

By the Committee on Ways and Means; and Senator Ostalkiewicz

301-2073-98

1 A bill to be entitled
2 An act relating to the tax on sales, use, and
3 other transactions (RAB); amending s. 212.02,
4 F.S.; defining the terms "itinerant merchant,"
5 "flea market operator, manager, lessor, or
6 owner," "agricultural commodity," "farmer," and
7 "livestock"; amending s. 212.07, F.S.;
8 prescribing dealer liability for certain tax;
9 prescribing tax liability for sales of race
10 horses in claiming races; amending s. 212.08,
11 F.S.; exempting certain sales of racing dogs;
12 disallowing a sales tax exemption for purchases
13 made by an employee of an exempt organization
14 when such payment is made by the employee;
15 amending s. 212.09, F.S.; revising provisions
16 regulating credits for trade-ins; amending s.
17 212.17, F.S.; providing for reimbursement of
18 certain taxes paid by dealers; amending s.
19 212.18, F.S.; prescribing procedures for
20 remittance of tax on sales at flea markets;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsections (27), (28), (29), (30), and
26 (31) are added to section 212.02, Florida Statutes, to read:
27 212.02 Definitions.--The following terms and phrases
28 when used in this chapter have the meanings ascribed to them
29 in this section, except where the context clearly indicates a
30 different meaning:

31

1 (27) "Itinerant merchant" means any person, as defined
2 in this chapter, who solicits, engages in, transacts, or
3 offers for sale any new or used merchandise either in one
4 location or while traveling from place to place in this state,
5 who does not intend to become or who does not become a
6 permanent merchant at any one location, and who for the
7 purpose of transacting such business rents, hires, leases,
8 occupies, or uses any building, structure, lot, tract, motor
9 vehicle, sample case, display case, or any portion thereof,
10 for the exhibition and sale of goods, wares, or merchandise.
11 Flea market vendors are included within this definition.
12 However, an itinerant merchant does not mean any person who
13 occasionally sells tangible personal property from his place
14 of residence, if the person does not hold himself out as
15 engaged in business and if the person does not conduct more
16 than two sales events per calendar year.

17 (28) A "flea market operator, manager, lessor, or
18 owner" means any person who provides space to flea market
19 vendors.

20 (29) "Agricultural commodity" means horticultural,
21 aquacultural, poultry and farm products, and livestock and
22 livestock products.

23 (30) "Farmer" means a person who is directly engaged
24 in the business of producing crops, livestock, or other
25 agricultural commodities. The term includes, but is not
26 limited to, horse breeders, nurserymen, dairymen, poultry men,
27 cattle ranchers, apiarists, and persons raising fish.

28 (31) "Livestock" includes all animals of the equine,
29 bovine, or swine class, including goats, sheep, mules, horses,
30 hogs, cattle, ostriches, and other grazing animals raised for
31

1 commercial purposes. The term "livestock" shall also include
2 fish raised for commercial purposes.

3 Section 2. Paragraph (c) is added to subsection (1) of
4 section 212.07, Florida Statutes, and subsections (5) and (8)
5 of that section are amended, to read:

6 212.07 Sales, storage, use tax; tax added to purchase
7 price; dealer not to absorb; liability of purchasers who
8 cannot prove payment of the tax; penalties; general
9 exemptions.--

10 (1)

11 (c) Unless the purchaser of tangible personal property
12 that is incorporated into tangible personal property
13 manufactured, produced, compounded, processed, or fabricated
14 for one's own use and subject to the tax imposed under s.
15 212.06(1)(b) or is purchased for export under s.
16 212.06(5)(a)1. extends a certificate in compliance with the
17 rules of the department, the dealer shall himself or herself
18 be liable for and pay the tax.

19 (5)(a) The gross proceeds derived from the sale in
20 this state of livestock, poultry, and other farm products
21 direct from the farm are exempted from the tax levied by this
22 chapter provided such sales are made directly by the
23 producers. The producers shall be entitled to such exemptions
24 although the livestock so sold in this state may have been
25 registered with a breeders' or registry association prior to
26 the sale and although the sale takes place at a livestock show
27 or race meeting, so long as the sale is made by the original
28 producer and within this state. When sales of livestock,
29 poultry, or other farm products are made to consumers by any
30 person, as defined herein, other than a producer, they are not
31 exempt from the tax imposed by this chapter. The foregoing

1 exemption does not apply to ornamental nursery stock offered
2 for retail sale by the producer.

3 (b) Sales of race horses at claiming races are
4 taxable; however, if sufficient information is provided by
5 race track officials to properly administer the tax, sales tax
6 is due only on the maximum single amount for which a horse is
7 sold at all races at which it is claimed during an entire
8 racing season.

9 ~~(8) The term "agricultural commodity," for the~~
10 ~~purposes hereof, means horticultural, poultry and farm~~
11 ~~products, and livestock and livestock products.~~

12 Section 3. Subsection (7) of section 212.08, Florida
13 Statutes, is amended, to read:

14 212.08 Sales, rental, use, consumption, distribution,
15 and storage tax; specified exemptions.--The sale at retail,
16 the rental, the use, the consumption, the distribution, and
17 the storage to be used or consumed in this state of the
18 following are hereby specifically exempt from the tax imposed
19 by this chapter.

20 (7) MISCELLANEOUS EXEMPTIONS.--

21 (a) Artificial commemorative flowers.--Exempt from the
22 tax imposed by this chapter is the sale of artificial
23 commemorative flowers by bona fide nationally chartered
24 veterans' organizations.

25 (b) Boiler fuels.--When purchased for use as a
26 combustible fuel, purchases of natural gas, residual oil,
27 recycled oil, waste oil, solid waste material, coal, sulfur,
28 wood, wood residues or wood bark used in an industrial
29 manufacturing, processing, compounding, or production process
30 at a fixed location in this state are exempt from the taxes
31 imposed by this chapter; however, such exemption shall not be

1 allowed unless the purchaser signs a certificate stating that
2 the fuel to be exempted is for the exclusive use designated
3 herein. This exemption does not apply to the use of boiler
4 fuels that are not used in manufacturing, processing,
5 compounding, or producing items of tangible personal property
6 for sale, or to the use of boiler fuels used by any firm
7 subject to regulation by the Division of Hotels and
8 Restaurants of the Department of Business and Professional
9 Regulation.

10 (c) Crustacea bait.--Also exempt from the tax imposed
11 by this chapter is the purchase by commercial fishers of bait
12 intended solely for use in the entrapment of Callinectes
13 sapidus and Menippe mercenaria.

14 (d) Feeds.--Feeds for poultry, ostriches, and
15 livestock, including racehorses and dairy cows, are exempt.

16 (e) Film rentals.--Film rentals are exempt when an
17 admission is charged for viewing such film, and license fees
18 and direct charges for films, videotapes, and transcriptions
19 used by television or radio stations or networks are exempt.

20 (f) Flags.--Also exempt are sales of the flag of the
21 United States and the official state flag of Florida.

22 (g) Florida Retired Educators Association and its
23 local chapters.--Also exempt from payment of the tax imposed
24 by this chapter are purchases of office supplies, equipment,
25 and publications made by the Florida Retired Educators
26 Association and its local chapters.

27 (h) Guide dogs for the blind.--Also exempt are the
28 sale or rental of guide dogs for the blind, commonly referred
29 to as "seeing-eye dogs," and the sale of food or other items
30 for such guide dogs.

31

1 1. The department shall issue a consumer's certificate
2 of exemption to any blind person who holds an identification
3 card as provided for in s. 413.091 and who either owns or
4 rents, or contemplates the ownership or rental of, a guide dog
5 for the blind. The consumer's certificate of exemption shall
6 be issued without charge and shall be of such size as to be
7 capable of being carried in a wallet or billfold.

8 2. The department shall make such rules concerning
9 items exempt from tax under the provisions of this paragraph
10 as may be necessary to provide that any person authorized to
11 have a consumer's certificate of exemption need only present
12 such a certificate at the time of paying for exempt goods and
13 shall not be required to pay any tax thereon.

14 (i) Hospital meals and rooms.--Also exempt from
15 payment of the tax imposed by this chapter on rentals and
16 meals are patients and inmates of any hospital or other
17 physical plant or facility designed and operated primarily for
18 the care of persons who are ill, aged, infirm, mentally or
19 physically incapacitated, or otherwise dependent on special
20 care or attention. Residents of a home for the aged are exempt
21 from payment of taxes on meals provided through the facility.
22 A home for the aged is defined as a facility that is licensed
23 or certified in part or in whole under chapter 400 or chapter
24 651, or that is financed by a mortgage loan made or insured by
25 the United States Department of Housing and Urban Development
26 under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4),
27 s. 232, or s. 236 of the National Housing Act, or other such
28 similar facility designed and operated primarily for the care
29 of the aged.

30 (j) Household fuels.--Also exempt from payment of the
31 tax imposed by this chapter are sales of utilities to

1 residential households or owners of residential models in this
2 state by utility companies who pay the gross receipts tax
3 imposed under s. 203.01, and sales of fuel to residential
4 households or owners of residential models, including oil,
5 kerosene, liquefied petroleum gas, coal, wood, and other fuel
6 products used in the household or residential model for the
7 purposes of heating, cooking, lighting, and refrigeration,
8 regardless of whether such sales of utilities and fuels are
9 separately metered and billed direct to the residents or are
10 metered and billed to the landlord. If any part of the utility
11 or fuel is used for a nonexempt purpose, the entire sale is
12 taxable. The landlord shall provide a separate meter for
13 nonexempt utility or fuel consumption. For the purposes of
14 this paragraph, licensed family day care homes shall also be
15 exempt.

16 (k) Meals provided by certain nonprofit
17 organizations.--There is exempt from the tax imposed by this
18 chapter the sale of prepared meals by a nonprofit volunteer
19 organization to handicapped, elderly, or indigent persons when
20 such meals are delivered as a charitable function by the
21 organization to such persons at their places of residence.

22 (l) Military museums.--Also exempt are sales to
23 nonprofit corporations which hold current exemptions from
24 federal corporate income tax pursuant to s. 501(c)(3),
25 Internal Revenue Code of 1954, as amended, and whose primary
26 purpose is to raise money for military museums.

27 (m) Nonprofit corporations; homes for the aged,
28 nursing homes, or hospices.--Nonprofit corporations which hold
29 current exemptions from federal corporate income tax pursuant
30 to s. 501(c)(3), Internal Revenue Code of 1954, as amended,
31 and which either qualify as homes for the aged pursuant to s.

1 196.1975(2) or are licensed as a nursing home or hospice under
2 the provisions of chapter 400, are exempt from the tax imposed
3 by this chapter.

4 (n) Organizations providing special educational,
5 cultural, recreational, and social benefits to minors.--There
6 shall be exempt from the tax imposed by this chapter nonprofit
7 organizations which are incorporated pursuant to chapter 617
8 or which hold a current exemption from federal corporate
9 income tax pursuant to s. 501(c)(3) of the Internal Revenue
10 Code the primary purpose of which is providing activities that
11 contribute to the development of good character or good
12 sportsmanship, or to the educational or cultural development,
13 of minors. This exemption is extended only to that level of
14 the organization that has a salaried executive officer or an
15 elected nonsalaried executive officer.

16 (o) Religious, charitable, scientific, educational,
17 and veterans' institutions and organizations.--

18 1. There are exempt from the tax imposed by this
19 chapter transactions involving:

20 a. Sales or leases directly to churches or sales or
21 leases of tangible personal property by churches;

22 b. Sales or leases to nonprofit religious, nonprofit
23 charitable, nonprofit scientific, or nonprofit educational
24 institutions when used in carrying on their customary
25 nonprofit religious, nonprofit charitable, nonprofit
26 scientific, or nonprofit educational activities, including
27 church cemeteries; and

28 c. Sales or leases to the state headquarters of
29 qualified veterans' organizations and the state headquarters
30 of their auxiliaries when used in carrying on their customary
31 veterans' organization activities. If a qualified veterans'

1 organization or its auxiliary does not maintain a permanent
2 state headquarters, then transactions involving sales or
3 leases to such organization and used to maintain the office of
4 the highest ranking state official are exempt from the tax
5 imposed by this chapter.

6 2. The provisions of this section authorizing
7 exemptions from tax shall be strictly defined, limited, and
8 applied in each category as follows:

9 a. "Religious institutions" means churches,
10 synagogues, and established physical places for worship at
11 which nonprofit religious services and activities are
12 regularly conducted and carried on. The term "religious
13 institutions" includes nonprofit corporations the sole purpose
14 of which is to provide free transportation services to church
15 members, their families, and other church attendees. The term
16 "religious institutions" also includes state, district, or
17 other governing or administrative offices the function of
18 which is to assist or regulate the customary activities of
19 religious organizations or members. The term "religious
20 institutions" also includes any nonprofit corporation which is
21 qualified as nonprofit pursuant to s. 501(c)(3), Internal
22 Revenue Code of 1986, as amended, which owns and operates a
23 Florida television station, at least 90 percent of the
24 programming of which station consists of programs of a
25 religious nature, and the financial support for which,
26 exclusive of receipts for broadcasting from other nonprofit
27 organizations, is predominantly from contributions from the
28 general public. The term "religious institutions" also
29 includes any nonprofit corporation which is qualified as
30 nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of
31 1986, as amended, which provides regular religious services to

1 Florida state prisoners and which from its own established
2 physical place of worship, operates a ministry providing
3 worship and services of a charitable nature to the community
4 on a weekly basis.

5 b. "Charitable institutions" means only nonprofit
6 corporations qualified as nonprofit pursuant to s. 501(c)(3),
7 Internal Revenue Code of 1954, as amended, and other nonprofit
8 entities, the sole or primary function of which is to provide,
9 or to raise funds for organizations which provide, one or more
10 of the following services if a reasonable percentage of such
11 service is provided free of charge, or at a substantially
12 reduced cost, to persons, animals, or organizations that are
13 unable to pay for such service:

14 (I) Medical aid for the relief of disease, injury, or
15 disability;

16 (II) Regular provision of physical necessities such as
17 food, clothing, or shelter;

18 (III) Services for the prevention of or rehabilitation
19 of persons from alcoholism or drug abuse; the prevention of
20 suicide; or the alleviation of mental, physical, or sensory
21 health problems;

22 (IV) Social welfare services including adoption
23 placement, child care, community care for the elderly, and
24 other social welfare services which clearly and substantially
25 benefit a client population which is disadvantaged or suffers
26 a hardship;

27 (V) Medical research for the relief of disease,
28 injury, or disability;

29 (VI) Legal services; or
30
31

1 (VII) Food, shelter, or medical care for animals or
2 adoption services, cruelty investigations, or education
3 programs concerning animals;

4
5 and the term includes groups providing volunteer staff to
6 organizations designated as charitable institutions under this
7 sub-subparagraph; nonprofit organizations the sole or primary
8 purpose of which is to coordinate, network, or link other
9 institutions designated as charitable institutions under this
10 sub-subparagraph with those persons, animals, or organizations
11 in need of their services; and nonprofit national, state,
12 district, or other governing, coordinating, or administrative
13 organizations the sole or primary purpose of which is to
14 represent or regulate the customary activities of other
15 institutions designated as charitable institutions under this
16 sub-subparagraph. Notwithstanding any other requirement of
17 this section, any blood bank that relies solely upon volunteer
18 donations of blood and tissue, that is licensed under chapter
19 483, and that qualifies as tax exempt under s. 501(c)(3) of
20 the Internal Revenue Code constitutes a charitable institution
21 and is exempt from the tax imposed by this chapter. Sales to a
22 health system, qualified as nonprofit pursuant to s.
23 501(c)(3), Internal Revenue Code of 1986, as amended, which
24 filed an application for exemption with the department prior
25 to April 5, 1997, and which application is subsequently
26 approved, shall be exempt as to any unpaid taxes on purchases
27 made from January 1, 1994, to June 1, 1997.

28 c. "Scientific organizations" means scientific
29 organizations which hold current exemptions from federal
30 income tax under s. 501(c)(3) of the Internal Revenue Code and
31 also means organizations the purpose of which is to protect

1 air and water quality or the purpose of which is to protect
2 wildlife and which hold current exemptions from the federal
3 income tax under s. 501(c)(3) of the Internal Revenue Code.
4 d. "Educational institutions" means state
5 tax-supported or parochial, church and nonprofit private
6 schools, colleges, or universities which conduct regular
7 classes and courses of study required for accreditation by, or
8 membership in, the Southern Association of Colleges and
9 Schools, the Department of Education, the Florida Council of
10 Independent Schools, or the Florida Association of Christian
11 Colleges and Schools, Inc., or nonprofit private schools which
12 conduct regular classes and courses of study accepted for
13 continuing education credit by a Board of the Division of
14 Medical Quality Assurance of the Department of Business and
15 Professional Regulation or which conduct regular classes and
16 courses of study accepted for continuing education credit by
17 the American Medical Association. Nonprofit libraries, art
18 galleries, performing arts centers that provide educational
19 programs to school children, which programs involve
20 performances or other educational activities at the performing
21 arts center and serve a minimum of 50,000 school children a
22 year, and museums open to the public are defined as
23 educational institutions and are eligible for exemption. The
24 term "educational institutions" includes private nonprofit
25 organizations the purpose of which is to raise funds for
26 schools teaching grades kindergarten through high school,
27 colleges, and universities. The term "educational
28 institutions" includes any nonprofit newspaper of free or paid
29 circulation primarily on university or college campuses which
30 holds a current exemption from federal income tax under s.
31 501(c)(3) of the Internal Revenue Code, and any educational

1 television or radio network or system established pursuant to
2 s. 229.805 or s. 229.8051 and any nonprofit television or
3 radio station which is a part of such network or system and
4 which holds a current exemption from federal income tax under
5 s. 501(c)(3) of the Internal Revenue Code. The term
6 "educational institutions" also includes state, district, or
7 other governing or administrative offices the function of
8 which is to assist or regulate the customary activities of
9 educational organizations or members. The term "educational
10 institutions" also includes a nonprofit educational cable
11 consortium which holds a current exemption from federal income
12 tax under s. 501(c)(3) of the Internal Revenue Code of 1986,
13 as amended, whose primary purpose is the delivery of
14 educational and instructional cable television programming and
15 whose members are composed exclusively of educational
16 organizations which hold a valid consumer certificate of
17 exemption and which are either an educational institution as
18 defined in this sub-subparagraph, or qualified as a nonprofit
19 organization pursuant to s. 501(c)(3) of the Internal Revenue
20 Code of 1986, as amended.

21 e. "Veterans' organizations" means nationally
22 chartered or recognized veterans' organizations, including,
23 but not limited to, Florida chapters of the Paralyzed Veterans
24 of America, Catholic War Veterans of the U.S.A., Jewish War
25 Veterans of the U.S.A., and the Disabled American Veterans,
26 Department of Florida, Inc., which hold current exemptions
27 from federal income tax under s. 501(c)(4) or (19) of the
28 Internal Revenue Code.

29 (p) Resource recovery equipment.--Also exempt is
30 resource recovery equipment which is owned and operated by or
31 on behalf of any county or municipality, certified by the

1 Department of Environmental Protection under the provisions of
2 s. 403.715.

3 (q) School books and school lunches.--This exemption
4 applies to school books used in regularly prescribed courses
5 of study, and to school lunches served to students, in public,
6 parochial, or nonprofit schools operated for and attended by
7 pupils of grades 1 through 12. School books and food sold or
8 served at community colleges and other institutions of higher
9 learning are taxable.

10 (r) State theater contract organizations.--Nonprofit
11 organizations incorporated in accordance with chapter 617
12 which have qualified under s. 501(c)(3) of the Internal
13 Revenue Code of 1954, as amended, and which have been
14 designated as state theater contract organizations as provided
15 in s. 265.289 are exempt from the tax imposed by this chapter.

16 (s) Tasting beverages.--Vinous and alcoholic beverages
17 provided by distributors or vendors for the purpose of "wine
18 tasting" and "spirituous beverage tasting" as contemplated
19 under the provisions of ss. 564.06 and 565.12, respectively,
20 are exempt from the tax imposed by this chapter.

21 (t) Boats temporarily docked in state.--

22 1. Notwithstanding the provisions of chapters 327 and
23 328, pertaining to the registration of vessels, a boat upon
24 which the state sales or use tax has not been paid is exempt
25 from the use tax under this chapter if it enters and remains
26 in this state for a period not to exceed a total of 20 days in
27 any calendar year calculated from the date of first dockage or
28 slippage at a facility, registered with the department, that
29 rents dockage or slippage space in this state. If a boat
30 brought into this state for use under this paragraph is placed
31 in a facility, registered with the department, for repairs,

1 alterations, refitting, or modifications and such repairs,
2 alterations, refitting, or modifications are supported by
3 written documentation, the 20-day period shall be tolled
4 during the time the boat is physically in the care, custody,
5 and control of the repair facility, including the time spent
6 on sea trials conducted by the facility. The 20-day time
7 period may be tolled only once within a calendar year when a
8 boat is placed for the first time that year in the physical
9 care, custody, and control of a registered repair facility;
10 however, the owner may request and the department may grant an
11 additional tolling of the 20-day period for purposes of
12 repairs that arise from a written guarantee given by the
13 registered repair facility, which guarantee covers only those
14 repairs or modifications made during the first tolled period.
15 Within 72 hours after the date upon which the registered
16 repair facility took possession of the boat, the facility must
17 have in its possession, on forms prescribed by the department,
18 an affidavit which states that the boat is under its care,
19 custody, and control and that the owner does not use the boat
20 while in the facility. Upon completion of the repairs,
21 alterations, refitting, or modifications, the registered
22 repair facility must, within 72 hours after the date of
23 release, have in its possession a copy of the release form
24 which shows the date of release and any other information the
25 department requires. The repair facility shall maintain a log
26 that documents all alterations, additions, repairs, and sea
27 trials during the time the boat is under the care, custody,
28 and control of the facility. The affidavit shall be
29 maintained by the registered repair facility as part of its
30 records for as long as required by s. 213.35. When, within 6
31 months after the date of its purchase, a boat is brought into

1 this state under this paragraph, the 6-month period provided
2 in s. 212.05(1)(a)2. or s. 212.06(8) shall be tolled.

3 2. During the period of repairs, alterations,
4 refitting, or modifications and during the 20-day period
5 referred to in subparagraph 1., the boat may be listed for
6 sale, contracted for sale, or sold exclusively by a broker or
7 dealer registered with the department without incurring a use
8 tax under this chapter; however, the sales tax levied under
9 this chapter applies to such sale.

10 3. The mere storage of a boat at a registered repair
11 facility does not qualify as a tax-exempt use in this state.

12 4. As used in this paragraph, "registered repair
13 facility" means:

14 a. A full-service facility that:

15 (I) Is located on a navigable body of water;

16 (II) Has haulout capability such as a dry dock, travel
17 lift, railway, or similar equipment to service craft under the
18 care, custody, and control of the facility;

19 (III) Has adequate piers and storage facilities to
20 provide safe berthing of vessels in its care, custody, and
21 control; and

22 (IV) Has necessary shops and equipment to provide
23 repair or warranty work on vessels under the care, custody,
24 and control of the facility;

25 b. A marina that:

26 (I) Is located on a navigable body of water;

27 (II) Has adequate piers and storage facilities to
28 provide safe berthing of vessels in its care, custody, and
29 control; and

30 (III) Has necessary shops and equipment to provide
31 repairs or warranty work on vessels; or

1 c. A shoreside facility that:

2 (I) Is located on a navigable body of water;

3 (II) Has adequate piers and storage facilities to
4 provide safe berthing of vessels in its care, custody, and
5 control; and

6 (III) Has necessary shops and equipment to provide
7 repairs or warranty work.

8 (u) Volunteer fire departments.--Also exempt are
9 firefighting and rescue service equipment and supplies
10 purchased by volunteer fire departments, duly chartered under
11 the Florida Statutes as corporations not for profit.

12 (v) Professional services.--

13 1. Also exempted are professional, insurance, or
14 personal service transactions that involve sales as
15 inconsequential elements for which no separate charges are
16 made.

17 2. The personal service transactions exempted pursuant
18 to subparagraph 1. do not exempt the sale of information
19 services involving the furnishing of printed, mimeographed, or
20 multigraphed matter, or matter duplicating written or printed
21 matter in any other manner, other than professional services
22 and services of employees, agents, or other persons acting in
23 a representative or fiduciary capacity or information services
24 furnished to newspapers and radio and television stations. As
25 used in this subparagraph, the term "information services"
26 includes the services of collecting, compiling, or analyzing
27 information of any kind or nature and furnishing reports
28 thereof to other persons.

29 3. This exemption does not apply to any service
30 warranty transaction taxable under s. 212.0506.

31

1 4. This exemption does not apply to any service
2 transaction taxable under s. 212.05(1)(k).

3 (w) Certain newspaper, magazine, and newsletter
4 subscriptions, shoppers, and community newspapers.--Likewise
5 exempt are newspaper, magazine, and newsletter subscriptions
6 in which the product is delivered to the customer by mail.
7 Also exempt are free, circulated publications that are
8 published on a regular basis, the content of which is
9 primarily advertising, and that are distributed through the
10 mail, home delivery, or newsstands. The exemption for
11 newspaper, magazine, and newsletter subscriptions which is
12 provided in this paragraph applies only to subscriptions
13 entered into after March 1, 1997.

14 (x) Sporting equipment brought into the
15 state.--Sporting equipment brought into Florida, for a period
16 of not more than 4 months in any calendar year, used by an
17 athletic team or an individual athlete in a sporting event is
18 exempt from the use tax if such equipment is removed from the
19 state within 7 days after the completion of the event.

20 (y) Charter fishing vessels.--The charge for
21 chartering any boat or vessel, with the crew furnished, solely
22 for the purpose of fishing is exempt from the tax imposed
23 under s. 212.04 or s. 212.05. This exemption does not apply
24 to any charge to enter or stay upon any "head-boat," party
25 boat, or other boat or vessel. Nothing in this paragraph
26 shall be construed to exempt any boat from sales or use tax
27 upon the purchase thereof except as provided in paragraph (t)
28 and s. 212.05.

29 (z) Vending machines sponsored by nonprofit or
30 charitable organizations.--Also exempt are food or drinks for
31 human consumption sold for 25 cents or less through a

1 coin-operated vending machine sponsored by a nonprofit
2 corporation qualified as nonprofit pursuant to s. 501(c)(3) or
3 (4) of the Internal Revenue Code of 1986, as amended.

4 (aa) Certain commercial vehicles.--Also exempt is the
5 sale, lease, or rental of a commercial motor vehicle as
6 defined in s. 207.002(2), when the following conditions are
7 met:

8 1. The sale, lease, or rental occurs between two
9 commonly owned and controlled corporations;

10 2. Such vehicle was titled and registered in this
11 state at the time of the sale, lease, or rental; and

12 3. Florida sales tax was paid on the acquisition of
13 such vehicle by the seller, lessor, or renter.

14 (bb) Community cemeteries.--Also exempt are purchases
15 by any nonprofit corporation that has qualified under s.
16 501(c)(13) of the Internal Revenue Code of 1986, as amended,
17 and is operated for the purpose of maintaining a cemetery that
18 was donated to the community by deed.

19 (cc) Coast Guard auxiliaries.--A nonprofit
20 organization that is affiliated with the Coast Guard, that is
21 exempt from federal income tax pursuant to s. 501(a) and
22 (c)(3) of the Internal Revenue Code of 1986, as amended, and
23 the primary purpose of which is to promote safe boating and to
24 conduct free public education classes in basic seamanship is
25 exempt from the tax imposed by this chapter.

26 (dd) Works of art.--

27 1. Also exempt are works of art sold to or used by an
28 educational institution, as defined in sub-subparagraph

29 (o)2.d.

30 2. This exemption also applies to the sale to or use
31 in this state of any work of art by any person if it was

1 purchased or imported exclusively for the purpose of being
2 loaned to and made available for display by any educational
3 institution, provided that the term of the loan agreement is
4 for at least 10 years.

5 3. A work of art is presumed to have been purchased in
6 or imported into this state exclusively for loan as provided
7 in subparagraph 2., if it is so loaned or placed in storage in
8 preparation for such a loan within 90 days after purchase or
9 importation, whichever is later; but a work of art is not
10 deemed to be placed in storage for purposes of this exemption
11 if it is displayed at any place other than an educational
12 institution.

13 4. The exemptions provided by this paragraph are
14 allowed only if the person who purchased the work of art gives
15 to the vendor an affidavit meeting the requirements,
16 established by rule, to document entitlement to the exemption.
17 The person who purchased the work of art shall forward a copy
18 of such affidavit to the Department of Revenue at the time it
19 is issued to the vendor.

20 5. The exemption provided by subparagraph 2. applies
21 only for the period during which a work of art is in the
22 possession of the educational institution or is in storage
23 before transfer of possession to that institution; and when it
24 ceases to be so possessed or held, tax based upon the sales
25 price paid by the owner is payable, and the statute of
26 limitations provided in s. 95.091 shall begin to run at that
27 time. Any educational institution which has received a work
28 of art pursuant to this paragraph shall make available to the
29 department information relating to the work of art. Any
30 educational institution that transfers from its possession a
31

1 work of art as defined by this paragraph must notify the
2 Department of Revenue within 60 days after the transfer.

3 6. For purposes of the exemptions provided by this
4 paragraph, the term "work of art" includes pictorial
5 representations, sculpture, jewelry, antiques, stamp
6 collections and coin collections, and other tangible personal
7 property, the value of which is attributable predominantly to
8 its artistic, historical, political, cultural, or social
9 importance.

10 7. This paragraph is a remedial clarification of
11 legislative intent and applies to all taxes that remain open
12 to assessment or contest on July 1, 1992.

13 (ee) Taxicab leases.--The lease of or license to use a
14 taxicab or taxicab-related equipment and services provided by
15 a taxicab company to an independent taxicab operator are
16 exempt, provided, however, the exemptions provided under this
17 paragraph only apply if sales or use tax has been paid on the
18 acquisition of the taxicab and its related equipment.

19 (ff) Aircraft repair and maintenance labor
20 charges.--There shall be exempt from the tax imposed by this
21 chapter all labor charges for the repair and maintenance of
22 aircraft of more than 20,000 pounds maximum certified takeoff
23 weight. Charges for parts and equipment furnished in
24 connection with such labor charges are taxable.

25 (gg) Athletic event sponsors.--There shall be exempt
26 from the tax imposed by this chapter sales or leases to those
27 organizations which:

- 28 1.a. Are incorporated pursuant to chapter 617; and
29 b. Hold a current exemption from federal corporate
30 income tax liability pursuant to s. 501(c)(3) of the Internal
31 Revenue Code of 1986, as amended; and

1 2. Sponsor golf tournaments sanctioned by the PGA
2 Tour, PGA of America, or the LPGA.

3 (hh) Electric vehicles.--Effective July 1, 1995,
4 through June 30, 2000, the sale of an electric vehicle, as
5 defined in s. 320.01, is exempt from the tax imposed by this
6 chapter.

7 (ii) Certain electricity uses.--Charges for
8 electricity used directly and exclusively at a fixed location
9 in this state to operate machinery and equipment that is used
10 to manufacture, process, compound, or produce items of
11 tangible personal property for sale, or to operate pollution
12 control equipment, recycling equipment, maintenance equipment,
13 or monitoring or control equipment used in such operations are
14 exempt from the tax imposed by this chapter as provided in
15 subparagraph 2. The exemption provided for herein is
16 applicable if the electricity that is used for the exempt
17 purposes is separately metered, or if it is not separately
18 metered, it is irrevocably presumed that 50 percent of the
19 charge for electricity is for nonexempt purposes. This
20 exemption only applies to industries classified under SIC
21 Industry Major Group Numbers 10, 12, 13, 14, 20, 21, 22, 23,
22 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38,
23 and 39. As used in this paragraph, "SIC" means those
24 classifications contained in the Standard Industrial
25 Classification Manual, 1987, as published by the Office of
26 Management and Budget, Executive Office of the President.
27 Possession by a seller of a written certification by the
28 purchaser, certifying the purchaser's entitlement to an
29 exemption permitted by this subsection, relieves the seller
30 from the responsibility of collecting the tax on the
31 nontaxable amounts, and the department shall look solely to

1 the purchaser for recovery of such tax if it determines that
2 the purchaser was not entitled to the exemption. Such
3 exemption shall be applied as follows:

4 1. Beginning July 1, 1996, 20 percent of the charges
5 for such electricity shall be exempt.

6 2. Beginning July 1, 1997, 40 percent of the charges
7 for such electricity shall be exempt.

8 3. Beginning July 1, 1998, 60 percent of the charges
9 for such electricity shall be exempt.

10 4. Beginning July 1, 1999, 80 percent of the charges
11 for such electricity shall be exempt.

12 5. Beginning July 1, 2000, 100 percent of the charges
13 for such electricity shall be exempt.

14

15 Notwithstanding any other provision in this paragraph to the
16 contrary, in order to receive the exemption provided in this
17 paragraph a taxpayer must register with the WAGES Program
18 Business Registry established by the local WAGES coalition for
19 the area in which the taxpayer is located. Such registration
20 establishes a commitment on the part of the taxpayer to hire
21 WAGES program participants to the maximum extent possible
22 consistent with the nature of their business. In order to
23 determine whether the exemption provided in this paragraph
24 from the tax on charges for electricity has an effect on
25 retaining or attracting companies to this state, the Office of
26 Program Policy Analysis and Governmental Accountability shall
27 periodically monitor and report on the industries receiving
28 the exemption. The first report shall be submitted no later
29 than January 1, 1997, and must be conducted in such a manner
30 as to specifically determine the number of companies within
31 each SIC Industry Major Group receiving the exemption as of

1 September 1, 1996, and the number of individuals employed by
2 companies within each SIC Industry Major Group receiving the
3 exemption as of September 1, 1996. The second report shall be
4 submitted no later than January 1, 2001, and must be
5 comprehensive in scope, but, at a minimum, must be conducted
6 in such a manner as to specifically determine the number of
7 companies within each SIC Industry Major Group receiving the
8 exemption as of September 1, 2000, the number of individuals
9 employed by companies within each SIC Industry Major Group
10 receiving the exemption as of September 1, 2000, whether the
11 change, if any, in such number of companies or employees is
12 attributable to the exemption provided in this paragraph,
13 whether it would be sound public policy to continue or
14 discontinue the exemption, and the consequences of doing so.
15 Both reports shall be submitted to the President of the
16 Senate, the Speaker of the House of Representatives, the
17 Senate Minority Leader, and the House Minority Leader.

18 (jj) Fair associations.--Also exempt from the tax
19 imposed by this chapter is the sale, use, lease, rental, or
20 grant of a license to use, made directly to or by a fair
21 association, of real or tangible personal property; any charge
22 made by a fair association, or its agents, for parking,
23 admissions, or for temporary parking of vehicles used for
24 sleeping quarters; rentals, subleases, and sublicenses of real
25 or tangible personal property between the owner of the central
26 amusement attraction and any owner of amusement devices and
27 amusement attractions, as those terms are used in ss.

28 616.15(1)(b) and 616.242(3)(a) and (i), for the furnishing of
29 amusement devices and amusement attractions at a public fair
30 or exposition; and other transactions of a fair association
31 which are incurred directly by the fair association in the

1 financing, construction, and operation of a fair, exposition,
2 or other event or facility that is authorized by s. 616.08. As
3 used in this paragraph, the terms "fair association" and
4 "public fair or exposition" have the same meaning as those
5 terms are defined in s. 616.001. This exemption does not apply
6 to the sale of tangible personal property made by a fair
7 association through an agent or independent contractor; sales
8 of admissions and tangible personal property by a
9 concessionaire, vendor, exhibitor, or licensee; or rentals and
10 subleases of tangible personal property or real property
11 between the owner of the central amusement attraction and a
12 concessionaire, vendor, exhibitor, or licensee, except for the
13 furnishing of amusement devices or amusement attractions,
14 which transactions are exempt.

15 (kk) Citizen support organizations.--Beginning July 1,
16 1996, nonprofit organizations that are incorporated under
17 chapter 617 or hold a current exemption from federal corporate
18 income tax under s. 501(c)(3) of the Internal Revenue Code, as
19 amended, and that have been designated citizen support
20 organizations in support of state-funded environmental
21 programs or the management of state-owned lands in accordance
22 with s. 370.0205, or to support one or more state parks in
23 accordance with s. 258.015 are exempt from the tax imposed by
24 this chapter.

25 (ll) Florida Folk Festival.--There shall be exempt
26 from the tax imposed by this chapter income of a revenue
27 nature received from admissions to the Florida Folk Festival
28 held pursuant to s. 267.16 at the Stephen Foster State Folk
29 Culture Center, a unit of the state park system.

30 (mm) Solar energy systems.--Also exempt are solar
31 energy systems or any component thereof. The Florida Solar

1 Energy Center shall from time to time certify to the
2 department a list of equipment and requisite hardware
3 considered to be a solar energy system or a component thereof.
4 This exemption is repealed July 1, 2002.

5 (nn) Nonprofit cooperative hospital
6 laundries.--Nonprofit organizations that are incorporated
7 under chapter 617 and which are treated, for federal income
8 tax purposes, as cooperatives under subchapter T of the
9 Internal Revenue Code, whose sole purpose is to offer laundry
10 supplies and services to their members, which members must all
11 be exempt from federal income tax pursuant to s. 501(c)(3) of
12 the Internal Revenue Code, are exempt from the tax imposed by
13 this chapter.

14 (oo) Complimentary meals.--Also exempt from the tax
15 imposed by this part are food or drinks that are furnished as
16 part of a packaged room rate by any person offering for rent
17 or lease any transient living accommodations as described in
18 s. 509.013(4)(a) which are licensed under part I of chapter
19 509 and which are subject to the tax under s. 212.03, if a
20 separate charge or specific amount for the food or drinks is
21 not shown. Such food or drinks are considered to be sold at
22 retail as part of the total charge for the transient living
23 accommodations. Moreover, the person offering the
24 accommodations is not considered to be the consumer of items
25 purchased in furnishing such food or drinks and may purchase
26 those items under conditions of a sale for resale.

27 (pp) Nonprofit corporation conducting the correctional
28 work programs.--Products sold pursuant to s. 946.515 by the
29 corporation organized pursuant to part II of chapter 946 are
30 exempt from the tax imposed by this chapter. This exemption
31 applies retroactively to July 1, 1983.

1 (qq) Racing dogs.--The sale of a racing dog by its
2 owner is exempt if the owner is also the breeder of the
3 animal.

4
5 Exemptions provided to any entity by this subsection shall not
6 inure to any transaction otherwise taxable under this chapter
7 when payment is made by a representative or employee of such
8 entity by any means, including, but not limited to, cash,
9 check, or credit card even when that representative or
10 employee is subsequently reimbursed by such entity.

11 Section 4. Section 212.09, Florida Statutes, is
12 amended to read:

13 212.09 Trade-ins deducted.--

14 (1) Where used articles, accepted and intended for
15 resale,are taken in trade, or a series of trades, as a credit
16 or part payment on the sale of new articles, the tax levied by
17 this chapter shall be paid on the sales price of the new
18 article, less the credit for the used article taken in trade.

19 (2) Where used articles, accepted and intended for
20 resale,are taken in trade, or a series of trades, as a credit
21 or part payment on the sale of used articles, the tax levied
22 by this chapter shall be paid on the sales price of the used
23 article less the credit for the used article taken in trade.

24 (3) A person who is not registered with the department
25 as a seller of aircraft, boats, mobile homes, or vehicles who
26 is selling an aircraft, boat, mobile home, or vehicle and who
27 takes in trade an item other than an aircraft, boat, mobile
28 home, or vehicle may not use the item as a credit against
29 sales price.

30 Section 5. Section 212.17, Florida Statutes, is
31 amended to read:

1 212.17 Credits for returned goods, rentals, or
2 admissions; goods acquired for dealer's own use and
3 subsequently resold;additional powers of department.--

4 (1)(a) In the event purchases are returned to a ~~the~~
5 dealer by the purchaser or consumer after the tax imposed by
6 this chapter has been collected from or charged to the account
7 of the consumer or user, the dealer shall be entitled to
8 reimbursement of the amount of tax collected or charged by the
9 dealer, in the manner prescribed by the department. ~~and in~~
10 ~~case~~

11 (b) A registered dealer that purchases property for
12 the dealer's own use, pays tax on acquisition, and sells the
13 property subsequent to acquisition without ever having used
14 the property is entitled to reimbursement, in the manner
15 prescribed by the department, of the amount of tax paid on the
16 property's acquisition.

17 (c) If the tax has not been remitted by a ~~the~~ dealer
18 to the department, the dealer may deduct the same in
19 submitting his or her return upon receipt of a signed
20 statement of the dealer as to the gross amount of such refunds
21 during the period covered by said signed statement, which
22 period shall not be longer than 90 days. The department shall
23 issue to the dealer an official credit memorandum equal to the
24 net amount remitted by the dealer for such tax collected or
25 paid. Such memorandum shall be accepted by the department at
26 full face value from the dealer to whom it is issued, in the
27 remittance for subsequent taxes accrued under the provisions
28 of this chapter. ~~If provided, in cases where~~ a dealer has
29 retired from business and has filed a final return, a refund
30 of tax may be made if it can be established to the
31 satisfaction of the department that the tax was not due.

1 (2) A dealer who has paid the tax imposed by this
2 chapter on tangible personal property sold under a retained
3 title, conditional sale, or similar contract, or under a
4 contract wherein the dealer retains a security interest in the
5 property pursuant to chapter 679, may take credit or obtain a
6 refund for the tax paid by the dealer on the unpaid balance
7 due him or her when he or she repossesses (with or without
8 judicial process) the property within 12 months following the
9 month in which the property was repossessed. When such
10 repossessed property is resold, the sale is subject in all
11 respects to the tax imposed by this chapter.

12 (3) A dealer who has paid the tax imposed by this
13 chapter on tangible personal property or services may take a
14 credit or obtain a refund for any tax paid by the dealer on
15 the unpaid balance due on worthless accounts within 12 months
16 following the month in which the bad debt has been charged off
17 for federal income tax purposes. If any accounts so charged
18 off for which a credit or refund has been obtained are
19 thereafter in whole or in part paid to the dealer, the amount
20 so paid shall be included in the first return filed after such
21 collection and the tax paid accordingly.

22 (4) The department shall design, prepare, print and
23 furnish to all dealers, or make available to said dealers, all
24 necessary forms for filing returns and instructions to ensure
25 a full collection from dealers and an accounting for the taxes
26 due, but failure of any dealer to secure such forms shall not
27 relieve such dealer from the payment of said tax at the time
28 and in the manner herein provided.

29 (5) The department and its assistants are hereby
30 authorized and empowered to administer the oath for the
31

1 purpose of enforcing and administering the provisions of this
2 chapter.

3 (6) The department shall have the power to make,
4 prescribe and publish reasonable rules and regulations not
5 inconsistent with this chapter, or the other laws, or the
6 constitution of this state, or the United States, for the
7 enforcement of the provisions of this chapter and the
8 collection of revenue hereunder, and such rules and
9 regulations shall when enforced be deemed to be reasonable and
10 just.

11 (7) The department, where admissions, license fees, or
12 rental payments or payments for services are made and
13 thereafter returned to the payers after the taxes thereon have
14 been paid, shall return or credit the taxpayer for taxes so
15 paid on the moneys returned in the same manner as is provided
16 for returns or credits of taxes where purchases or tangible
17 personal property are returnable to a dealer.

18 Section 6. Subsection (3) of section 212.18, Florida
19 Statutes, is amended, and subsection (6) is added to that
20 section, to read:

21 212.18 Administration of law; registration of dealers;
22 rules.--

23 (3)(a) Every person desiring to engage in or conduct
24 business in this state as a dealer, as defined in this
25 chapter, or to lease, rent, or let or grant licenses in living
26 quarters or sleeping or housekeeping accommodations in hotels,
27 apartment houses, roominghouses, or tourist or trailer camps
28 that are subject to tax under s. 212.03, or to lease, rent, or
29 let or grant licenses in real property, as defined in this
30 chapter, and every person who sells or receives anything of
31 value by way of admissions, must file with the department an

1 application for a certificate of registration for each place
2 of business, showing the names of the persons who have
3 interests in such business and their residences, the address
4 of the business, and such other data as the department may
5 reasonably require. However, itinerant merchants selling
6 exclusively at flea markets may in lieu of registration remit
7 tax on their sales to the registered flea market operator in
8 the manner provided for in subsection (6) provided they fall
9 below the threshold requirement for individual registration
10 specified in such subsection.The department may appoint the
11 county tax collector as the department's agent to accept
12 applications for registrations. The application must be made
13 to the department before the person, firm, copartnership, or
14 corporation may engage in such business, and it must be
15 accompanied by a registration fee of \$5. However, a
16 registration fee is not required to accompany an application
17 to engage in or conduct business to make mail order sales. The
18 department, upon receipt of such application, will grant to
19 the applicant a separate certificate of registration for each
20 place of business, which certificate may be canceled by the
21 department or its designated assistants for any failure by the
22 certificateholder to comply with any of the provisions of this
23 chapter. The certificate is not assignable and is valid only
24 for the person, firm, copartnership, or corporation to which
25 issued. The certificate must be placed in a conspicuous place
26 in the business or businesses for which it is issued and must
27 be displayed at all times. Except as provided in this
28 paragraph, no person shall engage in business as a dealer or
29 in leasing, renting, or letting of or granting licenses in
30 living quarters or sleeping or housekeeping accommodations in
31 hotels, apartment houses, roominghouses, tourist or trailer

1 camps, or real property as hereinbefore defined, nor shall any
2 person sell or receive anything of value by way of admissions,
3 without first having obtained such a certificate or after such
4 certificate has been canceled; no person shall receive any
5 license from any authority within the state to engage in any
6 such business without first having obtained such a certificate
7 or after such certificate has been canceled. The engaging in
8 the business of selling or leasing tangible personal property
9 or services or as a dealer, as defined in this chapter, or the
10 engaging in leasing, renting, or letting of or granting
11 licenses in living quarters or sleeping or housekeeping
12 accommodations in hotels, apartment houses, roominghouses, or
13 tourist or trailer camps that are taxable under this chapter,
14 or real property, or the engaging in the business of selling
15 or receiving anything of value by way of admissions, without
16 such certificate first being obtained or after such
17 certificate has been canceled by the department, is
18 prohibited. The failure or refusal of any person, firm,
19 copartnership, or corporation to so qualify when required
20 hereunder is a misdemeanor of the first degree, punishable as
21 provided in s. 775.082 or s. 775.083, or subject to injunctive
22 proceedings as provided by law. Such failure or refusal also
23 subjects the offender to a \$100 initial registration fee in
24 lieu of the \$5 registration fee authorized in this paragraph.
25 However, the department may waive the increase in the
26 registration fee if it is determined by the department that
27 the failure to register was due to reasonable cause and not to
28 willful negligence, willful neglect, or fraud.

29 (b) The department may revoke any dealer's certificate
30 of registration when the dealer fails to comply with this
31 chapter. Prior to revocation of a dealer's certificate of

1 registration, the department must schedule an informal
2 conference at which the dealer may present evidence regarding
3 the department's intended revocation or enter into a
4 compliance agreement with the department. The department must
5 notify the dealer of its intended action and the time, place,
6 and date of the scheduled informal conference by written
7 notification sent by U.S. mail to the dealer's last known
8 address of record furnished by the dealer on a form prescribed
9 by the department. The dealer is required to attend the
10 informal conference and present evidence refuting the
11 department's intended revocation or enter into a compliance
12 agreement with the department which resolves the dealer's
13 failure to comply with this chapter. The department shall
14 issue an administrative complaint under s. 120.60 if the
15 dealer fails to attend the department's informal conference,
16 fails to enter into a compliance agreement with the department
17 resolving the dealer's noncompliance with this chapter, or
18 fails to comply with the executed compliance agreement.

19 (c)(b) As used in this paragraph, the term "exhibitor"
20 means a person who enters into an agreement authorizing the
21 display of tangible personal property or services at a
22 convention or a trade show. The following provisions apply to
23 the registration of exhibitors as dealers under this chapter:

24 1. An exhibitor whose agreement prohibits the sale of
25 tangible personal property or services subject to the tax
26 imposed in this chapter is not required to register as a
27 dealer.

28 2. An exhibitor whose agreement provides for the sale
29 at wholesale only of tangible personal property or services
30 subject to the tax imposed in this chapter must obtain a
31

1 resale certificate from the purchasing dealer but is not
2 required to register as a dealer.

3 3. An exhibitor whose agreement authorizes the retail
4 sale of tangible personal property or services subject to the
5 tax imposed in this chapter must register as a dealer and
6 collect the tax imposed under this chapter on such sales.

7 4. Any exhibitor who makes a mail order sale pursuant
8 to s. 212.0596 must register as a dealer.

9
10 Any person who conducts a convention or a trade show must make
11 their exhibitor's agreements available to the department for
12 inspection and copying.

13 (6)(a) Notwithstanding the requirements of subsection
14 (3), a flea market operator, manager, lessor, or owner shall:

15 1. Register with the Department of Revenue. Only one
16 tax number is required for each flea market business location.
17 The flea market operator, manager, lessor, or owner shall
18 remit the tax collected on the space rentals and the tax
19 collected from unregistered flea market vendors under this
20 number monthly, unless otherwise notified.

21 2. Collect tax on all space rentals from flea market
22 vendors and remit it to the department. The amount of tax
23 shall be separately stated from the rental charge and must be
24 shown as Florida tax on any rental agreement, invoice, or
25 other tangible evidence that authorizes the use of the rental
26 space.

27 3.a. Obtain from each unregistered flea market vendor
28 a signed statement declaring that the unregistered flea market
29 vendor agrees to collect the applicable tax on his or her
30 sales and remit it to the flea market operator, manager,
31 lessor, or owner at the close of each business day. The

1 statement shall include both the permanent business address,
2 if applicable, and the residence address of the flea market
3 vendor. These documents shall be retained for a period of 5
4 years. Records of taxes collected and remitted shall be
5 retained for the period specified in s. 213.35. The flea
6 market operator, manager, lessor, or owner is not responsible
7 for the failure of the flea market vendor to properly collect,
8 remit, and account for the sales tax.

9 b. Provide each unregistered flea market vendor with a
10 sign no smaller than 8" x 10" with lettering at least 1" high,
11 which must be displayed in a conspicuous place at the stall or
12 other place of sale by the vendor and which reads as follows:

13 "Name of vendor" is duly authorized to collect
14 Florida sales tax for remittance by the flea
15 market operator to the Department of Revenue.

16 c. Furnish unregistered flea market vendors with tax
17 envelopes so that the unregistered vendor can record the daily
18 sales transactions and remit the taxes collected and due to
19 the flea market operator, manager, lessor, or owner. The
20 department may adopt necessary rules to prescribe the format
21 for the tax envelopes.

22 4.a. Obtain from each registered flea market vendor a
23 photocopy of the vendor's Certificate of Registration or, in
24 lieu thereof, a statement from the registered vendor attesting
25 that the vendor has a valid Certificate of Registration. The
26 statement should contain the registration number and the
27 effective date the number was issued and should be signed by
28 the vendor. These documents shall be retained for a period of
29 5 years.

30 b. Provide each registered flea market vendor with a
31 sign no smaller than 8" x 10" with lettering at least 1" high,

1 which must be displayed in a conspicuous place at the stall or
2 other place of sale by the vendor and which reads as follows:

3 "Name of vendor" is duly authorized to collect
4 and remit Florida sales tax to the Department
5 of Revenue.

6 (b) A flea market operator, manager, lessor, or owner
7 may refuse to lease space to any flea market vendor who fails
8 to provide the documents required under subparagraph (a)3. or
9 subparagraph (a)4.

10 (c) A flea market operator, manager, lessor, or owner
11 is required to remit the sales tax collected from each
12 unregistered flea market vendor when the vendor has collected
13 and remitted the tax to the flea market operator, manager,
14 lessor, or owner at the same time and on the same tax return
15 as required for the space rentals. Flea market vendors with an
16 estimated monthly sales tax liability of \$50 or greater must
17 register with the department and report their own taxes. Flea
18 market vendors with an estimated monthly sales tax liability
19 of less than \$50 must elect to either remit the tax to the
20 flea market operator, manager, lessor, or owner or to
21 register, report, and remit their own taxes. Taxes collected
22 become state funds at the moment of collection. Any person
23 who, with intent to unlawfully deprive or defraud the state of
24 its moneys or the use or benefit thereof, fails to remit taxes
25 collected pursuant to chapter 212 is guilty of theft of state
26 funds, punishable as provided in s. 775.082, s. 775.083, or s.
27 775.084.

28 (d) A flea market operator, manager, lessor, or owner
29 shall furnish and post signs at each entrance of the flea
30 market and in other conspicuous places throughout the flea
31 market area. Such signs must state that "Florida Law Requires

1 Sales Tax To Be Collected On All Taxable Sales. The signs
2 shall have lettering at least 3 inches high.

3 Section 7. This act shall take effect July 1, 1998.

4
5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 SB 1692

8 As used in chapter 212, the committee substitute provides
9 definitions for "agricultural commodity" to include
10 aquaculture, "farmer" to include apiarists and persons raising
11 fish, and "livestock" to include fish raised for commercial
12 purposes, as well as, all animals raised for commercial
13 purposes other than for sale as a pet.

14 Implements the current rule requirement that the sales tax
15 exemption for purchases by exempt organizations may only be
16 taken when payment is made directly by the exempt organization
17 and not by employees or other representatives who are later
18 reimbursed.
19
20
21
22
23
24
25
26
27
28
29
30
31