

HB 965

2017

1 A bill to be entitled
2 An act relating to the sales and use tax on
3 investigation and detective services; amending ss.
4 212.05, 790.06, and 790.062, F.S.; providing that
5 fingerprint services required for a license to carry a
6 concealed weapon or firearm are not subject to the
7 tax; providing an effective date.
8

9 Be It Enacted by the Legislature of the State of Florida:
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11 Section 1. Paragraph (i) of subsection (1) of section
12 212.05, Florida Statutes, is amended to read:

13 212.05 Sales, storage, use tax.—It is hereby declared to
14 be the legislative intent that every person is exercising a
15 taxable privilege who engages in the business of selling
16 tangible personal property at retail in this state, including
17 the business of making mail order sales, or who rents or
18 furnishes any of the things or services taxable under this
19 chapter, or who stores for use or consumption in this state any
20 item or article of tangible personal property as defined herein
21 and who leases or rents such property within the state.

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

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

26 a. Detective, burglar protection, and other protection
27 services (NAICS National Numbers 561611, 561612, 561613, and
28 561621). Fingerprint services required under s. 790.06 or s.
29 790.062 are not subject to the tax. Any law enforcement officer,
30 as defined in s. 943.10, who is performing approved duties as
31 determined by his or her local law enforcement agency in his or
32 her capacity as a law enforcement officer, and who is subject to
33 the direct and immediate command of his or her law enforcement
34 agency, and in the law enforcement officer's uniform as
35 authorized by his or her law enforcement agency, is performing
36 law enforcement and public safety services and is not performing
37 detective, burglar protection, or other protective services, if
38 the law enforcement officer is performing his or her approved
39 duties in a geographical area in which the law enforcement
40 officer has arrest jurisdiction. Such law enforcement and public
41 safety services are not subject to tax irrespective of whether
42 the duty is characterized as "extra duty," "off-duty," or
43 "secondary employment," and irrespective of whether the officer
44 is paid directly or through the officer's agency by an outside
45 source. The term "law enforcement officer" includes full-time or
46 part-time law enforcement officers, and any auxiliary law
47 enforcement officer, when such auxiliary law enforcement officer
48 is working under the direct supervision of a full-time or part-
49 time law enforcement officer.

50 b. Nonresidential cleaning, excluding cleaning of the

51 interiors of transportation equipment, and nonresidential
52 building pest control services (NAICS National Numbers 561710
53 and 561720).

54 2. As used in this paragraph, "NAICS" means those
55 classifications contained in the North American Industry
56 Classification System, as published in 2007 by the Office of
57 Management and Budget, Executive Office of the President.

58 3. Charges for detective, burglar protection, and other
59 protection security services performed in this state but used
60 outside this state are exempt from taxation. Charges for
61 detective, burglar protection, and other protection security
62 services performed outside this state and used in this state are
63 subject to tax.

64 4. If a transaction involves both the sale or use of a
65 service taxable under this paragraph and the sale or use of a
66 service or any other item not taxable under this chapter, the
67 consideration paid must be separately identified and stated with
68 respect to the taxable and exempt portions of the transaction or
69 the entire transaction shall be presumed taxable. The burden
70 shall be on the seller of the service or the purchaser of the
71 service, whichever applicable, to overcome this presumption by
72 providing documentary evidence as to which portion of the
73 transaction is exempt from tax. The department is authorized to
74 adjust the amount of consideration identified as the taxable and
75 exempt portions of the transaction; however, a determination

76 | that the taxable and exempt portions are inaccurately stated and
77 | that the adjustment is applicable must be supported by
78 | substantial competent evidence.

79 | 5. Each seller of services subject to sales tax pursuant
80 | to this paragraph shall maintain a monthly log showing each
81 | transaction for which sales tax was not collected because the
82 | services meet the requirements of subparagraph 3. for out-of-
83 | state use. The log must identify the purchaser's name, location
84 | and mailing address, and federal employer identification number,
85 | if a business, or the social security number, if an individual,
86 | the service sold, the price of the service, the date of sale,
87 | the reason for the exemption, and the sales invoice number. The
88 | monthly log shall be maintained pursuant to the same
89 | requirements and subject to the same penalties imposed for the
90 | keeping of similar records pursuant to this chapter.

91 | Section 2. Paragraph (c) of subsection (5) of section
92 | 790.06, Florida Statutes, is amended to read:

93 | 790.06 License to carry concealed weapon or firearm.—

94 | (5) The applicant shall submit to the Department of
95 | Agriculture and Consumer Services or an approved tax collector
96 | pursuant to s. 790.0625:

97 | (c) A full set of fingerprints of the applicant
98 | administered by a law enforcement agency or the Division of
99 | Licensing of the Department of Agriculture and Consumer Services
100 | or an approved tax collector pursuant to s. 790.0625 together

101 with any personal identifying information required by federal
102 law to process fingerprints. Charges for fingerprint services
103 under this paragraph are not subject to the sales tax on
104 fingerprint services imposed in s. 212.05(1)(i).

105 Section 3. Subsection (2) of section 790.062, Florida
106 Statutes, is amended to read:

107 790.062 Members and veterans of United States Armed
108 Forces; exceptions from licensure provisions.—

109 (2) The Department of Agriculture and Consumer Services
110 shall accept fingerprints of an applicant under this section
111 administered by any law enforcement agency, military provost, or
112 other military unit charged with law enforcement duties or as
113 otherwise provided for in s. 790.06(5)(c). Charges for
114 fingerprint services under this subsection are not subject to
115 the sales tax on fingerprint services imposed in s.
116 212.05(1)(i).

117 Section 4. This act shall take effect July 1, 2017.