

## CHAPTER 2011-120

### Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 887

An act relating to communications services tax; amending s. 202.16, F.S.; requiring that a dealer compute the communications services tax based on a rounding algorithm; providing criteria; providing for application of the tax; providing options to the dealer for applying the rounding algorithm; authorizing a dealer to apply the rounding algorithm to the aggregate tax amount under certain conditions; providing that a dealer is not required to collect the tax based on a bracket system; removing the provision requiring the Department of Revenue to make available tax amounts and applicable brackets; providing that the provisions of the act are remedial in nature and apply retroactively; providing that the act does not provide a basis for assessment of any tax not paid or create a right to certain refunds or credits; providing an effective date.

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

Section 1. Subsection (3) of section 202.16, Florida Statutes, is amended to read:

202.16 Payment.—The taxes imposed or administered under this chapter and chapter 203 shall be collected from all dealers of taxable communications services on the sale at retail in this state of communications services taxable under this chapter and chapter 203. The full amount of the taxes on a credit sale, installment sale, or sale made on any kind of deferred payment plan is due at the moment of the transaction in the same manner as a cash sale.

(3)(a) A dealer must compute the tax due on the sale of communications services imposed pursuant to this chapter and chapter 203 based on a rounding algorithm that meets the following criteria:

1. The computation of the tax must be carried to the third decimal place.
2. The tax must be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four.

(b) The rounding algorithm must be applied to the local communications services tax imposed pursuant to this chapter separately from its application to the communications services taxes imposed pursuant to s. 202.12 and the gross receipts taxes imposed pursuant to s. 203.01.

(c) A dealer may apply the rounding algorithm to the taxes imposed pursuant to ss. 202.12 and 203.01 in one of the following ways:

1. Apply the rounding algorithm to the combined taxes imposed pursuant to ss. 202.12 and 203.01.

2. Apply the rounding algorithm to the communications services taxes imposed pursuant to s. 202.12(1) and apply the rounding algorithm separately to the combined gross receipts taxes imposed pursuant to s. 203.01(1)(b)2. and 3.

3. Apply the rounding algorithm to the combined taxes imposed pursuant to ss. 202.12(1)(a) and 203.01(1)(b)3., as allowed by ss. 202.12001 and 203.001, and apply the rounding algorithm separately to the gross receipts tax imposed pursuant to s. 203.01(1)(b)2.

(d) Under paragraph (b) or paragraph (c), a dealer may apply the rounding algorithm to the aggregate tax amount that is computed on all taxable items on an invoice or to each tax amount that is computed on one or more, but fewer than all, taxable items on an invoice. The aggregate tax amount for all items on the invoice must equal at least the result that would have been obtained if the rounding algorithm had been applied to the aggregate tax amount computed on all taxable items on the invoice. A dealer may satisfy this requirement by setting a minimum tax amount of not less than 1 cent with respect to each item, or group of items, to which the rounding algorithm is applied.

~~(e) The department may not require a dealer to collect the tax based on a bracket system. Notwithstanding the rate of tax on the sale of communications services imposed pursuant to this chapter and chapter 203, the department shall make available in an electronic format or otherwise the tax amounts and brackets applicable to each taxable sale such that the tax collected results in a tax rate no less than the tax rate imposed pursuant to this chapter and chapter 203.~~

Section 2. This act is intended to be remedial in nature and applies retroactively. This act does not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid under s. 202.16, Florida Statutes, before July 1, 2011.

Section 3. This act shall take effect July 1, 2011.

Approved by the Governor June 2, 2011.

Filed in Office Secretary of State June 2, 2011.