

By Representative Arnall

1 A bill to be entitled
2 An act relating to taxation; amending ss.
3 95.091, 193.062, 193.063, 194.192, 197.172,
4 199.052, 199.057, 199.062, 199.133, 199.143,
5 199.185, 199.282, 201.16, 201.17, 205.053,
6 212.02, 212.05, 212.06, 212.08, 212.12, 213.04,
7 220.211, 220.222, 220.34, 220.723, 220.737,
8 220.801, 220.809, 221.02, F.S.; creating ss.
9 199.252, 199.2825, 212.125, 220.8051, F.S.;
10 amending certain statutes of limitation;
11 eliminating the tolling of the statute of
12 limitations for specified causes; prescribing
13 circumstances for the tolling of the statute of
14 limitations as a result of administrative or
15 judicial proceedings; limiting the period for
16 which additional penalties and interest may be
17 imposed; prescribing dates for filing returns
18 for specified taxes; increasing the maximum
19 length of time for which an extension to file a
20 tangible-personal-property tax return may be
21 granted; postponing the regular filing deadline
22 for certain tax returns; amending certain
23 interest rates on delinquent taxes and on
24 penalties; providing interest on refunds owed
25 to taxpayers and setting the interest rate
26 thereon; exempting from the tax imposed under
27 s. 199.133, F.S., certain documents pertaining
28 to transfers in conjunction with a dissolution
29 of marriage; prescribing a maximum amount for
30 the intangibles tax on certain obligations;
31 defining the term "a residence of the borrower"

1 for purposes of placing restrictions on paying
2 nonrecurring taxes; increasing the amounts of
3 certain exemptions from the annual and
4 nonrecurring taxes on certain property;
5 allowing extensions of deadlines for providing
6 certain annual tax information reports;
7 increasing the minimum amount of taxes that
8 must be owed before a tax return must be filed;
9 allowing an extension of the deadline by which
10 a corporation must elect to pay the annual tax
11 on behalf of its stockholders and specifying
12 conditions for making such election; exempting
13 taxpayers from paying certain taxes upon a
14 showing of reasonable cause, for so long as the
15 reasonable cause applies; providing exceptions
16 to payment of certain taxes or penalties;
17 allowing certain penalties to be waived;
18 providing for payment on interest by the state
19 with respect to overpayments of taxes;
20 prescribing limitations upon the assessment of
21 back taxes; prescribing penalties for failing
22 to pay taxes; providing exemptions from
23 specified taxes; providing for the
24 establishment of a cost-price amount for the
25 purpose of sales and use taxation; limiting the
26 aggregate amount of certain penalties that may
27 be imposed; providing that a federal extension
28 of the deadline for paying certain taxes acts
29 as a state extension, under specified
30 conditions; deleting the requirement to pay
31 interest on certain penalties; providing for

1 credits for emergency excise taxes to be
2 carried over; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Subsections (3) and (4) of section 95.091,
7 Florida Statutes, are amended to read:

8 95.091 Limitation on actions to collect taxes.--

9 (3)(a)1. With the exception of taxes levied under
10 chapter 198 and tax adjustments made pursuant to s. 220.23,
11 the Department of Revenue may determine and assess the amount
12 of any tax, penalty, or interest due under any tax enumerated
13 in s. 72.011 which it has authority to administer and the
14 Department of Business and Professional Regulation may
15 determine and assess the amount of any tax, penalty, or
16 interest due under any tax enumerated in s. 72.011 which it
17 has authority to administer:

18 a. For taxes due before July 1, 1997, within 5 years
19 after the date the tax is due, any return with respect to the
20 tax is due, or such return is filed, whichever occurs later;
21 and for taxes due on or after July 1, 1997, within 3 years
22 after the date the tax is due, any return with respect to the
23 tax is due, or such return is filed, whichever occurs later;

24 b. For taxes due before July 1, 1997, within 6 years
25 after the date the taxpayer either makes a substantial
26 underpayment of tax, or files a substantially incorrect
27 return;

28 c. At any time while the right to a refund or credit
29 of the tax is available to the taxpayer;

30 d. For taxes due before July 1, 1997, at any time
31 after the taxpayer has filed a grossly false return;

1 ~~e.d.~~ At any time after the taxpayer has failed to make
2 any required payment of the tax, has failed to file a required
3 return, or has filed a ~~grossly false or~~ fraudulent return,
4 except that for taxes due on or after July 1, 1997, the
5 limitation prescribed in sub-subparagraph a. applies if the
6 taxpayer has disclosed in writing the tax liability to the
7 department before the department has given the taxpayer notice
8 of that liability; or

9 ~~f.e.~~ In any case in which there has been a refund of
10 tax erroneously made for any reason:

11 (I) For taxes due before July 1, 1997, within 5 years
12 after making such refund; and

13 (II) For taxes due on or after July 1, 1997, within 3
14 years after making such refund,

15
16 or at any time after making such refund if it appears that any
17 part of the refund was induced by fraud or the
18 misrepresentation of a material fact.

19 2. For the purpose of this paragraph, a tax return
20 filed before the last day prescribed by law, including any
21 extension thereof, shall be deemed to have been filed on such
22 last day, and payments made prior to the last day prescribed
23 by law shall be deemed to have been paid on such last day.

24 (b) The limitations in this subsection shall be tolled
25 for a period of 2 years with respect to taxes due before July
26 1, 1997, if the Department of Revenue has issued a notice of
27 intent to conduct an audit or investigation of the taxpayer's
28 account within the applicable period of time as specified in
29 this subsection. The department shall commence an audit
30 within 120 days after it issues a notice of intent to conduct
31 an audit, unless the taxpayer requests a delay. If the

1 taxpayer does not request a delay and the department does not
2 begin the audit within 120 days after issuing the notice, the
3 tolling period shall terminate.

4 (4) If administrative or judicial proceedings for
5 review of the tax assessment or collection are initiated by a
6 taxpayer begun within the a period of limitation prescribed in
7 this section, the running of the period shall be tolled during
8 the pendency of the proceeding. Administrative proceedings
9 shall include taxpayer protest proceedings initiated under s.
10 213.21 and department rules. No additional interest or penalty
11 may be imposed for any tax liability for any period occurring
12 after the expiration of the time limitation prescribed in this
13 section except for the period during which the liability is
14 the subject of a proceeding under chapter 72.

15 Section 2. Subsection (1) of section 193.062, Florida
16 Statutes, is amended to read:

17 193.062 Dates for filing returns.--All returns shall
18 be filed according to the following schedule:

19 (1) Tangible personal property--April 15 ~~April 1~~.

20 (2) Real property--when required by specific provision
21 of general law.

22 (3) Railroad, railroad terminal, private car and
23 freight line and equipment company property--April 15 ~~April 1~~.

24 (4) All other returns and applications not otherwise
25 specified by specific provision of general law--April 15 ~~April~~
26 ~~1~~.

27 Section 3. Section 193.063, Florida Statutes, is
28 amended to read:

29 193.063 Extension of date for filing tangible personal
30 property tax returns.--The property appraiser may, at her or
31 his discretion, grant an extension for the filing of a

1 tangible personal property tax return for up to 6 months ~~45~~
2 ~~days~~. A request for extension must be made in time for the
3 property appraiser to consider the request and act on it
4 before the regular due date of the return. A request for
5 extension may be signed by the taxpayer, by a tax preparer, or
6 by an individual authorized by the taxable entity, and must
7 include the name of the taxable entity, the tax identification
8 number of the taxable entity, and the reason an extension
9 should be granted.

10 Section 4. Section 194.192, Florida Statutes, 1996
11 Supplement, is amended to read:

12 194.192 Costs; interest on unpaid taxes; penalty.--

13 (1) In any suit involving the assessment or collection
14 of any tax, the court shall assess all costs.

15 (2) If the court finds that the amount of tax owed by
16 the taxpayer is greater than the amount the taxpayer has in
17 good faith admitted and paid, it shall enter judgment against
18 the taxpayer for the deficiency and for interest on the
19 deficiency at the rate determined under s. 220.807 ~~of 12~~
20 ~~percent per year~~ from the date the tax became delinquent. If
21 it finds that the amount of tax which the taxpayer has
22 admitted to be owing is grossly disproportionate to the amount
23 of tax found to be due and that the taxpayer's admission was
24 not made in good faith, the court shall also assess a penalty
25 at the rate of 10 percent of the deficiency per year from the
26 date the tax became delinquent.

27 (3) If the court finds that the amount of tax owed by
28 the taxpayer is less than the amount paid by the taxpayer, it
29 shall order a refund to the taxpayer in the amount of the
30 overpayment plus interest at a rate that is 1 percent lower
31

1 than the rate determined under s. 220.807 from the date the
2 court order is issued until the refund is paid in full.

3 Section 5. Subsection (3) of section 197.172, Florida
4 Statutes, is amended to read:

5 197.172 Interest rate; calculation and minimum.--

6 (3)(a) Delinquent personal property taxes shall bear
7 interest at the rate determined under s. 220.807 ~~of 18 percent~~
8 ~~per year~~ from the date of delinquency until paid or barred
9 under chapter 95.

10 (b) Overpayments of personal property taxes shall bear
11 interest at a rate that is 1 percent lower than the rate
12 determined under s. 220.807 from the date on which a court
13 orders a refund or a state agency determines that a refund is
14 due a taxpayer, whichever is earlier, until the refund is paid
15 in full.

16 Section 6. Section 199.133, Florida Statutes, is
17 amended to read:

18 199.133 Levy of nonrecurring tax; relationship to
19 annual tax.--

20 (1) A one-time nonrecurring tax of 2 mills is hereby
21 imposed on each dollar of the just valuation of all notes,
22 bonds, and other obligations for payment of money which are
23 secured by mortgage, deed of trust, or other lien upon real
24 property situated in this state. This tax shall be assessed
25 and collected as provided by this chapter.

26 (2) The nonrecurring tax shall apply to a note, bond,
27 or other obligation for payment of money only to the extent it
28 is secured by mortgage, deed of trust, or other lien upon real
29 property situated in this state. Where a note, bond, or other
30 obligation is secured by personal property or by real property
31 situated outside this state, as well as by mortgage, deed of

1 trust, or other lien upon real property situated in this
2 state, then the nonrecurring tax shall apply to that portion
3 of the note, bond, or other obligation which bears the same
4 ratio to the entire principal balance of the note, bond, or
5 other obligation as the value of the real property situated in
6 this state bears to the value of all of the security; however,
7 if the security is solely made up of personal property and
8 real property situated in this state, the taxpayer may elect
9 to apportion the taxes based upon the value of the collateral,
10 if any, to which the taxpayer by law or contract must look
11 first for collection. In no event shall the portion of the
12 note, bond, or other obligation which is subject to the
13 nonrecurring tax exceed in value the value of the real
14 property situated in this state which is the security. The
15 portion of a note, bond, or other obligation which is not
16 subject to the nonrecurring tax shall be subject to the annual
17 tax unless otherwise exempt.

18 (3) There is exempt from the tax imposed under this
19 section any document of the type described in subsection (1)
20 which pertains to transferring property between spouses or
21 former spouses in conjunction with an action for the
22 dissolution of their marriage.

23 Section 7. Notwithstanding the provisions of chapter
24 199, Florida Statutes, the maximum tax under that chapter on
25 any nonsecured loan is \$1,000.

26 Section 8. Section 199.143, Florida Statutes, is
27 amended to read:

28 199.143 Future advances.--

29 (1) Except as provided in subsection (3), if the
30 mortgage, deed of trust, or other lien is recorded or executed
31 after December 31, 1985, and secures a line of credit or

1 otherwise secures future advances, as provided in s. 697.04,
2 the nonrecurring tax shall initially be paid on the initial
3 obligation secured, excluding future advances. Each time an
4 additional amount is borrowed or a future advance is made,
5 additional nonrecurring tax shall be paid on the amount of the
6 advance. However, any increase in the amount of original
7 indebtedness caused by interest accruing under an adjustable
8 interest rate obligation having an initial interest rate
9 adjustment interval of not less than 6 months shall be taxable
10 as a future advance only to the extent such increase is a
11 computable sum certain when the original indebtedness is
12 incurred.

13 (2) The trustee, if a deed of trust, or the owner of
14 the obligation, if a mortgage or other lien, making the
15 advance shall pay the additional tax to the clerk to whom the
16 initial tax was paid. The clerk shall note the amount
17 received upon the instrument, if one has been recorded, or
18 shall otherwise give a receipt.

19 (3) If the property subject to the mortgage, deed of
20 trust, or other lien which secures a line of credit is a
21 residence of the borrower at the time the mortgage, deed of
22 trust, or other lien is created, ~~then~~ the nonrecurring tax
23 shall be paid as provided in s. 199.135 on the maximum amount
24 of the line of credit and no further nonrecurring tax shall be
25 due on any borrowing under the line of credit. As used in this
26 subsection, the term "a residence of the borrower" includes
27 only a dwelling unit that is a primary, secondary, or vacation
28 home of the borrower, who is a natural person, and that has
29 been primarily occupied for residential or recreational
30 purposes at any time during the immediately preceding 1-year
31 period by the borrower or by the borrower's spouse or

1 children. The term excludes any dwelling that is used
2 primarily as a rental unit or used by a member of the
3 borrower's immediate family for consideration. Notwithstanding
4 the fact that a dwelling unit is held by a trustee, the
5 dwelling unit will be considered to be a residence of the
6 borrower and may be used as security for a line of credit
7 under this subsection, as long as the dwelling unit is a
8 residence of the borrower as defined in this subsection.

9 Section 9. Subsections (1) and (2) of section 199.185,
10 Florida Statutes, 1996 Supplement, are amended to read:

11 199.185 Property exempted from annual and nonrecurring
12 taxes.--

13 (1) The following intangible personal property shall
14 be exempt from the annual and nonrecurring taxes imposed by
15 this chapter:

16 (a) Money.

17 (b) Money equivalent held by a bank, savings and loan
18 association, investment and securities company, or other
19 financial institution.

20 ~~(c)~~ ~~(b)~~ Franchises.

21 ~~(d)~~ ~~(c)~~ Any interest as a partner in a partnership,
22 either general or limited, other than any interest as a
23 limited partner in a limited partnership registered with the
24 Securities and Exchange Commission pursuant to the Securities
25 Act of 1933, as amended.

26 ~~(e)~~ ~~(d)~~ Notes, bonds, and other obligations issued by
27 the State of Florida or its municipalities, counties, and
28 other taxing districts, or by the United States Government and
29 its agencies.

30 ~~(f)~~ ~~(e)~~ Intangible personal property held in trust
31 pursuant to any stock bonus, pension, or profit-sharing plan

1 or any individual retirement account which is qualified under
2 s. 401 or s. 408 of the United States Internal Revenue Code,
3 26 U.S.C. ss. 401 and 408, as amended.

4 (g)~~(f)~~ Intangible personal property held under a
5 retirement plan of a Florida-based corporation exempt from
6 federal income tax under s. 501(c)(6) of the United States
7 Internal Revenue Code, 26 U.S.C., if the primary purpose of
8 the corporation is to support the promotion of professional
9 sports and the retirement plan is either a qualified plan
10 under s. 457 of the United States Internal Revenue Code or the
11 contributions to the plan, pursuant to a ruling by the United
12 States Internal Revenue Service, are not taxable to plan
13 participants until actual receipt or withdrawal by the
14 participant.

15 (h)~~(g)~~ Notes and other obligations, except bonds, to
16 the extent that such notes and obligations are secured by
17 mortgage, deed of trust, or other lien upon real property
18 situated outside the state.

19 (i)~~(h)~~ The assets of a corporation registered under
20 the Investment Company Act of 1940, 15 U.S.C. s. 80a-1-52, as
21 amended.

22 (j)~~(i)~~ All intangible personal property issued in or
23 arising out of any international banking transaction and owned
24 by a banking organization.

25 (k)~~(j)~~ Units of a unit investment trust organized
26 under an agreement or declaration of trust and registered
27 under the Investment Company Act of 1940, as amended, whose
28 portfolio of assets consists solely of assets exempt under
29 this section.

30 ~~(2)(a) With respect to the first mill of the annual~~
31 ~~tax, every natural person is entitled each year to an~~

1 ~~exemption of the first \$20,000 of the value of property~~
2 ~~otherwise subject to said tax. A husband and wife filing~~
3 ~~jointly shall have an exemption of \$40,000.~~

4 ~~(b) With respect to the last mill of the annual tax,~~
5 Every natural person, Florida trust or estate, or Florida
6 corporation or partnership is entitled each year to an
7 exemption of the first \$100,000 of the value of property
8 otherwise subject to said tax. A husband and wife filing
9 jointly shall have an exemption of \$200,000.

10
11 Agents and fiduciaries, other than guardians and custodians
12 under a gifts-to-minors act, filing as such may not claim this
13 exemption on behalf of their principals or beneficiaries;
14 however, if the principal or beneficiary returns the property
15 held by the agent or fiduciary and is a natural person, the
16 principal or beneficiary may claim the exemption. No taxpayer
17 shall be entitled to more than one exemption under paragraph
18 (a) and one exemption under paragraph (b). This exemption
19 shall not apply to that intangible personal property described
20 in s. 199.023(1)(d).

21 Section 10. Section 199.062, Florida Statutes, is
22 amended to read:

23 199.062 Annual tax information reports.--

24 (1) On or before April 1 of each year, each
25 corporation doing business in this state shall give its
26 Florida stockholders of record as of the preceding December 31
27 a written notice reflecting the just value of each class of
28 its stock subject to the annual tax under this chapter as of
29 the preceding January 1. Upon request by the corporation and
30 for good cause shown, the department may extend this deadline
31 for up to 45 days. This notice shall not be binding on the

1 department and shall not prevent the department from taking
2 action with regard to any undervaluation. However, no notice
3 is required as to any class of stock:

4 (a) Which is regularly listed on a public stock
5 exchange or traded over-the-counter, unless the shares are
6 subject to restrictions and the value returnable by the
7 stockholder is less than the published price; or

8 (b) As to which the corporation has made an election
9 under s. 199.057.

10 (2) Within 90 days after giving written notice to
11 stockholders under subsection (1)~~On or before June 30 of each~~
12 ~~year,~~ each corporation doing business in this state shall file
13 with the department a copy of the any written notice to
14 ~~stockholders required by subsection (1).~~

15 (3)(a) On or before June 30 of each year, all security
16 dealers and investment advisers registered under the laws of
17 this state shall file with the department a position statement
18 as of December 31 of the preceding year for each customer
19 whose mailing address is in this state or a statement that the
20 security dealer or investment adviser does not hold securities
21 on account for any customer whose mailing address is in this
22 state. If such a security dealer or investment adviser, at
23 least 14 days before the filing deadline, requests an
24 extension and shows good cause therefor, the department may
25 extend the deadline for up to 45 days. The position statement
26 shall include the customer's name, address, social security
27 number, or federal identification number; the number of units,
28 value, and description, including the Committee on Uniform
29 Security Identification Procedures (CUSIP) number, if any, of
30 all securities held for the customer; and such other
31 information as the department may reasonably require. The

1 information required by this paragraph shall be reported by
2 the dealer or investment adviser on magnetic media, using
3 specifications and instructions of the department, unless the
4 dealer or investment adviser demonstrates that an undue
5 hardship exists.

6 (b)1. The department may require security dealers and
7 investment advisers registered in this state to transmit once
8 every 2 years a copy of the department's intangible tax
9 brochure to each customer whose mailing address is in this
10 state.

11 2. The department may require property appraisers to
12 send, at such times and in such manner as the department and
13 the property appraisers jointly determine, a copy of the
14 department's intangible tax brochure to each owner of Florida
15 property.

16 (4) All fiduciaries shall serve the department with a
17 copy of each inventory required to be prepared or filed in the
18 circuit court under general law or rules adopted by the
19 Supreme Court relating to decedent's estates, trusts, or
20 guardianships. No such inventory required to be filed in the
21 circuit court may be approved by the court until such copy as
22 required by this subsection has been filed with the
23 department. When an inventory is not required to be filed in
24 the circuit court, the personal representative of a decedent's
25 estate shall serve the department with a copy of one inventory
26 as provided in s. 733.604, and all other fiduciaries shall
27 return such information as shall be prescribed by rule of the
28 department.

29 Section 11. Subsection (2) of section 199.052, Florida
30 Statutes, 1996 Supplement, is amended to read:

31 199.052 Annual tax returns; payment of annual tax.--

1 (2) No person shall be required to pay the annual tax
2 in any year when the aggregate annual tax upon the person's
3 intangible personal property, after exemptions, would be less
4 than \$20~~\$5~~. In such case, an annual return is not required
5 unless the taxpayer is a corporation, a banking organization
6 claiming the exemption provided in s. 199.185(1)(i), or an
7 agent or fiduciary of whom the department requires an
8 informational return. Agents and fiduciaries shall report for
9 each person for whom they hold intangible personal property if
10 the aggregate annual tax on such person is more than \$20 ~~\$5~~.

11 Section 12. Section 199.057, Florida Statutes, is
12 amended to read:

13 199.057 Corporate election to pay stockholders' annual
14 tax.--

15 (1) Every corporation incorporated or qualified to do
16 business in this state may elect each tax year to pay the
17 annual tax on any class of its stock, as agent for its Florida
18 stockholders holding such stock.

19 (2) To make the election, the corporation shall:

20 (a) File written notice with the department on or
21 before April 15 ~~June 30~~ of the year for which the election is
22 made.

23 (b) File an annual return with respect to such stock
24 and its own intangible personal property.

25 (c) Furnish its Florida stockholders with written
26 notice, on or before April 15 ~~April 1~~ of the year for which
27 the election is made, that the election is being made,
28 including a description of the class or classes of stock which
29 are affected. An electing corporation shall certify on its
30 notice to the department that its stockholders were timely
31 notified of the election.

1 (3) ~~An~~ No election is invalid ~~shall be valid~~ unless
2 timely notice is given to the department under paragraph
3 (2)(a). However, if the corporation, no later than April 15,
4 requests an extension of the deadline set forth in paragraph
5 (2)(c) and shows good cause therefor, the department may
6 extend the deadline for up to 45 days. If such an extension is
7 granted, the written notice required under paragraph (2)(a)
8 must be filed with the department no later than 90 days after
9 the date by which the Florida stockholders are to be notified
10 of the election. Once made, an election may not be amended or
11 revoked, and it is binding for the tax year.

12 Section 13. Paragraph (a) of subsection (3) of section
13 199.282, Florida Statutes, and subsections (2) and (4) of that
14 section are amended to read:

15 199.282 Penalties for violation of this chapter.--

16 (2) If any annual or nonrecurring tax is not paid by
17 the statutory due date, then despite any extension granted
18 under s. 199.232(6), interest shall run on the unpaid balance
19 from such due date until paid at the rate determined under s.
20 220.807 of 12 percent per year.

21 (3)(a) If any annual or nonrecurring tax is not paid
22 by the due date, a delinquency penalty shall be charged. The
23 delinquency penalty shall be 5 ~~10~~ percent of the delinquent
24 tax for each calendar month or portion thereof from the due
25 date until paid, up to a limit of 25 ~~50~~ percent of the total
26 tax not timely paid. Upon a showing of reasonable cause for
27 failure to pay the annual or recurring tax by the due date, a
28 person is exempt from the delinquency penalty imposed under
29 this paragraph; however, the person must promptly pay the
30 unpaid balance of taxes due as soon as the reasonable cause
31 for delay no longer applies. A person is exempt from the

1 delinquency penalty if payment of the penalty would cause or
2 exacerbate financial hardship for the person.

3 (4) If an annual tax return is filed and property is
4 either omitted from it or undervalued, then a specific penalty
5 shall be charged. The specific penalty shall be 15 ~~30~~ percent
6 of the tax attributable to each omitted item or to each
7 undervaluation. No delinquency or late filing penalty shall be
8 charged with respect to any undervaluation. The department may
9 waive the specific penalty upon a showing that there was
10 reasonable cause for the omission or underevaluation.

11 Section 14. Section 199.2825, Florida Statutes, is
12 created to read:

13 199.2825 Refunds, overpayments; interest on.--If a
14 taxpayer pays more than the amount owed for any annual or
15 nonrecurring tax, the department must refund the overpayment
16 within 60 days after the tax was due or paid, whichever
17 occurred later. Interest, at a rate that is 1 percent lower
18 than the rate determined under s. 220.807, shall run on the
19 balance due the taxpayer from 60 days after the tax was due or
20 paid until the refund is paid in full.

21 Section 15. Section 199.252, Florida Statutes, is
22 created to read:

23 199.252 Assessment of property for back taxes.--
24 (1) When it appears that any annual or nonrecurring
25 tax might have been lawfully assessed or collected upon any
26 intangible personal property in the state, but that such tax
27 was not lawfully assessed or levied, and has not been
28 collected for any year within a period of 2 years next
29 preceding the year in which it is ascertained that such tax
30 has not been assessed, or levied, or collected, the authorized
31 officers shall make the assessment of taxes upon the property

1 in addition to the assessment of the property for the current
2 year, if appropriate, and shall assess the tax separately for
3 such property as may have escaped taxation at and upon the
4 basis of valuation applied to the property for the year or
5 years in which it escaped taxation, noting distinctly the year
6 when the property escaped taxation, and the assessment has the
7 same force and effect as it would have had if it had been made
8 in the year in which the property escaped taxation, and taxes
9 must be levied and collected thereon in like manner and
10 together with taxes for the current year in which the
11 assessment is made. However, property may not be assessed for
12 more than 2 years' arrears of taxation under this chapter, and
13 all property so escaping taxation is subject to such taxation
14 to be assessed in whoever's hands or possession the property
15 is found; however, a purchaser of tangible personal property
16 acquired in good faith is not liable for the payment of back
17 taxes for any time prior to the time of his or her purchase,
18 but the individual or corporation liable for any such
19 assessment continues to be personally liable for paying the
20 arrearages.

21 (2) This section applies to all property upon which
22 tax is assessable under this chapter.

23 Section 16. Section 201.16, Florida Statutes, is
24 amended to read:

25 201.16 Other laws made applicable to chapter.--

26 (1) Except as provided in subsection (2), all revenue
27 laws relating to the assessment and collection of taxes are
28 hereby extended to and made a part of this chapter, so far as
29 applicable, for the purpose of collecting stamp taxes omitted
30 through mistake or fraud from any instrument, document, paper,
31 or writing named in this chapter ~~herein~~.

1 (2) When it appears that the excise tax on documents
2 might have been lawfully assessed or collected, but that the
3 tax was not lawfully assessed or levied, and has not been
4 collected, within a period of 2 years next preceding the year
5 in which it is ascertained that the tax has not been assessed,
6 or levied, or collected, the authorized officers shall make
7 the assessment of taxes upon the document at the rate
8 prevailing in the year the document escaped taxation. This
9 assessment in arrears has the same force and effect as it
10 would have had if it had been made in the year in which the
11 document escaped taxation.

12 Section 17. Section 201.17, Florida Statutes, 1996
13 Supplement, as amended by section 15 of chapter 96-395, Laws
14 of Florida, is amended to read:

15 201.17 Penalties for failure to pay tax required.--

16 (1) Whoever makes, signs, issues, or accepts, or
17 causes to be made, signed, issued, or accepted, any
18 instrument, document, or paper of any kind or description
19 whatsoever, without the full amount of the tax herein imposed
20 thereon being fully paid, or whoever makes use of any adhesive
21 stamp to denote any tax imposed by this chapter without
22 canceling or obliterating such stamps as herein provided, is
23 guilty of a misdemeanor of the first degree, punishable as
24 provided in s. 775.082 or s. 775.083.

25 (2) If any document, instrument, or paper upon which
26 the tax under this chapter is imposed, upon audit or at time
27 of recordation, does not show the proper amount of tax paid,
28 or if the tax imposed by this chapter on any document,
29 instrument, or paper is not timely reported and paid as
30 required by s. 201.133, the person or persons liable for the

31

1 tax upon the document, instrument, or paper shall be subject
2 to:

3 (a) Payment of the tax not paid.

4 (b) A specific penalty added to the tax in the amount
5 of 5 ~~10~~ percent per month or part of a month of any unpaid tax
6 ~~if the failure is for not more than 30 days, with an~~
7 ~~additional 10 percent of any unpaid tax for each additional 30~~
8 ~~days, or fraction thereof, during the time which the failure~~
9 continues, not to exceed a total penalty of 25 ~~50~~ percent, in
10 the aggregate, of any unpaid tax. In no event shall the
11 penalty be less than \$10 for failure to timely file a tax
12 return required. If it is determined by clear and convincing
13 evidence that any part of a deficiency is due to fraud, there
14 shall be added to the tax as a civil penalty, in lieu of the
15 aforementioned penalty under this paragraph, an amount equal
16 to 200 percent of the deficiency. These penalties are to be
17 in addition to, and not in lieu of, any other penalties
18 imposed by law.

19 (c) Payment of interest to the Department of Revenue,
20 accruing from the date the tax is due until paid, at the rate
21 determined under s. 220.807 ~~of 1 percent per month~~, based on
22 the amount of tax not paid.

23 (3) The department may settle or compromise any
24 interest or penalties pursuant to s. 213.21.

25 (4) Upon a showing of reasonable cause for not timely
26 paying the tax imposed under this chapter, a person is exempt
27 from penalties under this section, but the person must
28 promptly pay the unpaid tax as soon as the reasonable cause
29 for delay no longer applies.

30 Section 18. Section 205.053, Florida Statutes, is
31 amended to read:

1 205.053 Occupational licenses; dates due and
2 delinquent; penalties.--

3 (1) All licenses shall be sold by the appropriate tax
4 collector beginning August 1 of each year, are due and payable
5 on or before September 30 of each year, and expire on
6 September 30 of the succeeding year. If September 30 falls on
7 a weekend or holiday, the tax is due and payable on or before
8 the first working day following September 30. Provisions for
9 partial licenses may be made in the resolution or ordinance
10 authorizing such licenses. Licenses that are not renewed when
11 due and payable are delinquent and subject to a delinquency
12 penalty of ~~10 percent for the month of October, plus an~~
13 additional 5 percent per ~~penalty for each subsequent~~ month of
14 delinquency until paid. However, the total delinquency
15 penalty may not exceed 25 percent of the occupational license
16 tax for the delinquent establishment.

17 (2) Any person who engages in or manages any business,
18 occupation, or profession without first obtaining a local
19 occupational license, if required, is subject to a penalty of
20 5 percent per month of the license fee due, not exceeding 25
21 percent in the aggregate of the license due, in addition to
22 any other penalty provided by law or ordinance.

23 (3) Any person who engages in any business,
24 occupation, or profession covered by this chapter, who does
25 not pay the required occupational license tax within 6 months
26 ~~150 days~~ after the initial notice of tax due, and who does not
27 obtain the required occupational license is subject to civil
28 actions and penalties, including court costs, reasonable
29 attorneys' fees, additional administrative costs incurred as a
30 result of collection efforts, and a penalty of up to \$250.

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1 (4) In order to impose a local occupational license
2 tax for a license that was required to be obtained or renewed
3 in any year preceding the current year, but was not obtained
4 or renewed, the appropriate tax collector must have discovered
5 the failure to pay the required tax and must have given notice
6 of delinquency to the licensee within 2 years after the date
7 on which the license should have been obtained or renewed.

8 Section 19. Paragraph (h) of subsection (10) of
9 section 212.02, Florida Statutes, 1996 Supplement, is amended
10 to read:

11 212.02 Definitions.--The following terms and phrases
12 when used in this chapter have the meanings ascribed to them
13 in this section, except where the context clearly indicates a
14 different meaning:

15 (10) "Lease," "let," or "rental" means leasing or
16 renting of living quarters or sleeping or housekeeping
17 accommodations in hotels, apartment houses, roominghouses,
18 tourist or trailer camps and real property, the same being
19 defined as follows:

20 (h) "Real property" means the surface land,
21 improvements thereto, and fixtures, and is synonymous with
22 "realty" and "real estate." The term "fixture" includes any
23 item that is permanently attached to real property even though
24 the owner of the item is not the owner of that real property.

25 Section 20. Subsection (5) is added to section 212.05,
26 Florida Statutes, 1996 Supplement, to read:

27 212.05 Sales, storage, use tax.--It is hereby declared
28 to be the legislative intent that every person is exercising a
29 taxable privilege who engages in the business of selling
30 tangible personal property at retail in this state, including
31 the business of making mail order sales, or who rents or

1 furnishes any of the things or services taxable under this
2 chapter, or who stores for use or consumption in this state
3 any item or article of tangible personal property as defined
4 herein and who leases or rents such property within the state.

5 (5) Notwithstanding any other provision of this part,
6 whenever a person builds, erects, constructs, alters,
7 improves, repairs, or maintains real property for a customer,
8 no sales or use tax shall be due on any charge made to the
9 customer by such person. If such person also provides
10 materials necessary for such work, the person providing the
11 materials shall pay sales or use tax on the cost price of such
12 materials regardless of whether the price or cost of such
13 materials is separately stated to the customer. If such person
14 is provided with the materials necessary for the work by the
15 customer for whom the work is performed, the customer shall be
16 responsible for any sales or use tax due upon such materials.

17 Section 21. Subsection (1) of section 212.06, Florida
18 Statutes, is amended to read:

19 212.06 Sales, storage, use tax; collectible from
20 dealers; "dealer" defined; dealers to collect from purchasers;
21 legislative intent as to scope of tax.--

22 (1)(a) The aforesaid tax at the rate of 6 percent of
23 the retail sales price as of the moment of sale, 6 percent of
24 the cost price as of the moment of purchase, or 6 percent of
25 the cost price as of the moment of commingling with the
26 general mass of property in this state, as the case may be,
27 shall be collectible from all dealers as herein defined on the
28 sale at retail, the use, the consumption, the distribution,
29 and the storage for use or consumption in this state of
30 tangible personal property or services taxable under this
31 part. The full amount of the tax on a credit sale, installment

1 sale, or sale made on any kind of deferred payment plan shall
2 be due at the moment of the transaction in the same manner as
3 on a cash sale.

4 (b) Except as otherwise provided, any person who
5 manufactures, produces, compounds, processes, or fabricates in
6 any manner tangible personal property for his or her own use
7 shall pay a tax upon the cost of the product manufactured,
8 produced, compounded, processed, or fabricated without any
9 deduction therefrom on account of the cost of material used,
10 labor or service costs, or transportation charges,
11 notwithstanding the provisions of s. 212.02 defining "cost
12 price." However, the tax levied under this paragraph shall
13 not be imposed upon any person who manufactures or produces
14 electrical power or energy, steam energy, or other energy at a
15 single location, when such power or energy is used directly
16 and exclusively at such location, or at other locations if the
17 energy is transferred through facilities of the owner in the
18 operation of machinery or equipment that is used to
19 manufacture, process, compound, produce, fabricate, or prepare
20 for shipment tangible personal property for sale or to operate
21 pollution control equipment, maintenance equipment, or
22 monitoring or control equipment used in such operations. The
23 manufacture or production of electrical power or energy that
24 is used for space heating, lighting, office equipment, or
25 air-conditioning or any other nonmanufacturing, nonprocessing,
26 noncompounding, nonproducing, nonfabricating, or nonshipping
27 activity is taxable. Electrical power or energy consumed or
28 dissipated in the transmission or distribution of electrical
29 power or energy for resale is also not taxable. Fabrication
30 labor shall not be taxable when a person is using his or her
31 own equipment and personnel, for his or her own account, as a

1 producer, subproducer, or coproducer of a qualified motion
2 picture. For purposes of this part, the term "qualified
3 motion picture" means all or any part of a series of related
4 images, either on film, tape, or other embodiment, including,
5 but not limited to, all items comprising part of the original
6 work and film-related products derived therefrom as well as
7 duplicates and prints thereof and all sound recordings created
8 to accompany a motion picture, which is produced, adapted, or
9 altered for exploitation in, on, or through any medium or
10 device and at any location, primarily for entertainment,
11 commercial, industrial, or educational purposes. A person who
12 manufactures factory-built buildings for his or her own use in
13 the performance of contracts for the construction or
14 improvement of real property shall pay a tax only upon the
15 person's cost price of items used in the manufacture of such
16 buildings.

17 (c) Notwithstanding the provisions of paragraph (b),
18 the use tax on asphalt manufactured for one's own use shall be
19 calculated with respect to paragraph (b) only upon the cost of
20 materials which become a component part or which are an
21 ingredient of the finished asphalt and upon the cost of the
22 transportation of such components and ingredients. In
23 addition, an indexed tax of 38 cents per ton of such
24 manufactured asphalt shall be due at the same time and in the
25 same manner as taxes due pursuant to paragraph (b). Beginning
26 July 1, 1989, the indexed tax shall be adjusted each July 1 to
27 an amount, rounded to the nearest cent, equal to the product
28 of 38 cents multiplied by a fraction, the numerator of which
29 is the annual average of the "materials and components for
30 construction" series of the producer price index, as
31 calculated and published by the United States Department of

1 Labor, Bureau of Statistics, for the previous calendar year,
2 and the denominator of which is the annual average of said
3 series for calendar year 1988.

4 (d) For purposes of paragraph (b), the department may
5 establish a cost price amount for industry groups that
6 manufacture, produce, compound, process, or fabricate tangible
7 personal property for their own use in the performance of
8 contracts for improvements to real property. Such cost price
9 amount must be established as a percentage, rounded to the
10 nearest whole number, of the total price charged for the
11 improvement. The cost price percentages established must be
12 adopted by rule pursuant to the procedures provided in s.
13 120.54(5), upon petition of a majority of the members of an
14 industry group or by a statewide association that represents
15 such industry group, and must be based on a reasonable
16 estimate of average costs incurred by members of the
17 petitioning industry group. The department is required to
18 adopt a cost price percentage only if sufficient information
19 is available to determine such percentage. The information
20 considered by the department to establish the cost price
21 percentage must be that set forth in the petition or that
22 which is otherwise made available to the department by the
23 petitioning industry group. Any cost price percentage so
24 established must be available only by election of a member of
25 the industry group for which the percentage was established
26 and may apply only to such periods or contracts for which the
27 election is made. Taxpayers must maintain adequate records
28 reflecting the accrual of tax using the percentage figure on
29 actual cost price. Any cost price so established must remain
30 available for use for a period of at least 5 years from the
31 date of its adoption and must be reviewed and be subject to

1 adjustment by the department no more frequently than at 5-year
2 intervals. The provisions of this paragraph shall not be
3 available to those persons subject to the provisions of
4 paragraph (c).

5 Section 22. Paragraph (nn) is added to subsection (7)
6 of section 212.08, Florida Statutes, 1996 Supplement, to read:

7 212.08 Sales, rental, use, consumption, distribution,
8 and storage tax; specified exemptions.--The sale at retail,
9 the rental, the use, the consumption, the distribution, and
10 the storage to be used or consumed in this state of the
11 following are hereby specifically exempt from the tax imposed
12 by this part.

13 (7) MISCELLANEOUS EXEMPTIONS.--

14 (nn) Complimentary meals.--If no separate charge or
15 specific amount is shown for food or drinks furnished as part
16 of a packaged room rate by any person offering for rent or
17 lease any transient living accommodations as described in s.
18 509.013(4)(a) which are licensed under part I of chapter 509
19 and which are subject to the tax under s. 212.03, such drinks
20 or food are considered sold at retail as a part of the total
21 charge for the transient living accommodations. The person
22 offering the accommodations is not considered the consumer of
23 items purchased in furnishing such food or drinks and may
24 purchase such items under conditions of a sale for resale. No
25 tax imposed by s. 212.05 before July 1, 1997 and not actually
26 collected on items exempt under this paragraph is due from any
27 person offering for rent or lease any transient living
28 accommodations that are subject to the tax under s. 212.03.

29 Section 23. Paragraph (a) of subsection (2) and
30 subsection (4) of section 212.12, Florida Statutes, 1996
31 Supplement, are amended to read:

1 212.12 Dealer's credit for collecting tax; penalties
2 for noncompliance; powers of Department of Revenue in dealing
3 with delinquents; brackets applicable to taxable transactions;
4 records required.--

5 (2)(a) When any person, firm, or corporation required
6 hereunder to make any return or to pay any tax or fee imposed
7 by this chapter fails to timely file such return or fails to
8 pay the tax or fee due within the time required hereunder, in
9 addition to all other penalties provided herein and by the
10 laws of this state in respect to such taxes or fees, a
11 specific penalty shall be added to the tax or fee in the
12 amount of 5 ~~10~~ percent per month or part of a month of any
13 unpaid tax or fee ~~if the failure is for not more than 30 days,~~
14 ~~with an additional 10 percent of any unpaid tax or fee for~~
15 ~~each additional 30 days, or fraction thereof, during the time~~
16 which the failure continues, not to exceed a total penalty of
17 25 ~~50~~ percent, in the aggregate, of any unpaid tax or fee. ~~In~~
18 ~~no event may~~ The penalty may not be less than \$10 for failure
19 to timely file a tax return required by s. 212.11(1)(b) or \$5
20 for failure to timely file a tax return authorized by s.
21 212.11(1)(c) or (d), if tax is owed. There is no penalty for a
22 taxpayer's failing to make a return under this chapter for a
23 period in which he or she owes no taxes under this chapter.
24 In the case of a false or fraudulent return or a willful
25 intent to evade payment of any tax or fee imposed under this
26 chapter, in addition to the other penalties provided by law,
27 the person making such false or fraudulent return or willfully
28 attempting to evade the payment of such a tax or fee shall be
29 liable for a specific penalty of 100 percent of the tax bill
30 or fee and for fine and punishment as provided by law for a
31 conviction of a misdemeanor of the first degree.

1 (4)(a) All penalties and interest imposed by this
2 chapter shall be payable to and collectible by the department
3 in the same manner as if they were a part of the tax imposed.
4 The department may settle or compromise any such interest or
5 penalties pursuant to s. 213.21.

6 (b) Upon a showing of reasonable cause for failure to
7 make a required return or to pay taxes owed under this
8 chapter, the person or entity that is required to make the
9 return or pay the taxes is exempt from penalties and interest
10 under this chapter; however, the person or entity must
11 promptly make the return and pay the delinquent taxes as soon
12 as the reasonable cause no longer applies.

13 Section 24. Section 212.125, Florida Statutes, is
14 created to read:

15 212.125 Refunds, overpayments; interest on.--If a
16 taxpayer pays more than the amount owed for taxes imposed
17 under this chapter, the department must refund the overpayment
18 within 60 days after the tax was due or paid, whichever
19 occurred later. Interest, at a rate 1 percent lower than the
20 adjusted rate determined under s. 220.807, shall run on the
21 balance due the taxpayer from 60 days after the tax was due or
22 paid until the refund is paid in full.

23 Section 25. Section 220.211, Florida Statutes, is
24 amended to read:

25 220.211 Penalties; incomplete return.--

26 (1) ~~If in the case where~~ an incomplete return is made,
27 ~~unless notwithstanding that~~ no tax is finally determined to be
28 due for the taxable year, there shall be added to the amount
29 of tax, penalty, and interest otherwise due a penalty in the
30 amount of 5 percent per month, not exceeding an aggregate of
31 ~~\$300 or~~ 10 percent of the tax finally determined to be due,

1 ~~whichever is greater~~; however, such a penalty must ~~shall~~ not
2 exceed \$10,000, and the taxpayer is exempt from this penalty
3 if a penalty is imposed on him or her under s. 220.801 with
4 respect to the same return. The department may settle or
5 compromise such penalties pursuant to s. 213.21.

6 (2) As used in ~~An "incomplete return" is, for the~~
7 ~~purposes of~~ this code, the term "incomplete return" means a
8 return that lacks ~~which is lacking~~ such uniformity,
9 completeness, and arrangement to the extent that physical
10 handling, verification, or review of the return may not be
11 readily accomplished.

12 Section 26. Section 220.222, Florida Statutes, is
13 amended to read:

14 220.222 Returns; time and place for filing.--

15 (1) Returns required by this code shall be filed with
16 the office of the department in Leon County or at such other
17 place as the department may by regulation prescribe. All
18 returns required for a DISC (Domestic International Sales
19 Corporation) under paragraph 6011(c)(2) of the Internal
20 Revenue Code shall be filed on or before the 1st day of the
21 10th month following the close of the taxable year; all
22 partnership information returns shall be filed on or before
23 the 1st day of the 5th month following the close of the
24 taxable year; and all other returns shall be filed on or
25 before the 1st day of the 4th month following the close of the
26 taxable year or the 15th day following the due date, without
27 extension, for the filing of the related federal return for
28 the taxable year, unless under subsection (2) one or more
29 extensions of time, ~~not to exceed 6 months in the aggregate,~~
30 for any such filing is granted.

31

1 (2)~~(a)~~ When a taxpayer has been granted an extension
2 or extensions of time within which to file its federal income
3 tax return for any taxable year, and if the requirements of s.
4 220.32 are met, ~~the filing of a written request for such~~
5 ~~extension or extensions with the department shall~~
6 ~~automatically extend~~ the due date of the return required under
7 this code is automatically extended until 15 days after the
8 expiration of the federal extension, provided that the
9 taxpayer has sent to the department, by the original due date
10 of the return, a copy of the taxpayer's application for a
11 federal extension. If the taxpayer does not timely send a copy
12 of the federal application to the department, the department
13 may deny the extension of time for filing a return required
14 under this code, and may impose penalties for late filing
15 which are otherwise prescribed by law or until the expiration
16 of 6 months from the original due date, whichever first
17 occurs.

18 ~~(b) The department may grant an extension or~~
19 ~~extensions of time for the filing of any return required under~~
20 ~~this code upon receiving a prior written request therefor if~~
21 ~~good cause for an extension is shown. However, the aggregate~~
22 ~~extensions of time under paragraphs (a) and (b) shall not~~
23 ~~exceed 6 months. No extension granted under this paragraph~~
24 ~~shall be valid unless the taxpayer complies with the~~
25 ~~requirements of s. 220.32.~~

26 Section 27. Paragraph (a) of subsection (2) of section
27 220.34, Florida Statutes, 1996 Supplement, is amended to read:

28 220.34 Special rules relating to estimated tax.--

29 (2) No interest or penalty shall be due or paid with
30 respect to a failure to pay estimated taxes except the
31 following:

1 (a) Except as provided in paragraph (d), the taxpayer
2 shall be liable for interest at the rate determined under s.
3 220.807 ~~of 12 percent per year~~ and for a penalty in an amount
4 computed ~~determined~~ at the rate determined under s. 220.807 ~~of~~
5 ~~12 percent per year~~ upon the amount of any underpayment of
6 estimated tax determined under this subsection.

7 Section 28. Section 220.723, Florida Statutes, is
8 amended to read:

9 220.723 Overpayments; interest.--

10 (1) The department must refund ~~interest shall be~~
11 ~~allowed and paid in accordance with the provisions of s.~~
12 ~~220.807~~ upon any overpayment of a tax imposed by this chapter
13 within 60 days after the tax was due or paid, whichever
14 occurred later. ~~However, if any overpayment is refunded or~~
15 ~~credited within 3 months after the date upon which the~~
16 ~~taxpayer files written notice advising the department of such~~
17 ~~overpayment, no interest shall be allowed on such overpayment.~~

18 (2) Interest, at a rate that is 1 percent lower than
19 the rate determined under s. 220.807, shall run on the balance
20 due the taxpayer from 60 days after the tax was due or accrue
21 ~~from the date upon which the taxpayer files a written notice~~
22 ~~advising the department of the overpayment. Interest shall be~~
23 ~~paid until such date as determined by the department, which~~
24 ~~shall be no more than 7 days prior to the date of the issuance~~
25 ~~by the Comptroller of the refund~~ is paid in full ~~warrant.~~

26 (3) For purposes of this section, a payment ~~no amount~~
27 ~~of tax for any taxable year~~ may not ~~shall~~ be treated as having
28 been paid before the date on which the tax return for that
29 ~~such~~ year was due under applicable law or the date the payment
30 was actually made, whichever is later.

31

1 Section 29. Section 220.737, Florida Statutes, is
2 amended to read:

3 220.737 Amounts less than ~~\$20~~\$1.--A taxpayer need not
4 file a tax return, or pay any tax, under this chapter if the
5 amount that the taxpayer owes under this chapter is less than
6 \$20.

7 ~~(1) The department may by regulation provide that if a~~
8 ~~total amount of less than \$1 is payable, refundable, or~~
9 ~~creditable, such amount either may be disregarded or shall be~~
10 ~~disregarded if it is less than 50 cents and increased to \$1 if~~
11 ~~it is 50 cents or more.~~

12 ~~(2) The department may by regulation provide that any~~
13 ~~amount which is required to be shown or reported on any return~~
14 ~~or other document required under this chapter shall, if such~~
15 ~~amount is not a whole dollar, be increased to the nearest~~
16 ~~whole dollar when the fractional part of a dollar is 50 cents~~
17 ~~or more and decreased to the nearest whole dollar when the~~
18 ~~fractional part of a dollar is less than 50 cents.~~

19 Section 30. Section 220.801, Florida Statutes, is
20 amended to read:

21 220.801 Penalties; failure to timely file returns.--

22 (1) In case of failure to file any tax return required
23 under this chapter on the date prescribed therefor, including
24 any extensions thereof, there must ~~shall~~ be added ~~as a penalty~~
25 to the amount of tax due with such a return a penalty in the
26 amount of 5 ~~10~~ percent of the amount of the ~~such~~ tax, ~~if the~~
27 ~~failure is not for more than 1 month, plus an additional 10~~
28 ~~percent~~ for each ~~additional~~ month or fraction thereof during
29 which the ~~such~~ failure continues, not exceeding 25 ~~50~~ percent
30 in the aggregate. The department may settle or compromise such
31 penalties pursuant to s. 213.21. There is no penalty for a

1 taxpayer's failing to file a return under this chapter for a
2 period in which he or she owes no taxes under this chapter.

3 For purposes of this section, the amount of tax due with any
4 return must ~~shall~~ be reduced by any part of the tax which is
5 paid on or before the date prescribed for payment of the tax
6 and by the amount of any credit against the tax which was
7 properly allowable on the date the return was required to be
8 filed.

9 ~~(2) In case of failure to file any tax return required~~
10 ~~by this chapter, notwithstanding that no tax is shown to be~~
11 ~~due thereon, a penalty in the amount of \$50 for each month or~~
12 ~~portion thereof, not to exceed \$300 in the aggregate, shall be~~
13 ~~assessed and paid for each such failure to file. This~~
14 ~~subsection shall only apply to corporations when they also are~~
15 ~~required to file a federal income tax return.~~

16 ~~(3) If any penalty is assessed under subsection (1)~~
17 ~~for failure to file a return by the prescribed date, no~~
18 ~~penalty under subsection (2) for failure to file a return with~~
19 ~~no tax shown to be due shall be assessed with respect to the~~
20 ~~same return.~~

21 ~~(2)(4) The provisions of This section shall~~
22 specifically applies apply to the notice of federal change
23 required under s. 220.23, and to any tax returns required
24 under chapter 221, relating to the emergency excise tax.

25 Section 31. Section 220.8051, Florida Statutes, is
26 created to read:

27 220.8051 Waiver of penalties.--Upon a showing of
28 reasonable cause for a taxpayer's filing of an incomplete
29 return or failure to timely file a return required or pay tax
30 owed under this chapter, the department shall waive the
31 applicable penalties; however, the taxpayer must promptly file

1 the return and pay the overdue tax as soon as the reasonable
2 cause no longer applies.

3 Section 32. Section 220.809, Florida Statutes, is
4 amended to read:

5 220.809 Interest on deficiencies.--

6 (1) If any amount of tax imposed by this chapter is
7 not paid on or before the date, determined without regard to
8 any extensions, prescribed for payment of that ~~such~~ tax,
9 interest must ~~shall~~ be paid in accordance with the provisions
10 of s. 220.807 on the unpaid amount from the due ~~such~~ date to
11 the date of payment.

12 (2) Interest prescribed by this section on any tax or
13 penalty is considered to ~~shall be deemed~~ assessed upon the
14 assessment of the tax or penalty to which the ~~such~~ interest
15 relates, and must ~~shall~~ be collected and paid in the same
16 manner as taxes. Any reference in this chapter to the tax
17 imposed by this chapter is to ~~shall be considered deemed~~ a
18 reference to interest imposed by this section.

19 (3) ~~No~~ Interest may not ~~shall~~ be imposed upon the
20 interest provided by this section or upon any penalty imposed
21 under this chapter.

22 ~~(4) Interest shall be paid in respect to any penalty~~
23 ~~which is not paid within 20 days of the notice and demand~~
24 ~~therefor, but only for the period from the date of the notice~~
25 ~~and demand to the date of payment.~~

26 ~~(4)~~⁽⁵⁾ If notice and demand is made for the payment of
27 any amount due under this chapter, and if that ~~such~~ amount is
28 paid within 30 days after the date of the ~~such~~ notice and
29 demand, interest under this section on the amount so paid
30 shall not be imposed for the period after the date of the ~~such~~
31 notice and demand.

1 ~~(6) Any tax, interest, or penalty imposed by this~~
2 ~~chapter which has been erroneously refunded and which is~~
3 ~~recoverable by the department shall bear interest computed as~~
4 ~~provided in s. 220.807 from the date of payment of such~~
5 ~~refund.~~

6 (5)~~(7)~~ The department may settle or compromise
7 interest imposed under this section ~~herein~~ pursuant to s.
8 213.21.

9 Section 33. Section 221.02, Florida Statutes, is
10 amended to read:

11 221.02 Credit for emergency excise tax paid.--The
12 emergency excise tax paid pursuant to s. 221.01 plus any
13 credit or carryover properly applied to reduce the amount of
14 the emergency excise tax due for the taxable year shall be
15 allowed as a credit against the emergency excise tax, if any,
16 to be charged and collected pursuant to this chapter for the
17 return filed for the fifth taxable year following the taxable
18 year for which the tax was paid or, if earlier, the taxable
19 year for which a final return is required. To the extent that
20 the credit exceeds the emergency excise tax, if any, for the
21 return filed for the fifth taxable year following the taxable
22 year for which the tax was paid or, if earlier, the taxable
23 year for which a final return is required, such excess shall
24 be allowed as a reduction of, and credit against, any tax
25 imposed by chapter 220 upon the taxpayer for the fifth taxable
26 year following the taxable year for which the tax was paid or,
27 if earlier, the taxable year for which a final return is
28 required. If the taxpayer is unable to fully utilize the
29 credit in the year in which it is first allowed, it may be
30 carried over until the credit is fully used ~~to each of the 5~~
31 ~~taxable years immediately thereafter.~~

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Section 34. This act shall take effect July 1, 1997.

SENATE SUMMARY

Revises provisions relating to penalties and interest payable on taxes owed on real and personal property, on excise taxes owed, on occupational license taxes, and on the tax on sales, use, and other transactions. Eliminates penalties for failure to file a tax return if no tax is due. Provides for further extensions of time to file certain taxes. Provides a reasonable-cause exception from specified taxes. Decreases statutes of limitation for assessment of taxes in certain circumstances. Eliminates the tolling of the statute of limitations for certain causes. Exempts from the nonrecurring tax on certain documents transfers made as part of a dissolution of marriage. Provides other exemptions from specified taxes.