

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.; providing definitions  
4 and placing existing terms in alphabetical order;  
5 providing applicability; amending s. 212.0306, F.S.,  
6 deleting the application of brackets for the calculation  
7 of sales and use taxes; amending s. 212.04, F.S.; deleting  
8 the application of brackets for the calculation of sales  
9 and use taxes; amending s. 212.05, F.S.; deleting criteria  
10 establishing criteria under which taxes on the lease or  
11 rental of a motor vehicle are due to this state; revising  
12 criteria establishing circumstances under which taxes on  
13 the sale of a prepaid calling arrangement are due to this  
14 state; deleting the application of brackets for the  
15 calculation of sales and use taxes; amending s. 212.0506,  
16 F.S.; deleting the application of brackets for the  
17 calculation of sales and use taxes; amending s. 212.054,  
18 F.S.; limiting the \$5,000 cap on discretionary sales  
19 surtax to the sale of motor vehicles, aircraft, boats,  
20 motor homes, manufactured homes, and mobile homes;  
21 specifying the time at which changes in surtaxes may take  
22 effect; providing criteria to determine the situs of  
23 certain sales; amending s. 212.0596, F.S., repealing an  
24 exemption on the application of local option surtaxes on  
25 certain mail order sales; amending s. 212.06, F.S.;  
26 defining terms; providing criteria for determining the  
27 location that transaction involving tangible personal  
28 property, digital goods, or services and for the lease or  
29 rental of tangible personal property; requiring purchasers  
30 of direct mail to use direct mail forms; amending s.

212.08, F.S.; redefining exemptions from sales and use tax for food and medical products; creating s. 212.094, F.S.; providing a procedure for a purchaser to obtain a refund of tax collected by a dealer; amending s. 212.12, F.S.; authorizing collection allowances for certified service providers in accordance with the Streamlined Sales and Use Tax Agreement; providing for the computation of tax due based on rounding instead of brackets; amending s. 212.17, F.S.; providing additional criteria for a dealer to claim a credit for taxes paid relating to worthless accounts; amending s. 212.18, F.S.; authorizing the Department of Revenue to waive the dealer registration fee for applications submitted through the central electronic registration system provided by member states of the Streamlined Sales and Use Tax Agreement; creating s. 213.052, F.S.; providing for notice of state sales or use tax changes; creating s. 213.0521, F.S.; providing the effective date for state sales and use tax changes; creating 213.215, F.S.; providing amnesty for non-collection of sales and use taxes for sellers who register under the Streamlined Sales and Use Tax Agreement; amending s. 213.256, F.S.; providing definitions; providing that the authority to administer the Streamlined Sales and Use Tax Agreement rests with a governing board comprised of representatives of member states; providing for continuing effect of the agreement; providing for annual recertification by member states; creating s. 213.2567, F.S.; providing for the registration of sellers, the certification of a person as a certified service provider, and the certification of a software program as a

certified automated system by the governing board under the Streamlined Sales and Use Tax Agreement; amending s. 212.055, F.S.; conforming cross-references; declaring legislative intent; providing for the adoption of emergency rules; amending s. 196.012, F.S.; conforming a cross-reference; amending s. 203.01, F.S.; conforming cross-references; amending s. 212.0321, F.S.; conforming a cross-reference; amending s. 213.13, F.S.; conforming a cross-reference; amending s. 551.102, F.S.; conforming a cross reference; amending s. 790.0655, F.S., conforming a cross reference; providing an effective date.

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

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

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

(1) The term "admissions" means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation, including, but not limited to, theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value

91 measured on an admission or entrance or length of stay or seat  
92 box accommodations in any place where there is any exhibition,  
93 amusement, sport, or recreation, and all dues and fees paid to  
94 private clubs and membership clubs providing recreational or  
95 physical fitness facilities, including, but not limited to,  
96 golf, tennis, swimming, yachting, boating, athletic, exercise,  
97 and fitness facilities, except physical fitness facilities owned  
98 or operated by any hospital licensed under chapter 395.

99 (2) "Agent" means a person appointed by a principal or  
100 authorized to act for the principal in a transaction involving  
101 the sale of an item of tangible personal property. The term also  
102 means a person appointed by a seller to represent the seller  
103 before the states that are signatories to the Streamlined Sales  
104 and Use Tax Agreement.

105 (3) "Agricultural commodity" means horticultural,  
106 aquacultural, poultry and farm products, and livestock and  
107 livestock products.

108 (4) "Agricultural production" means the production of  
109 plants and animals useful to humans, including the preparation,  
110 planting, cultivating, or harvesting of these products or any  
111 other practices necessary to accomplish production through the  
112 harvest phase, and includes aquaculture, horticulture,  
113 floriculture, viticulture, forestry, dairy, livestock, poultry,  
114 bees, and any and all forms of farm products and farm  
115 production.

116 (5)-(2) "Business" means any activity engaged in by any  
117 person, or caused to be engaged in by him or her, with the  
118 object of private or public gain, benefit, or advantage, either  
119 direct or indirect. Except for the sales of any aircraft, boat,  
120 mobile home, or motor vehicle, the term "business" shall not be

121 construed in this chapter to include occasional or isolated  
122 sales or transactions involving tangible personal property or  
123 services by a person who does not hold himself or herself out as  
124 engaged in business or sales of unclaimed tangible personal  
125 property under s. 717.122, but includes other charges for the  
126 sale or rental of tangible personal property, sales of services  
127 taxable under this chapter, sales of or charges of admission,  
128 communication services, all rentals and leases of living  
129 quarters, other than low-rent housing operated under chapter  
130 421, sleeping or housekeeping accommodations in hotels,  
131 apartment houses, roominghouses, tourist or trailer camps, and  
132 all rentals of or licenses in real property, other than low-rent  
133 housing operated under chapter 421, all leases or rentals of or  
134 licenses in parking lots or garages for motor vehicles, docking  
135 or storage spaces for boats in boat docks or marinas as defined  
136 in this chapter and made subject to a tax imposed by this  
137 chapter. The term "business" shall not be construed in this  
138 chapter to include the leasing, subleasing, or licensing of real  
139 property by one corporation to another if all of the stock of  
140 both such corporations is owned, directly or through one or more  
141 wholly owned subsidiaries, by a common parent corporation; the  
142 property was in use prior to July 1, 1989, title to the property  
143 was transferred after July 1, 1988, and before July 1, 1989,  
144 between members of an affiliated group, as defined in s. 1504(a)  
145 of the Internal Revenue Code of 1986, which group included both  
146 such corporations and there is no substantial change in the use  
147 of the property following the transfer of title; the leasing,  
148 subleasing, or licensing of the property was required by an  
149 unrelated lender as a condition of providing financing to one or  
150 more members of the affiliated group; and the corporation to

151 which the property is leased, subleased, or licensed had sales  
152 subject to the tax imposed by this chapter of not less than \$667  
153 million during the most recent 12-month period ended June 30.  
154 Any tax on such sales, charges, rentals, admissions, or other  
155 transactions made subject to the tax imposed by this chapter  
156 shall be collected by the state, county, municipality, any  
157 political subdivision, agency, bureau, or department, or other  
158 state or local governmental instrumentality in the same manner  
159 as other dealers, unless specifically exempted by this chapter.

160 (6) "Certified service provider" means an agent certified  
161 under the Agreement to perform all the seller's sales and use  
162 tax functions, other than the seller's obligation to remit tax  
163 on its own purchases.

164 (7)+3- The terms "cigarettes," "tobacco," or "tobacco  
165 products" referred to in this chapter include all such products  
166 as are defined or may be hereafter defined by the laws of the  
167 state.

168 (8) "Coin-operated amusement machine" means any machine  
169 operated by coin, slug, token, coupon, or similar device for the  
170 purposes of entertainment or amusement. The term includes, but  
171 is not limited to, coin-operated pinball machines, music  
172 machines, juke boxes, mechanical games, video games, arcade  
173 games, billiard tables, moving picture viewers, shooting  
174 galleries, and all other similar amusement devices.

175 (9) "Computer" means an electronic device that accepts  
176 information in digital or similar form and manipulates it for a  
177 result based on a sequence of instructions.

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

181 (11)-(4) "Cost price" means the actual cost of articles of  
182 tangible personal property without any deductions therefrom on  
183 account of the cost of materials used, labor or service costs,  
184 transportation charges, or any expenses whatsoever.

185 (12) "Delivery charges" means charges by the seller of  
186 personal property or services for preparation and delivery to a  
187 location designated by the purchaser of personal property or  
188 services , including, but not limited to, transportation,  
189 shipping, postage, handling, crating, and packing. The term does  
190 not include the charges for delivery of "direct mail" as defined  
191 by this section if the charges are separately stated on an  
192 invoice or similar billing document given to the purchaser. If a  
193 shipment includes exempt property and taxable property, the  
194 seller must tax the percentage of the delivery charge allocated  
195 to the taxable property but does not have to tax the percentage  
196 allocated to the exempt property. The seller should allocate the  
197 delivery charge by using:

198 (a) A percentage based on the total sales prices of all  
199 property in the shipment; or

200 (b) A percentage based on the total weight of the taxable  
201 property compared to the total weight of all property in the  
202 shipment.

203 (13)-(5) The term "department" means the Department of  
204 Revenue.

205 (14) "Diesel fuel" means any liquid product, gas product,  
206 or combination thereof used in an internal combustion engine or  
207 motor to propel any form of vehicle, machine, or mechanical  
208 contrivance. This term includes, but is not limited to, all  
209 forms of fuel commonly or commercially known or sold as diesel  
210 fuel or kerosene. However, the term "diesel fuel" does not

include butane gas, propane gas, or any other form of liquefied petroleum gas or compressed natural gas.

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

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

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

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

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



240        (20) "Forest" means the land stocked by trees of any size  
241 used in the production of forest products, or formerly having  
242 such tree cover, and not currently developed for nonforest use.

243        (21)~~(8)~~ "In this state" or "in the state" means within the  
244 state boundaries of Florida as defined in s. 1, Art. II of the  
245 State Constitution and includes all territory within these  
246 limits owned by or ceded to the United States.

247        (22)~~(9)~~ The term "intoxicating beverages" or "alcoholic  
248 beverages" referred to in this chapter includes all such  
249 beverages as are so defined or may be hereafter defined by the  
250 laws of the state.

251        (23)~~(10)~~ "Lease," "let," or "rental" means leasing or  
252 renting of living quarters or sleeping or housekeeping  
253 accommodations in hotels, apartment houses, roominghouses,  
254 tourist or trailer camps and real property, the same being  
255 defined as follows:

256            (a) Every building or other structure kept, used,  
257 maintained, or advertised as, or held out to the public to be, a  
258 place where sleeping accommodations are supplied for pay to  
259 transient or permanent guests or tenants, in which 10 or more  
260 rooms are furnished for the accommodation of such guests, and  
261 having one or more dining rooms or cafes where meals or lunches  
262 are served to such transient or permanent guests; such sleeping  
263 accommodations and dining rooms or cafes being conducted in the  
264 same building or buildings in connection therewith, shall, for  
265 the purpose of this chapter, be deemed a hotel.

266            (b) Any building, or part thereof, where separate  
267 accommodations for two or more families living independently of  
268 each other are supplied to transient or permanent guests or

tenants shall for the purpose of this chapter be deemed an apartment house.

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

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

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

(f) A "trailer camp," "mobile home park," or "recreational vehicle park" is a place where space is offered, with or without service facilities, by any persons or municipality to the public for the parking and accommodation of two or more automobile trailers, mobile homes, or recreational vehicles which are used for lodging, for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business, such space being hereby defined as living quarters, and the rental price thereof shall include all service charges paid to the lessor.

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

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

b. A transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of one hundred dollars or one percent of the total required payments; or

c. The provision of tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this sub-subparagraph, an operator must do more than maintain, inspect, or set-up the tangible personal property ~~the leasing or rental of tangible personal property and the possession or use~~

328 ~~thereof by the lessee or rentee for a consideration, without~~  
329 ~~transfer of the title of such property, except as expressly~~  
330 ~~provided to the contrary herein.~~

331       2. The term "lease," "let," or "rental" does not mean  
332 hourly, daily, or mileage charges, to the extent that such  
333 charges are subject to the jurisdiction of the United States  
334 Interstate Commerce Commission, when such charges are paid by  
335 reason of the presence of railroad cars owned by another on the  
336 tracks of the taxpayer, or charges made pursuant to car service  
337 agreements. The term "lease," "let," "rental," or "license" does  
338 not include payments made to an owner of high-voltage bulk  
339 transmission facilities in connection with the possession or  
340 control of such facilities by a regional transmission  
341 organization, independent system operator, or similar entity  
342 under the jurisdiction of the Federal Energy Regulatory  
343 Commission. However, where two taxpayers, in connection with the  
344 interchange of facilities, rent or lease property, each to the  
345 other, for use in providing or furnishing any of the services  
346 mentioned in s. 166.231, the term "lease or rental" means only  
347 the net amount of rental involved.

348       (h) "Real property" means the surface land, improvements  
349 thereto, and fixtures, and is synonymous with "realty" and "real  
350 estate."

351       (i) "License," as used in this chapter with reference to  
352 the use of real property, means the granting of a privilege to  
353 use or occupy a building or a parcel of real property for any  
354 purpose.

355       (j) Privilege, franchise, or concession fees, or fees for  
356 a license to do business, paid to an airport are not payments

for leasing, letting, renting, or granting a license for the use of real property.

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

(25) "Model 1 seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(26) "Model 2 seller" means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(27) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least five hundred million dollars, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this definition, a seller includes an affiliated group of sellers using the same proprietary system.

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

(29)~~(12)~~ "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and also includes any political subdivision, municipality, state agency, bureau, or

department and includes the plural as well as the singular number.

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

(31) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances "computer software" of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

416        (32) "Qualified aircraft" means any aircraft having a  
417 maximum certified takeoff weight of less than 10,000 pounds and  
418 equipped with twin turbofan engines that meet Stage IV noise  
419 requirements that is used by a business operating as an on-  
420 demand air carrier under Federal Aviation Administration  
421 Regulation Title 14, chapter I, part 135, Code of Federal  
422 Regulations, that owns or leases and operates a fleet of at  
423 least 25 of such aircraft in this state.

424        (33)~~(13)~~ "Retailer" means and includes every person  
425 engaged in the business of making sales at retail or for  
426 distribution, or use, or consumption, or storage to be used or  
427 consumed in this state.

428        (34)~~(14)~~(a) "Retail sale" or a "sale at retail" means a  
429 sale to a consumer or to any person for any purpose other than  
430 for resale in the form of tangible personal property or services  
431 taxable under this chapter, and includes all such transactions  
432 that may be made in lieu of retail sales or sales at retail. A  
433 sale for resale includes a sale of qualifying property. As used  
434 in this paragraph, the term "qualifying property" means tangible  
435 personal property, other than electricity, which is used or  
436 consumed by a government contractor in the performance of a  
437 qualifying contract as defined in s. 212.08(17)(c), to the  
438 extent that the cost of the property is allocated or charged as  
439 a direct item of cost to such contract, title to which property  
440 vests in or passes to the government under the contract. The  
441 term "government contractor" includes prime contractors and  
442 subcontractors. As used in this paragraph, a cost is a "direct  
443 item of cost" if it is a "direct cost" as defined in 48 C.F.R.  
444 s. 9904.418-30(a)(2), or similar successor provisions, including  
445 costs identified specifically with a particular contract.

446 (b) The terms "retail sales," "sales at retail," "use,"  
447 "storage," and "consumption" include the sale, use, storage, or  
448 consumption of all tangible advertising materials imported or  
449 caused to be imported into this state. Tangible advertising  
450 material includes displays, display containers, brochures,  
451 catalogs, price lists, point-of-sale advertising, and technical  
452 manuals or any tangible personal property which does not  
453 accompany the product to the ultimate consumer.

454 (c) "Retail sales," "sale at retail," "use," "storage,"  
455 and "consumption" do not include materials, containers, labels,  
456 sacks, bags, or similar items intended to accompany a product  
457 sold to a customer without which delivery of the product would  
458 be impracticable because of the character of the contents and be  
459 used one time only for packaging tangible personal property for  
460 sale or for the convenience of the customer or for packaging in  
461 the process of providing a service taxable under this chapter.  
462 When a separate charge for packaging materials is made, the  
463 charge shall be considered part of the sales price or rental  
464 charge for purposes of determining the applicability of tax. The  
465 terms do not include the sale, use, storage, or consumption of  
466 industrial materials, including chemicals and fuels except as  
467 provided herein, for future processing, manufacture, or  
468 conversion into articles of tangible personal property for  
469 resale when such industrial materials, including chemicals and  
470 fuels except as provided herein, become a component or  
471 ingredient of the finished product. However, the terms include  
472 the sale, use, storage, or consumption of tangible personal  
473 property, including machinery and equipment or parts thereof,  
474 purchased electricity, and fuels used to power machinery, when  
475 such items are used and dissipated in fabricating, converting,



476 or processing tangible personal property for sale, even though  
477 they may become ingredients or components of the tangible  
478 personal property for sale through accident, wear, tear,  
479 erosion, corrosion, or similar means. The terms do not include  
480 the sale of materials to a registered repair facility for use in  
481 repairing a motor vehicle, airplane, or boat, when such  
482 materials are incorporated into and sold as part of the repair.  
483 Such a sale shall be deemed a purchase for resale by the repair  
484 facility, even though every material is not separately stated or  
485 separately priced on the repair invoice.

486 (d) "Gross sales" means the sum total of all sales of  
487 tangible personal property as defined herein, without any  
488 deduction whatsoever of any kind or character, except as  
489 provided in this chapter.

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

492 (35)~~(15)~~ "Sale" means and includes:

493 (a) Any transfer of title or possession, or both,  
494 exchange, barter, license, lease, or rental, conditional or  
495 otherwise, in any manner or by any means whatsoever, of tangible  
496 personal property for a consideration.

497 (b) The rental of living quarters or sleeping or  
498 housekeeping accommodations in hotels, apartment houses or  
499 roominghouses, or tourist or trailer camps, as hereinafter  
500 defined in this chapter.

501 (c) The producing, fabricating, processing, printing, or  
502 imprinting of tangible personal property for a consideration for  
503 consumers who furnish either directly or indirectly the  
504 materials used in the producing, fabricating, processing,  
505 printing, or imprinting.

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

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

(36) (a) "Sales price" applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

1. The seller's cost of the property sold;
2. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
3. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
4. Delivery charges; or
5. Installation charges.

(b) The term "sales price" does not include:

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

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

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

541 4. Any taxes legally imposed directly on the consumer  
542 which are separately stated on the invoice, bill of sale, or  
543 similar document given to the purchaser; or

544 ~~(16) "Sales price" means the total amount paid for~~  
545 ~~tangible personal property, including any services that are a~~  
546 ~~part of the sale, valued in money, whether paid in money or~~  
547 ~~otherwise, and includes any amount for which credit is given to~~  
548 ~~the purchaser by the seller, without any deduction therefrom on~~  
549 ~~account of the cost of the property sold, the cost of materials~~  
550 ~~used, labor or service cost, interest charged, losses, or any~~  
551 ~~other expense whatsoever. "Sales price" also includes the~~  
552 ~~consideration for a transaction which requires both labor and~~  
553 ~~material to alter, remodel, maintain, adjust, or repair tangible~~  
554 ~~personal property. Trade-ins or discounts allowed and taken at~~  
555 ~~the time of sale shall not be included within the purview of~~  
556 ~~this subsection. "Sales price" also includes the full face value~~  
557 ~~of any coupon used by a purchaser to reduce the price paid to a~~  
558 ~~retailer for an item of tangible personal property; where the~~  
559 ~~retailer will be reimbursed for such coupon, in whole or in~~  
560 ~~part, by the manufacturer of the item of tangible personal~~  
561 ~~property; or whenever it is not practicable for the retailer to~~  
562 ~~determine, at the time of sale, the extent to which~~  
563 ~~reimbursement for the coupon will be made. The term "sales~~

~~price" does not include federal excise taxes imposed upon the retailer on the sale of tangible personal property. The term "sales price" does include federal manufacturers' excise taxes, even if the federal tax is listed as a separate item on the invoice. To the extent required by federal law, the term "sales price" does not include~~

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

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

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

~~(17) "Diesel fuel" means any liquid product, gas product, or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as diesel~~

594 ~~fuel or kerosene. However, the term "diesel fuel" does not~~  
595 ~~include butane gas, propane gas, or any other form of liquefied~~  
596 ~~petroleum gas or compressed natural gas.~~

597 (39) "Solar energy system" means the equipment and  
598 requisite hardware that provide and are used for collecting,  
599 transferring, converting, storing, or using incident solar  
600 energy for water heating, space heating, cooling, or other  
601 applications that would otherwise require the use of a  
602 conventional source of energy such as petroleum products,  
603 natural gas, manufactured gas, or electricity.

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

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

610 (42)-(18) "Storage" means and includes any keeping or  
611 retention in this state of tangible personal property for use or  
612 consumption in this state or for any purpose other than sale at  
613 retail in the regular course of business.

614 (43)-(19) "Tangible personal property" means and includes  
615 personal property which may be seen, weighed, measured, or  
616 touched or is in any manner perceptible to the senses, including  
617 electric power or energy, water, gas, steam, prewritten computer  
618 software, boats, motor vehicles and mobile homes as defined in  
619 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all  
620 other types of vehicles. The term "tangible personal property"  
621 does not include stocks, bonds, notes, insurance, or other  
622 obligations or securities or pari-mutuel tickets sold or issued  
623 under the racing laws of the state.

624        (44)~~(20)~~ "Use" means and includes the exercise of any  
625 right or power over tangible personal property incident to the  
626 ownership thereof, or interest therein, except that it does not  
627 include the sale at retail of that property in the regular  
628 course of business. The term "use" does not include the loan of  
629 an automobile by a motor vehicle dealer to a high school for use  
630 in its driver education and safety program. The term "use" does  
631 not include a contractor's use of "qualifying property" as  
632 defined by paragraph (14)(a).

633        (45)~~(21)~~ The term "use tax" referred to in this chapter  
634 includes the use, the consumption, the distribution, and the  
635 storage as herein defined.

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

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

642        ~~(24) "Coin-operated amusement machine" means any machine~~  
643 ~~operated by coin, slug, token, coupon, or similar device for the~~  
644 ~~purposes of entertainment or amusement. The term includes, but~~  
645 ~~is not limited to, coin-operated pinball machines, music~~  
646 ~~machines, juke boxes, mechanical games, video games, arcade~~  
647 ~~games, billiard tables, moving picture viewers, shooting~~  
648 ~~galleries, and all other similar amusement devices.~~

649        ~~(25) "Sea trial" means a voyage for the purpose of testing~~  
650 ~~repair or modification work, which is in length and scope~~  
651 ~~reasonably necessary to test repairs or modifications, or a~~  
652 ~~voyage for the purpose of ascertaining the seaworthiness of a~~  
653 ~~vessel. If the sea trial is to test repair or modification work,~~

654 ~~the owner or repair facility shall certify, in a form required~~  
655 ~~by the department, what repairs have been tested. The owner and~~  
656 ~~the repair facility may also be required to certify that the~~  
657 ~~length and scope of the voyage were reasonably necessary to test~~  
658 ~~the repairs or modifications.~~

659 ~~(26) "Solar energy system" means the equipment and~~  
660 ~~requisite hardware that provide and are used for collecting,~~  
661 ~~transferring, converting, storing, or using incident solar~~  
662 ~~energy for water heating, space heating, cooling, or other~~  
663 ~~applications that would otherwise require the use of a~~  
664 ~~conventional source of energy such as petroleum products,~~  
665 ~~natural gas, manufactured gas, or electricity.~~

666 ~~(27) "Agricultural commodity" means horticultural,~~  
667 ~~aquacultural, poultry and farm products, and livestock and~~  
668 ~~livestock products.~~

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

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

679 ~~(30) "Power farm equipment" means moving or stationary~~  
680 ~~equipment that contains within itself the means for its own~~  
681 ~~propulsion or power and moving or stationary equipment that is~~  
682 ~~dependent upon an external power source to perform its~~  
683 ~~functions.~~

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

687 ~~(32) "Agricultural production" means the production of~~  
688 ~~plants and animals useful to humans, including the preparation,~~  
689 ~~planting, cultivating, or harvesting of these products or any~~  
690 ~~other practices necessary to accomplish production through the~~  
691 ~~harvest phase, and includes aquaculture, horticulture,~~  
692 ~~floriculture, viticulture, forestry, dairy, livestock, poultry,~~  
693 ~~bees, and any and all forms of farm products and farm~~  
694 ~~production.~~

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

703 Section 2. The amendment of the terms "lease," "let," and  
704 "rental" in section 212.02, Florida Statutes, made by this act  
705 applies prospectively only, from January 1, 2009, and does not  
706 apply retroactively to leases or rentals existing before that  
707 date.

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

710 212.0306 Local option food and beverage tax; procedure for  
711 levying; authorized uses; administration.--

712 (6) Any county levying a tax authorized by this section  
713 must locally administer the tax using the powers and duties



714 enumerated for local administration of the tourist development  
715 tax by s. 125.0104, 1992 Supplement to the Florida Statutes  
716 1991. ~~The county's ordinance shall also provide for brackets~~  
717 ~~applicable to taxable transactions.~~

718 Section 4. Subsection (1) of section 212.04, Florida  
719 Statutes, is amended to read:

720 212.04 Admissions tax; rate, procedure, enforcement.--

721 (1)(a) It is hereby declared to be the legislative intent  
722 that every person is exercising a taxable privilege who sells or  
723 receives anything of value by way of admissions.

724 (b) For the exercise of such privilege, a tax is levied at  
725 the rate of 6 percent of sales price, or the actual value  
726 received from such admissions, which 6 percent shall be added to  
727 and collected with all such admissions from the purchaser  
728 thereof, and such tax shall be paid for the exercise of the  
729 privilege as defined in the preceding paragraph. Each ticket  
730 must show on its face the actual sales price of the admission,  
731 or each dealer selling the admission must prominently display at  
732 the box office or other place where the admission charge is made  
733 a notice disclosing the price of the admission, and the tax  
734 shall be computed and collected on the basis of the actual price  
735 of the admission charged by the dealer. The sale price or actual  
736 value of admission shall, for the purpose of this chapter, be  
737 that price remaining after deduction of federal taxes and state  
738 or locally imposed or authorized seat surcharges, taxes, or  
739 fees, if any, imposed upon such admission. The sale price or  
740 actual value does not include separately stated ticket service  
741 charges that are imposed by a facility ticket office or a  
742 ticketing service and added to a separately stated, established

743 ticket price. ~~The rate of tax on each admission shall be~~  
744 ~~according to the brackets established by s. 212.12(9).~~

745 (c) The provisions of this chapter that authorize a tax-  
746 exempt sale for resale do not apply to sales of admissions.  
747 However, if a purchaser of an admission subsequently resells the  
748 admission for more than the amount paid, the purchaser shall  
749 collect tax on the full sales price and may take credit for the  
750 amount of tax previously paid. If the purchaser of the admission  
751 subsequently resells it for an amount equal to or less than the  
752 amount paid, the purchaser shall not collect any additional tax,  
753 nor shall the purchaser be allowed to take credit for the amount  
754 of tax previously paid.

755 (d) No additional tax is due on components incorporated as  
756 part of a package sold by a travel agent if the package includes  
757 two or more components such as admissions, transient rentals,  
758 transportation, or meals; if all of the components were  
759 purchased by the travel agent from other parties and any sales  
760 tax due on such purchases was paid; and if there is no separate  
761 itemization of the admission, transient rental, transportation,  
762 meal, or other components in the sales price of the package.  
763 This paragraph does not apply if the actual price charged for a  
764 component by the dealer to a travel agent is less than the price  
765 charged to unrelated parties under normal industry practices and  
766 the dealer and the travel agent are members of the same  
767 controlled group of corporations for federal income tax  
768 purposes.

769 Section 5. Paragraphs (c) and (e) of subsection (1) and  
770 subsection (4) of section 212.05, Florida Statutes, are amended  
771 to read:

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

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

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

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

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

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

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

802       ~~3. The tax imposed by this chapter does not apply to the~~  
803 ~~lease or rental of a commercial motor vehicle as defined in s.~~  
804 ~~316.003(66)(a) to one lessee or rentee for a period of not less~~  
805 ~~than 12 months when tax was paid on the purchase price of such~~  
806 ~~vehicle by the lessor. To the extent tax was paid with respect~~  
807 ~~to the purchase of such vehicle in another state, territory of~~  
808 ~~the United States, or the District of Columbia, the Florida tax~~  
809 ~~payable shall be reduced in accordance with the provisions of s.~~  
810 ~~212.06(7). This subparagraph shall only be available when the~~  
811 ~~lease or rental of such property is an established business or~~  
812 ~~part of an established business or the same is incidental or~~  
813 ~~germane to such business.~~

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

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

818       (I) "Prepaid calling arrangement" means the separately  
819 stated retail sale by advance payment of communications services  
820 that consist exclusively of telephone calls originated by using  
821 an access number, authorization code, or other means that may be  
822 manually, electronically, or otherwise entered and that are sold  
823 in predetermined units or dollars whose number declines with use  
824 in a known amount.

825       (II) The sale or recharge of the prepaid calling  
826 arrangement is deemed to take place in accordance with s.  
827 212.06(3)(d). In the case of a sale of a mobile communications  
828 service that is a prepaid calling arrangement, the retail sale  
829 may be sourced at ~~If the sale or recharge of the prepaid calling~~  
830 ~~arrangement does not take place at the dealer's place of~~  
831 ~~business, it shall be deemed to take place at the customer's~~

832 ~~shipping address or, if no item is shipped, at the customer's~~  
833 ~~address or~~ the location associated with the customer's mobile  
834 telephone number.

835 (III) The sale or recharge of a prepaid calling  
836 arrangement shall be treated as a sale of tangible personal  
837 property for purposes of this chapter, whether or not a tangible  
838 item evidencing such arrangement is furnished to the purchaser,  
839 and such sale within this state subjects the selling dealer to  
840 the jurisdiction of this state for purposes of this subsection.

841 b. The installation of telecommunication and telegraphic  
842 equipment.

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

845 2. The provisions of s. 212.17(3), regarding credit for  
846 tax paid on charges subsequently found to be worthless, shall be  
847 equally applicable to any tax paid under the provisions of this  
848 section on charges for prepaid calling arrangements,  
849 telecommunication or telegraph services, or electric power  
850 subsequently found to be uncollectible. The word "charges" in  
851 this paragraph does not include any excise or similar tax levied  
852 by the Federal Government, any political subdivision of the  
853 state, or any municipality upon the purchase, sale, or recharge  
854 of prepaid calling arrangements or upon the purchase or sale of  
855 telecommunication, television system program, or telegraph  
856 service or electric power, which tax is collected by the seller  
857 from the purchaser.

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

860 Section 6. Subsection (6) of section 212.0506, Florida  
861 Statutes, is amended to read:

212.0506 Taxation of service warranties.--

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

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

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

(1) No general excise tax on sales shall be levied by the  
governing body of any county unless specifically authorized in  
s. 212.055. Any general excise tax on sales authorized pursuant  
to said section shall be administered and collected exclusively  
as provided in this section.

(2)(a) The tax imposed by the governing body of any county  
authorized to so levy pursuant to s. 212.055 shall be a  
discretionary surtax on all transactions occurring in the county  
which transactions are subject to the state tax imposed on  
sales, use, services, rentals, admissions, and other  
transactions by this chapter and communications services as  
defined for purposes of chapter 202. The surtax, if levied,  
shall be computed as the applicable rate or rates authorized  
pursuant to s. 212.055 times the amount of taxable sales and  
taxable purchases representing such transactions. If the surtax  
is levied on the sale of an item of tangible personal property  
or on the sale of a service, the surtax shall be computed by  
multiplying the rate imposed by the county within which the sale  
occurs by the amount of the taxable sale. The sale of an item of  
tangible personal property or the sale of a service is not  
subject to the surtax if the property, the service, or the  
tangible personal property representing the service is delivered

within a county that does not impose a discretionary sales surtax.

(b) However:

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

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

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

b. In the case of a rate decrease or termination, the new rate applies to bills rendered on or after the effective date of the rate change. ~~billed on or after the effective date of any such surtax, the entire amount of the charge for utility services shall be subject to the surtax. In the case of utility services billed after the last day the surtax is in effect, the~~

921 ~~entire amount of the charge on said items shall not be subject~~  
922 ~~to the surtax.~~

923  
924 "Utility service," as used in this section, does not include any  
925 communications services as defined in chapter 202.

926 3. In the case of written contracts which are signed prior  
927 to the effective date of any such surtax for the construction of  
928 improvements to real property or for remodeling of existing  
929 structures, the surtax shall be paid by the contractor  
930 responsible for the performance of the contract. However, the  
931 contractor may apply for one refund of any such surtax paid on  
932 materials necessary for the completion of the contract. Any  
933 application for refund shall be made no later than 15 months  
934 following initial imposition of the surtax in that county. The  
935 application for refund shall be in the manner prescribed by the  
936 department by rule. A complete application shall include proof  
937 of the written contract and of payment of the surtax. The  
938 application shall contain a sworn statement, signed by the  
939 applicant or its representative, attesting to the validity of  
940 the application. The department shall, within 30 days after  
941 approval of a complete application, certify to the county  
942 information necessary for issuance of a refund to the applicant.  
943 Counties are hereby authorized to issue refunds for this purpose  
944 and shall set aside from the proceeds of the surtax a sum  
945 sufficient to pay any refund lawfully due. Any person who  
946 fraudulently obtains or attempts to obtain a refund pursuant to  
947 this subparagraph, in addition to being liable for repayment of  
948 any refund fraudulently obtained plus a mandatory penalty of 100  
949 percent of the refund, is guilty of a felony of the third



degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

(a)1. The retail sale of a modular or manufactured home, not including a mobile home, occurs in the county to which the house is delivered. ~~The sale includes an item of tangible personal property, a service, or tangible personal property representing a service, and the item of tangible personal property, the service, or the tangible personal property representing the service is delivered within the county. If there is no reasonable evidence of delivery of a service, the sale of a service is deemed to occur in the county in which the purchaser accepts the bill of sale.~~

980        (b)2. The retail sale, excluding a lease or rental, of any  
981 motor vehicle that does not qualify as transportation equipment,  
982 as defined in s. 212.06(3)(g), or the retail sale of a ~~The sale~~  
983 ~~of any motor vehicle or mobile home of a class or type that~~  
984 ~~which is required to be registered in this state or in any other~~  
985 ~~state occurs shall be deemed to have occurred only in the county~~  
986 ~~identified from as the residential residence~~ address of the  
987 purchaser on the registration or title document for the ~~such~~  
988 property.

989        (c) A lease or rental of real property occurs in the  
990 county in which the real property is located. ~~The consumer of~~  
991 ~~utility services is located in the county.~~

992        (d) A transient rental transaction occurs in the county in  
993 which the rental property is located.

994        (e)(b) Admission charged for an event occurs ~~The event for~~  
995 ~~which an admission is charged is located in the county in which~~  
996 the event is held.

997        (f) A transaction made from a coin-operated amusement or  
998 vending machine occurs in the county in which the machine is  
999 located.

1000        (g) An original order to sell tangible personal property  
1001 taken by a florist occurs in the county in which the florist  
1002 taking the order is located.

1003        (h)(d)1. The retail sale, excluding the lease or rental,  
1004 of any aircraft that does not qualify as transportation  
1005 equipment, as defined in s. 212.06(3)(g), or of any boat of a  
1006 class or type that is required to be registered, licensed,  
1007 titled, or documented in this state or by the United States  
1008 Government occurs in the county to which the aircraft<sup>2</sup> or boat  
1009 is delivered.

1010        2. The user of any aircraft or boat of a class or type  
1011        ~~that which~~ is required to be registered, licensed, titled, or  
1012        documented in this state or by the United States Government  
1013        imported into the county for use, consumption, distribution, or  
1014        storage to be used or consumed occurs in the county in which the  
1015        user is located ~~in the county~~.

1016        3.2- However, it shall be presumed that such items used  
1017        outside the taxing county for 6 months or longer before being  
1018        imported into the county were not purchased for use in the  
1019        county, except as provided in s. 212.06(8)(b).

1020        4.3- This paragraph does not apply to the use or  
1021        consumption of items upon which a like tax of equal or greater  
1022        amount has been lawfully imposed and paid outside the county.

1023        (i)(e) The purchase purchaser of any motor vehicle or  
1024        mobile home of a class or type ~~that which~~ is required to be  
1025        registered in this state occurs in the county identified from  
1026        the residential address of the purchaser ~~is a resident of the~~  
1027        ~~taxing county as determined by the address appearing on or to be~~  
1028        ~~reflected on the registration document for the such~~ property.

1029        (j)(f)1. The use, consumption, distribution, or storage of  
1030        a Any motor vehicle or mobile home of a class or type ~~that which~~  
1031        is required to be registered in this state and that is imported  
1032        from another state occurs in the county to which it is imported  
1033        ~~into the taxing county by a user residing therein for the~~  
1034        ~~purpose of use, consumption, distribution, or storage in the~~  
1035        ~~taxing county~~.

1036        2. However, it shall be presumed that such items used  
1037        outside the taxing county for 6 months or longer before being  
1038        imported into the county were not purchased for use in the  
1039        county.

1040 ~~(g) The real property which is leased or rented is located~~  
1041 ~~in the county.~~

1042 ~~(h) The transient rental transaction occurs in the county.~~

1043 ~~(i) The delivery of any aircraft or boat of a class or~~  
1044 ~~type which is required to be registered, licensed, titled, or~~  
1045 ~~documented in this state or by the United States Government is~~  
1046 ~~to a location in the county. However, this paragraph does not~~  
1047 ~~apply to the use or consumption of items upon which a like tax~~  
1048 ~~of equal or greater amount has been lawfully imposed and paid~~  
1049 ~~outside the county.~~

1050 ~~(k)(j)~~ A transaction occurs in a taxing county when the  
1051 dealer owing a use tax on purchases or leases is located in the  
1052 county.

1053 ~~(k) The delivery of tangible personal property other than~~  
1054 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~  
1055 ~~is made to a location outside the county, but the property is~~  
1056 ~~brought into the county within 6 months after delivery, in which~~  
1057 ~~event, the owner must pay the surtax as a use tax.~~

1058 ~~(l) The coin-operated amusement or vending machine is~~  
1059 ~~located in the county.~~

1060 ~~(m) The florist taking the original order to sell tangible~~  
1061 ~~personal property is located in the county, notwithstanding any~~  
1062 ~~other provision of this section.~~

1063 (5)(4)(a) The department shall administer, collect, and  
1064 enforce the tax authorized under s. 212.055 pursuant to the same  
1065 procedures used in the administration, collection, and  
1066 enforcement of the general state sales tax imposed under the  
1067 provisions of this chapter, except as provided in this section.  
1068 The provisions of this chapter regarding interest and penalties  
1069 on delinquent taxes shall apply to the surtax. Discretionary

1070 sales surtaxes shall not be included in the computation of  
1071 estimated taxes pursuant to s. 212.11. Notwithstanding any other  
1072 provision of law, a dealer need not separately state the amount  
1073 of the surtax on the charge ticket, sales slip, invoice, or  
1074 other tangible evidence of sale. For the purposes of this  
1075 section and s. 212.055, the "proceeds" of any surtax means all  
1076 funds collected and received by the department pursuant to a  
1077 specific authorization and levy under s. 212.055, including any  
1078 interest and penalties on delinquent surtaxes.

1079 (b) The proceeds of a discretionary sales surtax collected  
1080 by the selling dealer located in a county which imposes the  
1081 surtax shall be returned, less the cost of administration, to  
1082 the county where the selling dealer is located. The proceeds  
1083 shall be transferred to the Discretionary Sales Surtax Clearing  
1084 Trust Fund. A separate account shall be established in such  
1085 trust fund for each county imposing a discretionary surtax. The  
1086 amount deducted for the costs of administration shall not exceed  
1087 3 percent of the total revenue generated for all counties  
1088 levying a surtax authorized in s. 212.055. The amount deducted  
1089 for the costs of administration shall be used only for those  
1090 costs which are solely and directly attributable to the surtax.  
1091 The total cost of administration shall be prorated among those  
1092 counties levying the surtax on the basis of the amount collected  
1093 for a particular county to the total amount collected for all  
1094 counties. No later than March 1 of each year, the department  
1095 shall submit a written report which details the expenses and  
1096 amounts deducted for the costs of administration to the  
1097 President of the Senate, the Speaker of the House of  
1098 Representatives, and the governing authority of each county  
1099 levying a surtax. The department shall distribute the moneys in

the trust fund each month to the appropriate counties, unless otherwise provided in s. 212.055.

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

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

b. The county's rate of surtax; and

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

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

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

3. A county that fails to timely provide the information required by this section to the department authorizes the department, by such action, to use the best information available to it in distributing surtax revenues to the county. If this information is unavailable to the department, the

department may partially or entirely disqualify the county from receiving surtax revenues under this paragraph. A county that fails to provide timely information waives its right to challenge the department's determination of the county's share, if any, of revenues provided under this paragraph.

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

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

(7)(a) Any adoption, repeal, or rate change of the surtax by the governing body of any county levying a discretionary sales surtax or the school board of any county levying the school capital outlay surtax authorized by s. 212.055(6) is effective on April 1. A county or school board adopting, repealing, or changing the rate of such tax shall notify the department within 10 days after final adoption by ordinance or referendum of an adoption, repeal imposition, termination, or rate change of the surtax, but no later than November 16 immediately preceding such April 1 prior to the effective date. The notice must specify the time period during which the surtax will be in effect and the rate and must include a copy of the ordinance and such other information as the department requires by rule. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

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

(c) The department shall provide notice of the adoption, repeal, or change to affected sellers by December 1 immediately preceding the April 1 effective date.

(d) Notwithstanding any ordinance provision to the contrary regarding the termination date of a surtax, a surtax may be terminated only on an April 1st. A surtax imposed before January 1, 2009, for which an ordinance provides a different termination date shall terminate on the April 1st following the termination date established in the ordinance.

(8) With respect to any motor vehicle or mobile home of a class or type which is required to be registered in this state, the tax due on a transaction occurring in the taxing county as herein provided shall be collected from the purchaser or user incident to the titling and registration of such property, irrespective of whether such titling or registration occurs in the taxing county.

(9) The database of sales and use tax rates for local taxing jurisdictions required by the Streamlined Sales and Use



1188 Tax Agreement under s. 213.256, is the database provided by s.  
1189 202.22(2).

1190 (a) A seller or certified service provider who collects  
1191 and remits the state and local tax imposed by this chapter shall  
1192 be held harmless from tax, interest, and penalties due solely as  
1193 a result of relying on erroneous data on tax rates, boundaries,  
1194 or taxing jurisdiction assignments provided by the state if the  
1195 seller or certified service provider exercises due diligence in  
1196 applying one or more of the following methods to determine the  
1197 taxing jurisdiction and tax rate for a transaction:

1198 1. Employing an electronic database provided by the  
1199 department under s. 202.22(2); or

1200 2. Employing a database that has been approved by the  
1201 governing board and was developed by a seller or certified  
1202 service provider.

1203 (b) If a seller or certified service provider does not use  
1204 one of the methods specified in paragraph (a), the seller or  
1205 certified service provider may be held liable to the department  
1206 for tax, interest, and penalties that are due for charging and  
1207 collecting the incorrect amount of tax.

1208 Section 8. Section 212.0596, Florida Statutes, is amended  
1209 to read:

1210 212.0596 Taxation of mail order sales.--

1211 (1) For purposes of this chapter, a "mail order sale" is a  
1212 sale of tangible personal property, ordered by mail or other  
1213 means of communication, from a dealer who receives the order in  
1214 another state of the United States, or in a commonwealth,  
1215 territory, or other area under the jurisdiction of the United  
1216 States, and transports the property or causes the property to be  
1217 transported, whether or not by mail, from any jurisdiction of

1218 the United States, including this state, to a person in this  
1219 state, including the person who ordered the property.

1220 (2) Every dealer as defined in s. 212.06(2)(c) who makes a  
1221 mail order sale is subject to the power of this state to levy  
1222 and collect the tax imposed by this chapter when:

1223 (a) The dealer is a corporation doing business under the  
1224 laws of this state or a person domiciled in, a resident of, or a  
1225 citizen of, this state;

1226 (b) The dealer maintains retail establishments or offices  
1227 in this state, whether the mail order sales thus subject to  
1228 taxation by this state result from or are related in any other  
1229 way to the activities of such establishments or offices;

1230 (c) The dealer has agents in this state who solicit  
1231 business or transact business on behalf of the dealer, whether  
1232 the mail order sales thus subject to taxation by this state  
1233 result from or are related in any other way to such solicitation  
1234 or transaction of business, except that a printer who mails or  
1235 delivers for an out-of-state print purchaser material the  
1236 printer printed for it shall not be deemed to be the print  
1237 purchaser's agent for purposes of this paragraph;

1238 (d) The property was delivered in this state in  
1239 fulfillment of a sales contract that was entered into in this  
1240 state, in accordance with applicable conflict of laws rules,  
1241 when a person in this state accepted an offer by ordering the  
1242 property;

1243 (e) The dealer, by purposefully or systematically  
1244 exploiting the market provided by this state by any media-  
1245 assisted, media-facilitated, or media-solicited means,  
1246 including, but not limited to, direct mail advertising,  
1247 unsolicited distribution of catalogs, computer-assisted

1248 shopping, television, radio, or other electronic media, or  
1249 magazine or newspaper advertisements or other media, creates  
1250 nexus with this state;

1251 (f) Through compact or reciprocity with another  
1252 jurisdiction of the United States, that jurisdiction uses its  
1253 taxing power and its jurisdiction over the retailer in support  
1254 of this state's taxing power;

1255 (g) The dealer consents, expressly or by implication, to  
1256 the imposition of the tax imposed by this chapter;

1257 (h) The dealer is subject to service of process under s.  
1258 48.181;

1259 (i) The dealer's mail order sales are subject to the power  
1260 of this state to tax sales or to require the dealer to collect  
1261 use taxes under a statute or statutes of the United States;

1262 (j) The dealer owns real property or tangible personal  
1263 property that is physically in this state, except that a dealer  
1264 whose only property (including property owned by an affiliate)  
1265 in this state is located at the premises of a printer with which  
1266 the vendor has contracted for printing, and is either a final  
1267 printed product, or property which becomes a part of the final  
1268 printed product, or property from which the printed product is  
1269 produced, is not deemed to own such property for purposes of  
1270 this paragraph;

1271 (k) The dealer, while not having nexus with this state on  
1272 any of the bases described in paragraphs (a)-(j) or paragraph  
1273 (l), is a corporation that is a member of an affiliated group of  
1274 corporations, as defined in s. 1504(a) of the Internal Revenue  
1275 Code, whose members are includable under s. 1504(b) of the  
1276 Internal Revenue Code and whose members are eligible to file a  
1277 consolidated tax return for federal corporate income tax

1278 purposes and any parent or subsidiary corporation in the  
1279 affiliated group has nexus with this state on one or more of the  
1280 bases described in paragraphs (a)-(j) or paragraph (l); or

1281 (1) The dealer or the dealer's activities have sufficient  
1282 connection with or relationship to this state or its residents  
1283 of some type other than those described in paragraphs (a)-(k) to  
1284 create nexus empowering this state to tax its mail order sales  
1285 or to require the dealer to collect sales tax or accrue use tax.

1286 (3) Every dealer engaged in the business of making mail  
1287 order sales is subject to the requirements of this chapter for  
1288 cooperation of dealers in collection of taxes and in  
1289 administration of this chapter, except that no fee shall be  
1290 imposed upon such dealer for carrying out any required activity.

1291 (4) The department shall, with the consent of another  
1292 jurisdiction of the United States whose cooperation is needed,  
1293 enforce this chapter in that jurisdiction, either directly or,  
1294 at the option of that jurisdiction, through its officers or  
1295 employees.

1296 (5) The tax required under this section to be collected  
1297 and any amount unreturned to a purchaser that is not tax but was  
1298 collected from the purchaser under the representation that it  
1299 was tax constitute funds of the State of Florida from the moment  
1300 of collection.

1301 ~~(6) Notwithstanding other provisions of law, a dealer who~~  
1302 ~~makes a mail order sale in this state is exempt from collecting~~  
1303 ~~and remitting any local option surtax on the sale, unless the~~  
1304 ~~dealer is located in a county that imposes a surtax within the~~  
1305 ~~meaning of s. 212.054(3)(a), the order is placed through the~~  
1306 ~~dealer's location in such county, and the property purchased is~~  
1307 ~~delivered into such county or into another county in this state~~

that ~~levies the surtax, in which case the provisions of s.~~  
~~212.054(3)(a) are applicable.~~

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

Section 9. Present subsections (3) through (16) of section 212.06, Florida Statutes, are renumbered as subsections (4) through (17), respectively, a new subsection (3) is added to said section, and present subsection (3) of said section is amended to read:

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

(3) This subsection must be used to determine the location where a transaction occurs for purposes of applying the tax imposed by this chapter.

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

1. Taking possession of tangible personal property;
2. Making first use of services; or
3. Taking possession or making first use of digital goods,  
whichever occurs first.

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

1338 (b) For purposes of this subsection, the term "product"  
1339 means tangible personal property, a digital good, or a service.

1340 (c) This section does not apply to the sales or use taxes  
1341 levied on:

1342 1. The retail sale or transfer of a boat, modular home,  
1343 manufactured home, or mobile home.

1344 2. The retail sale, excluding a lease or rental, of a  
1345 motor vehicle or aircraft that does not qualify as  
1346 transportation equipment, as defined in paragraph (g). The lease  
1347 or rental of these items shall be deemed to have occurred in  
1348 accordance with paragraph (f).

1349 3. The retail sale of tangible personal property by a florist.

1350  
1351 Such retail sales are deemed to take place at the location  
1352 determined under s. 212.054(4).

1353 (d) The retail sale of a product, excluding a lease or  
1354 rental, shall be deemed to take place:

1355 1. When the product is received by the purchaser at a  
1356 business location of the seller, at that business location.

1357 2. When the product is not received by the purchaser at a  
1358 business location of the seller, at the location where receipt  
1359 by the purchaser, or the purchaser's donee, designated as such  
1360 by the purchaser, occurs, including the location indicated by  
1361 instructions for delivery to the purchaser or donee, known to  
1362 the seller.

1363 3. When subparagraphs 1. and 2. do not apply, at the  
1364 location indicated by an address for the purchaser which is  
1365 available from the business records of the seller which are  
1366 maintained in the ordinary course of the seller's business, when  
1367 use of this address does not constitute bad faith.

1368        4. When subparagraphs 1., 2., and 3. do not apply, at the  
1369        location indicated by an address for the purchaser obtained  
1370        during the consummation of the sale, including the address of a  
1371        purchaser's payment instrument, if no other address is  
1372        available, when use of this address does not constitute bad  
1373        faith.

1374        5. When subparagraphs 1., 2., 3., and 4. do not apply,  
1375        including when the seller is without sufficient information to  
1376        apply the previous paragraphs, the address from which tangible  
1377        personal property was shipped, from which the digital good or  
1378        the computer software delivered electronically was first  
1379        available for transmission by the seller, or from which the  
1380        service was provided, disregarding any location that merely  
1381        provided the digital transfer of the product sold.

1382        (e) The lease or rental of tangible personal property,  
1383        other than property identified in paragraphs (f) and (g), shall  
1384        be deemed to have occurred as follows:

1385        1. For a lease or rental that requires recurring periodic  
1386        payments, the first periodic payment is deemed to take place in  
1387        accordance with paragraph (d), notwithstanding the exclusion of  
1388        lease or rental in paragraph (d). Subsequent periodic payments  
1389        are deemed to have occurred at the primary property location for  
1390        each period covered by the payment. The primary property  
1391        location is determined by an address for the property provided  
1392        by the lessee which is available to the lessor from its records  
1393        maintained in the ordinary course of business, when use of this  
1394        address does not constitute bad faith. The property location is  
1395        not altered by intermittent use of the property at different  
1396        locations, such as use of business property that accompanies  
1397        employees on business trips and service calls.

1398        2. For a lease or rental that does not require recurring  
1399 periodic payments, the payment is deemed to take place in  
1400 accordance with paragraph (d), notwithstanding the exclusion of  
1401 a lease or rental in paragraph (d).

1402        3. This paragraph does not affect the imposition or  
1403 computation of sales or use tax on leases or rentals based on a  
1404 lump sum or accelerated basis or on the acquisition of property  
1405 for lease.

1406        (f) The lease or rental of a motor vehicle or aircraft  
1407 that does not qualify as transportation equipment, as defined in  
1408 paragraph (g), shall be sourced as follows:

1409        1. For a lease or rental that requires recurring periodic  
1410 payments, each periodic payment is deemed to take place at the  
1411 primary property location. The primary property location shall  
1412 be determined by an address for the property provided by the  
1413 lessee which is available to the lessor from its records  
1414 maintained in the ordinary course of business, when use of this  
1415 address does not constitute bad faith. This location may not be  
1416 altered by intermittent use at different locations.

1417        2. For a lease or rental that does not require recurring  
1418 periodic payments, the payment is deemed to take place in  
1419 accordance with paragraph (d), notwithstanding the exclusion of  
1420 a lease or rental in paragraph (d).

1421        3. This paragraph does not affect the imposition or  
1422 computation of sales or use tax on leases or rentals based on a  
1423 lump sum or accelerated basis or on the acquisition of property  
1424 for lease.

1425        (g) The retail sale, including lease or rental, of  
1426 transportation equipment shall be deemed to take place in  
1427 accordance with paragraph (d), notwithstanding the exclusion of



1428 a lease or rental in paragraph (d). The term "transportation  
1429 equipment" means:

- 1430 1. Locomotives and rail cars that are used for the  
1431 carriage of persons or property in interstate commerce;
- 1432 2. Trucks and truck tractors with a Gross Vehicle Weight  
1433 Rating (GVWR) of 10,001 pounds or greater, trailers,  
1434 semitrailers, or passenger buses that are registered through the  
1435 International Registration Plan and operated under authority of  
1436 a carrier authorized and certificated by the United States  
1437 Department of Transportation or another federal authority to  
1438 engage in the carriage of persons or property in interstate  
1439 commerce;
- 1440 3. Aircraft that are operated by air carriers authorized  
1441 and certificated by the United States Department of  
1442 Transportation or another federal or a foreign authority to  
1443 engage in the carriage of persons or property in interstate or  
1444 foreign commerce; or
- 1445 4. Containers designed for use on and component parts  
1446 attached or secured on the items set forth in subparagraphs 1.  
1447 through 3.

1448 (4)(3)(a) Except as provided in paragraph (b), every  
1449 dealer making sales, whether within or outside the state, of  
1450 tangible personal property for distribution, storage, or use or  
1451 other consumption, in this state, shall, at the time of making  
1452 sales, collect the tax imposed by this chapter from the  
1453 purchaser.

1454 (b)1. Notwithstanding subsection (3), a purchaser of  
1455 direct mail which is not a holder of a direct-pay permit shall  
1456 provide to the seller in conjunction with the purchase a direct  
1457 mail form or information to show the jurisdictions to which the

1458 direct mail is delivered to recipients. Upon receipt of the  
1459 direct mail form, the seller is relieved of all obligations to  
1460 collect, pay, or remit the applicable tax, and the purchaser is  
1461 obligated to pay or remit the applicable tax on a direct-pay  
1462 basis. A direct mail form remains in effect for all future sales  
1463 of direct mail by the seller to the purchaser until it is  
1464 revoked in writing.

1465 2. Upon receipt of information from the purchaser showing  
1466 the jurisdictions to which the direct mail is delivered to  
1467 recipients, the seller shall collect the tax according to the  
1468 delivery information provided by the purchaser. In the absence  
1469 of bad faith, the seller is relieved of any further obligation  
1470 to collect tax on any transaction for which the seller has  
1471 collected tax pursuant to the delivery information provided by  
1472 the purchaser.

1473 3. If the purchaser of direct mail does not have a direct-  
1474 pay permit and does not provide the seller with a direct mail  
1475 form or delivery information as required by subparagraph 1., the  
1476 seller shall collect the tax according to subparagraph (3)(d)5.  
1477 This paragraph does not limit a purchaser's obligation for sales  
1478 or use tax to any state to which the direct mail is delivered.

1479 4. If a purchaser of direct mail provides the seller with  
1480 documentation of direct-pay authority, the purchaser is not  
1481 required to provide a direct mail form or delivery information  
1482 to the seller ~~A purchaser of printed materials shall have sole~~  
1483 ~~responsibility for the taxes imposed by this chapter on those~~  
1484 ~~materials when the printer of the materials delivers them to the~~  
1485 ~~United States Postal Service for mailing to persons other than~~  
1486 ~~the purchaser located within and outside this state. Printers of~~  
1487 ~~materials delivered by mail to persons other than the purchaser~~

1488 ~~located within and outside this state shall have no obligation~~  
1489 ~~or responsibility for the payment or collection of any taxes~~  
1490 ~~imposed under this chapter on those materials. However, printers~~  
1491 ~~are obligated to collect the taxes imposed by this chapter on~~  
1492 ~~printed materials when all, or substantially all, of the~~  
1493 ~~materials will be mailed to persons located within this state.~~  
1494 ~~For purposes of the printer's tax collection obligation, there~~  
1495 ~~is a rebuttable presumption that all materials printed at a~~  
1496 ~~facility are mailed to persons located within the same state as~~  
1497 ~~that in which the facility is located. A certificate provided by~~  
1498 ~~the purchaser to the printer concerning the delivery of the~~  
1499 ~~printed materials for that purchase or all purchases shall be~~  
1500 ~~sufficient for purposes of rebutting the presumption created~~  
1501 ~~herein.~~

1502       5.2- The Department of Revenue is authorized to adopt  
1503 rules and forms to implement the provisions of this paragraph.

1504       Section 10. Subsection (1), subsection (2) of section  
1505 212.08, Florida Statutes, are amended to read:

1506       212.08 Sales, rental, use, consumption, distribution, and  
1507 storage tax; specified exemptions.--The sale at retail, the  
1508 rental, the use, the consumption, the distribution, and the  
1509 storage to be used or consumed in this state of the following  
1510 are hereby specifically exempt from the tax imposed by this  
1511 chapter.

1512       (1) EXEMPTIONS; GENERAL GROCERIES.--

1513       (a) Food and food ingredients ~~products~~ for human  
1514 consumption are exempt from the tax imposed by this chapter.

1515       (b) For the purpose of this chapter, as used in this  
1516 subsection, the term "food and food ingredients ~~products~~" means  
1517 substances, whether in liquid, concentrated, solid, frozen,

1518 dried, or dehydrated form, which are sold for ingestion or  
1519 chewing by humans and are consumed for their taste or  
1520 nutritional value ~~edible commodities, whether processed, cooked,~~  
1521 ~~raw, canned, or in any other form, which are generally regarded~~  
1522 ~~as food. This includes, but is not limited to, all of the~~  
1523 ~~following:~~

1524 ~~1. Cereals and cereal products, baked goods,~~  
1525 ~~oleomargarine, meat and meat products, fish and seafood~~  
1526 ~~products, frozen foods and dinners, poultry, eggs and egg~~  
1527 ~~products, vegetables and vegetable products, fruit and fruit~~  
1528 ~~products, spices, salt, sugar and sugar products, milk and dairy~~  
1529 ~~products, and products intended to be mixed with milk.~~

1530 ~~2. Natural fruit or vegetable juices or their concentrates~~  
1531 ~~or reconstituted natural concentrated fruit or vegetable juices,~~  
1532 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~  
1533 ~~sweetened or unsweetened, seasoned with salt or spice, or~~  
1534 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~  
1535 ~~unless it is sold in a liquid form.~~

1536 1.3. Bakery products sold by bakeries, pastry shops, or  
1537 like establishments, if sold without eating utensils. Bakery  
1538 products for purposes of this subsection include bread, rolls,  
1539 buns, biscuits, bagels, croissants, pastries, doughnuts, danish,  
1540 cakes, tortes, pies, tarts, muffins, bars, cookies, and  
1541 tortillas ~~that do not have eating facilities.~~

1542 2. Dietary supplements. The term "dietary supplements"  
1543 means any product, other than tobacco, intended to supplement  
1544 the diet which contains one or more of the following dietary  
1545 ingredients: a vitamin; a mineral; an herb or other botanical;  
1546 an amino acid; a dietary substance for use by humans to  
1547 supplement the diet by increasing the total dietary intake; or a

1548 concentrate, metabolite, constituent, extract, or combination of  
1549 any ingredient described in this subparagraph which is intended  
1550 for ingestion in tablet, capsule, powder, softgel, gelcap, or  
1551 liquid form or, if not intended for ingestion in such a form, is  
1552 not represented as conventional food and is not represented for  
1553 use as a sole item of a meal or of the diet, and which is  
1554 required to be labeled as a dietary supplement, identifiable by  
1555 the "supplemental facts" box found on the label and as required  
1556 pursuant to 21 C.F.R. s. 101.36.

1557 (c) The exemption provided by this subsection does not  
1558 apply:

1559 ~~1. When the food products are sold as meals for~~  
1560 ~~consumption on or off the premises of the dealer.~~

1561 ~~2. When the food products are furnished, prepared, or~~  
1562 ~~served for consumption at tables, chairs, or counters or from~~  
1563 ~~trays, glasses, dishes, or other tableware, whether provided by~~  
1564 ~~the dealer or by a person with whom the dealer contracts to~~  
1565 ~~furnish, prepare, or serve food products to others.~~

1566 ~~3. When the food products are ordinarily sold for~~  
1567 ~~immediate consumption on the seller's premises or near a~~  
1568 ~~location at which parking facilities are provided primarily for~~  
1569 ~~the use of patrons in consuming the products purchased at the~~  
1570 ~~location, even though such products are sold on a "take-out" or~~  
1571 ~~"to-go" order and are actually packaged or wrapped and taken~~  
1572 ~~from the premises of the dealer.~~

1573 ~~4. To sandwiches sold ready for immediate consumption on~~  
1574 ~~or off the seller's premises.~~

1575 ~~5. When the food products are sold ready for immediate~~  
1576 ~~consumption within a place, the entrance to which is subject to~~  
1577 ~~an admission charge.~~

1578 1.6. When the food and food ingredients ~~products~~ are sold  
1579 as ~~hot~~ prepared food products. As used in this subparagraph, the  
1580 term "prepared food" means food sold in a heated state or heated  
1581 by the seller; two or more food ingredients mixed or combined by  
1582 the seller for sale as a single item; or food sold with eating  
1583 utensils provided by the seller, including plates, knives,  
1584 forks, spoons, glasses, cups, napkins, or straws. A plate does  
1585 not include a container or packaging used to transport the food.  
1586 Prepared food does not include food that is only cut,  
1587 repackaged, or pasteurized by the seller and eggs, fish, meat,  
1588 poultry, and foods containing these raw animal foods requiring  
1589 cooking by the consumer as recommended by the Food and Drug  
1590 Administration in chapter 3, part 401.11 of its food code so as  
1591 to prevent food-borne illnesses. Prepared food, for purposes of  
1592 this subparagraph, includes sandwiches sold for immediate  
1593 consumption and a combination of hot and cold food items or  
1594 components where a single price has been established for the  
1595 combination and the food products are sold in such combination,  
1596 such as a meal; a specialty dish or serving; a sandwich or  
1597 pizza; an ice cream cone, sundae, or banana split; or food sold  
1598 in an unheated state by weight or volume as a single item,  
1599 including cold components or side items.

1600 2.7. To soft drinks, which include, but are not limited  
1601 to, any nonalcoholic beverage, any preparation or beverage  
1602 commonly referred to as a "soft drink," or any noncarbonated  
1603 drink made from milk derivatives or tea, when sold in cans or  
1604 similar containers. The term "soft drinks" means nonalcoholic  
1605 beverages that contain natural or artificial sweeteners. Soft  
1606 drinks do not include beverages that contain milk or milk

1607 products, soy, rice, or similar milk substitutes, or greater  
1608 than 50 percent of vegetable or fruit juice by volume.

1609 ~~8. To ice cream, frozen yogurt, and similar frozen dairy~~  
1610 ~~or nondairy products in cones, small cups, or pints, popsicles,~~  
1611 ~~frozen fruit bars, or other novelty items, whether or not sold~~  
1612 ~~separately.~~

1613 ~~9. To food prepared, whether on or off the premises, and~~  
1614 ~~sold for immediate consumption. This does not apply to food~~  
1615 ~~prepared off the premises and sold in the original sealed~~  
1616 ~~container, or the slicing of products into smaller portions.~~

1617 ~~3.10. When the food and food ingredients products are sold~~  
1618 ~~through a vending machine, pusheart, motor vehicle, or any other~~  
1619 ~~form of vehicle.~~

1620 ~~4.11. To candy and any similar product regarded as candy~~  
1621 ~~or confection, based on its normal use, as indicated on the~~  
1622 ~~label or advertising thereof. The term "candy" means a~~  
1623 ~~preparation of sugar, honey, or other natural or artificial~~  
1624 ~~sweeteners in combination with chocolate, fruits, nuts, or other~~  
1625 ~~ingredients or flavorings in the form of bars, drops, or pieces.~~  
1626 ~~Candy does not include any preparation that contains flour and~~  
1627 ~~does not require refrigeration.~~

1628 5. To Tobacco.

1629 ~~12. To bakery products sold by bakeries, pastry shops, or~~  
1630 ~~like establishments that have eating facilities, except when~~  
1631 ~~sold for consumption off the seller's premises.~~

1632 ~~13. When food products are served, prepared, or sold in or~~  
1633 ~~by restaurants, lunch counters, cafeterias, hotels, taverns, or~~  
1634 ~~other like places of business.~~

1635 ~~(d) As used in this subsection, the term:~~

1636 1. ~~"For consumption off the seller's premises" means that~~  
1637 ~~the food or drink is intended by the customer to be consumed at~~  
1638 ~~a place away from the dealer's premises.~~

1639 2. ~~"For consumption on the seller's premises" means that~~  
1640 ~~the food or drink sold may be immediately consumed on the~~  
1641 ~~premises where the dealer conducts his or her business. In~~  
1642 ~~determining whether an item of food is sold for immediate~~  
1643 ~~consumption, there shall be considered the customary consumption~~  
1644 ~~practices prevailing at the selling facility.~~

1645 3. ~~"Premises" shall be construed broadly, and means, but~~  
1646 ~~is not limited to, the lobby, aisle, or auditorium of a theater;~~  
1647 ~~the seating, aisle, or parking area of an arena, rink, or~~  
1648 ~~stadium; or the parking area of a drive-in or outdoor theater.~~  
1649 ~~The premises of a caterer with respect to catered meals or~~  
1650 ~~beverages shall be the place where such meals or beverages are~~  
1651 ~~served.~~

1652 4. ~~"Hot prepared food products" means those products,~~  
1653 ~~items, or components which have been prepared for sale in a~~  
1654 ~~heated condition and which are sold at any temperature that is~~  
1655 ~~higher than the air temperature of the room or place where they~~  
1656 ~~are sold. "Hot prepared food products," for the purposes of this~~  
1657 ~~subsection, includes a combination of hot and cold food items or~~  
1658 ~~components where a single price has been established for the~~  
1659 ~~combination and the food products are sold in such combination,~~  
1660 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~  
1661 ~~sandwich or hot pizza, including cold components or side items.~~

1662 (d)-(e)1. Food or drinks not exempt under paragraphs (a),  
1663 (b), and (c), ~~and (d)~~ shall be exempt, notwithstanding those  
1664 paragraphs, when purchased with food coupons or Special



Supplemental Food Program for Women, Infants, and Children vouchers issued under authority of federal law.

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

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

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

(2) EXEMPTIONS; MEDICAL.--

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

1. Any drug;

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

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

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

5. Over-the-counter drugs ~~and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or~~

disease in human beings, but not including grooming and hygiene products;

6. Band-Aids, gauze, bandages, adhesive tape;

7. Hearing aids;

8. Dental prosthesis; or

9. Funerals.

Funeral directors shall pay tax on all tangible personal property used by them in their business. ~~cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; and funerals.~~ In addition, any items intended for one-time use which transfer essential optical characteristics to contact lenses are ~~shall be~~ exempt from the tax imposed by this chapter; however, this exemption applies ~~shall apply~~ only after \$100,000 of the tax imposed by this chapter on such items has been paid in any calendar year by a taxpayer who claims the exemption in such year. ~~Funeral directors shall pay tax on all tangible personal property used by them in their business.~~

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

1. "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other

1724 than food and food ingredients, dietary supplements, and  
1725 alcoholic beverages, which is:

1726 a. Recognized in the official United States Pharmacopoeia,  
1727 official Homeopathic Pharmacopoeia of the United States, or  
1728 official National Formulary, or the supplement to any of them;

1729 b. Intended for use in the diagnosis, cure, mitigation,  
1730 treatment, or prevention of disease; or

1731 c. Intended to affect the structure or any function of the  
1732 body.

1733 2. "Durable medical equipment" means equipment, including  
1734 repair and replacement parts to such equipment, but excluding  
1735 mobility-enhancing equipment, which can withstand repeated use,  
1736 is primarily and customarily used to serve a medical purpose,  
1737 generally is not useful to a person in the absence of illness or  
1738 injury, and is not worn on or in the body.

1739 3. "Mobility-enhancing equipment" means equipment,  
1740 including repair and replacement parts to such equipment, but  
1741 excluding durable medical equipment, which:

1742 a. Is primarily and customarily used to provide or  
1743 increase the ability to move from one place to another and which  
1744 is appropriate for use either in a home or a motor vehicle;

1745 b. Is not generally used by persons with normal mobility;  
1746 and

1747 c. Does not include any motor vehicle or any equipment on  
1748 a motor vehicle normally provided by a motor vehicle  
1749 manufacturer.

1750 4. "Prosthetic device" means a replacement, corrective, or  
1751 supportive device, including repair or replacement parts to such  
1752 equipment, other than a hearing aid or a dental prosthesis,  
1753 which is worn on or in the body to:

- 1754 a. Artificially replace a missing portion of the body;  
1755 b. Prevent or correct physical deformity or malfunction; or  
1756 c. Support a weak or deformed portion of the body.

1757 5. "Grooming and hygiene products" mean soaps and cleaning  
1758 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and  
1759 suntan lotions and screens, regardless of whether the items meet  
1760 the definition of an over-the-counter drug.

1761 6. "Over-the-counter drug" means a drug the packaging for  
1762 which contains a label that identifies the product as a drug as  
1763 required by 21 C.F.R. s. 201.66. The over-the-counter drug label  
1764 includes a drug facts panel or a statement of the active  
1765 ingredients, with a list of those ingredients contained in the  
1766 compound, substance, or preparation. "Prosthetic and orthopedic  
1767 appliances" means any apparatus, instrument, device, or  
1768 equipment used to replace or substitute for any missing part of  
1769 the body, to alleviate the malfunction of any part of the body,  
1770 or to assist any disabled person in leading a normal life by  
1771 facilitating such person's mobility. Such apparatus, instrument,  
1772 device, or equipment shall be exempted according to an  
1773 individual prescription or prescriptions written by a physician  
1774 licensed under chapter 458, chapter 459, chapter 460, chapter  
1775 461, or chapter 466, or according to a list prescribed and  
1776 approved by the Department of Health, which list shall be  
1777 certified to the Department of Revenue from time to time and  
1778 included in the rules promulgated by the Department of Revenue.

1779 2. "Cosmetics" means articles intended to be rubbed,  
1780 poured, sprinkled, or sprayed on, introduced into, or otherwise  
1781 applied to the human body for cleansing, beautifying, promoting  
1782 attractiveness, or altering the appearance and also means  
1783 articles intended for use as a compound of any such articles,

1784 including, but not limited to, cold creams, suntan lotions,  
1785 makeup, and body lotions.

1786 3. ~~"Toilet articles" means any article advertised or held~~  
1787 ~~out for sale for grooming purposes and those articles that are~~  
1788 ~~customarily used for grooming purposes, regardless of the name~~  
1789 ~~by which they may be known, including, but not limited to, soap,~~  
1790 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~  
1791 ~~shampoo, deodorant, and mouthwash.~~

1792 7.4. "Prescription" means an order, formula, or recipe  
1793 issued in any form of oral, written, electronic, or other means  
1794 of transmission by a duly licensed practitioner authorized by  
1795 chapter 458, chapter 459, chapter 460, chapter 461, or chapter  
1796 466. The term also includes an orally transmitted order by the  
1797 lawfully designated agent of such practitioner. The term also  
1798 includes an order written or transmitted by a practitioner  
1799 licensed to practice in a jurisdiction other than this state,  
1800 but only if the pharmacist called upon to dispense the order  
1801 determines, in the exercise of his or her professional judgment,  
1802 that the order is valid and necessary for the treatment of a  
1803 chronic or recurrent illness. ~~includes any order for drugs or~~  
1804 ~~medicinal supplies written or transmitted by any means of~~  
1805 ~~communication by a duly licensed practitioner authorized by the~~  
1806 ~~laws of the state to prescribe such drugs or medicinal supplies~~  
1807 ~~and intended to be dispensed by a pharmacist. The term also~~  
1808 ~~includes an orally transmitted order by the lawfully designated~~  
1809 ~~agent of such practitioner. The term also includes an order~~  
1810 ~~written or transmitted by a practitioner licensed to practice in~~  
1811 ~~a jurisdiction other than this state, but only if the pharmacist~~  
1812 ~~called upon to dispense such order determines, in the exercise~~  
1813 ~~of his or her professional judgment, that the order is valid and~~

1814 ~~necessary for the treatment of a chronic or recurrent illness.~~  
1815 ~~The term also includes a pharmacist's order for a product~~  
1816 ~~selected from the formulary created pursuant to s. 465.186. A~~  
1817 ~~prescription may be retained in written form, or the pharmacist~~  
1818 ~~may cause it to be recorded in a data processing system,~~  
1819 ~~provided that such order can be produced in printed form upon~~  
1820 ~~lawful request.~~

1821 (c) Chlorine is ~~shall~~ not be exempt from the tax imposed  
1822 by this chapter when used for the treatment of water in swimming  
1823 pools.

1824 ~~(d) Lithotripters are exempt.~~

1825 ~~(d)~~(e) Human organs are exempt.

1826 ~~(f) Sales of drugs to or by physicians, dentists,~~  
1827 ~~veterinarians, and hospitals in connection with medical~~  
1828 ~~treatment are exempt.~~

1829 ~~(g) Medical products and supplies used in the cure,~~  
1830 ~~mitigation, alleviation, prevention, or treatment of injury,~~  
1831 ~~disease, or incapacity which are temporarily or permanently~~  
1832 ~~incorporated into a patient or client by a practitioner of the~~  
1833 ~~healing arts licensed in the state are exempt.~~

1834 ~~(h) The purchase by a veterinarian of commonly recognized~~  
1835 ~~substances possessing curative or remedial properties which are~~  
1836 ~~ordered and dispensed as treatment for a diagnosed health~~  
1837 ~~disorder by or on the prescription of a duly licensed~~  
1838 ~~veterinarian, and which are applied to or consumed by animals~~  
1839 ~~for alleviation of pain or the cure or prevention of sickness,~~  
1840 ~~disease, or suffering are exempt. Also exempt are the purchase~~  
1841 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~  
1842 ~~bandages, lotions, vitamins, and worm remedies.~~

1843 ~~(i) X-ray opaques, also known as opaque drugs and~~  
1844 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~  
1845 ~~when used in connection with medical X rays for treatment of~~  
1846 ~~bodies of humans and animals, are exempt.~~

1847 ~~(e)(j)~~ Parts, special attachments, special lettering, and  
1848 other like items that are added to or attached to tangible  
1849 personal property so that a handicapped person can use them are  
1850 exempt when such items are purchased by a person pursuant to an  
1851 individual prescription.

1852 ~~(f)(k)~~ This subsection shall be strictly construed and  
1853 enforced.

1854 Section 11. Section 212.094, Florida Statutes, is created  
1855 to read:

1856 212.094 Purchaser requests for refunds from dealers.-

1857 (1) If a purchaser seeks a refund of or credit from a  
1858 dealer for a tax collected under this chapter by that dealer,  
1859 the purchaser must submit a written request for the refund or  
1860 credit to the dealer in accordance with this section. The  
1861 request must contain all the information necessary for the  
1862 dealer to determine the validity of the purchaser's request.

1863 (2) The purchaser may not take any other action against the  
1864 dealer with respect to the requested refund or credit until the  
1865 dealer has had 60 days following receipt of a completed request  
1866 in which to respond.

1867 (3) This section does not change the law regarding standing  
1868 to claim a refund.

1869 Section 12. Subsections (1) and (9) through (14) of  
1870 section 212.12, Florida Statutes, are amended to read:

1871 212.12 Dealer's credit for collecting tax; penalties for  
1872 noncompliance; powers of Department of Revenue in dealing with

1873 delinquents; computing tax due ~~brackets applicable to taxable~~  
1874 ~~transactions~~; records required.--

1875 (1) Notwithstanding any other provision of law and for the  
1876 purpose of compensating persons granting licenses for and the  
1877 lessors of real and personal property taxed hereunder, for the  
1878 purpose of compensating dealers in tangible personal property,  
1879 for the purpose of compensating dealers providing communication  
1880 services and taxable services, for the purpose of compensating  
1881 owners of places where admissions are collected, and for the  
1882 purpose of compensating remitters of any taxes or fees reported  
1883 on the same documents utilized for the sales and use tax, as  
1884 compensation for the keeping of prescribed records, filing  
1885 timely tax returns, and the proper accounting and remitting of  
1886 taxes by them, such seller, person, lessor, dealer, owner, and  
1887 remitter (except dealers who make mail order sales) shall be  
1888 allowed 2.5 percent of the amount of the tax due and accounted  
1889 for and remitted to the department, in the form of a deduction  
1890 in submitting his or her report and paying the amount due by him  
1891 or her; the department shall allow such deduction of 2.5 percent  
1892 of the amount of the tax to the person paying the same for  
1893 remitting the tax and making of tax returns in the manner herein  
1894 provided, for paying the amount due to be paid by him or her,  
1895 and as further compensation to dealers in tangible personal  
1896 property for the keeping of prescribed records and for  
1897 collection of taxes and remitting the same. However, if the  
1898 amount of the tax due and remitted to the department for the  
1899 reporting period exceeds \$1,200, no allowance shall be allowed  
1900 for all amounts in excess of \$1,200. The executive director of  
1901 the department is authorized to negotiate a collection  
1902 allowance, pursuant to rules promulgated by the department, with



1903 a dealer who makes mail order sales. The rules of the department  
1904 shall provide guidelines for establishing the collection  
1905 allowance based upon the dealer's estimated costs of collecting  
1906 the tax, the volume and value of the dealer's mail order sales  
1907 to purchasers in this state, and the administrative and legal  
1908 costs and likelihood of achieving collection of the tax absent  
1909 the cooperation of the dealer. However, in no event shall the  
1910 collection allowance negotiated by the executive director exceed  
1911 10 percent of the tax remitted for a reporting period.

1912 (a) The Department of Revenue may deny the collection  
1913 allowance if a taxpayer files an incomplete return or if the  
1914 required tax return or tax is delinquent at the time of payment.

1915 1. An "incomplete return" is, for purposes of this  
1916 chapter, a return which is lacking such uniformity,  
1917 completeness, and arrangement that the physical handling,  
1918 verification, review of the return, or determination of other  
1919 taxes and fees reported on the return may not be readily  
1920 accomplished.

1921 2. The department shall adopt rules requiring such  
1922 information as it may deem necessary to ensure that the tax  
1923 levied hereunder is properly collected, reviewed, compiled,  
1924 reported, and enforced, including, but not limited to: the  
1925 amount of gross sales; the amount of taxable sales; the amount  
1926 of tax collected or due; the amount of lawful refunds,  
1927 deductions, or credits claimed; the amount claimed as the  
1928 dealer's collection allowance; the amount of penalty and  
1929 interest; the amount due with the return; and such other  
1930 information as the Department of Revenue may specify. The  
1931 department shall require that transient rentals and agricultural  
1932 equipment transactions be separately shown. Sales made through

vending machines as defined in s. 212.0515 must be separately shown on the return. Sales made through coin-operated amusement machines as defined by s. 212.02 and the number of machines operated must be separately shown on the return or on a form prescribed by the department. If a separate form is required, the same penalties for late filing, incomplete filing, or failure to file as provided for the sales tax return shall apply to said form.

(b) The collection allowance and other credits or deductions provided in this chapter shall be applied proportionally to any taxes or fees reported on the same documents used for the sales and use tax.

(c)1. A dealer entitled to the collection allowance provided in this section may elect to forego the collection allowance and direct that said amount be transferred into the Educational Enhancement Trust Fund. Such an election must be made with the timely filing of a return and may not be rescinded once made. If a dealer who makes such an election files a delinquent return, underpays the tax, or files an incomplete return, the amount transferred into the Educational Enhancement Trust Fund shall be the amount of the collection allowance remaining after resolution of liability for all of the tax, interest, and penalty due on that return or underpayment of tax. The Department of Education shall distribute the remaining amount from the trust fund to the school districts that have adopted resolutions stating that those funds will be used to ensure that up-to-date technology is purchased for the classrooms in the district and that teachers are trained in the use of that technology. Revenues collected in districts that do

not adopt such a resolution shall be equally distributed to districts that have adopted such resolutions.

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

3. Revenues from the dealer-collection allowances shall be transferred quarterly from the General Revenue Fund to the Educational Enhancement Trust Fund. The Department of Revenue shall provide to the Department of Education quarterly information about such revenues by county to which the collection allowance was attributed.

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

(d) Notwithstanding paragraphs (a) and (b), a Model 1 seller under the Streamlined Sales and Use Tax Agreement is not entitled to the collection allowance described in paragraphs (a) and (b).

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

1991        2. Such monetary allowances must be in the form of  
1992 collection allowances that certified service providers or  
1993 voluntary sellers are permitted to retain from the tax revenue  
1994 collected on remote sales to be remitted to the state pursuant  
1995 to this chapter.

1996        3. For purposes of this paragraph, the term "voluntary  
1997 seller" or "volunteer seller" means a seller that does not have  
1998 a requirement to register in this state to collect Florida sales  
1999 tax pursuant to this chapter, and the term "remote sales" means  
2000 revenue generated by such a seller for Florida for which the  
2001 seller does not have a requirement to register to collect  
2002 Florida sales tax pursuant to this chapter.

2003        (9) Taxes imposed by this chapter upon the privilege of  
2004 the use, consumption, storage for consumption, or sale of  
2005 tangible personal property, admissions, license fees, rentals,  
2006 communication services, and upon the sale or use of services as  
2007 herein taxed shall be collected upon the basis of an addition of  
2008 the tax imposed by this chapter to the total price of such  
2009 admissions, license fees, rentals, communication or other  
2010 services, or sale price of such article or articles that are  
2011 purchased, sold, or leased at any one time by or to a customer  
2012 or buyer; the dealer, or person charged herein, is required to  
2013 pay a privilege tax in the amount of the tax imposed by this  
2014 chapter on the total of his or her gross sales of tangible  
2015 personal property, admissions, license fees, rentals, and  
2016 communication services or to collect a tax upon the sale or use  
2017 of services, and such person or dealer shall add the tax imposed  
2018 by this chapter to the price, license fee, rental, or  
2019 admissions, and communication or other services and collect the  
2020 total sum from the purchaser, admittee, licensee, lessee, or

2021 consumer. In computing the tax due or to be collected as the  
2022 result of any transaction, the seller may elect to compute the  
2023 tax due on a transaction on either an item or an invoice basis.  
2024 The tax rate shall be the sum of the applicable state and local  
2025 rate, if any, and the tax computation must be carried to the  
2026 third decimal place. Whenever the third decimal place is greater  
2027 than four, the tax shall be rounded to the next whole cent. The  
2028 department shall make available in an electronic format or  
2029 otherwise the tax amounts and the following brackets applicable  
2030 to all transactions taxable at the rate of 6 percent:

2031 ~~(a) On single sales of less than 10 cents, no tax shall be~~  
2032 ~~added.~~

2033 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~  
2034 ~~both inclusive, 1 cent shall be added for taxes.~~

2035 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~  
2036 ~~inclusive, 2 cents shall be added for taxes.~~

2037 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~  
2038 ~~inclusive, 3 cents shall be added for taxes.~~

2039 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~  
2040 ~~inclusive, 4 cents shall be added for taxes.~~

2041 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~  
2042 ~~inclusive, 5 cents shall be added for taxes.~~

2043 ~~(g) On sales in amounts from 84 cents to \$1, both~~  
2044 ~~inclusive, 6 cents shall be added for taxes.~~

2045 ~~(h) On sales in amounts of more than \$1, 6 percent shall~~  
2046 ~~be charged upon each dollar of price, plus the appropriate~~  
2047 ~~bracket charge upon any fractional part of a dollar.~~

2048 ~~(10) In counties which have adopted a discretionary sales~~  
2049 ~~surtax at the rate of 1 percent, the department shall make~~  
2050 ~~available in an electronic format or otherwise the tax amounts~~

and the following brackets applicable to all taxable transactions that would otherwise have been transactions taxable at the rate of 6 percent:

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

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

(c) On sales in amounts from 15 cents to 28 cents, both inclusive, 2 cents shall be added for taxes.

(d) On sales in amounts from 29 cents to 42 cents, both inclusive, 3 cents shall be added for taxes.

(e) On sales in amounts from 43 cents to 57 cents, both inclusive, 4 cents shall be added for taxes.

(f) On sales in amounts from 58 cents to 71 cents, both inclusive, 5 cents shall be added for taxes.

(g) On sales in amounts from 72 cents to 85 cents, both inclusive, 6 cents shall be added for taxes.

(h) On sales in amounts from 86 cents to \$1, both inclusive, 7 cents shall be added for taxes.

(i) On sales in amounts from \$1 up to, and including, the first \$5,000 in price, 7 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.

(j) On sales in amounts of more than \$5,000 in price, 7 percent shall be added upon the first \$5,000 in price, and 6 percent shall be added upon each dollar of price in excess of the first \$5,000 in price, plus the bracket charges upon any fractional part of a dollar as provided for in subsection (9).

(11) The department shall make available in an electronic format or otherwise the tax amounts and brackets applicable to

all taxable transactions that occur in counties that have a surtax at a rate other than 1 percent which transactions would otherwise have been transactions taxable at the rate of 6 percent. Likewise, the department shall make available in an electronic format or otherwise the tax amounts and brackets applicable to transactions taxable at 7 percent pursuant to s. 212.05(1)(c) and on transactions which would otherwise have been so taxable in counties which have adopted a discretionary sales surtax.

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

(11)~~(13)~~ In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners; property managers; lessors; landlords; hotel, apartment house, and roominghouse operators; and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records as long as required by s. 213.35, subject to the inspection of the

2111 department and its agents. Upon the failure by such owner;  
2112 property manager; lessor; landlord; hotel, apartment house,  
2113 roominghouse, tourist or trailer camp operator; or real estate  
2114 agent to keep and maintain such records and to make such reports  
2115 upon the forms and in the manner prescribed, such owner;  
2116 property manager; lessor; landlord; hotel, apartment house,  
2117 roominghouse, tourist or trailer camp operator; receiver of rent  
2118 or license fees; or real estate agent is guilty of a misdemeanor  
2119 of the second degree, punishable as provided in s. 775.082 or s.  
2120 775.083, for the first offense; for subsequent offenses, they  
2121 are each guilty of a misdemeanor of the first degree, punishable  
2122 as provided in s. 775.082 or s. 775.083. If, however, any  
2123 subsequent offense involves intentional destruction of such  
2124 records with an intent to evade payment of or deprive the state  
2125 of any tax revenues, such subsequent offense shall be a felony  
2126 of the third degree, punishable as provided in s. 775.082 or s.  
2127 775.083.

2128 (12)~~(14)~~ If it is determined upon audit that a dealer has  
2129 collected and remitted taxes by applying the applicable tax rate  
2130 to each transaction as described in subsection (9) and rounding  
2131 the tax due to the nearest whole cent rather than applying the  
2132 appropriate bracket system provided by law or department rule,  
2133 the dealer shall not be held liable for additional tax, penalty,  
2134 and interest resulting from such failure if:

2135 (a) The dealer acted in a good faith belief that rounding  
2136 to the nearest whole cent was the proper method of determining  
2137 the amount of tax due on each taxable transaction.

2138 (b) The dealer timely reported and remitted all taxes  
2139 collected on each taxable transaction.



2140 (c) The dealer agrees in writing to future compliance with  
2141 the laws and rules concerning brackets applicable to the  
2142 dealer's transactions.

2143 Section 13. Subsection (3) of section 212.17, Florida  
2144 Statutes, is amended to read:

2145 212.17 Credits for returned goods, rentals, or admissions;  
2146 goods acquired for dealer's own use and subsequently resold;  
2147 additional powers of department.--

2148 (3) A dealer who has paid the tax imposed by this chapter  
2149 on tangible personal property or services may take a credit or  
2150 obtain a refund for any tax paid by the dealer on the unpaid  
2151 balance due on worthless accounts within 12 months following the  
2152 month in which the bad debt has been charged off for federal  
2153 income tax purposes. A dealer who has paid the tax imposed by  
2154 this chapter on tangible personal property or services and who  
2155 is not required to file federal income tax returns may take a  
2156 credit or obtain a refund for any tax paid by the dealer on the  
2157 unpaid balance due on worthless accounts within 12 months  
2158 following the month in which the bad debt is written off as  
2159 uncollectible in the dealer's books and records and would be  
2160 eligible for a bad-debt deduction for federal income tax  
2161 purposes if the dealer was required to file a federal income tax  
2162 return.

2163 (a) A dealer that is taking a credit or obtaining a refund  
2164 on worthless accounts shall base the bad-debt-recovery  
2165 calculation in accordance with 26 U.S.C. s. 166.

2166 (b) Notwithstanding paragraph (a), the amount calculated  
2167 pursuant to 26 U.S.C. s. 166 shall be adjusted to exclude  
2168 financing charges or interest; sales or use taxes charged on the  
2169 purchase price; uncollectible amounts on property that remains

2170 in the possession of the seller until the full purchase price is  
2171 paid; expenses incurred in attempting to collect any debt; and  
2172 repossessed property.

2173 (c) When the amount of bad debt exceeds the amount of  
2174 taxable sales for the period during which the bad debt is  
2175 written off, a refund claim must be filed, notwithstanding s.  
2176 215.26(2), within 3 years after the due date of the return on  
2177 which the bad debt could first be claimed.

2178 (d) If any accounts so charged off for which a credit or  
2179 refund has been obtained are thereafter in whole or in part paid  
2180 to the dealer, the amount so paid shall be included in the first  
2181 return filed after such collection and the tax paid accordingly.

2182 (e) If filing responsibilities have been assumed by a  
2183 certified service provider, the certified service provider shall  
2184 claim, on behalf of the seller, any bad-debt allowance provided  
2185 by this section. The certified service provider must credit or  
2186 refund to the seller the full amount of any bad-debt allowance  
2187 or refund received.

2188 (f) For the purposes of reporting a payment received on a  
2189 previously claimed bad debt, any payments made on a debt or  
2190 account are applied first proportionally to the taxable price of  
2191 the property or service and the sales tax thereon, and secondly  
2192 to interest, service charges, and any other charges.

2193 (g) In situations in which the books and records of the  
2194 party claiming the bad-debt allowance support an allocation of  
2195 the bad debts among states that are members of the Streamlined  
2196 Sales and Use Tax Agreement, the allocation is permitted among  
2197 those states.

2198 Section 14. Paragraph (a) of subsection (3) of section  
2199 212.18, Florida Statutes, is amended to read:

2200 212.18 Administration of law; registration of dealers;  
2201 rules.--

2202 (3)(a) Every person desiring to engage in or conduct  
2203 business in this state as a dealer, as defined in this chapter,  
2204 or to lease, rent, or let or grant licenses in living quarters  
2205 or sleeping or housekeeping accommodations in hotels, apartment  
2206 houses, roominghouses, or tourist or trailer camps that are  
2207 subject to tax under s. 212.03, or to lease, rent, or let or  
2208 grant licenses in real property, as defined in this chapter, and  
2209 every person who sells or receives anything of value by way of  
2210 admissions, must file with the department an application for a  
2211 certificate of registration for each place of business, showing  
2212 the names of the persons who have interests in such business and  
2213 their residences, the address of the business, and such other  
2214 data as the department may reasonably require. However, owners  
2215 and operators of vending machines or newspaper rack machines are  
2216 required to obtain only one certificate of registration for each  
2217 county in which such machines are located. The department, by  
2218 rule, may authorize a dealer that uses independent sellers to  
2219 sell its merchandise to remit tax on the retail sales price  
2220 charged to the ultimate consumer in lieu of having the  
2221 independent seller register as a dealer and remit the tax. The  
2222 department may appoint the county tax collector as the  
2223 department's agent to accept applications for registrations. The  
2224 application must be made to the department before the person,  
2225 firm, copartnership, or corporation may engage in such business,  
2226 and it must be accompanied by a registration fee of \$5. However,  
2227 a registration fee is not required to accompany an application  
2228 to engage in or conduct business to make mail order sales. The  
2229 department may waive the registration fee for applications

submitted through the department's Internet registration process or central electronic registration system provided by member states of the Streamlined Sales and Use Tax Agreement.

Section 15. Section 213.052, Florida Statutes, is created to read:

213.052 Notice of state rate changes.--

(1) A sales or use tax rate change imposed under chapter 212 is effective on January 1, April 1, July 1, or October 1. The Department of Revenue shall provide notice of such rate change to all affected sellers 90 days before the effective date of the rate change.

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

Section 16. Section 213.0521, Florida Statutes, is created to read:

213.0521 Effective date of state rate changes.--The effective date for services covering a period starting before and ending after the statutory effective date is as follows:

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

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

Section 17. Section 213.215, Florida Statutes, is created to read:

213.215 Sales and use tax amnesty upon registration in accordance with Streamlined Sales and Use Tax Agreement.--Amnesty shall be provided for uncollected or unpaid sales or use tax to a seller who registers to pay or to collect and remit applicable sales or use tax in accordance with the terms of the Streamlined Sales and Use Tax Agreement authorized

2260 under s. 213.256, if the seller was not registered with the  
2261 Department of Revenue in the 12-month period preceding the  
2262 effective date of participation in the agreement by this state.

2263 (1) The amnesty precludes assessment for uncollected or  
2264 unpaid sales or use tax, together with penalty or interest for  
2265 sales made during the period the seller was not registered with  
2266 the Department of Revenue, if registration occurs within 12  
2267 months after the effective date of this state's participation in  
2268 the agreement.

2269 (2) The amnesty is not available to a seller with respect  
2270 to any matter for which the seller received notice of the  
2271 commencement of an audit if the audit is not yet finally  
2272 resolved, including any related administrative and judicial  
2273 processes.

2274 (3) The amnesty is not available for sales or use taxes  
2275 already paid or remitted to the state or to taxes collected by  
2276 the seller.

2277 (4) The amnesty is fully effective, absent the seller's  
2278 fraud or intentional misrepresentation of a material fact, as  
2279 long as the seller continues registration and continues payment  
2280 or collection and remittance of applicable sales or use taxes  
2281 for at least 36 months.

2282 (5) The amnesty is applicable only to sales or use taxes  
2283 due from a seller in its capacity as a seller and not to sales  
2284 or use taxes due from a seller in its capacity as a buyer.

2285 Section 18. Subsections (1) and (2) of section 213.256,  
2286 Florida Statutes, are amended, present subsections (8), (9), and  
2287 (10) of that section are renumbered as subsections (11), (12),  
2288 and (13), respectively, and new subsections (8), (9), (10), and  
2289 (14) are added to that section, to read:

2290 (1) As used in this section and s. 213.2567, the term:

2291 (a) "Department" means the Department of Revenue.

2292 (b) "Agent" means a person appointed by a seller to  
2293 represent the seller before the member states.

2294 ~~(c)(b)~~ "Agreement" means the Streamlined Sales and Use Tax  
2295 Agreement as amended on June 23, 2007 ~~and adopted on January 27,~~  
2296 ~~2001, by the Executive Committee of the National Conference of~~  
2297 ~~State Legislatures.~~

2298 ~~(d)(e)~~ "Certified automated system" means software  
2299 certified jointly by the states that are signatories to the  
2300 agreement to calculate the tax imposed by each jurisdiction on a  
2301 transaction, determine the amount of tax to remit to the  
2302 appropriate state, and maintain a record of the transaction.

2303 ~~(e)(d)~~ "Certified service provider" means an agent  
2304 certified under jointly by the states that are signatories to  
2305 the agreement to perform all of the seller's sales tax functions  
2306 other than the seller's obligation to remit tax on its own  
2307 purchases.

2308 (f) "Model 1 seller" means a seller that has selected a  
2309 certified service provider as its agent to perform all the  
2310 seller's sales and use tax functions other than the seller's  
2311 obligation to remit tax on its own purchases.

2312 (g) "Model 2 seller" means a seller that has selected a  
2313 certified automated system to perform part of its sales and use  
2314 tax functions, but retains responsibility for remitting the tax.

2315 (h) "Model 3 seller" means a seller that has sales in at  
2316 least five member states, has total annual sales revenue of at  
2317 least \$500 million, has a proprietary system that calculates the  
2318 amount of tax due each jurisdiction, and has entered into a  
2319 performance agreement with the member states which establishes a

2320 tax performance standard for the seller. As used in this  
2321 paragraph, a seller includes an affiliated group of sellers  
2322 using the same proprietary system.

2323 (i)~~(e)~~ "Person" means an individual, trust, estate,  
2324 fiduciary, partnership, limited liability company, limited  
2325 liability partnership, corporation, or any other legal entity.

2326 (j) "Registered under this agreement" means registration  
2327 by a seller with the member states under the central  
2328 registration system.

2329 (k)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

2330 (l)~~(g)~~ "Seller" means any person making sales, leases, or  
2331 rentals of personal property or services.

2332 (m)~~(h)~~ "State" means any state of the United States and  
2333 the District of Columbia.

2334 (n)~~(i)~~ "Use tax" means the tax levied under chapter 212.

2335 (2) (a) The executive director of the department shall  
2336 enter into the Streamlined Sales and Use Tax Agreement with one  
2337 or more states to simplify and modernize sales and use tax  
2338 administration in order to substantially reduce the burden of  
2339 tax compliance for all sellers and for all types of commerce. In  
2340 furtherance of the agreement, the executive director of the  
2341 department or his or her designee shall act jointly with other  
2342 states that are members of the agreement to establish standards  
2343 for certification of a certified service provider and certified  
2344 automated system and establish performance standards for  
2345 multistate sellers.

2346 (b) The executive director of the department or his or her  
2347 designee shall take other actions reasonably required to  
2348 administer this section. Other actions authorized by this  
2349 section include, but are not limited to, the adoption of rules

2350 and the joint procurement, with other member states, of goods  
2351 and services in furtherance of the cooperative agreement.

2352 (c) The executive director of the department or his or her  
2353 designee may represent this state before the other states that  
2354 are signatories to the agreement.

2355 (d) The determinations pertaining to the agreement which  
2356 are made by the member states are final when rendered and are  
2357 not subject to any protest, appeal, or review.

2358 (8) Authority to administer the agreement rests with the  
2359 governing board comprised of representatives of each member  
2360 state. This state shall be represented by three delegates, one  
2361 appointed by the President of the Senate, one appointed by the  
2362 Speaker of the House of Representatives, and the executive  
2363 director of the department or his or her designee.

2364 (9) With respect to each member state, the agreement  
2365 continues in full force and effect until a member state  
2366 withdraws its membership or is expelled. A member state's  
2367 withdrawal or expulsion is not effective until the first day of  
2368 a calendar quarter after a minimum of 60 days' notice. A member  
2369 state shall submit notice of its intent to withdraw from the  
2370 agreement to the governing board and the chief executive of each  
2371 member state's tax agency. The member state shall provide public  
2372 notice of its intent to withdraw and post its notice of intent  
2373 to withdraw from the agreement to the governing board and the  
2374 chief executive of each member state's tax agency. The member  
2375 state shall provide public notice of its intent to withdraw and  
2376 post its notice of intent to withdraw on its Internet website.  
2377 The withdrawal by or expulsion of a state does not affect the  
2378 validity of the agreement among other member states. A state  
2379 that withdraws or is expelled from the agreement remains liable



for its share of any financial or contractual obligations that were incurred by the governing board before the effective date of that state's withdrawal or expulsion. The appropriate share of any financial or contractual obligation shall be determined by the state and the governing board in good faith based on the relative benefits received and burdens incurred by the parties.

(10) Sanctions may be imposed upon a member state that is found to be out of compliance with the agreement, which include expulsion or other penalties as determined by the governing board.

(14) Each member state shall annually recertify that it is in compliance with the agreement. Each member state shall make a recertification to the governing board on or before August 1 of each year after the year of the state's entry. In its annual recertification, the state shall include any changes in its statutes, rules, or regulations or other authorities that could affect its compliance with the terms of the agreement. The recertification shall be signed by the executive director of the department. A member state that cannot recertify its compliance with the agreement shall submit a statement of noncompliance to the governing board. The statement of noncompliance must include any action or decision that takes the state out of compliance with the agreement and the steps it will take to return to compliance. Each member state shall post its annual recertification or statement of noncompliance on that state's Internet website.

Section 19. Section 213.2567, Florida Statutes, is created to read:

213.2567 Simplified Sales and Use Tax registration, certification, liability, and audit.--

2410 (1) A seller that registers under the agreement agrees to  
2411 collect and remit sales and use taxes for all taxable sales into  
2412 the member states, including member states joining after the  
2413 seller's registration. Withdrawal or revocation of a member  
2414 state does not relieve a seller of its responsibility to remit  
2415 taxes previously or subsequently collected on behalf of the  
2416 state.

2417 (a) When registering, the seller may select a model 1,  
2418 model 2, or model 3 method of remittance or other method allowed  
2419 by state law to remit the taxes collected.

2420 (b) A seller may be registered by an agent. Such an  
2421 appointment must be in writing and submitted to a member state.

2422 (2)(a) A certified service provider is the agent of a  
2423 model 1 seller with whom the certified service provider has  
2424 contracted for the collection and remittance of sales and use  
2425 taxes. As the model 1 seller's agent, the certified service  
2426 provider is liable for sales and use tax due each member state  
2427 on all sales transactions it processes for the model 1 seller,  
2428 except as set out in paragraph (b).

2429 (b) A model 1 seller is not liable to the state for sales  
2430 or use tax due on transactions processed by the certified  
2431 service provider unless the model 1 seller has misrepresented  
2432 the type of items it sells or has committed fraud. In the  
2433 absence of probable cause to believe that the model 1 seller has  
2434 committed fraud or made a material misrepresentation, the model  
2435 1 seller is not subject to audit on the transactions processed  
2436 by the certified service provider. A model 1 seller is subject  
2437 to audit for transactions that have not been processed by the  
2438 certified service provider. The member states acting jointly may  
2439 perform a system check of the model 1 seller and review the

2440 model 1 seller's procedures to determine if the certified  
2441 service provider's system is functioning properly and to  
2442 determine the extent to which the model 1 seller's transactions  
2443 are being processed by the certified service provider.

2444 (3) A person that provides a certified automated system is  
2445 responsible for the proper functioning of that system and is  
2446 liable to the state for underpayments of tax attributable to  
2447 errors in the functioning of the certified automated system. A  
2448 model 2 seller that uses a certified automated system remains  
2449 responsible and is liable to the state for reporting and  
2450 remitting tax.

2451 (4) A model 3 seller is liable for the failure of the  
2452 proprietary system to meet the performance standard.

2453 (5) The governing board may certify a person as a  
2454 certified service provider if the person meets all of the  
2455 following requirements:

2456 (a) Uses a certified automated system;

2457 (b) Integrates its certified automated system with the  
2458 system of a seller for whom the person collects tax so that the  
2459 tax due on a sale is determined at the time of the sale;

2460 (c) Agrees to remit the taxes it collects at the time and  
2461 in the manner specified by the member states;

2462 (d) Agrees to file returns on behalf of the sellers for  
2463 whom it collects tax;

2464 (e) Agrees to protect the privacy of tax information it  
2465 obtains in accordance with s. 213.053; and

2466 (f) Enters into a contract with the member states and  
2467 agrees to comply with the terms of the contract.

2468       (6) The governing board may certify a software program as  
2469 a certified automated system if the governing board determines  
2470 that the program meets all of the following requirements:

2471       (a) Determines the applicable state and local sales and  
2472 use tax rate for a transaction in accordance with s. 13  
2473 212.06(3) and (4);

2474       (b) Determines whether or not an item is exempt from tax;

2475       (c) Determines the amount of tax to be remitted for each  
2476 taxpayer for a reporting period;

2477       (d) Can generate reports and returns as required by the  
2478 governing board; and

2479       (e) Meets any other requirement set by the governing  
2480 board.

2481       (7) The governing board may establish one or more sales  
2482 tax performance standards for model 3 sellers that meet the  
2483 eligibility criteria set by the governing board and that  
2484 developed a proprietary system to determine the amount of sales  
2485 and use tax due on transactions.

2486       (8) Disclosure of information necessary under this section  
2487 must be made according to a written agreement between the  
2488 executive director of the department or his or her designee and  
2489 the certified service provider. The certified service provider  
2490 is bound by the same requirements of confidentiality as the  
2491 department. Breach of confidentiality is a misdemeanor of the  
2492 first degree, punishable as provided in s. 775.082 or s.  
2493 775.083.

2494       Section 20. Paragraph (c) of subsection (2) and paragraph  
2495 (c) of subsection (3) and of section 212.055, Florida Statutes,  
2496 are amended to read:

2497 212.055 Discretionary sales surtaxes; legislative intent;  
2498 authorization and use of proceeds.--It is the legislative intent  
2499 that any authorization for imposition of a discretionary sales  
2500 surtax shall be published in the Florida Statutes as a  
2501 subsection of this section, irrespective of the duration of the  
2502 levy. Each enactment shall specify the types of counties  
2503 authorized to levy; the rate or rates which may be imposed; the  
2504 maximum length of time the surtax may be imposed, if any; the  
2505 procedure which must be followed to secure voter approval, if  
2506 required; the purpose for which the proceeds may be expended;  
2507 and such other requirements as the Legislature may provide.  
2508 Taxable transactions and administrative procedures shall be as  
2509 provided in s. 212.054.

2510 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

2511 (c) Pursuant to s. 212.054(5)~~(4)~~, the proceeds of the  
2512 surtax levied under this subsection shall be distributed to the  
2513 county and the municipalities within such county in which the  
2514 surtax was collected, according to:

2515 1. An interlocal agreement between the county governing  
2516 authority and the governing bodies of the municipalities  
2517 representing a majority of the county's municipal population,  
2518 which agreement may include a school district with the consent  
2519 of the county governing authority and the governing bodies of  
2520 the municipalities representing a majority of the county's  
2521 municipal population; or

2522 2. If there is no interlocal agreement, according to the  
2523 formula provided in s. 218.62.

2524  
2525 Any change in the distribution formula must take effect on the  
2526 first day of any month that begins at least 60 days after

2527 written notification of that change has been made to the  
2528 department.

2529 (3) SMALL COUNTY SURTAX.--

2530 (c) Pursuant to s. 212.054 ~~(5)~~(4), the proceeds of the  
2531 surtax levied under this subsection shall be distributed to the  
2532 county and the municipalities within the county in which the  
2533 surtax was collected, according to:

2534 1. An interlocal agreement between the county governing  
2535 authority and the governing bodies of the municipalities  
2536 representing a majority of the county's municipal population,  
2537 which agreement may include a school district with the consent  
2538 of the county governing authority and the governing bodies of  
2539 the municipalities representing a majority of the county's  
2540 municipal population; or

2541 2. If there is no interlocal agreement, according to the  
2542 formula provided in s. 218.62.

2543  
2544 Any change in the distribution formula shall take effect on the  
2545 first day of any month that begins at least 60 days after  
2546 written notification of that change has been made to the  
2547 department.

2548 Section 21. It is the intent of the Legislature to urge  
2549 the United States Congress to consider adequate protections for  
2550 small businesses engaging in both offline and online  
2551 transactions from added costs, administrative burdens, and  
2552 requirements imposed on intermediaries relating to the  
2553 collection and remittance of sales and use tax.

2554 Section 22. Emergency rules.--The executive director of  
2555 the Department of Revenue is authorized, and all conditions are  
2556 deemed met, to adopt emergency rules, under sections 120.536(1)

2557 and 120.54(4), Florida Statutes, to implement this act.  
2558 Notwithstanding any other law, the emergency rules shall remain  
2559 effective for 6 months after the date of adoption and may be  
2560 renewed during the pendency of procedures to adopt rules  
2561 addressing the subject of the emergency rules.

2562 Section 23. Subsection (6) of section 196.012, Florida  
2563 Statutes, is amended to read:

2564 196.012 Definitions.--For the purpose of this chapter, the  
2565 following terms are defined as follows, except where the context  
2566 clearly indicates otherwise:

2567 (6) Governmental, municipal, or public purpose or function  
2568 shall be deemed to be served or performed when the lessee under  
2569 any leasehold interest created in property of the United States,  
2570 the state or any of its political subdivisions, or any  
2571 municipality, agency, special district, authority, or other  
2572 public body corporate of the state is demonstrated to perform a  
2573 function or serve a governmental purpose which could properly be  
2574 performed or served by an appropriate governmental unit or which  
2575 is demonstrated to perform a function or serve a purpose which  
2576 would otherwise be a valid subject for the allocation of public  
2577 funds. For purposes of the preceding sentence, an activity  
2578 undertaken by a lessee which is permitted under the terms of its  
2579 lease of real property designated as an aviation area on an  
2580 airport layout plan which has been approved by the Federal  
2581 Aviation Administration and which real property is used for the  
2582 administration, operation, business offices and activities  
2583 related specifically thereto in connection with the conduct of  
2584 an aircraft full service fixed base operation which provides  
2585 goods and services to the general aviation public in the  
2586 promotion of air commerce shall be deemed an activity which

2587 serves a governmental, municipal, or public purpose or function.  
2588 Any activity undertaken by a lessee which is permitted under the  
2589 terms of its lease of real property designated as a public  
2590 airport as defined in s. 332.004(14) by municipalities,  
2591 agencies, special districts, authorities, or other public bodies  
2592 corporate and public bodies politic of the state, a spaceport as  
2593 defined in s. 331.303, or which is located in a deepwater port  
2594 identified in s. 403.021(9)(b) and owned by one of the foregoing  
2595 governmental units, subject to a leasehold or other possessory  
2596 interest of a nongovernmental lessee that is deemed to perform  
2597 an aviation, airport, aerospace, maritime, or port purpose or  
2598 operation shall be deemed an activity that serves a  
2599 governmental, municipal, or public purpose. The use by a lessee,  
2600 licensee, or management company of real property or a portion  
2601 thereof as a convention center, visitor center, sports facility  
2602 with permanent seating, concert hall, arena, stadium, park, or  
2603 beach is deemed a use that serves a governmental, municipal, or  
2604 public purpose or function when access to the property is open  
2605 to the general public with or without a charge for admission. If  
2606 property deeded to a municipality by the United States is  
2607 subject to a requirement that the Federal Government, through a  
2608 schedule established by the Secretary of the Interior, determine  
2609 that the property is being maintained for public historic  
2610 preservation, park, or recreational purposes and if those  
2611 conditions are not met the property will revert back to the  
2612 Federal Government, then such property shall be deemed to serve  
2613 a municipal or public purpose. The term "governmental purpose"  
2614 also includes a direct use of property on federal lands in  
2615 connection with the Federal Government's Space Exploration  
2616 Program or spaceport activities as defined in s. 212.02(22).



2617 Real property and tangible personal property owned by the  
2618 Federal Government or Space Florida and used for defense and  
2619 space exploration purposes or which is put to a use in support  
2620 thereof shall be deemed to perform an essential national  
2621 governmental purpose and shall be exempt. "Owned by the lessee"  
2622 as used in this chapter does not include personal property,  
2623 buildings, or other real property improvements used for the  
2624 administration, operation, business offices and activities  
2625 related specifically thereto in connection with the conduct of  
2626 an aircraft full service fixed based operation which provides  
2627 goods and services to the general aviation public in the  
2628 promotion of air commerce provided that the real property is  
2629 designated as an aviation area on an airport layout plan  
2630 approved by the Federal Aviation Administration. For purposes of  
2631 determination of "ownership," buildings and other real property  
2632 improvements which will revert to the airport authority or other  
2633 governmental unit upon expiration of the term of the lease shall  
2634 be deemed "owned" by the governmental unit and not the lessee.  
2635 Providing two-way telecommunications services to the public for  
2636 hire by the use of a telecommunications facility, as defined in  
2637 s. 364.02(15), and for which a certificate is required under  
2638 chapter 364 does not constitute an exempt use for purposes of s.  
2639 196.199, unless the telecommunications services are provided by  
2640 the operator of a public-use airport, as defined in s. 332.004,  
2641 for the operator's provision of telecommunications services for  
2642 the airport or its tenants, concessionaires, or licensees, or  
2643 unless the telecommunications services are provided by a public  
2644 hospital.

Section 24. Paragraphs (f), (g), (h), and (i) of subsection (1) of section 203.01, Florida Statutes, are amended to read:

203.01 Tax on gross receipts for utility and communications services.--

(1)

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

(g) Electricity produced by cogeneration or by small power producers which is transmitted and distributed by a public utility between two locations of a customer of the utility pursuant to s. 366.051 is subject to the tax imposed by this section. The tax shall be applied to the cost price of such

2674 electricity as provided in s. 212.02~~(4)~~ and shall be paid each  
2675 month by the producer of such electricity.

2676 (h) Electricity produced by cogeneration or by small power  
2677 producers during the 12-month period ending June 30 of each year  
2678 which is in excess of nontaxable electricity produced during the  
2679 12-month period ending June 30, 1990, is subject to the tax  
2680 imposed by this section. The tax shall be applied to the cost  
2681 price of such electricity as provided in s. 212.02~~(4)~~ and shall  
2682 be paid each month, beginning with the month in which total  
2683 production exceeds the production of nontaxable electricity for  
2684 the 12-month period ending June 30, 1990. For purposes of this  
2685 paragraph, "nontaxable electricity" means electricity produced  
2686 by cogeneration or by small power producers which is not subject  
2687 to tax under paragraph (g). Taxes paid pursuant to paragraph (g)  
2688 may be credited against taxes due under this paragraph.

2689 Electricity generated as part of an industrial manufacturing  
2690 process which manufactures products from phosphate rock, raw  
2691 wood fiber, paper, citrus, or any agricultural product shall not  
2692 be subject to the tax imposed by this paragraph. "Industrial  
2693 manufacturing process" means the entire process conducted at the  
2694 location where the process takes place.

2695 (i) Any person other than a cogenerator or small power  
2696 producer described in paragraph (h) who produces for his or her  
2697 own use electrical energy which is a substitute for electrical  
2698 energy produced by an electric utility as defined in s. 366.02  
2699 is subject to the tax imposed by this section. The tax shall be  
2700 applied to the cost price of such electrical energy as provided  
2701 in s. 212.02~~(4)~~ and shall be paid each month. The provisions of  
2702 this paragraph do not apply to any electrical energy produced  
2703 and used by an electric utility.

2704 Section 25. Paragraph (a) of subsection (1) of section  
2705 212.031, Florida Statutes, is amended to read:

2706 212.031 Tax on rental or license fee for use of real  
2707 property.--

2708 (1)(a) It is declared to be the legislative intent that  
2709 every person is exercising a taxable privilege who engages in  
2710 the business of renting, leasing, letting, or granting a license  
2711 for the use of any real property unless such property is:

2712 1. Assessed as agricultural property under s. 193.461.

2713 2. Used exclusively as dwelling units.

2714 3. Property subject to tax on parking, docking, or storage  
2715 spaces under s. 212.03(6).

2716 4. Recreational property or the common elements of a  
2717 condominium when subject to a lease between the developer or  
2718 owner thereof and the condominium association in its own right  
2719 or as agent for the owners of individual condominium units or  
2720 the owners of individual condominium units. However, only the  
2721 lease payments on such property shall be exempt from the tax  
2722 imposed by this chapter, and any other use made by the owner or  
2723 the condominium association shall be fully taxable under this  
2724 chapter.

2725 5. A public or private street or right-of-way and poles,  
2726 conduits, fixtures, and similar improvements located on such  
2727 streets or rights-of-way, occupied or used by a utility or  
2728 provider of communications services, as defined by s. 202.11,  
2729 for utility or communications or television purposes. For  
2730 purposes of this subparagraph, the term "utility" means any  
2731 person providing utility services as defined in s. 203.012. This  
2732 exception also applies to property, wherever located, on which  
2733 the following are placed: towers, antennas, cables, accessory

2734 structures, or equipment, not including switching equipment,  
2735 used in the provision of mobile communications services as  
2736 defined in s. 202.11. For purposes of this chapter, towers used  
2737 in the provision of mobile communications services, as defined  
2738 in s. 202.11, are considered to be fixtures.

2739 6. A public street or road which is used for  
2740 transportation purposes.

2741 7. Property used at an airport exclusively for the purpose  
2742 of aircraft landing or aircraft taxiing or property used by an  
2743 airline for the purpose of loading or unloading passengers or  
2744 property onto or from aircraft or for fueling aircraft.

2745 8.a. Property used at a port authority, as defined in s.  
2746 315.02(2), exclusively for the purpose of oceangoing vessels or  
2747 tugs docking, or such vessels mooring on property used by a port  
2748 authority for the purpose of loading or unloading passengers or  
2749 cargo onto or from such a vessel, or property used at a port  
2750 authority for fueling such vessels, or to the extent that the  
2751 amount paid for the use of any property at the port is based on  
2752 the charge for the amount of tonnage actually imported or  
2753 exported through the port by a tenant.

2754 b. The amount charged for the use of any property at the  
2755 port in excess of the amount charged for tonnage actually  
2756 imported or exported shall remain subject to tax except as  
2757 provided in sub-subparagraph a.

2758 9. Property used as an integral part of the performance of  
2759 qualified production services. As used in this subparagraph, the  
2760 term "qualified production services" means any activity or  
2761 service performed directly in connection with the production of  
2762 a qualified motion picture, as defined in s. 212.06(1)(b), and  
2763 includes:

2764 a. Photography, sound and recording, casting, location  
2765 managing and scouting, shooting, creation of special and optical  
2766 effects, animation, adaptation (language, media, electronic, or  
2767 otherwise), technological modifications, computer graphics, set  
2768 and stage support (such as electricians, lighting designers and  
2769 operators, greensmen, prop managers and assistants, and grips),  
2770 wardrobe (design, preparation, and management), hair and makeup  
2771 (design, production, and application), performing (such as  
2772 acting, dancing, and playing), designing and executing stunts,  
2773 coaching, consulting, writing, scoring, composing,  
2774 choreographing, script supervising, directing, producing,  
2775 transmitting dailies, dubbing, mixing, editing, cutting,  
2776 looping, printing, processing, duplicating, storing, and  
2777 distributing;

2778 b. The design, planning, engineering, construction,  
2779 alteration, repair, and maintenance of real or personal property  
2780 including stages, sets, props, models, paintings, and facilities  
2781 principally required for the performance of those services  
2782 listed in sub-subparagraph a.; and

2783 c. Property management services directly related to  
2784 property used in connection with the services described in sub-  
2785 subparagraphs a. and b.

2786  
2787 This exemption will inure to the taxpayer upon presentation of  
2788 the certificate of exemption issued to the taxpayer under the  
2789 provisions of s. 288.1258.

2790 10. Leased, subleased, licensed, or rented to a person  
2791 providing food and drink concessionaire services within the  
2792 premises of a convention hall, exhibition hall, auditorium,  
2793 stadium, theater, arena, civic center, performing arts center,

publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

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

12. Rented, leased, subleased, or licensed to a concessionaire by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility, during an event at the facility, to be used by the concessionaire to sell souvenirs, novelties, or other event-related products. This subparagraph applies only to that portion of the rental, lease, or license payment which is based on a percentage of sales and not based on a fixed price. This subparagraph is repealed July 1, 2009.

13. Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space

flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02(23), or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property shall be deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee, or licensee claiming the exemption shall relieve the landlord, lessor, or licensor from the responsibility of collecting the tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

Section 26. Subsection (3) of section 212.13, Florida Statutes, is amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.--

(3) For the purpose of enforcement of this chapter, every manufacturer and seller of tangible personal property or services licensed within this state is required to permit the department to examine his or her books and records at all reasonable hours, and, upon his or her refusal, the department may require him or her to permit such examination by resort to the circuit courts of this state, subject however to the right of removal of the cause to the judicial circuit wherein such



2854 person's business is located or wherein such person's books and  
2855 records are kept, provided further that such person's books and  
2856 records are kept within the state. When the dealer has made an  
2857 allocation or attribution pursuant to the definition of sales  
2858 price in s. 212.02~~(16)~~, the department may prescribe by rule the  
2859 books and records that must be made available during an audit of  
2860 the dealer's books and records and examples of methods for  
2861 determining the reasonableness thereof. Books and records kept  
2862 in the regular course of business include, but are not limited  
2863 to, general ledgers, price lists, cost records, customer  
2864 billings, billing system reports, tariffs, and other regulatory  
2865 filings and rules of regulatory authorities. Such record may be  
2866 required to be made available to the department in an electronic  
2867 format when so kept by the dealer. The dealer may support the  
2868 allocation of charges with books and records kept in the regular  
2869 course of business covering the dealer's entire service area,  
2870 including territories outside this state. During an audit, the  
2871 department may reasonably require production of any additional  
2872 books and records found necessary to assist in its  
2873 determination.

2874 Section 27. Subsection (8) of section 551.102, Florida  
2875 Statutes, is amended to read:

2876 551.102 Definitions.--As used in this chapter, the term:

2877 (8) "Slot machine" means any mechanical or electrical  
2878 contrivance, terminal that may or may not be capable of  
2879 downloading slot games from a central server system, machine, or  
2880 other device that, upon insertion of a coin, bill, ticket,  
2881 token, or similar object or upon payment of any consideration  
2882 whatsoever, including the use of any electronic payment system  
2883 except a credit card or debit card, is available to play or

operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. A slot machine is not a "coin-operated amusement machine" as defined in s. 212.02~~(24)~~ or an amusement game or machine as described in s. 849.161, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).

Section 28. Paragraph (a) of subsection (1) of section 790.0655, Florida Statutes, is amended to read:

790.0655 Purchase and delivery of handguns; mandatory waiting period; exceptions; penalties.--

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

Section 29. This act shall take effect July 1, 2008.