

purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in [s. 212.08\(7\)\(ggg\)](#), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by [s. 212.12\(2\)](#) and is mandatory and shall not be waived by the department. The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.



There are four versions of Sec. 212.05(1)(a). The fourth version, as reproduced below, amended by Ch. 2011-3 (S.B. 924), Laws 2011, is effective July 5, 2011. For alternate versions, see above. CCH.



212.05(1)(a)

212.05(1)(a)1

212.05(1)(a)1.a At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

212.05(1)(a)1.b Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

212.05(1)(a)2 This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

212.05(1)(a)2.a The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of

purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations;

212.05(1)(a)2.b The purchaser, within 30 days from the date of departure, shall provide the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

212.05(1)(a)2.c The purchaser, within 10 days of removing the boat or aircraft from Florida, shall furnish the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hanging from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

212.05(1)(a)2.d The selling dealer, within 5 days of the date of sale, shall provide to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

212.05(1)(a)2.e The seller makes a copy of the affidavit a part of his or her record for as long as required by [s. 213.35](#); and

212.05(1)(a)2.f Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser shall apply to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, prior to delivery of the boat.

212.05(1)(a)2.f(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the extension decal shall cost \$425.

212.05(1)(a)2.f(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

212.05(1)(a)2.f(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

212.05(1)(a)2.f(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

212.05(1)(a)2.f(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in [s. 775.082](#) or [s. 775.083](#).

212.05(1)(a)2.f(VI) Any nonresident purchaser of a boat who removes a decal prior to permanently removing the boat from the state, or defaces, changes, modifies, or alters

a decal in a manner affecting its expiration date prior to its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

212.05(1)(a)2.f(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

212.05(1)(a)2.f(VIII) The department is hereby authorized to adopt emergency rules pursuant to [s. 120.54\(4\)](#) to administer and enforce the provisions of this subparagraph.

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

212.05(1)(b) At the rate of 6 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state; however, for tangible property originally purchased exempt from tax for use exclusively for lease and which is converted to the owner's own use, tax may be paid on the fair market value of the property at the time of conversion. If the fair market value of the property cannot be determined, use tax at the time of conversion shall be based on the owner's acquisition cost. Under no circumstances may the aggregate amount of sales tax from leasing the property and use tax due at the time of conversion be less than the total sales tax that would have been due on the original acquisition cost paid by the owner.

212.05(1)(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:

212.05(1)(c)1 When a motor vehicle is leased or rented for a period of less than 12 months:

212.05(1)(c)1.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.

212.05(1)(c)1.b If the motor vehicle is rented in another state and dropped off in Florida, the rental is exempt from Florida tax.

212.05(1)(c)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.

212.05(1)(c)3 The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in [s. 316.003\(66\)\(a\)](#) to one lessee or rentee for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of the

United States, or the District of Columbia, the Florida tax payable shall be reduced in accordance with the provisions of s. 212.06(7). This subparagraph shall only be available when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

212.05(1)(d) At the rate of 6 percent of the lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible personal property.

212.05(1)(e)

212.05(1)(e)1 At the rate of 6 percent on charges for: ¹

212.05(1)(e)1.a Prepaid calling arrangements. The tax on charges for prepaid calling arrangements shall be collected at the time of sale and remitted by the selling dealer.

212.05(1)(e)1.a.(I) "Prepaid calling arrangement" means the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount.

212.05(1)(e)1.a.(II) If the sale or recharge of the prepaid calling arrangement does not take place at the dealer's place of business, it shall be deemed to take place at the customer's shipping address or, if no item is shipped, at the customer's address or the location associated with the customer's mobile telephone number.

212.05(1)(e)1.a.(III) The sale or recharge of a prepaid calling arrangement shall be treated as a sale of tangible personal property for purposes of this chapter, whether or not a tangible item evidencing such arrangement is furnished to the purchaser, and such sale within this state subjects the selling dealer to the jurisdiction of this state for purposes of this subsection.

212.05(1)(e)1.b The installation of telecommunication and telegraphic equipment.

212.05(1)(e)1.c Electrical power or energy, except that the tax rate for charges for electrical power or energy is 7 percent.

212.05(1)(e)2 The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for prepaid calling arrangements, telecommunication or telegraph services, or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase, sale, or recharge of prepaid calling arrangements or upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

212.05(1)(f) At the rate of 6 percent on the sale, rental, use, consumption, or storage for use in this state of machines and equipment, and parts and accessories therefor, used in manufacturing, processing, compounding, producing, mining, or quarrying personal property for sale or to be used in furnishing communications, transportation, or public utility services.

212.05(1)(g)

212.05(1)(g)1 At the rate of 6 percent on the retail price of newspapers and magazines sold or used in Florida.

212.05(1)(k) At the rate of 6 percent of the sales price of each gallon of diesel fuel not taxed under chapter 206 purchased for use in a vessel.

212.05(1)(l) Florists located in this state are liable for sales tax on sales to retail customers regardless of where or by whom the items sold are to be delivered. Florists located in this state are not liable for sales tax on payments received from other florists for items delivered to customers in this state.

212.05(1)(m) Operators of game concessions or other concessionaires who customarily award tangible personal property as prizes may, in lieu of paying tax on the cost price of such property, pay tax on 25 percent of the gross receipts from such concession activity.

212.05(2) The tax shall be collected by the dealer, as defined herein, and remitted by the dealer to the state at the time and in the manner as hereinafter provided.

212.05(3) The tax so levied is in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and in addition to all other fees and taxes levied.

212.05(4) The tax imposed pursuant to this chapter shall be due and payable according to the brackets set forth in [s. 212.12](#).



Sec. 212.05(5), as reproduced below, added by Ch. 2010-147 (S.B. 1752), Laws 2010, is effective July 1, 2010. CCH.



212.05(5) Notwithstanding any other provision of this chapter, the maximum amount of tax imposed under this chapter and collected on each sale or use of a boat in this state may not exceed \$18,000.

(As added by Ch. 26319, Laws 1949; as amended by Ch. 59-289, Laws 1959; Ch. 63-526, Laws 1963; Ch. 68-27, Laws 1968; Ch. 69-222, Laws 1969; Ch. 71-360, Laws 1971; Ch. 76-6, Laws 1976; Ch. 78-74, Laws 1978; Ch. 81-259, Laws 1981; Ch. 82-154, Laws 1982; Ch. 83-3, Laws 1983; Ch. 85-174, Laws 1985; Ch. 85-348, Laws 1985; Ch. 86-152, Laws 1986; Ch. 86-155, Laws 1986; Ch. 86-166, Laws 1986; Ch. 87-6, Laws 1987; Ch. 87-99, Laws 1987; Ch. 87-101, Laws 1987; Ch. 87-402, Laws 1987; Ch. 87-548, Laws 1987; Ch. 90-132, Laws 1990; Ch. 90-136, Laws 1990; Ch. 91-45, Laws 1991; Ch. 91-66, Laws 1991; Ch. 91-112, Laws 1991; Ch. 91-224, Laws 1991; Ch. 92-319, Laws 1992; Ch. 93-86, Laws 1993; Ch. 94-314, Laws 1994; Ch. 94-353, Laws 1994; Ch. 95-147, Laws 1995; Ch. 95-302, Laws 1995; Ch. 95-403, Laws 1995; Ch. 95-416, Laws 1995; Ch. 95-417, Laws 1995; Ch. 96-397, Laws 1996; Ch. 96-410, Laws 1996; Ch. 97-54, Laws 1997; Ch. 97-94, Laws 1997; Ch. 97-96, Laws 1997; Ch. 97-99, Laws 1997; Ch. 97-121, Laws 1997; Ch. 97-283, Laws 1997; Ch. 98-140, Laws 1998; Ch. 99-337, Laws 1999; Ch. 99-363, Laws 1999; Ch. 2000-260, Laws 2000; Ch. 2001-140, Laws 2001; Ch. 2002-48 (H.B. 1511), Laws 2002, effective April 16, 2002; Ch. 2005-280 (H.B. 1813), Laws 2005, effective July 1, 2005; Ch. 2007-106 (S.B. 2482), Laws 2007, effective July 1, 2007; Ch. 2009-51 (H.B. 7031), Laws 2009, effective July 1, 2009; Ch. 2010-138 (H.B. 7157), Laws 2010, effective May 27, 2010; Ch. 2010-128 (H.B. 173), Laws 2010, effective July 1, 2010; Ch. 2010-147 (S.B. 1752), Laws 2010, effective July 1, 2010; Ch. 2011-3 (S.B. 924), Laws 2011, effective July 5, 2011.)

Footnotes

- 1 Section 3, ch. 2007-78, provides that [s]ection 501.95(2)(a), Florida Statutes, as created in [ch. 2007-256] or similar legislation, does not apply to prepaid calling arrangements as defined in s. 212.05(1)(e), Florida Statutes, including prepaid cards for wireless or wireline telecommunications service. CCH.