

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 "agricultural
5 commodity," "farmer," and "livestock"; amending
6 s. 212.07, F.S.; prescribing dealer liability
7 for certain tax; prescribing tax liability for
8 sales of race horses in claiming races;
9 amending s. 212.08, F.S.; exempting certain
10 sales of racing dogs; disallowing a sales tax
11 exemption for purchases made by an employee of
12 an exempt organization when such payment is
13 made by the employee; amending s. 212.09, F.S.;
14 revising provisions regulating credits for
15 trade-ins; amending s. 212.17, F.S.; providing
16 for reimbursement of certain taxes paid by
17 dealers; amending s. 212.18, F.S.; providing
18 for revocation of a dealer's certificate of
19 registration; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsections (27), (28), and (29) are added
24 to section 212.02, Florida Statutes, to read:

25 212.02 Definitions.--The following terms and phrases
26 when used in this chapter have the meanings ascribed to them
27 in this section, except where the context clearly indicates a
28 different meaning:

29 (27) "Agricultural commodity" means horticultural,
30 aquacultural, poultry and farm products, and livestock and
31 livestock products.

1 (28) "Farmer" means a person who is directly engaged
2 in the business of producing crops, livestock, or other
3 agricultural commodities. The term includes, but is not
4 limited to, horse breeders, nurserymen, dairymen, poultry men,
5 cattle ranchers, apiarists, and persons raising fish.

6 (29) "Livestock" includes all animals of the equine,
7 bovine, or swine class, including goats, sheep, mules, horses,
8 hogs, cattle, ostriches, and other grazing animals raised for
9 commercial purposes. The term "livestock" shall also include
10 fish raised for commercial purposes.

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

14 212.07 Sales, storage, use tax; tax added to purchase
15 price; dealer not to absorb; liability of purchasers who
16 cannot prove payment of the tax; penalties; general
17 exemptions.--

18 (1)

19 (c) Unless the purchaser of tangible personal property
20 that is incorporated into tangible personal property
21 manufactured, produced, compounded, processed, or fabricated
22 for one's own use and subject to the tax imposed under s.
23 212.06(1)(b) or is purchased for export under s.
24 212.06(5)(a)1. extends a certificate in compliance with the
25 rules of the department, the dealer shall himself or herself
26 be liable for and pay the tax.

27 (5)(a) The gross proceeds derived from the sale in
28 this state of livestock, poultry, and other farm products
29 direct from the farm are exempted from the tax levied by this
30 chapter provided such sales are made directly by the
31 producers. The producers shall be entitled to such exemptions

1 although the livestock so sold in this state may have been
2 registered with a breeders' or registry association prior to
3 the sale and although the sale takes place at a livestock show
4 or race meeting, so long as the sale is made by the original
5 producer and within this state. When sales of livestock,
6 poultry, or other farm products are made to consumers by any
7 person, as defined herein, other than a producer, they are not
8 exempt from the tax imposed by this chapter. The foregoing
9 exemption does not apply to ornamental nursery stock offered
10 for retail sale by the producer.

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

17 ~~(8) The term "agricultural commodity," for the~~
18 ~~purposes hereof, means horticultural, poultry and farm~~
19 ~~products, and livestock and livestock products.~~

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

22 212.08 Sales, rental, use, consumption, distribution,
23 and storage tax; specified exemptions.--The sale at retail,
24 the rental, the use, the consumption, the distribution, and
25 the storage to be used or consumed in this state of the
26 following are hereby specifically exempt from the tax imposed
27 by this chapter.

28 (7) MISCELLANEOUS EXEMPTIONS.--

29 (a) Artificial commemorative flowers.--Exempt from the
30 tax imposed by this chapter is the sale of artificial
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1 commemorative flowers by bona fide nationally chartered
2 veterans' organizations.

3 (b) Boiler fuels.--When purchased for use as a
4 combustible fuel, purchases of natural gas, residual oil,
5 recycled oil, waste oil, solid waste material, coal, sulfur,
6 wood, wood residues or wood bark used in an industrial
7 manufacturing, processing, compounding, or production process
8 at a fixed location in this state are exempt from the taxes
9 imposed by this chapter; however, such exemption shall not be
10 allowed unless the purchaser signs a certificate stating that
11 the fuel to be exempted is for the exclusive use designated
12 herein. This exemption does not apply to the use of boiler
13 fuels that are not used in manufacturing, processing,
14 compounding, or producing items of tangible personal property
15 for sale, or to the use of boiler fuels used by any firm
16 subject to regulation by the Division of Hotels and
17 Restaurants of the Department of Business and Professional
18 Regulation.

19 (c) Crustacea bait.--Also exempt from the tax imposed
20 by this chapter is the purchase by commercial fishers of bait
21 intended solely for use in the entrapment of *Callinectes*
22 *sapidus* and *Menippe mercenaria*.

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

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

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

31

1 (g) Florida Retired Educators Association and its
2 local chapters.--Also exempt from payment of the tax imposed
3 by this chapter are purchases of office supplies, equipment,
4 and publications made by the Florida Retired Educators
5 Association and its local chapters.

6 (h) Guide dogs for the blind.--Also exempt are the
7 sale or rental of guide dogs for the blind, commonly referred
8 to as "seeing-eye dogs," and the sale of food or other items
9 for such guide dogs.

10 1. The department shall issue a consumer's certificate
11 of exemption to any blind person who holds an identification
12 card as provided for in s. 413.091 and who either owns or
13 rents, or contemplates the ownership or rental of, a guide dog
14 for the blind. The consumer's certificate of exemption shall
15 be issued without charge and shall be of such size as to be
16 capable of being carried in a wallet or billfold.

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

23 (i) Hospital meals and rooms.--Also exempt from
24 payment of the tax imposed by this chapter on rentals and
25 meals are patients and inmates of any hospital or other
26 physical plant or facility designed and operated primarily for
27 the care of persons who are ill, aged, infirm, mentally or
28 physically incapacitated, or otherwise dependent on special
29 care or attention. Residents of a home for the aged are exempt
30 from payment of taxes on meals provided through the facility.
31 A home for the aged is defined as a facility that is licensed

1 or certified in part or in whole under chapter 400 or chapter
2 651, or that is financed by a mortgage loan made or insured by
3 the United States Department of Housing and Urban Development
4 under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4),
5 s. 232, or s. 236 of the National Housing Act, or other such
6 similar facility designed and operated primarily for the care
7 of the aged.

8 (j) Household fuels.--Also exempt from payment of the
9 tax imposed by this chapter are sales of utilities to
10 residential households or owners of residential models in this
11 state by utility companies who pay the gross receipts tax
12 imposed under s. 203.01, and sales of fuel to residential
13 households or owners of residential models, including oil,
14 kerosene, liquefied petroleum gas, coal, wood, and other fuel
15 products used in the household or residential model for the
16 purposes of heating, cooking, lighting, and refrigeration,
17 regardless of whether such sales of utilities and fuels are
18 separately metered and billed direct to the residents or are
19 metered and billed to the landlord. If any part of the utility
20 or fuel is used for a nonexempt purpose, the entire sale is
21 taxable. The landlord shall provide a separate meter for
22 nonexempt utility or fuel consumption. For the purposes of
23 this paragraph, licensed family day care homes shall also be
24 exempt.

25 (k) Meals provided by certain nonprofit
26 organizations.--There is exempt from the tax imposed by this
27 chapter the sale of prepared meals by a nonprofit volunteer
28 organization to handicapped, elderly, or indigent persons when
29 such meals are delivered as a charitable function by the
30 organization to such persons at their places of residence.

31

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

6 (m) Nonprofit corporations; homes for the aged,
7 nursing homes, or hospices.--Nonprofit corporations which hold
8 current exemptions from federal corporate income tax pursuant
9 to s. 501(c)(3), Internal Revenue Code of 1954, as amended,
10 and which either qualify as homes for the aged pursuant to s.
11 196.1975(2) or are licensed as a nursing home or hospice under
12 the provisions of chapter 400, are exempt from the tax imposed
13 by this chapter.

14 (n) Organizations providing special educational,
15 cultural, recreational, and social benefits to minors.--There
16 shall be exempt from the tax imposed by this chapter nonprofit
17 organizations which are incorporated pursuant to chapter 617
18 or which hold a current exemption from federal corporate
19 income tax pursuant to s. 501(c)(3) of the Internal Revenue
20 Code the primary purpose of which is providing activities that
21 contribute to the development of good character or good
22 sportsmanship, or to the educational or cultural development,
23 of minors. This exemption is extended only to that level of
24 the organization that has a salaried executive officer or an
25 elected nonsalaried executive officer.

26 (o) Religious, charitable, scientific, educational,
27 and veterans' institutions and organizations.--

28 1. There are exempt from the tax imposed by this
29 chapter transactions involving:

30 a. Sales or leases directly to churches or sales or
31 leases of tangible personal property by churches;

1 b. Sales or leases to nonprofit religious, nonprofit
2 charitable, nonprofit scientific, or nonprofit educational
3 institutions when used in carrying on their customary
4 nonprofit religious, nonprofit charitable, nonprofit
5 scientific, or nonprofit educational activities, including
6 church cemeteries; and

7 c. Sales or leases to the state headquarters of
8 qualified veterans' organizations and the state headquarters
9 of their auxiliaries when used in carrying on their customary
10 veterans' organization activities. If a qualified veterans'
11 organization or its auxiliary does not maintain a permanent
12 state headquarters, then transactions involving sales or
13 leases to such organization and used to maintain the office of
14 the highest ranking state official are exempt from the tax
15 imposed by this chapter.

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

19 a. "Religious institutions" means churches,
20 synagogues, and established physical places for worship at
21 which nonprofit religious services and activities are
22 regularly conducted and carried on. The term "religious
23 institutions" includes nonprofit corporations the sole purpose
24 of which is to provide free transportation services to church
25 members, their families, and other church attendees. The term
26 "religious institutions" also includes state, district, or
27 other governing or administrative offices the function of
28 which is to assist or regulate the customary activities of
29 religious organizations or members. The term "religious
30 institutions" also includes any nonprofit corporation which is
31 qualified as nonprofit pursuant to s. 501(c)(3), Internal

1 Revenue Code of 1986, as amended, which owns and operates a
2 Florida television station, at least 90 percent of the
3 programming of which station consists of programs of a
4 religious nature, and the financial support for which,
5 exclusive of receipts for broadcasting from other nonprofit
6 organizations, is predominantly from contributions from the
7 general public. The term "religious institutions" also
8 includes any nonprofit corporation which is qualified as
9 nonprofit pursuant to s. 501(c)(3), Internal Revenue Code of
10 1986, as amended, which provides regular religious services to
11 Florida state prisoners and which from its own established
12 physical place of worship, operates a ministry providing
13 worship and services of a charitable nature to the community
14 on a weekly basis.

15 b. "Charitable institutions" means only nonprofit
16 corporations qualified as nonprofit pursuant to s. 501(c)(3),
17 Internal Revenue Code of 1954, as amended, and other nonprofit
18 entities, the sole or primary function of which is to provide,
19 or to raise funds for organizations which provide, one or more
20 of the following services if a reasonable percentage of such
21 service is provided free of charge, or at a substantially
22 reduced cost, to persons, animals, or organizations that are
23 unable to pay for such service:

24 (I) Medical aid for the relief of disease, injury, or
25 disability;

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

28 (III) Services for the prevention of or rehabilitation
29 of persons from alcoholism or drug abuse; the prevention of
30 suicide; or the alleviation of mental, physical, or sensory
31 health problems;

1 (IV) Social welfare services including adoption
2 placement, child care, community care for the elderly, and
3 other social welfare services which clearly and substantially
4 benefit a client population which is disadvantaged or suffers
5 a hardship;

6 (V) Medical research for the relief of disease,
7 injury, or disability;

8 (VI) Legal services; or

9 (VII) Food, shelter, or medical care for animals or
10 adoption services, cruelty investigations, or education
11 programs concerning animals;

12

13 and the term includes groups providing volunteer staff to
14 organizations designated as charitable institutions under this
15 sub-subparagraph; nonprofit organizations the sole or primary
16 purpose of which is to coordinate, network, or link other
17 institutions designated as charitable institutions under this
18 sub-subparagraph with those persons, animals, or organizations
19 in need of their services; and nonprofit national, state,
20 district, or other governing, coordinating, or administrative
21 organizations the sole or primary purpose of which is to
22 represent or regulate the customary activities of other
23 institutions designated as charitable institutions under this
24 sub-subparagraph. Notwithstanding any other requirement of
25 this section, any blood bank that relies solely upon volunteer
26 donations of blood and tissue, that is licensed under chapter
27 483, and that qualifies as tax exempt under s. 501(c)(3) of
28 the Internal Revenue Code constitutes a charitable institution
29 and is exempt from the tax imposed by this chapter. Sales to a
30 health system, qualified as nonprofit pursuant to s.
31 501(c)(3), Internal Revenue Code of 1986, as amended, which

1 filed an application for exemption with the department prior
2 to April 5, 1997, and which application is subsequently
3 approved, shall be exempt as to any unpaid taxes on purchases
4 made from January 1, 1994, to June 1, 1997.

5 c. "Scientific organizations" means scientific
6 organizations which hold current exemptions from federal
7 income tax under s. 501(c)(3) of the Internal Revenue Code and
8 also means organizations the purpose of which is to protect
9 air and water quality or the purpose of which is to protect
10 wildlife and which hold current exemptions from the federal
11 income tax under s. 501(c)(3) of the Internal Revenue Code.

12 d. "Educational institutions" means state
13 tax-supported or parochial, church and nonprofit private
14 schools, colleges, or universities which conduct regular
15 classes and courses of study required for accreditation by, or
16 membership in, the Southern Association of Colleges and
17 Schools, the Department of Education, the Florida Council of
18 Independent Schools, or the Florida Association of Christian
19 Colleges and Schools, Inc., or nonprofit private schools which
20 conduct regular classes and courses of study accepted for
21 continuing education credit by a Board of the Division of
22 Medical Quality Assurance of the Department of Business and
23 Professional Regulation or which conduct regular classes and
24 courses of study accepted for continuing education credit by
25 the American Medical Association. Nonprofit libraries, art
26 galleries, performing arts centers that provide educational
27 programs to school children, which programs involve
28 performances or other educational activities at the performing
29 arts center and serve a minimum of 50,000 school children a
30 year, and museums open to the public are defined as
31 educational institutions and are eligible for exemption. The

1 term "educational institutions" includes private nonprofit
2 organizations the purpose of which is to raise funds for
3 schools teaching grades kindergarten through high school,
4 colleges, and universities. The term "educational
5 institutions" includes any nonprofit newspaper of free or paid
6 circulation primarily on university or college campuses which
7 holds a current exemption from federal income tax under s.
8 501(c)(3) of the Internal Revenue Code, and any educational
9 television or radio network or system established pursuant to
10 s. 229.805 or s. 229.8051 and any nonprofit television or
11 radio station which is a part of such network or system and
12 which holds a current exemption from federal income tax under
13 s. 501(c)(3) of the Internal Revenue Code. The term
14 "educational institutions" also includes state, district, or
15 other governing or administrative offices the function of
16 which is to assist or regulate the customary activities of
17 educational organizations or members. The term "educational
18 institutions" also includes a nonprofit educational cable
19 consortium which holds a current exemption from federal income
20 tax under s. 501(c)(3) of the Internal Revenue Code of 1986,
21 as amended, whose primary purpose is the delivery of
22 educational and instructional cable television programming and
23 whose members are composed exclusively of educational
24 organizations which hold a valid consumer certificate of
25 exemption and which are either an educational institution as
26 defined in this sub-subparagraph, or qualified as a nonprofit
27 organization pursuant to s. 501(c)(3) of the Internal Revenue
28 Code of 1986, as amended.

29 e. "Veterans' organizations" means nationally
30 chartered or recognized veterans' organizations, including,
31 but not limited to, Florida chapters of the Paralyzed Veterans

1 of America, Catholic War Veterans of the U.S.A., Jewish War
2 Veterans of the U.S.A., and the Disabled American Veterans,
3 Department of Florida, Inc., which hold current exemptions
4 from federal income tax under s. 501(c)(4) or (19) of the
5 Internal Revenue Code.

6 (p) Resource recovery equipment.--Also exempt is
7 resource recovery equipment which is owned and operated by or
8 on behalf of any county or municipality, certified by the
9 Department of Environmental Protection under the provisions of
10 s. 403.715.

11 (q) School books and school lunches.--This exemption
12 applies to school books used in regularly prescribed courses
13 of study, and to school lunches served to students, in public,
14 parochial, or nonprofit schools operated for and attended by
15 pupils of grades 1 through 12. School books and food sold or
16 served at community colleges and other institutions of higher
17 learning are taxable.

18 (r) State theater contract organizations.--Nonprofit
19 organizations incorporated in accordance with chapter 617
20 which have qualified under s. 501(c)(3) of the Internal
21 Revenue Code of 1954, as amended, and which have been
22 designated as state theater contract organizations as provided
23 in s. 265.289 are exempt from the tax imposed by this chapter.

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

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

30 1. Notwithstanding the provisions of chapters 327 and
31 328, pertaining to the registration of vessels, a boat upon

1 which the state sales or use tax has not been paid is exempt
2 from the use tax under this chapter if it enters and remains
3 in this state for a period not to exceed a total of 20 days in
4 any calendar year calculated from the date of first dockage or
5 slippage at a facility, registered with the department, that
6 rents dockage or slippage space in this state. If a boat
7 brought into this state for use under this paragraph is placed
8 in a facility, registered with the department, for repairs,
9 alterations, refitting, or modifications and such repairs,
10 alterations, refitting, or modifications are supported by
11 written documentation, the 20-day period shall be tolled
12 during the time the boat is physically in the care, custody,
13 and control of the repair facility, including the time spent
14 on sea trials conducted by the facility. The 20-day time
15 period may be tolled only once within a calendar year when a
16 boat is placed for the first time that year in the physical
17 care, custody, and control of a registered repair facility;
18 however, the owner may request and the department may grant an
19 additional tolling of the 20-day period for purposes of
20 repairs that arise from a written guarantee given by the
21 registered repair facility, which guarantee covers only those
22 repairs or modifications made during the first tolled period.
23 Within 72 hours after the date upon which the registered
24 repair facility took possession of the boat, the facility must
25 have in its possession, on forms prescribed by the department,
26 an affidavit which states that the boat is under its care,
27 custody, and control and that the owner does not use the boat
28 while in the facility. Upon completion of the repairs,
29 alterations, refitting, or modifications, the registered
30 repair facility must, within 72 hours after the date of
31 release, have in its possession a copy of the release form

1 which shows the date of release and any other information the
2 department requires. The repair facility shall maintain a log
3 that documents all alterations, additions, repairs, and sea
4 trials during the time the boat is under the care, custody,
5 and control of the facility. The affidavit shall be
6 maintained by the registered repair facility as part of its
7 records for as long as required by s. 213.35. When, within 6
8 months after the date of its purchase, a boat is brought into
9 this state under this paragraph, the 6-month period provided
10 in s. 212.05(1)(a)2. or s. 212.06(8) shall be tolled.

11 2. During the period of repairs, alterations,
12 refitting, or modifications and during the 20-day period
13 referred to in subparagraph 1., the boat may be listed for
14 sale, contracted for sale, or sold exclusively by a broker or
15 dealer registered with the department without incurring a use
16 tax under this chapter; however, the sales tax levied under
17 this chapter applies to such sale.

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

20 4. As used in this paragraph, "registered repair
21 facility" means:

22 a. A full-service facility that:

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

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

27 (III) Has adequate piers and storage facilities to
28 provide safe berthing of vessels in its care, custody, and
29 control; and
30
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1 (IV) Has necessary shops and equipment to provide
2 repair or warranty work on vessels under the care, custody,
3 and control of the facility;

4 b. A marina that:

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

6 (II) Has adequate piers and storage facilities to
7 provide safe berthing of vessels in its care, custody, and
8 control; and

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

11 c. A shoreside facility that:

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

13 (II) Has adequate piers and storage facilities to
14 provide safe berthing of vessels in its care, custody, and
15 control; and

16 (III) Has necessary shops and equipment to provide
17 repairs or warranty work.

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

22 (v) Professional services.--

23 1. Also exempted are professional, insurance, or
24 personal service transactions that involve sales as
25 inconsequential elements for which no separate charges are
26 made.

27 2. The personal service transactions exempted pursuant
28 to subparagraph 1. do not exempt the sale of information
29 services involving the furnishing of printed, mimeographed, or
30 multigraphed matter, or matter duplicating written or printed
31 matter in any other manner, other than professional services

1 and services of employees, agents, or other persons acting in
2 a representative or fiduciary capacity or information services
3 furnished to newspapers and radio and television stations. As
4 used in this subparagraph, the term "information services"
5 includes the services of collecting, compiling, or analyzing
6 information of any kind or nature and furnishing reports
7 thereof to other persons.

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

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

12 (w) Certain newspaper, magazine, and newsletter
13 subscriptions, shoppers, and community newspapers.--Likewise
14 exempt are newspaper, magazine, and newsletter subscriptions
15 in which the product is delivered to the customer by mail.
16 Also exempt are free, circulated publications that are
17 published on a regular basis, the content of which is
18 primarily advertising, and that are distributed through the
19 mail, home delivery, or newsstands. The exemption for
20 newspaper, magazine, and newsletter subscriptions which is
21 provided in this paragraph applies only to subscriptions
22 entered into after March 1, 1997.

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

29 (y) Charter fishing vessels.--The charge for
30 chartering any boat or vessel, with the crew furnished, solely
31 for the purpose of fishing is exempt from the tax imposed

1 under s. 212.04 or s. 212.05. This exemption does not apply
2 to any charge to enter or stay upon any "head-boat," party
3 boat, or other boat or vessel. Nothing in this paragraph
4 shall be construed to exempt any boat from sales or use tax
5 upon the purchase thereof except as provided in paragraph (t)
6 and s. 212.05.

7 (z) Vending machines sponsored by nonprofit or
8 charitable organizations.--Also exempt are food or drinks for
9 human consumption sold for 25 cents or less through a
10 coin-operated vending machine sponsored by a nonprofit
11 corporation qualified as nonprofit pursuant to s. 501(c)(3) or
12 (4) of the Internal Revenue Code of 1986, as amended.

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

- 17 1. The sale, lease, or rental occurs between two
18 commonly owned and controlled corporations;
- 19 2. Such vehicle was titled and registered in this
20 state at the time of the sale, lease, or rental; and
- 21 3. Florida sales tax was paid on the acquisition of
22 such vehicle by the seller, lessor, or renter.

23 (bb) Community cemeteries.--Also exempt are purchases
24 by any nonprofit corporation that has qualified under s.
25 501(c)(13) of the Internal Revenue Code of 1986, as amended,
26 and is operated for the purpose of maintaining a cemetery that
27 was donated to the community by deed.

28 (cc) Coast Guard auxiliaries.--A nonprofit
29 organization that is affiliated with the Coast Guard, that is
30 exempt from federal income tax pursuant to s. 501(a) and
31 (c)(3) of the Internal Revenue Code of 1986, as amended, and

1 the primary purpose of which is to promote safe boating and to
2 conduct free public education classes in basic seamanship is
3 exempt from the tax imposed by this chapter.

4 (dd) Works of art.--

5 1. Also exempt are works of art sold to or used by an
6 educational institution, as defined in sub-subparagraph
7 (o)2.d.

8 2. This exemption also applies to the sale to or use
9 in this state of any work of art by any person if it was
10 purchased or imported exclusively for the purpose of being
11 loaned to and made available for display by any educational
12 institution, provided that the term of the loan agreement is
13 for at least 10 years.

14 3. A work of art is presumed to have been purchased in
15 or imported into this state exclusively for loan as provided
16 in subparagraph 2., if it is so loaned or placed in storage in
17 preparation for such a loan within 90 days after purchase or
18 importation, whichever is later; but a work of art is not
19 deemed to be placed in storage for purposes of this exemption
20 if it is displayed at any place other than an educational
21 institution.

22 4. The exemptions provided by this paragraph are
23 allowed only if the person who purchased the work of art gives
24 to the vendor an affidavit meeting the requirements,
25 established by rule, to document entitlement to the exemption.
26 The person who purchased the work of art shall forward a copy
27 of such affidavit to the Department of Revenue at the time it
28 is issued to the vendor.

29 5. The exemption provided by subparagraph 2. applies
30 only for the period during which a work of art is in the
31 possession of the educational institution or is in storage

1 before transfer of possession to that institution; and when it
2 ceases to be so possessed or held, tax based upon the sales
3 price paid by the owner is payable, and the statute of
4 limitations provided in s. 95.091 shall begin to run at that
5 time. Any educational institution which has received a work
6 of art pursuant to this paragraph shall make available to the
7 department information relating to the work of art. Any
8 educational institution that transfers from its possession a
9 work of art as defined by this paragraph must notify the
10 Department of Revenue within 60 days after the transfer.

11 6. For purposes of the exemptions provided by this
12 paragraph, the term "work of art" includes pictorial
13 representations, sculpture, jewelry, antiques, stamp
14 collections and coin collections, and other tangible personal
15 property, the value of which is attributable predominantly to
16 its artistic, historical, political, cultural, or social
17 importance.

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

21 (ee) Taxicab leases.--The lease of or license to use a
22 taxicab or taxicab-related equipment and services provided by
23 a taxicab company to an independent taxicab operator are
24 exempt, provided, however, the exemptions provided under this
25 paragraph only apply if sales or use tax has been paid on the
26 acquisition of the taxicab and its related equipment.

27 (ff) Aircraft repair and maintenance labor
28 charges.--There shall be exempt from the tax imposed by this
29 chapter all labor charges for the repair and maintenance of
30 aircraft of more than 20,000 pounds maximum certified takeoff
31

1 weight. Charges for parts and equipment furnished in
2 connection with such labor charges are taxable.

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

6 1.a. Are incorporated pursuant to chapter 617; and

7 b. Hold a current exemption from federal corporate
8 income tax liability pursuant to s. 501(c)(3) of the Internal
9 Revenue Code of 1986, as amended; and

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

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

16 (ii) Certain electricity uses.--Charges for
17 electricity used directly and exclusively at a fixed location
18 in this state to operate machinery and equipment that is used
19 to manufacture, process, compound, or produce items of
20 tangible personal property for sale, or to operate pollution
21 control equipment, recycling equipment, maintenance equipment,
22 or monitoring or control equipment used in such operations are
23 exempt from the tax imposed by this chapter as provided in
24 subparagraph 2. The exemption provided for herein is
25 applicable if the electricity that is used for the exempt
26 purposes is separately metered, or if it is not separately
27 metered, it is irrevocably presumed that 50 percent of the
28 charge for electricity is for nonexempt purposes. This
29 exemption only applies to industries classified under SIC
30 Industry Major Group Numbers 10, 12, 13, 14, 20, 21, 22, 23,
31 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38,

1 and 39. As used in this paragraph, "SIC" means those
2 classifications contained in the Standard Industrial
3 Classification Manual, 1987, as published by the Office of
4 Management and Budget, Executive Office of the President.
5 Possession by a seller of a written certification by the
6 purchaser, certifying the purchaser's entitlement to an
7 exemption permitted by this subsection, relieves the seller
8 from the responsibility of collecting the tax on the
9 nontaxable amounts, and the department shall look solely to
10 the purchaser for recovery of such tax if it determines that
11 the purchaser was not entitled to the exemption. Such
12 exemption shall be applied as follows:

- 13 1. Beginning July 1, 1996, 20 percent of the charges
14 for such electricity shall be exempt.
- 15 2. Beginning July 1, 1997, 40 percent of the charges
16 for such electricity shall be exempt.
- 17 3. Beginning July 1, 1998, 60 percent of the charges
18 for such electricity shall be exempt.
- 19 4. Beginning July 1, 1999, 80 percent of the charges
20 for such electricity shall be exempt.
- 21 5. Beginning July 1, 2000, 100 percent of the charges
22 for such electricity shall be exempt.

23
24 Notwithstanding any other provision in this paragraph to the
25 contrary, in order to receive the exemption provided in this
26 paragraph a taxpayer must register with the WAGES Program
27 Business Registry established by the local WAGES coalition for
28 the area in which the taxpayer is located. Such registration
29 establishes a commitment on the part of the taxpayer to hire
30 WAGES program participants to the maximum extent possible
31 consistent with the nature of their business. In order to

1 determine whether the exemption provided in this paragraph
2 from the tax on charges for electricity has an effect on
3 retaining or attracting companies to this state, the Office of
4 Program Policy Analysis and Governmental Accountability shall
5 periodically monitor and report on the industries receiving
6 the exemption. The first report shall be submitted no later
7 than January 1, 1997, and must be conducted in such a manner
8 as to specifically determine the number of companies within
9 each SIC Industry Major Group receiving the exemption as of
10 September 1, 1996, and the number of individuals employed by
11 companies within each SIC Industry Major Group receiving the
12 exemption as of September 1, 1996. The second report shall be
13 submitted no later than January 1, 2001, and must be
14 comprehensive in scope, but, at a minimum, must be conducted
15 in such a manner as to specifically determine the number of
16 companies within each SIC Industry Major Group receiving the
17 exemption as of September 1, 2000, the number of individuals
18 employed by companies within each SIC Industry Major Group
19 receiving the exemption as of September 1, 2000, whether the
20 change, if any, in such number of companies or employees is
21 attributable to the exemption provided in this paragraph,
22 whether it would be sound public policy to continue or
23 discontinue the exemption, and the consequences of doing so.
24 Both reports shall be submitted to the President of the
25 Senate, the Speaker of the House of Representatives, the
26 Senate Minority Leader, and the House Minority Leader.

27 (jj) Fair associations.--Also exempt from the tax
28 imposed by this chapter is the sale, use, lease, rental, or
29 grant of a license to use, made directly to or by a fair
30 association, of real or tangible personal property; any charge
31 made by a fair association, or its agents, for parking,

1 admissions, or for temporary parking of vehicles used for
2 sleeping quarters; rentals, subleases, and sublicenses of real
3 or tangible personal property between the owner of the central
4 amusement attraction and any owner of amusement devices and
5 amusement attractions, as those terms are used in ss.
6 616.15(1)(b) and 616.242(3)(a) and (i), for the furnishing of
7 amusement devices and amusement attractions at a public fair
8 or exposition; and other transactions of a fair association
9 which are incurred directly by the fair association in the
10 financing, construction, and operation of a fair, exposition,
11 or other event or facility that is authorized by s. 616.08. As
12 used in this paragraph, the terms "fair association" and
13 "public fair or exposition" have the same meaning as those
14 terms are defined in s. 616.001. This exemption does not apply
15 to the sale of tangible personal property made by a fair
16 association through an agent or independent contractor; sales
17 of admissions and tangible personal property by a
18 concessionaire, vendor, exhibitor, or licensee; or rentals and
19 subleases of tangible personal property or real property
20 between the owner of the central amusement attraction and a
21 concessionaire, vendor, exhibitor, or licensee, except for the
22 furnishing of amusement devices or amusement attractions,
23 which transactions are exempt.

24 (kk) Citizen support organizations.--Beginning July 1,
25 1996, nonprofit organizations that are incorporated under
26 chapter 617 or hold a current exemption from federal corporate
27 income tax under s. 501(c)(3) of the Internal Revenue Code, as
28 amended, and that have been designated citizen support
29 organizations in support of state-funded environmental
30 programs or the management of state-owned lands in accordance
31 with s. 370.0205, or to support one or more state parks in

1 accordance with s. 258.015 are exempt from the tax imposed by
2 this chapter.

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

8 (mm) Solar energy systems.--Also exempt are solar
9 energy systems or any component thereof. The Florida Solar
10 Energy Center shall from time to time certify to the
11 department a list of equipment and requisite hardware
12 considered to be a solar energy system or a component thereof.
13 This exemption is repealed July 1, 2002.

14 (nn) Nonprofit cooperative hospital
15 laundries.--Nonprofit organizations that are incorporated
16 under chapter 617 and which are treated, for federal income
17 tax purposes, as cooperatives under subchapter T of the
18 Internal Revenue Code, whose sole purpose is to offer laundry
19 supplies and services to their members, which members must all
20 be exempt from federal income tax pursuant to s. 501(c)(3) of
21 the Internal Revenue Code, are exempt from the tax imposed by
22 this chapter.

23 (oo) Complimentary meals.--Also exempt from the tax
24 imposed by this part are food or drinks that are furnished as
25 part of a packaged room rate by any person offering for rent
26 or lease any transient living accommodations as described in
27 s. 509.013(4)(a) which are licensed under part I of chapter
28 509 and which are subject to the tax under s. 212.03, if a
29 separate charge or specific amount for the food or drinks is
30 not shown. Such food or drinks are considered to be sold at
31 retail as part of the total charge for the transient living

1 accommodations. Moreover, the person offering the
2 accommodations is not considered to be the consumer of items
3 purchased in furnishing such food or drinks and may purchase
4 those items under conditions of a sale for resale.

5 (pp) Nonprofit corporation conducting the correctional
6 work programs.--Products sold pursuant to s. 946.515 by the
7 corporation organized pursuant to part II of chapter 946 are
8 exempt from the tax imposed by this chapter. This exemption
9 applies retroactively to July 1, 1983.

10 (qq) Racing dogs.--The sale of a racing dog by its
11 owner is exempt if the owner is also the breeder of the
12 animal.

13
14 Exemptions provided to any entity by this subsection shall not
15 inure to any transaction otherwise taxable under this chapter
16 when payment is made by a representative or employee of such
17 entity by any means, including, but not limited to, cash,
18 check, or credit card even when that representative or
19 employee is subsequently reimbursed by such entity.

20 Section 4. Section 212.09, Florida Statutes, is
21 amended to read:

22 212.09 Trade-ins deducted.--

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

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

3 (3) A person who is not registered with the department
4 as a seller of aircraft, boats, mobile homes, or vehicles who
5 is selling an aircraft, boat, mobile home, or vehicle and who
6 takes in trade an item other than an aircraft, boat, mobile
7 home, or vehicle may not use the item as a credit against
8 sales price.

9 Section 5. Section 212.17, Florida Statutes, is
10 amended to read:

11 212.17 Credits for returned goods, rentals, or
12 admissions; goods acquired for dealer's own use and
13 subsequently resold;additional powers of department.--

14 (1)(a) In the event purchases are returned to a ~~the~~
15 dealer by the purchaser or consumer after the tax imposed by
16 this chapter has been collected from or charged to the account
17 of the consumer or user, the dealer shall be entitled to
18 reimbursement of the amount of tax collected or charged by the
19 dealer, in the manner prescribed by the department. ~~and in~~
20 ~~case~~

21 (b) A registered dealer that purchases property for
22 the dealer's own use, pays tax on acquisition, and sells the
23 property subsequent to acquisition without ever having used
24 the property is entitled to reimbursement, in the manner
25 prescribed by the department, of the amount of tax paid on the
26 property's acquisition.

27 (c) If the tax has not been remitted by a ~~the~~ dealer
28 to the department, the dealer may deduct the same in
29 submitting his or her return upon receipt of a signed
30 statement of the dealer as to the gross amount of such refunds
31 during the period covered by said signed statement, which

1 period shall not be longer than 90 days. The department shall
2 issue to the dealer an official credit memorandum equal to the
3 net amount remitted by the dealer for such tax collected or
4 paid. Such memorandum shall be accepted by the department at
5 full face value from the dealer to whom it is issued, in the
6 remittance for subsequent taxes accrued under the provisions
7 of this chapter. ~~If provided, in cases where~~ a dealer has
8 retired from business and has filed a final return, a refund
9 of tax may be made if it can be established to the
10 satisfaction of the department that the tax was not due.

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

22 (3) A dealer who has paid the tax imposed by this
23 chapter on tangible personal property or services may take a
24 credit or obtain a refund for any tax paid by the dealer on
25 the unpaid balance due on worthless accounts within 12 months
26 following the month in which the bad debt has been charged off
27 for federal income tax purposes. If any accounts so charged
28 off for which a credit or refund has been obtained are
29 thereafter in whole or in part paid to the dealer, the amount
30 so paid shall be included in the first return filed after such
31 collection and the tax paid accordingly.

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

8 (5) The department and its assistants are hereby
9 authorized and empowered to administer the oath for the
10 purpose of enforcing and administering the provisions of this
11 chapter.

12 (6) The department shall have the power to make,
13 prescribe and publish reasonable rules and regulations not
14 inconsistent with this chapter, or the other laws, or the
15 constitution of this state, or the United States, for the
16 enforcement of the provisions of this chapter and the
17 collection of revenue hereunder, and such rules and
18 regulations shall when enforced be deemed to be reasonable and
19 just.

20 (7) The department, where admissions, license fees, or
21 rental payments or payments for services are made and
22 thereafter returned to the payers after the taxes thereon have
23 been paid, shall return or credit the taxpayer for taxes so
24 paid on the moneys returned in the same manner as is provided
25 for returns or credits of taxes where purchases or tangible
26 personal property are returnable to a dealer.

27 Section 6. Subsection (3) of section 212.18, Florida
28 Statutes, is amended to read:

29 212.18 Administration of law; registration of dealers;
30 rules.--

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1 (3)(a) Every person desiring to engage in or conduct
2 business in this state as a dealer, as defined in this
3 chapter, or to lease, rent, or let or grant licenses in living
4 quarters or sleeping or housekeeping accommodations in hotels,
5 apartment houses, roominghouses, or tourist or trailer camps
6 that are subject to tax under s. 212.03, or to lease, rent, or
7 let or grant licenses in real property, as defined in this
8 chapter, and every person who sells or receives anything of
9 value by way of admissions, must file with the department an
10 application for a certificate of registration for each place
11 of business, showing the names of the persons who have
12 interests in such business and their residences, the address
13 of the business, and such other data as the department may
14 reasonably require. The department may appoint the county tax
15 collector as the department's agent to accept applications for
16 registrations. The application must be made to the department
17 before the person, firm, copartnership, or corporation may
18 engage in such business, and it must be accompanied by a
19 registration fee of \$5. However, a registration fee is not
20 required to accompany an application to engage in or conduct
21 business to make mail order sales. The department, upon
22 receipt of such application, will grant to the applicant a
23 separate certificate of registration for each place of
24 business, which certificate may be canceled by the department
25 or its designated assistants for any failure by the
26 certificateholder to comply with any of the provisions of this
27 chapter. The certificate is not assignable and is valid only
28 for the person, firm, copartnership, or corporation to which
29 issued. The certificate must be placed in a conspicuous place
30 in the business or businesses for which it is issued and must
31 be displayed at all times. Except as provided in this

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

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

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

29 1. An exhibitor whose agreement prohibits the sale of
30 tangible personal property or services subject to the tax

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1 imposed in this chapter is not required to register as a
2 dealer.

3 2. An exhibitor whose agreement provides for the sale
4 at wholesale only of tangible personal property or services
5 subject to the tax imposed in this chapter must obtain a
6 resale certificate from the purchasing dealer but is not
7 required to register as a dealer.

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

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

14

15 Any person who conducts a convention or a trade show must make
16 their exhibitor's agreements available to the department for
17 inspection and copying.

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

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