

By Senator Thomas

3-1207-98

1 A bill to be entitled
2 An act relating to taxation (RAB); amending s.
3 197.162, F.S.; providing for discounts on early
4 tax payments; amending s. 197.182, F.S.;
5 providing for automatic refunds of overpayments
6 of tax greater than \$5; amending s. 197.344,
7 F.S.; providing for tax notices for
8 lienholders, trustees, and vendees; amending s.
9 212.02, F.S.; redefining the term "retail
10 sales" to revise standards for the exclusion of
11 packaging materials; amending s. 212.05, F.S.;
12 prescribing the entities that are considered
13 selling dealers for purposes of the sales,
14 storage, and use tax on aircraft and boats;
15 amending s. 212.054, F.S.; revising guidelines
16 for determination of exemption from partial
17 sales surtaxes; amending s. 212.06, F.S.;
18 revising guidelines for determining tax
19 liability of certain personal property;
20 providing for a use tax on certain aircraft;
21 defining the terms "real property," "fixtures,"
22 and "improvements to real property," for
23 purposes of determining when a person is
24 improving real property; providing guidelines
25 for determining tax liability on rock, shell,
26 fill dirt, and similar materials; amending s.
27 212.07, F.S.; prescribing tax liability for
28 sales of race horses in claiming races;
29 defining the terms "farmer" and "livestock";
30 amending s. 212.08, F.S.; exempting certain
31 sales of racing dogs; revising the sales tax

1 exemption provided for food and drinks;
2 providing definitions; exempting additional
3 medical supplies and equipment; providing
4 definitions for purposes of such exemption;
5 providing a partial exemption for certain
6 commercial fishing vessels; providing an
7 exemption for certain foods, drinks, and other
8 items provided to customers on a complimentary
9 basis by a dealer who sells food products at
10 retail; providing an exemption for foods and
11 beverages donated by such dealers to certain
12 organizations; revising provisions relating to
13 the technical assistance advisory committee
14 established to provide advice in determining
15 the taxability of specific products; providing
16 membership requirements; directing the
17 Department of Revenue to develop guidelines for
18 determining the taxability of specific
19 products; requiring that the department give
20 notice of proposed guidelines to persons
21 substantially affected and to the
22 Administrative Procedures Committee; providing
23 for use of the guidelines by the committee;
24 providing for determining the taxability of
25 specific products by the department;
26 authorizing the department to develop a central
27 database with respect to the taxability of
28 specific products; revising eligibility
29 standards for the partial exemption for farm
30 equipment; providing additional uses to which
31 equipment may be put and be eligible for the

1 exemption; specifying that other uses will
2 result in disallowance of the exemption;
3 exempting disinfectants, pesticides, weed
4 killers, certain seeds, cuttings, seedlings,
5 plants, and specified packaging items in
6 agricultural use; providing guidelines for
7 determining applicability of sales surtaxes to
8 certain transactions; amending s. 212.09, F.S.;
9 revising provisions regulating credits for
10 trade-ins; providing an effective date.

11

12 Be It Enacted by the Legislature of the State of Florida:

13

14 Section 1. Section 197.162, Florida Statutes, is
15 amended to read:

16 197.162 Discounts; amount and time.--On all taxes
17 assessed on the county tax rolls and collected by the county
18 tax collector, discounts for early payment thereof shall be at
19 the rate of 4 percent in the month of November or at any time
20 within 30 days after the mailing of the original tax notice; 3
21 percent in the month of December; 2 percent in the following
22 month of January; 1 percent in the following month of
23 February; and zero percent in the following month of March or
24 within 30 days prior to the date of delinquency if the date of
25 delinquency is after April 1. When a taxpayer makes a request
26 to have the original tax notice corrected, the discount rate
27 for early payment applicable at the time the request for
28 correction is made shall apply for 30 days after the mailing
29 of the corrected tax notice. A discount shall apply at the
30 rate of 4 percent for 30 days after the mailing of a tax
31 notice resulting from the action of a value adjustment board.

1 Thereafter, the regular discount periods shall apply.For the
2 purposes of this section, when a discount period ends on a
3 Saturday, Sunday, or legal holiday, the discount period shall
4 be extended to the next working day, if payment is delivered
5 to a designated collection office of the tax collector.

6 Section 2. Paragraph (b) of subsection (1) and
7 subsection (3) of section 197.182, Florida Statutes, are
8 amended to read:

9 197.182 Department of Revenue to pass upon and order
10 refunds.--

11 (1)

12 (b) Those refunds that ~~which~~ have been ordered by a
13 court and those refunds that ~~which~~ do not result from changes
14 made in the assessed value on a tax roll certified to the tax
15 collector shall be made directly by the tax collector without
16 order from the department and shall be made from undistributed
17 funds without approval of the various taxing authorities.
18 Overpayments in the amount of \$5 or less may be retained by
19 the tax collector unless a written claim for a refund is
20 received from the taxpayer. Overpayments over \$5 resulting
21 from taxpayer error, if determined within the 4-year period of
22 limitation, are to be automatically refunded to the taxpayer.
23 Such refunds do not require approval from the department.

24 (3) A refund ordered by the department pursuant to
25 this section shall be made by the tax collector in one
26 aggregate amount composed of all the pro rata shares of the
27 several taxing authorities concerned, except that a partial
28 refund is allowed when one or more of the taxing authorities
29 concerned do not have funds currently available to pay their
30 pro rata shares of the refund and this would cause an
31 unreasonable delay in the total refund. A statement by the

1 tax collector explaining the refund shall accompany the refund
2 payment. When taxes become delinquent as a result of a refund
3 pursuant to subparagraph (1)(a)4., the tax collector shall
4 notify the property owner that the taxes have become
5 delinquent and that a tax certificate will be sold if the
6 taxes are not paid within 30 days after the date of
7 delinquency.

8 Section 3. Subsection (2) of section 197.344, Florida
9 Statutes, is amended to read:

10 197.344 Lienholders; receipt of notices and delinquent
11 taxes.--

12 (2) On or before May 1 of each year, the holder or
13 mortgagee of an unsatisfied mortgage, lienholder, or vendee
14 under a contract for deed, upon filing with the tax collector
15 a description of land encumbered by a recorded mortgage and
16 paying a service charge of \$2, may request and receive
17 information concerning any delinquent taxes appearing on the
18 current tax roll and certificates issued on the described
19 mortgaged land. Upon receipt of such request, the tax
20 collector shall furnish the following information to the
21 mortgagee within 60 days following the tax certificate sale:

22 (a) The description of property on which certificates
23 were sold as requested by the mortgagee.

24 (b) The number of each certificate issued and to whom.

25 (c) The face amount of each certificate.

26 (d) The cost for redemption of each certificate.

27 Section 4. Paragraph (c) of subsection (14) of section
28 212.02, Florida Statutes, is amended to read:

29 212.02 Definitions.--The following terms and phrases
30 when used in this chapter have the meanings ascribed to them

31

1 in this section, except where the context clearly indicates a
2 different meaning:

3 (14)

4 (c) "Retail sales," "sale at retail," "use,"
5 "storage," and "consumption" do not include materials,
6 containers, labels, sacks, or bags when accompanying the
7 product sold to the final buyer or ultimate consumer without
8 which delivery of the product would be impracticable because
9 of the character of the contents and for which there is no
10 separate charge, when such items are ~~intended to be~~ used one
11 time only for packaging tangible personal property for sale or
12 for the convenience of the retail customer or for packaging in
13 the process of providing a service taxable under this chapter.
14 When a separate charge for packaging materials is made, the
15 charge shall be considered part of the selling price or rental
16 charge and is taxable. The term also does ~~and do~~ not include
17 the sale, use, storage, or consumption of industrial
18 materials, including chemicals and fuels except as provided
19 herein, for future processing, manufacture, or conversion into
20 articles of tangible personal property for resale when such
21 industrial materials, including chemicals and fuels except as
22 provided herein, become a component or ingredient of the
23 finished product. However, the ~~said~~ terms include the sale,
24 use, storage, or consumption of tangible personal property,
25 including machinery and equipment or parts thereof, purchased
26 electricity, and fuels used to power machinery, when such ~~said~~
27 items are used and dissipated in fabricating, converting, or
28 processing tangible personal property for sale, even though
29 they may become ingredients or components of the tangible
30 personal property for sale through accident, wear, tear,
31 erosion, corrosion, or similar means.

1 Section 5. Paragraph (a) of subsection (1) of section
2 212.05, Florida Statutes, is amended to read:

3 212.05 Sales, storage, use tax.--It is hereby declared
4 to be the legislative intent that every person is exercising a
5 taxable privilege who engages in the business of selling
6 tangible personal property at retail in this state, including
7 the business of making mail order sales, or who rents or
8 furnishes any of the things or services taxable under this
9 chapter, or who stores for use or consumption in this state
10 any item or article of tangible personal property as defined
11 herein and who leases or rents such property within the state.

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

15 (a)1.

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

21 b. Each occasional or isolated sale of an aircraft,
22 boat, mobile home, or motor vehicle of a class or type which
23 is required to be registered, licensed, titled, or documented
24 in this state or by the United States Government shall be
25 subject to tax at the rate provided in this paragraph. The
26 department shall by rule adopt any nationally recognized
27 publication for valuation of used motor vehicles as the
28 reference price list for any used motor vehicle which is
29 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),
30 (b), (c), or (e), or (9). If any party to an occasional or
31 isolated sale of such a vehicle reports to the tax collector a

1 sales price which is less than 80 percent of the average loan
2 price for the specified model and year of such vehicle as
3 listed in the most recent reference price list, the tax levied
4 under this paragraph shall be computed by the department on
5 such average loan price unless the parties to the sale have
6 provided to the tax collector an affidavit signed by each
7 party, or other substantial proof, stating the actual sales
8 price. Any party to such sale who reports a sales price less
9 than the actual sales price is guilty of a misdemeanor of the
10 first degree, punishable as provided in s. 775.082 or s.
11 775.083. The department shall collect or attempt to collect
12 from such party any delinquent sales taxes. In addition, such
13 party shall pay any tax due and any penalty and interest
14 assessed plus a penalty equal to twice the amount of the
15 additional tax owed. Notwithstanding any other provision of
16 law, the Department of Revenue may waive or compromise any
17 penalty imposed pursuant to this subparagraph.

18 2. This paragraph does not apply to the sale of a boat
19 or airplane by or through a registered dealer under this
20 chapter to a purchaser who, at the time of taking delivery, is
21 a nonresident of this state, does not make his or her
22 permanent place of abode in this state, and is not engaged in
23 carrying on in this state any employment, trade, business, or
24 profession in which the boat will be used in this state, or is
25 a corporation none of the officers or directors of which is a
26 resident of, or makes his or her permanent place of abode in,
27 this state. For purposes of this exemption, either a
28 registered dealer acting on his or her own behalf as seller, a
29 registered dealer acting as broker on behalf of a seller, or a
30 registered dealer acting as broker on behalf of the purchaser

31

1 may be deemed to be the selling dealer.This exemption shall
2 not be allowed unless:

3 a. The purchaser removes a qualifying boat, as
4 described in sub-subparagraph f., from the state within 90
5 days after the date of purchase or the purchaser removes a
6 nonqualifying boat or an airplane from this state within 10
7 days after the date of purchase or, when the boat or airplane
8 is repaired or altered, within 20 days after completion of the
9 repairs or alterations;

10 b. The purchaser, within 30 days from the date of
11 departure, shall provide the department with written proof
12 that the purchaser licensed, registered, titled, or documented
13 the boat or airplane outside the state. If such written proof
14 is unavailable, within 30 days the purchaser shall provide
15 proof that the purchaser applied for such license, title,
16 registration, or documentation. The purchaser shall forward
17 to the department proof of title, license, registration, or
18 documentation upon receipt.

19 c. The purchaser, within 10 days of removing the boat
20 or airplane from Florida, shall furnish the department with
21 proof of removal in the form of receipts for fuel, dockage,
22 slippage, tie-down, or hangaring from outside of Florida. The
23 information so provided must clearly and specifically identify
24 the boat or aircraft;

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

30 e. The seller makes a copy of the affidavit a part of
31 his or her record for as long as required by s. 213.35; and

1 f. Unless the nonresident purchaser of a boat of 5 net
2 tons of admeasurement or larger intends to remove the boat
3 from this state within 10 days after the date of purchase or
4 when the boat is repaired or altered, within 20 days after
5 completion of the repairs or alterations, the nonresident
6 purchaser shall apply to the selling dealer for a decal which
7 authorizes 90 days after the date of purchase for removal of
8 the boat. The department is authorized to issue decals in
9 advance to dealers. The number of decals issued in advance to
10 a dealer shall be consistent with the volume of the dealer's
11 past sales of boats which qualify under this sub-subparagraph.
12 The selling dealer or his or her agent shall mark and affix
13 the decals to qualifying boats in the manner prescribed by the
14 department, prior to delivery of the boat.

15 (I) The department is hereby authorized to charge
16 dealers a fee sufficient to recover the costs of decals
17 issued.

18 (II) The proceeds from the sale of decals will be
19 deposited into the administrative trust fund.

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

23 (IV) The department is authorized to require dealers
24 who purchase decals to file reports with the department and
25 may prescribe all necessary records by rule. All such records
26 are subject to inspection by the department.

27 (V) Any dealer or his or her agent who issues a decal
28 falsely, fails to affix a decal, mismarks the expiration date
29 of a decal, or fails to properly account for decals will be
30 considered prima facie to have committed a fraudulent act to
31 evade the tax and will be liable for payment of the tax plus a

1 mandatory penalty of 200 percent of the tax, and shall be
2 liable for fine and punishment as provided by law for a
3 conviction of a misdemeanor of the first degree, as provided
4 in s. 775.082 or s. 775.083.

5 (VI) Any nonresident purchaser of a boat who removes a
6 decal prior to permanently removing the boat from the state,
7 or defaces, changes, modifies, or alters a decal in a manner
8 affecting its expiration date prior to its expiration, or who
9 causes or allows the same to be done by another, will be
10 considered prima facie to have committed a fraudulent act to
11 evade the tax and will be liable for payment of the tax plus a
12 mandatory penalty of 200 percent of the tax, and shall be
13 liable for fine and punishment as provided by law for a
14 conviction of a misdemeanor of the first degree, as provided
15 in s. 775.082 or s. 775.083.

16 (VII) The department is authorized to adopt rules
17 necessary to administer and enforce this subparagraph and to
18 publish the necessary forms and instructions.

19 (VIII) The department is hereby authorized to adopt
20 emergency rules pursuant to s. 120.54(4) to administer and
21 enforce the provisions of this subparagraph.

22

23 If the purchaser fails to remove the qualifying boat from this
24 state within 90 days after purchase or a nonqualifying boat or
25 an airplane from this state within 10 days after purchase or,
26 when the boat or airplane is repaired or altered, within 20
27 days after completion of such repairs or alterations, or
28 permits the boat or airplane to return to this state within 6
29 months from the date of departure, or if the purchaser fails
30 to furnish the department with any of the documentation
31 required by this subparagraph within the prescribed time

1 period, the purchaser shall be liable for use tax on the cost
2 price of the boat or airplane and, in addition thereto,
3 payment of a penalty to the Department of Revenue equal to the
4 tax payable. This penalty shall be in lieu of the penalty
5 imposed by s. 212.12(2) and is mandatory and shall not be
6 waived by the department. The 90-day period following the
7 sale of a qualifying boat tax exempt to a nonresident may not
8 be tolled for any reason.

9 Section 6. Paragraph (b) of subsection (2) of section
10 212.054, Florida Statutes, is amended to read:

11 212.054 Discretionary sales surtax; limitations,
12 administration, and collection.--

13 (2)

14 (b) However:

15 1. The tax on any sales amount above \$5,000 on any
16 item of tangible personal property and on long-distance
17 telephone service shall not be subject to the surtax. For
18 purposes of administering the \$5,000 limitation on an item of
19 tangible personal property, if two or more taxable items of
20 tangible personal property are sold to the same purchaser at
21 the same time and, under generally accepted business practice
22 or industry standards or usage, are normally sold in bulk or
23 are items that, when assembled, comprise a working unit or
24 part of a working unit, such items must be considered a single
25 item for purposes of the \$5,000 limitation when supported by a
26 charge ticket, sales slip, invoice, or other tangible evidence
27 of a single sale or rental. The limitation provided in this
28 subparagraph does not apply to the sale of any other service.

29 2. In the case of utility, telecommunication, or
30 television system program services billed on or after the
31 effective date of any such surtax, the entire amount of the

1 tax for utility, telecommunication, or television system
2 program services shall be subject to the surtax. In the case
3 of utility, telecommunication, or television system program
4 services billed after the last day the surtax is in effect,
5 the entire amount of the tax on said items shall not be
6 subject to the surtax.

7 3. In the case of written contracts which are signed
8 prior to the effective date of any such surtax for the
9 construction of improvements to real property or for
10 remodeling of existing structures, the surtax shall be paid by
11 the contractor responsible for the performance of the
12 contract. However, the contractor may apply for one refund of
13 any such surtax paid on materials necessary for the completion
14 of the contract. Any application for refund shall be made no
15 later than 15 months following initial imposition of the
16 surtax in that county. The application for refund shall be in
17 the manner prescribed by the department by rule. A complete
18 application shall include proof of the written contract and of
19 payment of the surtax. The application shall contain a sworn
20 statement, signed by the applicant or its representative,
21 attesting to the validity of the application. The department
22 shall, within 30 days after approval of a complete
23 application, certify to the county information necessary for
24 issuance of a refund to the applicant. Counties are hereby
25 authorized to issue refunds for this purpose and shall set
26 aside from the proceeds of the surtax a sum sufficient to pay
27 any refund lawfully due. Any person who fraudulently obtains
28 or attempts to obtain a refund pursuant to this subparagraph,
29 in addition to being liable for repayment of any refund
30 fraudulently obtained plus a mandatory penalty of 100 percent
31 of the refund, is guilty of a felony of the third degree,

1 punishable as provided in s. 775.082, s. 775.083, or s.
2 775.084.

3 4. In the case of any vessel, railroad, or motor
4 vehicle common carrier entitled to partial exemption from tax
5 imposed under this chapter pursuant to s. 212.08(4), (8), or
6 (9), the basis for imposition of surtax shall be the same as
7 provided in s. 212.08 and the ratio shall be applied each
8 month to total purchases in this state of property qualified
9 for proration which is delivered or sold in the taxing county
10 to establish the portion used and consumed in intracounty
11 movement and subject to surtax.

12 Section 7. Present paragraph (d) of subsection (1) of
13 section 212.06, Florida Statutes, is redesignated as paragraph
14 (e) and a new paragraph (d) is added to that subsection, and
15 subsections (13), (14), and (15) are added to that section, to
16 read:

17 212.06 Sales, storage, use tax; collectible from
18 dealers; "dealer" defined; dealers to collect from purchasers;
19 legislative intent as to scope of tax.--

20 (1)

21 (d) For purposes of paragraph (b), the department may
22 establish a cost price amount for industry groups that
23 manufacture, produce, compound, process, or fabricate tangible
24 personal property for their own use in the performance of
25 contracts for improvements to real property. Such cost price
26 amount must be established as a percentage, rounded to the
27 nearest whole number, of the total contract price charged for
28 the improvement. The cost price percentages established must
29 be adopted by rule pursuant to the procedures provided in s.
30 120.54, upon petition of a majority of the members of an
31 industry group or by a statewide association that represents

1 such industry group, and must be based on a reasonable
2 estimate of average costs incurred by members of the
3 petitioning industry group. The department is required to
4 adopt a cost price percentage only if sufficient information
5 is available to determine such percentage. The information
6 considered by the department to establish the cost price
7 percentage must be that set forth in the petition or that
8 which is otherwise made available to the department. Any cost
9 price percentage so established must be available only by
10 election of a member of the industry group for which the
11 percentage was established and may apply only to such periods
12 or contracts for which the election is made. The election must
13 be made by the taxpayer by timely accruing and remitting tax
14 on the contract using the established percentage figure. If
15 the taxpayer does not timely accrue and remit the use tax due
16 for a contract using the percentage figure, the taxpayer may
17 not later use this method of calculating the use tax due for
18 that contract. Taxpayers must maintain adequate records
19 showing the accrual of tax using the percentage figure on
20 actual cost price. Any cost price so established must remain
21 available for use for a period of at least 5 years from the
22 date of its adoption and must be reviewed and be subject to
23 adjustment by the department no more frequently than at 5-year
24 intervals. The provisions of this paragraph are not available
25 to persons subject to paragraph (c).

26 (13) Registered aircraft dealers who purchase aircraft
27 exclusively for resale and do not pay sales tax on the
28 purchase price at the time of purchase shall pay a use tax
29 computed on 1 percent of the value of the aircraft each
30 calendar month that the aircraft is used by the dealer.
31 Payment of such tax shall commence in the month during which

1 the aircraft is first used for any purpose for which income is
2 received by the dealer. A dealer may pay the sales tax on the
3 purchase of the aircraft in lieu of the monthly use tax. The
4 value of the aircraft shall include its acquisition cost and
5 the cost of reconditioning that enhances the value of the
6 aircraft and shall generally be the value shown on the books
7 of the dealer in accordance with generally accepted accounting
8 principles. Notwithstanding the payment by the dealer of tax
9 computed on 1 percent of the value of any aircraft, if the
10 aircraft is leased or rented, the dealer shall collect from
11 the customer and remit the tax that is due on the lease or
12 rental of the aircraft; such payments do not diminish or
13 offset any use tax due from the dealer.

14 (14) For the purpose of determining whether a person
15 is improving real property, the term:

16 (a) "Real property" means the land and improvements
17 thereto and fixtures and is synonymous with the terms "realty"
18 and "real estate."

19 (b) "Fixtures" means items that are an accessory to a
20 building, other structure, or land and that do not lose their
21 identity as accessories when installed but that do become
22 permanently attached to realty. However, the term does not
23 include the following items, whether or not such items are
24 attached to real property in a permanent manner: trade
25 fixtures; property of a type that is required to be
26 registered, licensed, titled, or documented by this state or
27 by the United States Government, including, but not limited
28 to, mobile homes, except mobile homes assessed as real
29 property; or machinery or equipment. For an item to be
30 considered a fixture, it is not necessary that the owner of
31 the item also own the real property to which it is attached.

1 (c) "Improvements to real property" includes the
2 activities of building, erecting, constructing, altering,
3 improving, repairing, or maintaining real property.

4 (15)(a) When a contractor secures the rock, shell,
5 fill dirt, and similar materials he or she uses in a real
6 property improvement contract from a quarry, pit, or other
7 location that he or she owns or leases, the contractor is the
8 ultimate consumer of such materials and is liable for use tax
9 thereon. The basis upon which the contractor shall remit the
10 tax is the fair retail market value determined by establishing
11 either the price he or she would have to pay for it on the
12 open market or the price he or she would regularly charge if
13 he or she sold it to other contractors or users.

14 (b) When a contractor does not own or lease the land
15 but has entered into an agreement to purchase fill dirt, rock,
16 shell, or similar materials for his or her own use and wherein
17 the contractor will excavate and remove the material, the
18 taxable basis shall include the cost of the material plus all
19 costs of clearing, excavating, and removing, including labor
20 and all other costs incurred by the contractor.

21 (c) In lieu of the method described in paragraph (a)
22 for determining the taxable basis on rock, shell, fill dirt,
23 and similar materials a contractor uses in performing a
24 contract for the improvement of real property, the taxable
25 basis may be calculated as the land cost plus all costs of
26 clearing, excavating, and loading, including labor, power,
27 blasting, etc.

28 (d) No tax is applicable when the Department of
29 Transportation furnishes without charge the borrow materials
30 or the pits where materials are to be extracted for use on a
31 road contract.

1 Section 8. Subsections (5) and (8) of section 212.07,
2 Florida Statutes, are amended to read:

3 212.07 Sales, storage, use tax; tax added to purchase
4 price; dealer not to absorb; liability of purchasers who
5 cannot prove payment of the tax; penalties; general
6 exemptions.--

7 (5)(a) The gross proceeds derived from the sale in
8 this state of livestock, poultry, and other farm products
9 direct from the farm are exempted from the tax levied by this
10 chapter provided such sales are made directly by the
11 producers. The producers shall be entitled to such exemptions
12 although the livestock so sold in this state may have been
13 registered with a breeders' or registry association prior to
14 the sale and although the sale takes place at a livestock show
15 or race meeting, so long as the sale is made by the original
16 producer and within this state. When sales of livestock,
17 poultry, or other farm products are made to consumers by any
18 person, as defined herein, other than a producer, they are not
19 exempt from the tax imposed by this chapter. The foregoing
20 exemption does not apply to ornamental nursery stock offered
21 for retail sale by the producer.

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

28 (8)(a) The term "agricultural commodity," for the
29 purposes of this section hereof, means horticultural, poultry
30 and farm products, and livestock and livestock products.

31

1 (b) The term "farmer," for the purposes of this
2 section, means a person directly engaged in the business of
3 producing crops, livestock, or other farm products. The term
4 includes, but is not limited to, horse breeders, nurserymen,
5 dairymen, poultry men, cattle ranchers, apiarists, and persons
6 raising fish for human consumption. The term does not include
7 persons engaged in the business of breeding and raising
8 animals for use as pets, including, but not limited to,
9 tropical birds and fish, or persons engaged in the business of
10 raising or displaying exotic animals.

11 (c) The term "livestock," for the purposes of this
12 section, means any animal raised for commercial purposes other
13 than for sale or use in a display or show or for sale or use
14 as a pet.

15 Section 9. Subsections (1), (2), (3), (9), and (14),
16 paragraph (a) of subsection (4), paragraph (a) of subsection
17 (5), and paragraph (a) of subsection (8) of section 212.08,
18 Florida Statutes, are amended, and paragraph (qq) is added to
19 subsection (7) of that section, to read:

20 212.08 Sales, rental, use, consumption, distribution,
21 and storage tax; specified exemptions.--The sale at retail,
22 the rental, the use, the consumption, the distribution, and
23 the storage to be used or consumed in this state of the
24 following are hereby specifically exempt from the tax imposed
25 by this chapter.

26 (1) EXEMPTIONS; GENERAL GROCERIES.--

27 (a) Food products for human consumption are exempt
28 from the tax imposed by this chapter.

29 (b) As used in this subsection, the term "food
30 products" means edible commodities, whether processed, cooked,
31

1 raw, canned, or in any other form, which are generally
2 regarded as food. This includes, but is not limited to:

3 1. Cereals and cereal products, baked goods,
4 oleomargarine, meat and meat products, fish and seafood
5 products, frozen foods and dinners, poultry, eggs and egg
6 products, vegetables and vegetable products, fruit and fruit
7 products, spices, salt, sugar and sugar products, milk and
8 dairy products, and products intended to be mixed with milk.

9 2. Natural fruit or vegetable juices or their
10 concentrates or reconstituted natural concentrated fruit or
11 vegetable juices, whether frozen or unfrozen, dehydrated,
12 powdered, granulated, sweetened or unsweetened, seasoned with
13 salt or spice, or unseasoned; coffee, coffee substitutes, or
14 cocoa; and tea, unless it is sold in a liquid form.

15 3. Bakery products sold by bakeries, pastry shops, or
16 like establishments that do not have eating facilities.

17 (c) The exemption provided by this subsection does not
18 apply:

19 1. When the food products are sold as meals for
20 consumption on or off the premises of the dealer.

21 2. When the food products are furnished, prepared, or
22 served for consumption at tables, chairs, or counters or from
23 trays, glasses, dishes, or other tableware, whether provided
24 by the dealer or by a person with whom the dealer contracts to
25 furnish, prepare, or serve food products to others.

26 3. When the food products are ordinarily sold for
27 immediate consumption on the premises or near a location at
28 which parking facilities are provided primarily for the use of
29 patrons in consuming the products purchased at the location,
30 even though such products are sold on a "take out" or "to go"
31

1 order and are actually packaged or wrapped and taken from the
2 premises of the dealer.

3 4. To sandwiches sold ready for immediate consumption
4 on or off the premises.

5 5. When the food products are sold ready for immediate
6 consumption within a place, the entrance to which is subject
7 to an admission charge.

8 6. When the food products are sold as hot prepared
9 food products.

10 7. To soft drinks, which include, but are not limited
11 to, any nonalcoholic beverage, any preparation or beverage
12 commonly referred to as a "soft drink," or any noncarbonated
13 drink made from milk derivatives or tea, when sold in cans or
14 similar containers.

15 8. To ice cream, frozen yogurt, and similar frozen
16 dairy or nondairy products in cones, small cups, or pints,
17 popsicles, frozen fruit bars, or other novelty items, whether
18 or not sold separately.

19 9. To food prepared, whether on or off the premises,
20 and sold for immediate consumption. This does not apply to
21 food prepared off the premises and sold in the original sealed
22 container, or the slicing of products into smaller portions.

23 10. When the food products are sold through a vending
24 machine, pushcart, motor vehicle, or any other form of
25 vehicle.

26 11. To candy and any similar product regarded as candy
27 or confection, based on its normal use, as indicated on the
28 label or advertising thereof.

29 12. To bakery products sold by bakeries, pastry shops,
30 or like establishments that have eating facilities, except
31 when sold for consumption off the premises.

1 13. When food products are served, prepared, or sold
2 in or by restaurants, lunch counters, cafeterias, hotels,
3 taverns, or other like places of business.

4 (d) As used in this subsection, the term:

5 1. "For consumption off the premises" means that the
6 food or drink is intended by the customer to be consumed at a
7 place away from the dealer's premises.

8 2. "For consumption on the premises" means that the
9 food or drink sold may be immediately consumed on the premises
10 where the dealer conducts his or her business. In determining
11 whether an item of food is sold for immediate consumption,
12 there shall be considered the customary consumption practices
13 prevailing at the selling facility.

14 3. "Premises" shall be construed broadly, and means,
15 but is not limited to, the lobby, aisle, or auditorium of a
16 theater; the seating, aisle, or parking area of an arena,
17 rink, or stadium; or the parking area of a drive-in or outdoor
18 theater. The premises of a caterer with respect to catered
19 meals or beverages shall be the place where such meals or
20 beverages are served.

21 4. "Hot prepared food products" means those products,
22 items, or components which have been prepared for sale in a
23 heated condition and which are sold at any temperature that is
24 higher than the air temperature of the room or place where
25 they are sold. "Hot prepared food products," for the purposes
26 of this subsection, includes a combination of hot and cold
27 food items or components where a single price has been
28 established for the combination and the food products are sold
29 in such combination, such as a hot meal, a hot specialty dish
30 or serving, or a hot sandwich or hot pizza, including cold
31 components or side items.

1 ~~(a) There are exempt from the tax imposed by this~~
2 ~~chapter food and drinks for human consumption except candy.~~
3 ~~Unless the exemption provided by paragraph (7)(q) for school~~
4 ~~lunches, paragraph (7)(i) for meals to certain patients or~~
5 ~~inmates, paragraph (7)(k) for meals provided by certain~~
6 ~~nonprofit organizations, or paragraph (7)(z) for food or~~
7 ~~drinks sold through vending machines pertains, none of such~~
8 ~~items of food or drinks means:~~

9 ~~1. Food or drinks served, prepared, or sold in or by~~
10 ~~restaurants; drugstores; lunch counters; cafeterias; hotels;~~
11 ~~amusement parks; racetracks; taverns; concession stands at~~
12 ~~arenas, auditoriums, carnivals, fairs, stadiums, theaters, or~~
13 ~~other like places of business; or by any business or place~~
14 ~~required by law to be licensed by the Division of Hotels and~~
15 ~~Restaurants of the Department of Business and Professional~~
16 ~~Regulation, except bakery products sold in or by pastry shops,~~
17 ~~doughnut shops, or like establishments for consumption off the~~
18 ~~premises;~~

19 ~~2. Foods and drinks sold ready for immediate~~
20 ~~consumption from vending machines, pushcarts, motor vehicles,~~
21 ~~or any other form of vehicle;~~

22 ~~3. Soft drinks, which include, but are not limited to,~~
23 ~~any nonalcoholic beverage, any preparation or beverage~~
24 ~~commonly referred to as a "soft drink," or any noncarbonated~~
25 ~~drink made from milk derivatives or tea, when sold in cans or~~
26 ~~similar containers. The term "soft drink" does not include:~~
27 ~~natural fruit or vegetable juices or their concentrates or~~
28 ~~reconstituted natural concentrated fruit or vegetable juices,~~
29 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
30 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
31 ~~unseasoned; coffee or coffee substitutes; tea except when sold~~

1 ~~in containers as provided herein; cocoa; products intended to~~
2 ~~be mixed with milk; or natural fluid milk;~~

3 4. ~~Foods or drinks cooked or prepared on the seller's~~
4 ~~premises and sold ready for immediate consumption either on or~~
5 ~~off the premises, excluding bakery products for off-premises~~
6 ~~consumption unless such foods are taxed under subparagraph 1.~~
7 ~~or subparagraph 2.; or~~

8 5. ~~Sandwiches sold ready for immediate consumption.~~

9
10 ~~For the purposes of this paragraph, "seller's premises" shall~~
11 ~~be construed broadly, and means, but is not limited to, the~~
12 ~~lobby, aisle, or auditorium of a theater; the seating, aisle,~~
13 ~~or parking area of an arena, rink, or stadium; or the parking~~
14 ~~area of a drive-in or outdoor theater. The premises of a~~
15 ~~caterer with respect to catered meals or beverages shall be~~
16 ~~the place where such meals or beverages are served.~~

17 (e)~~(b)~~1. Food or drinks not exempt under paragraphs
18 (a), (b), (c), and (d)~~paragraph (a)~~ shall be exempt,
19 notwithstanding those paragraphs ~~that paragraph~~, when
20 purchased with food coupons or Special Supplemental Food
21 Program for Women, Infants, and Children vouchers issued under
22 authority of federal law.

23 2. This paragraph is effective only while federal law
24 prohibits a state's participation in the federal food coupon
25 program or Special Supplemental Food Program for Women,
26 Infants, and Children if there is an official determination
27 that state or local sales taxes are collected within that
28 state on purchases of food or drinks with such coupons.

29 3. This paragraph shall not apply to any food or
30 drinks on which federal law shall permit sales taxes without
31 penalty, such as termination of the state's participation.

1 ~~4. Notwithstanding any other provision of law, the~~
2 ~~department shall make refunds or allow credits to a~~
3 ~~distributor equal to the fee imposed and paid under s.~~
4 ~~403.7197 on containers purchased by consumers with food~~
5 ~~coupons or Special Supplemental Food Program for Women,~~
6 ~~Infants, and Children vouchers issued under authority of~~
7 ~~federal law.~~

8 (2) EXEMPTIONS; MEDICAL.--

9 (a) There shall be exempt from the tax imposed by this
10 chapter any product, supply, or medicine dispensed in a retail
11 establishment by a pharmacist licensed by the state, according
12 to an individual prescription or prescriptions written by a
13 prescriber authorized by law to prescribe medicinal drugs;
14 hypodermic needles; hypodermic syringes; chemical compounds
15 and test kits used for the diagnosis or treatment of human
16 disease, illness, or injury; and common household remedies
17 recommended and generally sold for internal or external use in
18 the cure, mitigation, treatment, or prevention of illness or
19 disease in human beings, but not including cosmetics or toilet
20 articles, notwithstanding the presence of medicinal
21 ingredients therein, according to a list prescribed and
22 approved by the Department of Health ~~and Rehabilitative~~
23 ~~Services~~, which list shall be certified to the Department of
24 Revenue from time to time and included in the rules
25 promulgated by the Department of Revenue. There shall also be
26 exempt from the tax imposed by this chapter artificial eyes
27 and limbs; orthopedic shoes; prescription eyeglasses and items
28 incidental thereto or which become a part thereof; dentures;
29 hearing aids; crutches; prosthetic and orthopedic appliances;
30 and funerals. In addition, any items intended for one-time
31 use which transfer essential optical characteristics to

1 contact lenses shall be exempt from the tax imposed by this
2 chapter; however, this exemption shall apply only after
3 \$100,000 of the tax imposed by this chapter on such items has
4 been paid in any calendar year by a taxpayer who claims the
5 exemption in such year. Funeral directors shall pay tax on all
6 tangible personal property used by them in their business.

7 (b) For the purposes of this subsection:

8 1. "Prosthetic and orthopedic appliances" means any
9 apparatus, instrument, device, or equipment used to replace or
10 substitute for any missing part of the body, to alleviate the
11 malfunction of any part of the body, or to assist any disabled
12 person in leading a normal life by facilitating such person's
13 mobility. Such apparatus, instrument, device, or equipment
14 shall be exempted according to an individual prescription or
15 prescriptions written by a physician licensed under chapter
16 458, chapter 459, chapter 460, chapter 461, or chapter 466, or
17 according to a list prescribed and approved by the Department
18 of Health ~~and Rehabilitative Services~~, which list shall be
19 certified to the Department of Revenue from time to time and
20 included in the rules promulgated by the Department of
21 Revenue.

22 2. "Cosmetics" means articles intended to be rubbed,
23 poured, sprinkled, or sprayed on, introduced into, or
24 otherwise applied to the human body for cleansing,
25 beautifying, promoting attractiveness, or altering the
26 appearance and also means articles intended for use as a
27 compound of any such articles, including, but not limited to,
28 cold creams, suntan lotions, makeup, and body lotions.

29 3. "Toilet articles" means any article advertised or
30 held out for sale for grooming purposes and those articles
31 that are customarily used for grooming purposes, regardless of

1 the name by which they may be known, including, but not
2 limited to, soap, toothpaste, hair spray, shaving products,
3 colognes, perfumes, shampoo, deodorant, and mouthwash.

4 4. "Medical products and supplies" means and includes,
5 but is not limited to, such items as cotton, knives, sewing
6 and surgical needles, scissors, microscopes, x-ray machines,
7 I.V. administration sets, laboratory apparatus, surgeons'
8 gloves, ear syringes, and hospital beds.

9 (c) Chlorine shall not be exempt from the tax imposed
10 by this chapter when used for the treatment of water in
11 swimming pools.

12 (d) Sales of drugs to or by physicians, dentists,
13 veterinarians, and hospitals in connection with medical
14 treatment are exempt.

15 (e) Medical products and supplies used in the cure,
16 mitigation, alleviation, prevention, or treatment of injury,
17 disease, or incapacity which are temporarily or permanently
18 incorporated into a patient or client by a practitioner of the
19 healing arts licensed in the state are exempt.

20 (f) The purchase by a veterinarian of commonly
21 recognized substances possessing curative or remedial
22 properties which are ordered and dispensed as treatment for a
23 diagnosed health disorder by or on the prescription of a duly
24 licensed veterinarian, and which are applied to or consumed by
25 animals for alleviation of pain or the cure or prevention of
26 sickness, disease, or suffering are exempt. Also exempt are
27 the purchase by a veterinarian of antiseptics, absorbent
28 cotton, gauze for bandages, lotions, vitamins, and worm
29 remedies.

30 (g) X-ray opaques, also known as opaque drugs and
31 radiopaque, such as the various opaque dyes and barium

1 sulphate, when used in connection with medical x-rays for
2 treatment of bodies of humans and animals, are exempt.

3 (h)(d) This subsection shall be strictly construed and
4 enforced.

5 (3) EXEMPTIONS, PARTIAL; CERTAIN FARM
6 EQUIPMENT.--There shall be taxable at the rate of 3 percent
7 the sale, use, consumption, or storage for use in this state
8 of self-propelled or power-drawn farm equipment used
9 exclusively by a farmer on a farm owned, leased, or
10 sharecropped by the farmer in plowing, planting, cultivating,
11 or harvesting crops or for fire prevention and suppression
12 work. The rental of self-propelled or power-drawn farm
13 equipment shall be taxed at the rate of 6 percent. The 3
14 percent tax rate provided for machines and farm equipment
15 shall be disallowed when such machines and equipment are used
16 by the farmer for activities other than plowing, planting,
17 cultivating, harvesting crops, or fire prevention and
18 suppression work on a farm owned, leased, or sharecropped by
19 him within 6 months after the date of purchase. The fact that
20 the amount of other use derived from such machines and farm
21 equipment may be relatively insignificant is irrelevant. In
22 such cases, it is the farmer's responsibility to disclose the
23 facts to the Department of Revenue and pay the amount of tax
24 difference due on the basis of 6 percent of the cost price at
25 the time of purchase.

26 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,
27 ETC.--

28 (a) Also exempt are:

29 1. Water (not exempting mineral water or carbonated
30 water).

31

1 2. All fuels used by a public or private utility,
2 including any municipal corporation or rural electric
3 cooperative association, in the generation of electric power
4 or energy for sale. Fuel other than motor fuel and diesel
5 fuel is taxable as provided in this chapter with the exception
6 of fuel expressly exempt herein. Motor fuels and diesel fuels
7 are taxable as provided in chapter 206, with the exception of
8 those motor fuels and diesel fuels used by railroad
9 locomotives or vessels to transport persons or property in
10 interstate or foreign commerce, which are taxable under this
11 chapter only to the extent provided herein. The basis of the
12 tax shall be the ratio of intrastate mileage to interstate or
13 foreign mileage traveled by the carrier's railroad locomotives
14 or vessels that were used in interstate or foreign commerce
15 and that had at least some Florida mileage during the previous
16 fiscal year of the carrier, such ratio to be determined at the
17 close of the fiscal year of the carrier. This ratio shall be
18 applied each month to the total Florida purchases made in this
19 state of motor and diesel fuels to establish that portion of
20 the total used and consumed in intrastate movement and subject
21 to tax under this chapter. The basis for imposition of any
22 discretionary surtax shall be set forth in s. 212.054. Fuels
23 used exclusively in intrastate commerce do not qualify for the
24 proration of tax.

25 3. The transmission or wheeling of electricity.

26 (5) EXEMPTIONS; ACCOUNT OF USE.--

27 (a) Items in agricultural use and certain nets.--There
28 are exempt from the tax imposed by this chapter nets designed
29 and used exclusively by commercial fisheries; disinfectants,
30 fertilizers, insecticides, pesticides, herbicides, ~~and~~
31 fungicides, and weed killers used for application on crops or

1 groves, including commercial nurseries and home vegetable
2 gardens, used in dairy barns or on poultry farms and used
3 directly on livestock for the purpose of protecting livestock;
4 portable containers used for processing farm products; field
5 and garden seeds, including flower seeds; nursery stock,
6 seedlings, cuttings, or other propagative material purchased
7 for growing stock; seeds, seedlings, cuttings, and plants used
8 to produce food for human consumption; cloth, plastic, and
9 other similar materials used for shade, mulch, or protection
10 from frost or insects on a farm; and liquefied petroleum gas
11 or other fuel used to heat a structure in which started
12 pullets or broilers are raised; however, such exemption shall
13 not be allowed unless the purchaser or lessee signs a
14 certificate stating that the item to be exempted is for the
15 exclusive use designated herein. Also exempt are cellophane
16 wrappers, glue for tin and glass (apiarists), mailing cases
17 for honey, shipping cases, window cartons, and bailing wire
18 and twine used for baling hay, when used by a farmer to
19 contain, produce, or process an agricultural commodity.

20 (7) MISCELLANEOUS EXEMPTIONS.--

21 (qq) Racing dogs.--The sale of a racing dog by its
22 owner is exempt if the owner is also the breeder of the
23 animal.

24 (8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE
25 OR FOREIGN COMMERCE.--

26 (a) The sale or use of vessels and parts thereof used
27 to transport persons or property in interstate or foreign
28 commerce, including commercial fishing vessels, is subject to
29 the taxes imposed in this chapter only to the extent provided
30 herein. The basis of the tax shall be the ratio of intrastate
31 mileage to interstate or foreign mileage traveled by the

1 carrier's vessels which were used in interstate or foreign
2 commerce and which had at least some Florida mileage during
3 the previous fiscal year. The ratio would be determined at
4 the close of the carrier's fiscal year. This ratio shall be
5 applied each month to the total Florida purchases of such
6 vessels and parts thereof which are used in Florida to
7 establish that portion of the total used and consumed in
8 intrastate movement and subject to the tax at the applicable
9 rate. The basis for imposition of any discretionary surtax
10 shall be as set forth in s. 212.054.Items, appropriate to
11 carry out the purposes for which a vessel is designed or
12 equipped and used, purchased by the owner, operator, or agent
13 of a vessel for use on board such vessel shall be deemed to be
14 parts of the vessel upon which the same are used or consumed.
15 Vessels and parts thereof used to transport persons or
16 property in interstate and foreign commerce are hereby
17 determined to be susceptible to a distinct and separate
18 classification for taxation under the provisions of this
19 chapter. Vessels and parts thereof used exclusively in
20 intrastate commerce do not qualify for the proration of tax.

21 (9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES
22 ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.--

23 (a) Railroads which are licensed as common carriers by
24 the Interstate Commerce Commission and parts thereof used to
25 transport persons or property in interstate or foreign
26 commerce are subject to tax imposed in this chapter only to
27 the extent provided herein. The basis of the tax shall be the
28 ratio of intrastate mileage to interstate or foreign mileage
29 traveled by the carrier during the previous fiscal year of the
30 carrier. Such ratio is to be determined at the close of the
31 carrier's fiscal year. This ratio shall be applied each month

1 to the total purchases of the railroad which are used in this
2 state to establish that portion of the total used and consumed
3 in intrastate movement and subject to tax under this chapter.
4 The basis for imposition of any discretionary surtax is set
5 forth in s. 212.054.Railroads which are licensed as common
6 carriers by the Interstate Commerce Commission and parts
7 thereof used to transport persons or property in interstate
8 and foreign commerce are hereby determined to be susceptible
9 to a distinct and separate classification for taxation under
10 the provisions of this chapter.

11 (b) Motor vehicles which are engaged in interstate
12 commerce as common carriers, and parts thereof, used to
13 transport persons or property in interstate or foreign
14 commerce are subject to tax imposed in this chapter only to
15 the extent provided herein. The basis of the tax shall be the
16 ratio of intrastate mileage to interstate or foreign mileage
17 traveled by the carrier's motor vehicles which were used in
18 interstate or foreign commerce and which had at least some
19 Florida mileage during the previous fiscal year of the
20 carrier. Such ratio is to be determined at the close of the
21 carrier's fiscal year. This ratio shall be applied each month
22 to the total purchases of such motor vehicles and parts
23 thereof which are used in this state to establish that portion
24 of the total used and consumed in intrastate movement and
25 subject to tax under this chapter. The basis for imposition of
26 any discretionary surtax is set forth in s. 212.054.Motor
27 vehicles which are engaged in interstate commerce, and parts
28 thereof, used to transport persons or property in interstate
29 and foreign commerce are hereby determined to be susceptible
30 to a distinct and separate classification for taxation under
31 the provisions of this chapter. Motor vehicles and parts

1 thereof used exclusively in intrastate commerce do not qualify
2 for the proration of tax. For purposes of this paragraph,
3 parts of a motor vehicle engaged in interstate commerce
4 include a separate tank not connected to the fuel supply
5 system of the motor vehicle into which diesel fuel is placed
6 to operate a refrigeration unit or other equipment.

7 (14) TECHNICAL ASSISTANCE ADVISORY COMMITTEE.--

8 (a) The department shall establish a technical
9 assistance advisory committee with public and private sector
10 members, including representatives of both manufacturers and
11 retailers, to advise the Department of Revenue and the
12 Department of Children and Family ~~Health and Rehabilitative~~
13 Services in determining the taxability of specific products
14 and product lines pursuant to subsection (1) and paragraph
15 (2)(a). In determining taxability and in preparing a list of
16 specific products and product lines that ~~which~~ are or are not
17 taxable, the committee shall not be subject to the provisions
18 of chapter 120. Private sector members shall not be
19 compensated for serving on the committee.

20 (b) The department, with the advice of the committee,
21 shall develop guidelines for determining the taxability of
22 specific products. The guidelines shall not be subject to the
23 provisions of chapter 120 and shall be a public record. In
24 developing the guidelines, if the department determines that a
25 proposed guideline substantially affects a particular person,
26 it shall notify the person of the development of the proposed
27 guideline. The guidelines shall be submitted to the
28 Administrative Procedures Committee and the department shall
29 respond to any comments made by the committee or to any person
30 substantially affected by the guidelines.

31

1 (c) The advisory committee shall use guidelines
2 determined by the department in making its recommendations.
3 The committee shall forward its recommendations to the
4 department, which shall determine the taxability of specific
5 products. The determination is a public record, is final upon
6 its publication, and shall remain effective unless a change of
7 determination is published. The determination may be
8 challenged pursuant to a proceeding conducted under ss.
9 120.569 and 120.57.

10 (d) The department may develop a central database and
11 publish the determination as to the taxability of specific
12 products in a manner that generally provides retailers with
13 information to properly tax products based on their universal
14 product codes. To assure maximum benefit to the retail
15 community, the advisory committee shall help in identifying
16 the scope of information that should be included in the
17 central database and the appropriate methods to assure
18 efficient and effective communication. Information contained
19 in the central database shall not be subject to the provisions
20 of chapter 120 and shall be a public record.

21 Section 10. Section 212.09, Florida Statutes, is
22 amended to read:

23 212.09 Trade-ins deducted.--

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

29 (2) Where used articles, accepted and intended for
30 resale,are taken in trade, or a series of trades, as a credit
31 or part payment on the sale of used articles, the tax levied

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 11. This act shall take effect July 1, 1998.

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SENATE SUMMARY

Revises various provisions relating to ad valorem taxation, including provisions relating to discounts on early tax payments, automatic refund of certain overpayments, and tax notices for lienholders, trustees, and vendees.

Redefines the term "retail sales" for purposes of ch. 212, F.S. Revises provisions relating to taxability or exemption of boats and aircraft.

Revises guidelines for determining tax liability on certain personal property, on certain aircraft, on improvements to real property, and on fill dirt and similar materials.

Provides that sales of race horses at claiming races are taxable. Exempts sales of racing dogs from taxation when the owner is also the breeder. Provides that persons not registered as dealers in aircraft, boats, mobile homes, or vehicles may not use a trade-in of other items as a credit against the sales price when selling an aircraft, boat, mobile home, or vehicle.

Revises the exemption from the state sales tax provided for food and drinks. Specifies the food products that are subject to the tax. Exempts certain food, drinks, and other items from the sales tax if the items are provided to customers on a complimentary basis by a retail dealer. Exempts food and beverages from the sales tax if such items are donated to a tax-exempt organization. Provides for the Department of Revenue to determine the taxability of specific products and publish its determinations. Exempts additional medical supplies and equipment. Provides a partial exemption for commercial fishing vessels in the same manner as is provided to vessels in interstate or foreign commerce.

Extends the partial tax exemption for farm equipment to such equipment used for fire prevention and fire suppression work. Disallows the exemption for equipment used for nonapproved purposes. Exempts additional items used in agriculture and revises the list of agricultural pursuits to which products may be put and retain their exemption. Provides for determination of applicability of surtaxes to certain transactions.