinning reels,

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4285 video displays, or both. A slot machine is not a "coin-operated  
4286 amusement machine" as defined in s. 212.02~~(24)~~ or an amusement  
4287 game or machine as described in s. 849.161, and slot machines  
4288 are not subject to the tax imposed by s. 212.05(1)(h).

4289 Section 41. Paragraph (a) of subsection (1) of section  
4290 790.0655, Florida Statutes, is amended to read:

4291 790.0655 Purchase and delivery of handguns; mandatory  
4292 waiting period; exceptions; penalties.—

4293 (1)(a) There shall be a mandatory 3-day waiting period,  
4294 which shall be 3 days, excluding weekends and legal holidays,  
4295 between the purchase and the delivery at retail of a ~~any~~  
4296 handgun. "Purchase" means the transfer of money or other  
4297 valuable consideration to the retailer. "Handgun" means a  
4298 firearm capable of being carried and used by one hand, such as a  
4299 pistol or revolver. "Retailer" means and includes every person  
4300 engaged in the business of making sales at retail or for  
4301 distribution, or use, or consumption, or storage to be used or  
4302 consumed in this state, as defined in s. 212.02~~(13)~~.

4303 Section 42. Section 212.0596, Florida Statutes, is  
4304 repealed.

4305 Section 43. This act shall take effect January 1, 2015.