

CHAPTER 2010-149

Committee Substitute for Senate Bill No. 2024

An act relating to the tax on communications and utility services; amending s. 202.12, F.S.; decreasing the rate at which the sales price of certain communications services are taxed; amending s. 202.125, F.S., relating to exemptions from the tax; inserting a cross-reference to conform to changes made by the act; amending s. 203.01, F.S.; imposing an additional tax on certain communications services at a specified rate; providing for an exemption to apply to such tax; requiring that the tax on communications services be included on bills dated on or after a specified date; amending s. 215.61, F.S.; requiring that the State Board of Education make specified adjustments to the figures used by the board in determining the amount of bond debt that can be serviced by revenues derived from the gross receipts tax on utility services; requiring that such adjustment be based on a specified assumption; deleting a provision requiring the deduction of amounts used for debt service when determining fiscal sufficiency; authorizing a dealer of communications services to state the combined rate of certain taxes on a bill for a taxable communications services under certain circumstances; authorizing the Department of Revenue to adopt emergency rules to promulgate forms and instructions; providing for the act to apply to bills for communications services dated on or after a certain date; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 202.12, Florida Statutes, is amended to read:

202.12 Sales of communications services.—The Legislature finds that every person who engages in the business of selling communications services at retail in this state is exercising a taxable privilege. It is the intent of the Legislature that the tax imposed by chapter 203 be administered as provided in this chapter.

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

(a) Except as otherwise provided in this subsection, at a rate of 6.65 ~~6.8~~ percent applied to the sales price of the communications service which:

1. Originates and terminates in this state, or
2. Originates or terminates in this state and is charged to a service address in this state,

when sold at retail, computed on each taxable sale for the purpose of remitting the tax due. The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed

by this paragraph. If no tax is imposed by this paragraph by reason of s. 202.125(1), the tax imposed by chapter 203 shall nevertheless be collected and remitted in the manner and at the time prescribed for tax collections and remittances under this chapter.

Section 2. Subsection (1) of section 202.125, Florida Statutes, is amended to read:

202.125 Sales of communications services; specified exemptions.—

(1) The separately stated sales price of communications services sold to residential households is exempt from the tax imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption shall not apply to any residence that constitutes all or part of a public lodging establishment as defined in chapter 509, any mobile communications service, any cable service, or any direct-to-home satellite service.

Section 3. Paragraph (b) of subsection (1) of section 203.01, Florida Statutes, is amended to read:

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

(1)

(b)1. The rate applied to utility services shall be 2.5 percent.

2. The rate applied to communications services shall be 2.37 percent.

3. There shall be an additional rate of 0.15 percent applied to communication services subject to the tax levied pursuant to s. 202.12(1)(a), (c), and (d). The exemption provided in s. 202.125(1) applies to the tax levied pursuant to this subparagraph.

Section 4. Subsection (3) of section 215.61, Florida Statutes, is amended to read:

215.61 State system of public education capital outlay bonds.—

(3) No bonds authorized by s. 9(a)(2), Art. XII of the State Constitution shall be issued in an amount exceeding 90 percent of the amount which the State Board of Education determines can be serviced by the revenues derived from the gross receipts tax levied and collected pursuant to chapter 203. In determining the amount which can be serviced by the gross receipts tax, the State Board of Education shall use utilize the average annual amount of revenue collected for the tax periods during the 24 months immediately preceding the most recent collection date before ~~prior to~~ the date of issuance of any such bonds, adjusted to reflect revenues that would have been collected had legislation enacted into law before the date of determination been in effect during the 24-month period. Such adjustment shall be based on the assumption that the provisions of the enacted legislation had become effective 24 months before the dates contemplated in the legislation. For

purpose of the approval required by s. 215.73, official estimates of future collections furnished by the State Board of Education prior to the estimated date of issuance shall be used to determine fiscal sufficiency. ~~However, 100 percent of the amount required to provide for the debt service for the current fiscal year of the bonds issued prior to July 1, 1975, under the provisions of s. 9(a)(2), Art. XII of the State Constitution shall be deducted in making the determination.~~

Section 5. In complying with sections 1 through 3 of this act, the dealer of communication services may collect a combined rate of 6.8 percent comprised of 6.65 percent and 0.15 percent required by ss. 202.12(1)(a) and 203.01(1)(b) 3., Florida Statutes, respectively, as long as the provider properly reflects the tax collected with respect to the two provisions as required in the return to the Department of Revenue.

Section 6. The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, for the purpose of promulgating such forms and instructions as are required to effectuate this act.

Section 7. This act shall take effect upon becoming a law, except that sections 1 through 5 of this act apply to taxable transactions included on bills for services dated on or after August 1, 2010.

Approved by the Governor May 28, 2010.

Filed in Office Secretary of State May 28, 2010.