

1                   A bill to be entitled  
2                   An act relating to taxation; amending s.  
3                   196.198, F.S.; specifying conditions under  
4                   which property is deemed owned by an  
5                   educational institution for purposes of ad  
6                   valorem tax exemption; providing that no tax on  
7                   certain purchases by, and revenues of, a  
8                   chamber of commerce not actually paid or  
9                   collected before a specified date shall be due  
10                  from that chamber of commerce; providing for  
11                  refund of certain taxes paid; amending s.  
12                  199.103, F.S.; revising language with respect  
13                  to the basis of assessment for evaluation of  
14                  stocks or shares of a savings association or  
15                  middle tier stock holding company; amending s.  
16                  201.09, F.S.; specifying conditions under which  
17                  a renewal note evidencing a revolving  
18                  obligation is exempt from the excise tax on  
19                  documents; amending s. 212.02, F.S., relating  
20                  to sales, use, and other transactions; defining  
21                  the terms "self-propelled farm equipment,"  
22                  "power-drawn farm equipment," and "power-driven  
23                  farm equipment" for purposes of ch. 212, F.S.;  
24                  amending s. 212.05, F.S.; exempting  
25                  transactions in excess of \$500 from the tax on  
26                  the sale of coins or currency; providing for  
27                  emergency rules; amending s. 212.054, F.S.;  
28                  exempting from newly enacted discretionary  
29                  sales surtaxes levied by a high tourism impact  
30                  county transactions that are subject to  
31                  specified tourist development taxes in an

1 aggregate rate that exceeds a specified  
2 maximum; amending ss. 212.04 and 212.12, F.S.;  
3 exempting admissions to certain collegiate  
4 tournament games, baseball all-star games, and  
5 postseason collegiate football games from the  
6 tax on admissions; increasing the maximum  
7 amount of sales and use tax remitted by a  
8 dealer to which the dealer's credit applies;  
9 amending s. 212.08, F.S.; revising the sales  
10 tax exemption for food and drinks; providing  
11 definitions; revising application of the  
12 partial sales tax exemption for self-propelled  
13 or power-drawn farm equipment; including  
14 power-driven farm equipment within such  
15 exemption; providing an exemption for  
16 industrial machinery and equipment purchased  
17 for use in expanding certain printing or  
18 publishing facilities; removing a provision  
19 that prevents the exemption for industrial  
20 machinery and equipment purchased for use in  
21 new or expanding businesses from applying to  
22 certain publishing firms; including within the  
23 definition of "religious institutions" for  
24 exemption purposes certain radio stations,  
25 certain nonprofit corporations which distribute  
26 audio recordings to blind or visually impaired  
27 persons, and certain nonprofit corporations  
28 which provide religious services for or with  
29 established places of worship; including within  
30 the definition of "educational institutions"  
31 for exemption purposes certain performing arts

1 centers; revising the exemption for electricity  
 2 used in certain manufacturing and related  
 3 operations; revising the uses that qualify for  
 4 exemption and requiring that a specified  
 5 percentage of the electricity must be used  
 6 therefor to qualify for exemption; removing the  
 7 requirement that such electricity be separately  
 8 metered to qualify for full exemption;  
 9 providing an exemption for replacement engines,  
 10 parts, and equipment used in the repair or  
 11 maintenance of certain aircraft; providing an  
 12 exemption for the sale or lease of certain  
 13 aircraft for use by a common carrier; providing  
 14 an exemption for certain foods, drinks, and  
 15 other items provided to customers on a  
 16 complimentary basis by a dealer who sells food  
 17 products at retail; providing an exemption for  
 18 foods and beverages donated by such dealers to  
 19 certain organizations; providing that certain  
 20 persons who provide food or drinks as part of a  
 21 packaged room rate without separately stating a  
 22 charge for such items are not considered  
 23 consumers of such items; defining "advertising  
 24 agency"; providing an exemption for certain  
 25 items and services sold to or by or created by  
 26 an advertising agency under certain conditions;  
 27 providing for retroactive application;  
 28 providing an exemption for certain nonprofit  
 29 cooperative hospital laundries; providing an  
 30 exemption for sales of gold, silver, or  
 31 platinum bullion in excess of \$500; revising

1 provisions relating to the technical assistance  
 2 advisory committee established to provide  
 3 advice in determining taxability of foods and  
 4 medicines; providing membership requirements;  
 5 directing the Department of Revenue to develop  
 6 guidelines for such determination and providing  
 7 requirements with respect thereto; providing  
 8 for use of the guidelines by the committee;  
 9 providing for determination of the taxability  
 10 of specific products by the department;  
 11 authorizing the department to develop a central  
 12 database with respect thereto; amending s.  
 13 220.15, F.S., which provides for apportionment  
 14 of adjusted federal income for corporate income  
 15 tax purposes; providing that the property  
 16 factor fraction shall not include property  
 17 certified as dedicated to research and  
 18 development pursuant to sponsored research  
 19 conducted through a state university; providing  
 20 that the payroll factor shall not include  
 21 compensation paid to employees certified as  
 22 dedicated to such activities; providing that,  
 23 for purposes of determining the sales factor,  
 24 no such activities shall cause a corporation  
 25 not otherwise subject to corporate income tax  
 26 to be subject to said tax; providing  
 27 limitations; providing for rules; requiring a  
 28 report; amending s. 221.02, F.S.; providing  
 29 that credits against the emergency excise tax  
 30 that would have expired on or after July 1,  
 31 1996, may be carried over until fully utilized;

1 amending s. 212.08, F.S., relating to sales,  
 2 rental, use, consumption, distribution, and  
 3 storage tax; providing an exemption for sales  
 4 to certain health systems for a specified  
 5 period; amending s. 95.091, F.S.; revising time  
 6 periods within which the Department of Revenue  
 7 and Department of Business and Professional  
 8 Regulation may determine and assess the amount  
 9 of any tax, penalty, or interest due under  
 10 taxes which they have authority to administer;  
 11 amending s. 213.015, F.S.; specifying  
 12 additional taxpayer's rights; creating s.  
 13 213.235, F.S.; providing for determination of  
 14 the annual rate of interest applicable to tax  
 15 payment deficiencies; creating s. 213.255,  
 16 F.S.; providing for payment of interest on  
 17 overpayments of taxes, payment of taxes not  
 18 due, or taxes paid in error with respect to  
 19 taxes administered by the Department of Revenue  
 20 if refund is not made within a specified  
 21 period; providing requirements for refund  
 22 applications; requiring a bond or other  
 23 security under certain conditions; amending s.  
 24 213.34, F.S.; providing that no part of the  
 25 compensation of an employee or agent of the  
 26 state performing a tax audit shall be based on  
 27 amounts assessed or collected as a result of  
 28 the audit; amending s. 215.26, F.S.; revising  
 29 the time period within which application for  
 30 refund of taxes must be made; amending s.  
 31 198.18, F.S., relating to the rate of interest

1 on delinquent estate taxes, s. 199.282, F.S.,  
 2 relating to the rate of interest on delinquent  
 3 intangible personal property taxes, s. 201.17,  
 4 F.S., relating to the rate of interest on  
 5 delinquent excise taxes on documents, and s.  
 6 203.06, F.S., relating to the rate of interest  
 7 on delinquent gross receipts taxes, to conform;  
 8 reenacting s. 203.62, F.S., relating to the  
 9 gross receipts tax on interstate and  
 10 international telecommunications services, to  
 11 incorporate the amendment to s. 203.06, F.S.,  
 12 in a reference thereto; amending s. 206.44,  
 13 F.S., relating to the rate of interest on  
 14 delinquent motor fuel taxes, to conform;  
 15 reenacting ss. 206.06(1), 206.94, 206.97,  
 16 206.9915(3), 336.021(2)(a), and 336.025(2)(a),  
 17 F.S., relating to estimated fuel taxes, tax on  
 18 diesel fuel, tax on fuel and other pollutants,  
 19 the ninth-cent fuel tax on motor and diesel  
 20 fuel, and the local option tax on motor and  
 21 diesel fuel for county transportation systems,  
 22 to incorporate the amendment to s. 206.44,  
 23 F.S., in references thereto; amending s.  
 24 207.007, F.S., relating to the rate of interest  
 25 on delinquent tax on the operation of  
 26 commercial motor vehicles, ss. 211.076 and  
 27 211.33, F.S., relating to the rate of interest  
 28 on delinquent taxes on oil and gas production  
 29 and severance of minerals, and s. 212.12, F.S.,  
 30 relating to the rate of interest on delinquent  
 31 taxes on sales, use, and other transactions, to

1 conform; reenacting ss. 193.501(6)(e) and  
 2 193.505(8), F.S., relating to the interest on a  
 3 deferred tax liability due upon a change in  
 4 assessment status of certain conservation or  
 5 recreation land or historically significant  
 6 property, and s. 196.1997(7), F.S., relating to  
 7 the interest on taxes which become due when  
 8 property is no longer eligible for a historic  
 9 property tax exemption, to incorporate the  
 10 amendment to s. 212.12, F.S., in references  
 11 thereto; amending s. 220.807, F.S., relating to  
 12 the interest rate applicable to the corporate  
 13 income tax code, and s. 624.5092, F.S.,  
 14 relating to the rate of interest on delinquent  
 15 insurance premium taxes, to conform; directing  
 16 the Department of Revenue to examine and report  
 17 on the impact of the act; providing effective  
 18 dates.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22 Section 1. Section 196.198, Florida Statutes, is  
 23 amended to read:

24 196.198 Educational property exemption.--Educational  
 25 institutions within this state and their property used by them  
 26 or by any other exempt entity or educational institution  
 27 exclusively for educational purposes shall be exempt from  
 28 taxation. Sheltered workshops providing rehabilitation and  
 29 retraining of disabled individuals and exempted by a  
 30 certificate under s. (d) of the federal Fair Labor Standards  
 31 Act of 1938, as amended, are declared wholly educational in

1 purpose and shall be exempted from certification,  
 2 accreditation, and membership requirements set forth in s.  
 3 196.012. Those portions of property of college fraternities  
 4 and sororities certified by the president of the college or  
 5 university to the appropriate property appraiser as being  
 6 essential to the educational process, shall be exempt from ad  
 7 valorem taxation. The use of property by public fairs and  
 8 expositions chartered by chapter 616 is presumed to be an  
 9 educational use of such property and shall be exempt from ad  
 10 valorem taxation to the extent of such use. Property used  
 11 exclusively for educational purposes shall be deemed owned by  
 12 an educational institution if the entity owning 100 percent of  
 13 the educational institution is owned by the identical persons  
 14 who own the property. If the title to land is held by the  
 15 trustee of an irrevocable inter vivos trust and if the trust  
 16 grantor is 100 percent owner of the corporation which operates  
 17 the educational institution, then the property shall be deemed  
 18 owned by the educational institution. Property owned by an  
 19 educational institution shall be deemed to be used for an  
 20 educational purpose if the institution has taken affirmative  
 21 steps to prepare the property for educational use.  
 22 Affirmative steps means environmental or land use permitting  
 23 activities, creation of architectural plans or schematic  
 24 drawings, land clearing or site preparation, construction or  
 25 renovation activities, or other similar activities that  
 26 demonstrate commitment of the property to an educational use.

27 Section 2. (1) As used in this section, "chamber of  
 28 commerce" means an organization whose operations and  
 29 membership are defined without regard to any specific industry  
 30 or industries, and which is qualified as a "chamber of  
 31 commerce" under s. 501(c)(6) of the Internal Revenue Code of



1 1986, as amended, and which is organized as a not-for-profit  
2 corporation.

3 (2) No tax imposed by chapter 212, Florida Statutes,  
4 on the following transactions, and not actually paid or  
5 collected by a chamber of commerce before December 31, 1994,  
6 shall be due from that chamber of commerce:

7 (a) Purchases by a chamber of commerce for use in its  
8 operations to foster business intended to occur within the  
9 state.

10 (b) Revenues of a chamber of commerce derived from  
11 activities of the chamber of commerce that are intended to  
12 foster business within the state for its members and the  
13 general business community, including dues and fees to  
14 members, the conduct of events for admission, charges to  
15 businesses for participation in trade shows and similar  
16 events, circulation of printed materials, including newspapers  
17 and newsletters regardless of the quantity of advertising  
18 content and regardless of the frequency of distribution, and  
19 business seminars and events to assist businesses with their  
20 operations, with compliance with laws, or with activities  
21 within their communities. Any revenues derived by a chamber  
22 of commerce from resales by the chamber of commerce of  
23 materials routinely and directly available to any person  
24 without the participation of the chamber of commerce, and  
25 which would occur without participation, addition, or  
26 modification in any material way by the chamber of commerce,  
27 are not qualified as an exempt transaction of the chamber of  
28 commerce under this section.

29 (3) Any chamber of commerce that has paid taxes that  
30 have been imposed by this chapter and that would be exempted  
31 from such taxes according to paragraph (2)(a) shall be

1 entitled to a refund of the taxes paid. The claim for this  
2 refund must be filed on or before July 1, 1998.

3 Section 3. Subsection (1) of section 201.09, Florida  
4 Statutes, 1996 Supplement, as amended by chapter 96-395, Laws  
5 of Florida, is amended to read:

6 201.09 Renewal of existing promissory notes and  
7 mortgages; exemption.--

8 (1) When any promissory note is given in renewal of  
9 any existing promissory note, which renewal note only extends  
10 or continues the identical contractual obligations of the  
11 original promissory note and evidences part or all of the  
12 original indebtedness evidenced thereby, not including any  
13 accumulated interest thereon and without enlargement in any  
14 way of the original contract and obligation, such renewal note  
15 shall not be subject to taxation under this chapter if such  
16 renewal note has attached to it the original promissory note  
17 with the proper notation thereon as required by s. 201.133.  
18 In order to be exempt from taxation under this section, a  
19 renewal note evidencing a term obligation shall not be  
20 executed by any person other than the original obligor and  
21 must renew and extend only the unpaid balance of the original  
22 contract and obligation. In order to be exempt from taxation  
23 under this section, a renewal note evidencing a revolving  
24 obligation shall not be executed by any person other than the  
25 original obligor and must renew and extend no more than the  
26 original face amount of the original contract and obligation.

27 Section 4. Subsection (8) of section 199.103, Florida  
28 Statutes, is amended to read:

29 199.103 Basis of assessment; valuation.--All  
30 intangible personal property shall be subject to the annual  
31

1 tax at its just valuation as of January 1 of each year. Such  
2 property shall be valued in the following manner:

3 (8) Stocks or shares of a savings association or  
4 middle tier stock holding company, held by a parent mutual  
5 holding company, whose depositors are members of the mutual  
6 holding company, which converted from a mutual savings  
7 association to a mutual holding company pursuant to 12 U.S.C.  
8 s. ~~1467a.(o)~~~~1567(a)(o)~~, shall be valued as of January 1 each  
9 year on the same basis as ownership in the mutual savings  
10 association was valued for intangible tax purposes prior to  
11 the conversion. Stocks or shares of such a converted  
12 association which are held by individuals or entities other  
13 than the parent mutual holding company shall be valued  
14 pursuant to subsection (1) or subsection (4).

15 Section 5. Subsections (27), (28), and (29) are added  
16 to section 212.02, Florida Statutes, 1996 Supplement, to read:

17 212.02 Definitions.--The following terms and phrases  
18 when used in this chapter have the meanings ascribed to them  
19 in this section, except where the context clearly indicates a  
20 different meaning:

21 (27) "Self-propelled farm equipment" means equipment  
22 that contains within itself the means for its own propulsion,  
23 including, but not limited to, tractors.

24 (28) "Power-drawn farm equipment" means equipment that  
25 is pulled, dragged, or otherwise attached to self-propelled  
26 equipment, including, but not limited to, discs, harrows, hay  
27 balers, and mowers.

28 (29) "Power-driven farm equipment" means moving or  
29 stationary equipment that is dependent upon an external power  
30 source in order to perform its function, including, but not  
31

1 limited to, conveyors, augers, feeding systems, and vacuum  
2 pumps.

3 Section 6. Paragraph (1) of subsection (1) of section  
4 212.05, Florida Statutes, 1996 Supplement, is amended to read:

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

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

17 (1)1. Notwithstanding any other provision of this  
18 part, there is hereby levied a tax on the sale, use,  
19 consumption, or storage for use in this state of any coin or  
20 currency, whether in circulation or not, when such coin or  
21 currency:

22 a. Is not legal tender;

23 b. If legal tender, is sold, exchanged, or traded at a  
24 rate in excess of its face value; or

25 c. Is sold, exchanged, or traded at a rate based on  
26 its precious metal content.

27 2. Such tax shall be at a rate of 6 percent of the  
28 price at which the coin or currency is sold, exchanged, or  
29 traded, except that, with respect to a coin or currency which  
30 is legal tender of the United States and which is sold,  
31 exchanged, or traded at a rate in excess of its face value,

1 the tax shall be at a rate of 6 percent of the difference  
2 between the price at which it is sold, exchanged, or traded  
3 and its face value.

4 3. There are exempt from this tax exchanges of coins  
5 or currency which are in general circulation in, and legal  
6 tender of, one nation for coins or currency which are in  
7 general circulation in, and legal tender of, another nation  
8 when exchanged solely for use as legal tender and at an  
9 exchange rate based on the relative value of each as a medium  
10 of exchange.

11 4. With respect to any transaction that involves the  
12 sale of coins or currency taxable under this paragraph in  
13 which the taxable amount represented by the sale of such coins  
14 or currency exceeds \$500, the entire amount represented by the  
15 sale of such coins or currency shall be exempt from the tax  
16 imposed by this paragraph. The dealer must maintain proper  
17 documentation, as prescribed by rule of the department, to  
18 identify that portion of a transaction which involves the sale  
19 of coins or currency and is exempt under this subparagraph.

20 Section 7. The executive director of the Department of  
21 Revenue is authorized to adopt emergency rules pursuant to s.  
22 120.54(4), Florida Statutes, for purposes of implementing the  
23 amendment to s. 212.05(1)(1), Florida Statutes, and the  
24 creation of s. 212.08(7)(uu), Florida Statutes, by this act.  
25 Notwithstanding any other provision of law, such emergency  
26 rules shall remain effective for 6 months from the date of  
27 adoption. This section shall take effect upon this act  
28 becoming a law.

29 Section 8. Paragraph (b) of subsection (2) of section  
30 212.054, Florida Statutes, 1996 Supplement, is amended to  
31 read:

1           212.054 Discretionary sales surtax; limitations,  
2 administration, and collection.--

3           (2)

4           (b) However:

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

19           2. In the case of utility, telecommunication, or  
20 television system program services billed on or after the  
21 effective date of any such surtax, the entire amount of the  
22 tax for utility, telecommunication, or television system  
23 program services shall be subject to the surtax. In the case  
24 of utility, telecommunication, or television system program  
25 services billed after the last day the surtax is in effect,  
26 the entire amount of the tax on said items shall not be  
27 subject to the surtax.

28           3. In the case of written contracts which are signed  
29 prior to the effective date of any such surtax for the  
30 construction of improvements to real property or for  
31 remodeling of existing structures, the surtax shall be paid by

1 the contractor responsible for the performance of the  
 2 contract. However, the contractor may apply for one refund of  
 3 any such surtax paid on materials necessary for the completion  
 4 of the contract. Any application for refund shall be made no  
 5 later than 15 months following initial imposition of the  
 6 surtax in that county. The application for refund shall be in  
 7 the manner prescribed by the department by rule. A complete  
 8 application shall include proof of the written contract and of  
 9 payment of the surtax. The application shall contain a sworn  
 10 statement, signed by the applicant or its representative,  
 11 attesting to the validity of the application. The department  
 12 shall, within 30 days after approval of a complete  
 13 application, certify to the county information necessary for  
 14 issuance of a refund to the applicant. Counties are hereby  
 15 authorized to issue refunds for this purpose and shall set  
 16 aside from the proceeds of the surtax a sum sufficient to pay  
 17 any refund lawfully due. Any person who fraudulently obtains  
 18 or attempts to obtain a refund pursuant to this subparagraph,  
 19 in addition to being liable for repayment of any refund  
 20 fraudulently obtained plus a mandatory penalty of 100 percent  
 21 of the refund, is guilty of a felony of the third degree,  
 22 punishable as provided in s. 775.082, s. 775.083, or s.  
 23 775.084.

24 4. Transactions that are subject to the tourist  
 25 development tax levied and imposed under s. 125.0104(3) are  
 26 not subject to the discretionary surtax levied under s.  
 27 212.055 by the governing body of a high tourism impact county  
 28 if:

29 a. The aggregate rate of the tourist development tax  
 30 levied and imposed on such transactions within the county  
 31 equals or exceeds 5 percent; and

1           b. The discretionary surtax that is initially levied  
2 by the governing body of the county has an effective date of  
3 January 1, 1998, or later.

4  
5 If the tourist development tax is levied and imposed only in a  
6 subcounty special district and not in the entire county, the  
7 exemption provided under this subparagraph applies only in the  
8 subcounty special district. If the aggregate rate of the  
9 tourist development tax levied and imposed within the county  
10 or subcounty special district is reduced to less than 5  
11 percent, the exemption provided under this subparagraph no  
12 longer applies within the county or subcounty special  
13 district.

14           Section 9. Paragraph (a) of subsection (2) of section  
15 212.04, Florida Statutes, 1996 Supplement, is amended, and,  
16 effective January 1, 1998, subsection (5) of said section is  
17 amended, to read:

18           212.04 Admissions tax; rate, procedure, enforcement.--

19           (2)(a)1. No tax shall be levied on admissions to  
20 athletic or other events sponsored by elementary schools,  
21 junior high schools, middle schools, high schools, community  
22 colleges, public or private colleges and universities, deaf  
23 and blind schools, facilities of the youth services programs  
24 of the Department of Health and Rehabilitative Services, and  
25 state correctional institutions when only student, faculty, or  
26 inmate talent is used. However, this exemption shall not apply  
27 to admission to athletic events sponsored by an institution  
28 within the State University System, and the proceeds of the  
29 tax collected on such admissions shall be retained and used by  
30 each institution to support women's athletics as provided in  
31 s. 240.533(3)(c).



1           2.a. No tax shall be levied on dues, membership fees,  
2 and admission charges imposed by not-for-profit sponsoring  
3 organizations. To receive this exemption, the sponsoring  
4 organization must qualify as a not-for-profit entity under the  
5 provisions of s. 501(c)(3) of the United States Internal  
6 Revenue Code of 1954, as amended.

7           b. No tax imposed by this section and not actually  
8 collected before August 1, 1992, shall be due from any museum  
9 or historic building owned by any political subdivision of the  
10 state.

11           3. No tax shall be levied on an admission paid by a  
12 student, or on the student's behalf, to any required place of  
13 sport or recreation if the student's participation in the  
14 sport or recreational activity is required as a part of a  
15 program or activity sponsored by, and under the jurisdiction  
16 of, the student's educational institution, provided his or her  
17 attendance is as a participant and not as a spectator.

18           4. No tax shall be levied on admissions to the  
19 National Football League championship game, on admissions to  
20 any semifinal game or championship game of a national  
21 collegiate tournament, or on admissions to a Major League  
22 Baseball all-star game.

23           5. A participation fee or sponsorship fee imposed by a  
24 governmental entity as described in s. 212.08(6) for an  
25 athletic or recreational program is exempt when the  
26 governmental entity by itself, or in conjunction with an  
27 organization exempt under s. 501(c)(3) of the United States  
28 Internal Revenue Code of 1954, as amended, sponsors,  
29 administers, plans, supervises, directs, and controls the  
30 athletic or recreational program.

31

1           6. Also exempt from the tax imposed by this section to  
2 the extent provided in this subparagraph are admissions to  
3 live theater, live opera, or live ballet productions in this  
4 state which are sponsored by an organization that has received  
5 a determination from the Internal Revenue Service that the  
6 organization is exempt from federal income tax under s.  
7 501(c)(3) of the United States Internal Revenue Code of 1954,  
8 as amended, if the organization actively participates in  
9 planning and conducting the event, is responsible for the  
10 safety and success of the event, is organized for the purpose  
11 of sponsoring live theater, live opera, or live ballet  
12 productions in this state, has more than 10,000 subscribing  
13 members and has among the stated purposes in its charter the  
14 promotion of arts education in the communities which it  
15 serves, and will receive at least 20 percent of the net  
16 profits, if any, of the events which the organization sponsors  
17 and will bear the risk of at least 20 percent of the losses,  
18 if any, from the events which it sponsors if the organization  
19 employs other persons as agents to provide services in  
20 connection with a sponsored event. Prior to March 1 of each  
21 year, such organization may apply to the department for a  
22 certificate of exemption for admissions to such events  
23 sponsored in this state by the organization during the  
24 immediately following state fiscal year. The application shall  
25 state the total dollar amount of admissions receipts collected  
26 by the organization or its agents from such events in this  
27 state sponsored by the organization or its agents in the year  
28 immediately preceding the year in which the organization  
29 applies for the exemption. Such organization shall receive the  
30 exemption only to the extent of \$1.5 million multiplied by the  
31 ratio that such receipts bear to the total of such receipts of

1 all organizations applying for the exemption in such year;  
 2 however, in no event shall such exemption granted to any  
 3 organization exceed 6 percent of such admissions receipts  
 4 collected by the organization or its agents in the year  
 5 immediately preceding the year in which the organization  
 6 applies for the exemption. Each organization receiving the  
 7 exemption shall report each month to the department the total  
 8 admissions receipts collected from such events sponsored by  
 9 the organization during the preceding month and shall remit to  
 10 the department an amount equal to 6 percent of such receipts  
 11 reduced by any amount remaining under the exemption. Tickets  
 12 for such events sold by such organizations shall not reflect  
 13 the tax otherwise imposed under this section.

14 7. No tax shall be levied on admissions to any  
 15 postseason collegiate football game sanctioned by the National  
 16 Collegiate Athletic Association.

17 (5) All of the provisions of this chapter relating to  
 18 collection, investigation, discovery, and aids to collection  
 19 of taxes upon sales of tangible personal property shall  
 20 likewise apply to all privileges described or referred to in  
 21 this section, and the obligations imposed in this chapter upon  
 22 retailers are hereby imposed upon the seller of such  
 23 admissions. When tickets or admissions are sold and not used  
 24 but returned and credited by the seller, the seller may apply  
 25 to the department for a credit allowance for such returned  
 26 tickets or admissions if advance payments have been made by  
 27 the buyer and have been returned by the seller, upon such form  
 28 and in such manner as the department may from time to time  
 29 prescribe. The department may, upon obtaining satisfactory  
 30 proof of the refunds on the part of the seller, credit the  
 31 seller for taxes paid upon admissions that have been returned

1 unused to the purchaser of those admissions. The seller of  
 2 admissions, upon the payment of the taxes before they become  
 3 delinquent and the rendering of the returns in accordance with  
 4 the requirement of the department and as provided in this law,  
 5 shall be entitled to a discount of 2.5 percent of the amount  
 6 of taxes upon the payment thereof before such taxes become  
 7 delinquent, in the same manner as permitted the sellers of  
 8 tangible personal property in this chapter. However, if the  
 9 amount of the tax due and remitted to the department for the  
 10 reporting period exceeds \$2,000~~\$1,200~~, no discount shall be  
 11 allowed for all amounts in excess of \$2,000~~\$1,200~~.

12 Section 10. Effective January 1, 1998, subsection (1)  
 13 of section 212.12, Florida Statutes, 1996 Supplement, is  
 14 amended to read:

15 212.12 Dealer's credit for collecting tax; penalties  
 16 for noncompliance; powers of Department of Revenue in dealing  
 17 with delinquents; brackets applicable to taxable transactions;  
 18 records required.--

19 (1) Notwithstanding any other provision of law and for  
 20 the purpose of compensating persons granting licenses for and  
 21 the lessors of real and personal property taxed hereunder, for  
 22 the purpose of compensating dealers in tangible personal  
 23 property, for the purpose of compensating dealers providing  
 24 communication services and taxable services, for the purpose  
 25 of compensating owners of places where admissions are  
 26 collected, and for the purpose of compensating remitters of  
 27 any taxes or fees reported on the same documents utilized for  
 28 the sales and use tax, as compensation for the keeping of  
 29 prescribed records and the proper accounting and remitting of  
 30 taxes by them, such seller, person, lessor, dealer, owner, and  
 31 remitter (except dealers who make mail order sales) shall be

1 allowed 2.5 percent of the amount of the tax due and accounted  
2 for and remitted to the department, in the form of a deduction  
3 in submitting his or her report and paying the amount due by  
4 him or her; the department shall allow such deduction of 2.5  
5 percent of the amount of the tax to the person paying the same  
6 for remitting the tax in the manner herein provided, for  
7 paying the amount due to be paid by him or her, and as further  
8 compensation to dealers in tangible personal property for the  
9 keeping of prescribed records and for collection of taxes and  
10 remitting the same. However, if the amount of the tax due and  
11 remitted to the department for the reporting period exceeds  
12 ~~\$2,000~~\$1,200, no allowance shall be allowed for all amounts  
13 in excess of ~~\$2,000~~\$1,200. The executive director of the  
14 department is authorized to negotiate a collection allowance,  
15 pursuant to rules promulgated by the department, with a dealer  
16 who makes mail order sales. The rules of the department shall  
17 provide guidelines for establishing the collection allowance  
18 based upon the dealer's estimated costs of collecting the tax,  
19 the volume and value of the dealer's mail order sales to  
20 purchasers in this state, and the administrative and legal  
21 costs and likelihood of achieving collection of the tax absent  
22 the cooperation of the dealer. However, in no event shall the  
23 collection allowance negotiated by the executive director  
24 exceed 10 percent of the tax remitted for a reporting period.

25 (a) The collection allowance may not be granted, nor  
26 may any deduction be permitted, if the tax is delinquent at  
27 the time of payment.

28 (b) The Department of Revenue may reduce the  
29 collection allowance by 10 percent or \$50, whichever is less,  
30 if a taxpayer files an incomplete return.

31

1           1. An "incomplete return" is, for purposes of this  
2 chapter, a return which is lacking such uniformity,  
3 completeness, and arrangement that the physical handling,  
4 verification, or review of the return may not be readily  
5 accomplished.

6           2. The department shall adopt rules requiring such  
7 information as it may deem necessary to ensure that the tax  
8 levied hereunder is properly collected, reviewed, compiled,  
9 and enforced, including, but not limited to: the amount of  
10 gross sales; the amount of taxable sales; the amount of tax  
11 collected or due; the amount of lawful refunds, deductions, or  
12 credits claimed; the amount claimed as the dealer's collection  
13 allowance; the amount of penalty and interest; the amount due  
14 with the return; and such other information as the Department  
15 of Revenue may specify. The department shall require that  
16 transient rentals and agricultural equipment transactions be  
17 separately shown. For returns remitted on or after February 1,  
18 1992, the department shall also require that sales made  
19 through vending machines as defined in s. 212.0515 be  
20 separately shown. For returns remitted on or after February 1,  
21 1995, sales made through coin-operated amusement machines as  
22 defined by s. 212.02 and the number of machines operated must  
23 be separately shown on the return or on a form prescribed by  
24 the department. If a separate form is required, the same  
25 penalties for late filing, incomplete filing, or failure to  
26 file as provided for the sales tax return shall apply to said  
27 form.

28           (c) The collection allowance and other credits or  
29 deductions provided in this part shall be applied  
30 proportionally to any taxes or fees reported on the same  
31 documents used for the sales and use tax.

1           Section 11. Subsections (1), (3), and (14), paragraph  
2 (b) of subsection (5), and paragraphs (o), (ff), and (ii) of  
3 subsection (7) of section 212.08, Florida Statutes, 1996  
4 Supplement, are amended, and paragraphs (nn), (oo), (pp),  
5 (qq), (rr), (ss), (tt), and (uu) are added to subsection (7)  
6 of said section, to read:

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

13           (1) EXEMPTIONS; GENERAL GROCERIES.--

14           (a) There are exempted from the tax imposed by this  
15 chapter food products for human consumption.

16           (b) For the purpose of this chapter, "food products"  
17 means edible commodities, whether processed, cooked, raw,  
18 canned, or in any other form, which are generally regarded as  
19 food. This includes, but is not limited to, all of the  
20 following:

21           1. Cereals and cereal products, baked goods,  
22 oleomargarine, meat and meat products, fish and seafood  
23 products, frozen foods and dinners, poultry, eggs and egg  
24 products, vegetables and vegetable products, fruit and fruit  
25 products, spices, salt, sugar and sugar products, milk and  
26 dairy products, and products intended to be mixed with milk.

27           2. Natural fruit or vegetable juices or their  
28 concentrates or reconstituted natural concentrated fruit or  
29 vegetable juices, whether frozen or unfrozen, dehydrated,  
30 powdered, granulated, sweetened or unsweetened, seasoned with  
31

1 salt or spice, or unseasoned; coffee, coffee substitutes, or  
2 cocoa; and tea, unless sold in a liquid form.

3 3. Bakery products sold by bakeries, pastry shops, or  
4 like establishments which do not have eating facilities.

5 (c) None of the exemptions provided in paragraph (b)  
6 applies to any of the following:

7 1. When the food products are sold as meals for  
8 consumption on or off the seller's premises.

9 2. When the food products are furnished, prepared, or  
10 served for consumption at tables, chairs, or counters or from  
11 trays, glasses, dishes, or other tableware, whether provided  
12 by the seller or by a person with whom the seller contracts to  
13 furnish, prepare, or serve food products to others.

14 3. When the food products are ordinarily sold for  
15 immediate consumption on the seller's premises or near a  
16 location at which parking facilities are provided primarily  
17 for the use of patrons in consuming the products purchased at  
18 the location, even though such products are sold on a "take  
19 out" or "to go" order and are actually packaged or wrapped and  
20 taken from the seller's premises.

21 4. Sandwiches sold ready for immediate consumption on  
22 or off the seller's premises.

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

26 6. Soft drinks, which include, but are not limited to,  
27 any nonalcoholic beverage, any preparation or beverage  
28 commonly referred to as a "soft drink," or any noncarbonated  
29 drink made from milk derivatives or tea, when sold in a liquid  
30 form.

31



1           7. Ice cream, frozen yogurt, and similar frozen dairy  
2 or nondairy products in cones, small cups, or pints,  
3 popsicles, frozen fruit bars, or other novelty items, whether  
4 or not sold separately.

5           8. Food prepared, whether on or off the premises, and  
6 sold for immediate consumption. This does not apply to food  
7 prepared off the premises and sold in the original sealed  
8 container, or the slicing of products into smaller portions.

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

12           10. Candy and any similar product regarded as candy or  
13 confection, based on its normal use, as indicated on the label  
14 or advertising thereof.

15           11. Bakery products sold by bakeries, pastry shops, or  
16 like establishments which have eating facilities, except when  
17 sold for consumption off the seller's premises.

18           12. When food products are served, prepared, or sold  
19 in or by restaurants, lunch counters, cafeterias, hotels,  
20 taverns, or other like places of business.

21           13. Food products sold as hot prepared food products.

22           (d) For purposes of this subsection:

23           1. "For consumption off the seller's premises" means  
24 that the food or drink is intended by the customer to be  
25 consumed at a place away from the seller's premises.

26           2. "For consumption on the seller's premises" means  
27 that the food or drink sold may be immediately consumed on the  
28 premises where the seller conducts his or her business. In  
29 determining whether an item of food is sold for immediate  
30 consumption, there shall be considered the customary  
31 consumption practices prevailing at the selling facility.

1           3. "Premises" shall be construed broadly, and means,  
2 but is not limited to, the lobby, aisle, or auditorium of a  
3 theater; the seating, aisle, or parking area of an arena,  
4 rink, or stadium; or the parking area of a drive-in or outdoor  
5 theater. The premises of a caterer with respect to catered  
6 meals or beverages shall be the place where such meals or  
7 beverages are served.

8           4. "Hot prepared food products" means those products,  
9 items, or components which have been prepared for sale in a  
10 heated condition and which are sold at any temperature which  
11 is higher than the air temperature of the room or place where  
12 they are sold. "Hot prepared food products," for the purposes  
13 of this subsection, includes a combination of hot and cold  
14 food items or components where a single price has been  
15 established for the combination and the food products are sold  
16 in such combination, such as a hot meal, a hot specialty dish  
17 or serving, or a hot sandwich or hot pizza, including cold  
18 components or side items.

19           ~~(a) There are exempt from the tax imposed by this~~  
20 ~~chapter food and drinks for human consumption except candy.~~  
21 ~~Unless the exemption provided by paragraph (7)(q) for school~~  
22 ~~lunches, paragraph (7)(i) for meals to certain patients or~~  
23 ~~inmates, paragraph (7)(k) for meals provided by certain~~  
24 ~~nonprofit organizations, or paragraph (7)(z) for food or~~  
25 ~~drinks sold through vending machines pertains, none of such~~  
26 ~~items of food or drinks means:~~

27           ~~1. Food or drinks served, prepared, or sold in or by~~  
28 ~~restaurants; drugstores; lunch counters; cafeterias; hotels;~~  
29 ~~amusement parks; racetracks; taverns; concession stands at~~  
30 ~~arenas, auditoriums, carnivals, fairs, stadiums, theaters, or~~  
31 ~~other like places of business; or by any business or place~~

1 ~~required by law to be licensed by the Division of Hotels and~~  
2 ~~Restaurants of the Department of Business and Professional~~  
3 ~~Regulation, except bakery products sold in or by pastry shops,~~  
4 ~~doughnut shops, or like establishments for consumption off the~~  
5 ~~premises;~~

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

9 ~~3. Soft drinks, which include, but are not limited to,~~  
10 ~~any nonalcoholic beverage, any preparation or beverage~~  
11 ~~commonly referred to as a "soft drink," or any noncarbonated~~  
12 ~~drink made from milk derivatives or tea, when sold in cans or~~  
13 ~~similar containers. The term "soft drink" does not include:~~  
14 ~~natural fruit or vegetable juices or their concentrates or~~  
15 ~~reconstituted natural concentrated fruit or vegetable juices,~~  
16 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~  
17 ~~sweetened or unsweetened, seasoned with salt or spice, or~~  
18 ~~unseasoned; coffee or coffee substitutes; tea except when sold~~  
19 ~~in containers as provided herein; cocoa; products intended to~~  
20 ~~be mixed with milk; or natural fluid milk;~~

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

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

27  
28 ~~For the purposes of this paragraph, "seller's premises" shall~~  
29 ~~be construed broadly, and means, but is not limited to, the~~  
30 ~~lobby, aisle, or auditorium of a theater; the seating, aisle,~~  
31 ~~or parking area of an arena, rink, or stadium; or the parking~~

1 ~~area of a drive-in or outdoor theater. The premises of a~~  
2 ~~caterer with respect to catered meals or beverages shall be~~  
3 ~~the place where such meals or beverages are served.~~

4 (e)(b)1. Food or drinks not exempt under paragraphs  
5 (a), (b), (c), and (d)~~paragraph (a)~~ shall be exempt,  
6 notwithstanding those paragraphs ~~that paragraph~~, when  
7 purchased with food coupons or Special Supplemental Food  
8 Program for Women, Infants, and Children vouchers issued under  
9 authority of federal law.

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

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

19 4. Notwithstanding any other provision of law, the  
20 department shall make refunds or allow credits to a  
21 distributor equal to the fee imposed and paid under s.  
22 403.7197 on containers purchased by consumers with food  
23 coupons or Special Supplemental Food Program for Women,  
24 Infants, and Children vouchers issued under authority of  
25 federal law.

26 (3) EXEMPTIONS, PARTIAL; CERTAIN FARM  
27 EQUIPMENT.--There shall be taxable at the rate of 3 percent  
28 the sale, use, consumption, or storage for use in this state  
29 of self-propelled, or power-drawn, or power-driven farm  
30 equipment used exclusively on a farm or in a forest ~~by a~~  
31 ~~farmer on a farm owned, leased, or sharecropped by the farmer~~

1 in plowing, planting, cultivating, or harvesting crops or  
2 products as produced by those agricultural industries included  
3 in s. 570.02(1). Harvesting is not to be construed to include  
4 processing activities. This partial exemption is not  
5 forfeited by the act of moving farm equipment between farms or  
6 forests. The rental of self-propelled, ~~or~~ power-drawn, or  
7 power-driven farm equipment shall be taxed at the rate of 6  
8 percent.

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

10 (b) Machinery and equipment used to increase  
11 productive output.--

12 1. Industrial machinery and equipment purchased for  
13 use in new businesses which manufacture, process, compound, or  
14 produce for sale, or for exclusive use in spaceport activities  
15 as defined in s. 212.02, items of tangible personal property  
16 at fixed locations are exempt from the tax imposed by this  
17 chapter upon an affirmative showing by the taxpayer to the  
18 satisfaction of the department that such items are used in a  
19 new business in this state. Such purchases must be made prior  
20 to the date the business first begins its productive  
21 operations, and delivery of the purchased item must be made  
22 within 12 months of that date.

23 2.a. Industrial machinery and equipment purchased for  
24 use in expanding manufacturing facilities or plant units which  
25 manufacture, process, compound, or produce for sale, or for  
26 exclusive use in spaceport activities as defined in s. 212.02,  
27 items of tangible personal property at fixed locations in this  
28 state are exempt from any amount of tax imposed by this  
29 chapter in excess of \$50,000 per calendar year upon an  
30 affirmative showing by the taxpayer to the satisfaction of the  
31

1 department that such items are used to increase the productive  
2 output of such expanded business by not less than 10 percent.

3 b. Notwithstanding any other provision of this  
4 section, industrial machinery and equipment purchased for use  
5 in expanding printing or publishing manufacturing facilities  
6 or plant units that manufacture, process, compound, or produce  
7 for sale items of tangible personal property at fixed  
8 locations in this state are exempt from any amount of tax  
9 imposed by this chapter upon an affirmative showing by the  
10 taxpayer to the satisfaction of the department that such items  
11 are used to increase the productive output of such expanded  
12 business by not less than 10 percent.

13 3.a. To receive an exemption provided by subparagraph  
14 1. or subparagraph 2., a qualifying business entity shall  
15 apply to the department for a temporary tax exemption permit.  
16 The application shall state that a new business exemption or  
17 expanded business exemption is being sought. Upon a tentative  
18 affirmative determination by the department pursuant to  
19 subparagraph 1. or subparagraph 2., the department shall issue  
20 such permit.

21 b. The applicant shall be required to maintain all  
22 necessary books and records to support the exemption. Upon  
23 completion of purchases of qualified machinery and equipment  
24 pursuant to subparagraph 1. or subparagraph 2., the temporary  
25 tax permit shall be delivered to the department or returned to  
26 the department by certified or registered mail.

27 c. If, in a subsequent audit conducted by the  
28 department, it is determined that the machinery and equipment  
29 purchased as exempt under subparagraph 1. or subparagraph 2.  
30 did not meet the criteria mandated by this paragraph or if  
31 commencement of production did not occur, the amount of taxes

1 exempted at the time of purchase shall immediately be due and  
2 payable to the department by the business entity, together  
3 with the appropriate interest and penalty, computed from the  
4 date of purchase, in the manner prescribed by this chapter.

5 d. In the event a qualifying business entity fails to  
6 apply for a temporary exemption permit or if the tentative  
7 determination by the department required to obtain a temporary  
8 exemption permit is negative, a qualifying business entity  
9 shall receive the exemption provided in subparagraph 1. or  
10 subparagraph 2. through a refund of previously paid taxes. No  
11 refund may be made for such taxes unless the criteria mandated  
12 by subparagraph 1. or subparagraph 2. have been met and  
13 commencement of production has occurred.

14 4. The department shall promulgate rules governing  
15 applications for, issuance of, and the form of temporary tax  
16 exemption permits; provisions for recapture of taxes; and the  
17 manner and form of refund applications and may establish  
18 guidelines as to the requisites for an affirmative showing of  
19 increased productive output, commencement of production, and  
20 qualification for exemption.

21 5. The exemptions provided in subparagraphs 1. and 2.  
22 do not apply to machinery or equipment purchased or used by  
23 electric utility companies, communications companies,  
24 phosphate or other solid minerals severance, mining, or  
25 processing operations, oil or gas exploration or production  
26 operations, ~~publishing firms that do not export at least 50~~  
27 ~~percent of their finished product out of the state,~~any firm  
28 subject to regulation by the Division of Hotels and  
29 Restaurants of the Department of Business and Professional  
30 Regulation, or any firm which does not manufacture, process,  
31 compound, or produce for sale, or for exclusive use in

1 spaceport activities as defined in s. 212.02, items of  
2 tangible personal property.

3           6. For the purposes of the exemptions provided in  
4 subparagraphs 1. and 2., these terms have the following  
5 meanings:

6           a. "Industrial machinery and equipment" means "section  
7 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the  
8 Internal Revenue Code, provided "industrial machinery and  
9 equipment" shall be construed by regulations adopted by the  
10 Department of Revenue to mean tangible property used as an  
11 integral part of the manufacturing, processing, compounding,  
12 or producing for sale, or for exclusive use in spaceport  
13 activities as defined in s. 212.02, of items of tangible  
14 personal property. Such term includes parts and accessories  
15 only to the extent that the exemption thereof is consistent  
16 with the provisions of this paragraph.

17           b. "Productive output" means the number of units  
18 actually produced by a single plant or operation in a single  
19 continuous 12-month period, irrespective of sales. Increases  
20 in productive output shall be measured by the output for 12  
21 continuous months immediately following the completion of  
22 installation of such machinery or equipment over the output  
23 for the 12 continuous months immediately preceding such  
24 installation. However, if a different 12-month continuous  
25 period of time would more accurately reflect the increase in  
26 productive output of machinery and equipment purchased to  
27 facilitate an expansion, the increase in productive output may  
28 be measured during that 12-month continuous period of time if  
29 such time period is mutually agreed upon by the Department of  
30 Revenue and the expanding business prior to the commencement  
31 of production; provided, however, in no case may such time



1 period begin later than 2 years following the completion of  
2 installation of the new machinery and equipment. The units  
3 used to measure productive output shall be physically  
4 comparable between the two periods, irrespective of sales.

5 7. Notwithstanding any other provision in this  
6 paragraph to the contrary, in order to receive the exemption  
7 provided in this paragraph a taxpayer must register with the  
8 WAGES Program Business Registry established by the local WAGES  
9 coalition for the area in which the taxpayer is located. Such  
10 registration establishes a commitment on the part of the  
11 taxpayer to hire WAGES program participants to the maximum  
12 extent possible consistent with the nature of their business.

13 (7) MISCELLANEOUS EXEMPTIONS.--

14 (o) Religious, charitable, scientific, educational,  
15 and veterans' institutions and organizations.--

16 1. There are exempt from the tax imposed by this part  
17 transactions involving:

18 a. Sales or leases directly to churches or sales or  
19 leases of tangible personal property by churches;

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

26 c. Sales or leases to the state headquarters of  
27 qualified veterans' organizations and the state headquarters  
28 of their auxiliaries when used in carrying on their customary  
29 veterans' organization activities. If a qualified veterans'  
30 organization or its auxiliary does not maintain a permanent  
31 state headquarters, then transactions involving sales or

1 leases to such organization and used to maintain the office of  
2 the highest ranking state official are exempt from the tax  
3 imposed by this part.

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

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

1 ministry providing worship and services of a charitable nature  
 2 to the community on a weekly basis. The term "religious  
 3 institutions" also includes any nonprofit corporation which is  
 4 qualified as nonprofit pursuant to s. 501(c)(3), United States  
 5 Internal Revenue Code of 1986, as amended, the primary  
 6 activity of which is distribution of audio recordings of  
 7 religious scriptures to blind or visually impaired persons at  
 8 no charge. The term "religious institutions" also includes any  
 9 nonprofit corporation which is qualified as nonprofit pursuant  
 10 to s. 501(c)(3), United States Internal Revenue Code of 1986,  
 11 as amended, the sole or primary function of which is to  
 12 provide, at any location, nonprofit religious services,  
 13 evangelistic services, religious education, or missionary  
 14 activities for, or in direct participation with, one or more  
 15 churches, synagogues, or established places of worship at  
 16 which nonprofit religious services and activities are  
 17 regularly conducted.

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

27           (I) Medical aid for the relief of disease, injury, or  
 28 disability;

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

31

1 (III) Services for the prevention of or rehabilitation  
2 of persons from alcoholism or drug abuse; the prevention of  
3 suicide; or the alleviation of mental, physical, or sensory  
4 health problems;

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

10 (V) Medical research for the relief of disease,  
11 injury, or disability;

12 (VI) Legal services; or

13 (VII) Food, shelter, or medical care for animals or  
14 adoption services, cruelty investigations, or education  
15 programs concerning animals;

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

1 the Internal Revenue Code constitutes a charitable institution  
2 and is exempt from the tax imposed by this part.

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

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

1 "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 (ff) Aircraft repair and maintenance labor  
 7 charges.--There shall be exempt from the tax imposed by this  
 8 part all labor charges for the repair and maintenance of  
 9 aircraft of more than 20,000 pounds maximum certified takeoff  
 10 weight. Except as otherwise provided in this chapter, charges  
 11 for parts and equipment furnished in connection with such  
 12 labor charges are taxable.

13 (ii) Certain electricity uses.--

14 1. Charges for electricity used to operate machinery  
 15 and equipment directly and exclusively at a fixed location in  
 16 this state when such to operate machinery and equipment ~~that~~  
 17 is used to manufacture, process, compound, ~~or produce, or~~  
 18 prepare for shipment items of tangible personal property for  
 19 sale, or to operate pollution control equipment, recycling  
 20 equipment, maintenance equipment, or monitoring or control  
 21 equipment used in such operations are exempt to the extent  
 22 provided in this paragraph ~~from the tax imposed by this part~~  
 23 ~~as provided in subparagraph 2. In order to qualify for this~~  
 24 exemption, 75 percent or more of the electricity used at the  
 25 fixed location must be used to operate qualifying machinery or  
 26 equipment. ~~The exemption provided for herein is applicable if~~  
 27 ~~the electricity that is used for the exempt purposes is~~  
 28 ~~separately metered, or if it is not separately metered, it is~~  
 29 ~~irrevocably presumed that 50 percent of the charge for~~  
 30 ~~electricity is for nonexempt purposes.~~

1           2. This exemption ~~only~~ applies only to industries  
2 classified under SIC Industry Major Group Numbers 10, 12, 13,  
3 14, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33,  
4 34, 35, 36, 37, 38, and 39. As used in this paragraph, "SIC"  
5 means those classifications contained in the Standard  
6 Industrial Classification Manual, 1987, as published by the  
7 Office of Management and Budget, Executive Office of the  
8 President.

9           3. Possession by a seller of a written certification  
10 by the purchaser, certifying the purchaser's entitlement to an  
11 exemption permitted by this subsection, relieves the seller  
12 from the responsibility of collecting the tax on the  
13 nontaxable amounts, and the department shall look solely to  
14 the purchaser for recovery of such tax if it determines that  
15 the purchaser was not entitled to the exemption.

16           4. Such exemption shall be applied as follows:

17           a.1. Beginning July 1, 1996, 20 percent of the charges  
18 for such electricity shall be exempt.

19           b.2. Beginning July 1, 1997, 40 percent of the charges  
20 for such electricity shall be exempt.

21           c.3. Beginning July 1, 1998, 60 percent of the charges  
22 for such electricity shall be exempt.

23           d.4. Beginning July 1, 1999, 80 percent of the charges  
24 for such electricity shall be exempt.

25           e.5. Beginning July 1, 2000, 100 percent of the  
26 charges for such electricity shall be exempt.

27           5. Notwithstanding any other provision in this  
28 paragraph to the contrary, in order to receive the exemption  
29 provided in this paragraph a taxpayer must first register with  
30 the WAGES Program Business Registry established by the local  
31 WAGES coalition for the area in which the taxpayer is located.



1 Such registration establishes a commitment on the part of the  
2 taxpayer to hire WAGES program participants to the maximum  
3 extent possible consistent with the nature of their business.

4 6.a. In order to determine whether the exemption  
5 provided in this paragraph from the tax on charges for  
6 electricity has an effect on retaining or attracting companies  
7 to this state, the Office of Program Policy Analysis and  
8 Governmental Accountability shall periodically monitor and  
9 report on the industries receiving the exemption.

10 b. The first report shall be submitted no later than  
11 January 1, 1997, and must be conducted in such a manner as to  
12 specifically determine the number of companies within each SIC  
13 Industry Major Group receiving the exemption as of September  
14 1, 1996, and the number of individuals employed by companies  
15 within each SIC Industry Major Group receiving the exemption  
16 as of September 1, 1996.

17 c. The second report shall be submitted no later than  
18 January 1, 2001, and must be comprehensive in scope, but, at a  
19 minimum, must be conducted in such a manner as to specifically  
20 determine the number of companies within each SIC Industry  
21 Major Group receiving the exemption as of September 1, 2000,  
22 the number of individuals employed by companies within each  
23 SIC Industry Major Group receiving the exemption as of  
24 September 1, 2000, whether the change, if any, in such number  
25 of companies or employees is attributable to the exemption  
26 provided in this paragraph, whether it would be sound public  
27 policy to continue or discontinue the exemption, and the  
28 consequences of doing so.

29 d. Both reports shall be submitted to the President of  
30 the Senate, the Speaker of the House of Representatives, the  
31 Senate Minority Leader, and the House Minority Leader.

1           (nn) Equipment used in aircraft repair and  
2 maintenance.--There shall be exempt from the tax imposed by  
3 this chapter replacement engines, parts, and equipment used in  
4 the repair or maintenance of aircraft of more than 20,000  
5 pounds maximum certified takeoff weight, when such parts or  
6 equipment are installed on such aircraft that is being  
7 repaired or maintained in this state.

8           (oo) Aircraft sales or leases.--The sale or lease of  
9 an aircraft of more than 20,000 pounds maximum certified  
10 takeoff weight for use by a common carrier is exempt from the  
11 tax imposed by this chapter. As used in this paragraph,  
12 "common carrier" means an airline operating under part 121 or  
13 part 129 of the federal aviation regulations.

14           (pp) Complimentary items.--There is exempt from the  
15 tax imposed by this chapter:

16           1. Any food or drink, whether or not cooked or  
17 prepared on the premises, provided without charge as a sample  
18 or for the convenience of customers by a dealer that primarily  
19 sells food product items at retail.

20           2. Any item given to a customer as part of a price  
21 guarantee plan related to point-of-sale errors by a dealer  
22 that primarily sells food products at retail.

23           (gg) Donated goods, foods or beverages.--Any goods,  
24 food or beverages donated by a dealer that sells goods, or  
25 food products at retail to a food bank or an organization  
26 which holds current exemption from federal corporate income  
27 tax pursuant to s. 501(c) of the Internal Revenue Code of  
28 1986, as amended, is exempt from the tax imposed by this  
29 chapter.

30           (rr) Complimentary meals.--Where no separate charge or  
31 specific amount is shown for food or drinks furnished as part

1 of a packaged room rate by any person offering for rent or  
2 lease any transient living accommodations as described in s.  
3 509.013(4)(a) which are licensed under part I of chapter 509  
4 and which are subject to the tax under s. 212.03, such drinks  
5 or food are considered sold at retail as a part of the total  
6 charge for the transient living accommodations. The person  
7 offering the accommodations is not considered the consumer of  
8 items purchased in furnishing such food or drinks and may  
9 purchase such items under conditions of a sale for resale.

10 (ss) Advertising agencies.--

11 1. As used in this paragraph, the term "advertising  
12 agency" means any firm that is regularly engaged in the  
13 business of providing advertising materials and services to  
14 its clients.

15 2. Exempt from the tax imposed by this chapter are  
16 advertising services provided by an advertising agency to its  
17 clients and items of tangible personal property such as  
18 photographic negatives and positives, videos, films, galleys,  
19 mechanicals, veloxes, illustrations, and artwork and the  
20 services used to produce those items if the items are:

21 a. Sold to an advertising agency that is acting as an  
22 agent for its clients pursuant to contract, and are created  
23 for the performance of advertising services for the clients;

24 b. Produced, fabricated, manufactured, or otherwise  
25 created by an advertising agency for its clients, and are used  
26 in the performance of advertising services for the clients; or

27 c. Sold by an advertising agency to its clients in the  
28 performance of advertising services for the clients, whether  
29 or not the charges for these items are marked up or separately  
30 stated.

31

1           3. The items exempted from tax under subparagraph 2.  
 2 and the creative services used by an advertising agency to  
 3 design the advertising for promotional goods such as displays,  
 4 display containers, exhibits, newspaper inserts, brochures,  
 5 catalogues, direct mail letters or flats, shirts, hats, pens,  
 6 pencils, key chains, or other printed goods or materials are  
 7 not subject to tax. However, when such promotional goods are  
 8 produced or reproduced for distribution, tax applies only to  
 9 the cost price of such production or reproduction for  
 10 distribution.

11           4. The exemptions provided by this paragraph apply  
 12 retroactively, except that taxes that have been remitted  
 13 before July 1, 1997, on transactions that are subject to  
 14 exemption under this paragraph are not subject to refund.

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

24           (uu) Bullion.--The sale of gold, silver, or platinum  
 25 bullion, or any combination thereof in a single transaction,  
 26 is exempt if the sales price exceeds \$500. The dealer must  
 27 maintain proper documentation, as prescribed by rule of the  
 28 department, to identify that portion of a transaction which  
 29 involves the sale of gold, silver, or platinum bullion and is  
 30 exempt under this paragraph.

31

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

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

24           (c) The advisory committee shall use guidelines  
25 determined by the department in making its recommendations.  
26 The committee shall forward its recommendations to the  
27 department, which shall determine the taxability of specific  
28 products. The determination shall be a public record and shall  
29 be final upon its publication and shall remain effective  
30 unless a change of determination is published. The  
31 determination shall not be subject to the provisions of

1 chapter 120 except that the determination may be challenged  
2 pursuant to a proceeding conducted under ss. 120.569 and  
3 120.57.

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

15 Section 12. (1) Paragraph (c) is added to subsection  
16 (2) and paragraph (c) is added to subsection (4) of section  
17 220.15, Florida Statutes, and paragraph (c) of subsection (5)  
18 of said section is amended, to read:

19 220.15 Apportionment of adjusted federal income.--

20 (2) The property factor is a fraction the numerator of  
21 which is the average value of the taxpayer's real and tangible  
22 personal property owned or rented and used in this state  
23 during the taxable year or period and the denominator of which  
24 is the average value of such property owned or rented and used  
25 everywhere.

26 (c) The property factor fraction shall not include any  
27 real or tangible personal property located in this state with  
28 respect to which it is certified to the Department of Revenue  
29 by the Board of Regents that such property is dedicated  
30 exclusively to research and development activities performed

31

1 pursuant to sponsored research contracts conducted in  
2 conjunction with and through a state university.

3 (4) The payroll factor is a fraction the numerator of  
4 which is the total amount paid in this state during the  
5 taxable year or period by the taxpayer for compensation and  
6 the denominator of which is the total compensation paid  
7 everywhere during the taxable year or period.

8 (c) The payroll factor fraction shall not include any  
9 compensation paid to any employee located in this state when  
10 it is certified to the Department of Revenue by the Board of  
11 Regents that such compensation was paid to employees dedicated  
12 exclusively to research and development activities performed  
13 pursuant to sponsored research contracts conducted in  
14 conjunction with and through a state university.

15 (5) The sales factor is a fraction the numerator of  
16 which is the total sales of the taxpayer in this state during  
17 the taxable year or period and the denominator of which is the  
18 total sales of the taxpayer everywhere during the taxable year  
19 or period.

20 (c) Sales of a financial organization, including, but  
21 not limited to, banking and savings institutions, investment  
22 companies, real estate investment trusts, and brokerage  
23 companies, occur in this state if derived from:

24 1. Fees, commissions, or other compensation for  
25 financial services rendered within this state;

26 2. Gross profits from trading in stocks, bonds, or  
27 other securities managed within this state;

28 3. Interest received within this state, other than  
29 interest from loans secured by mortgages, deeds of trust, or  
30 other liens upon real or tangible personal property located  
31 without this state, and dividends received within this state;

1           4. Interest charged to customers at places of business  
2 maintained within this state for carrying debit balances of  
3 margin accounts, without deduction of any costs incurred in  
4 carrying such accounts;

5           5. Interest, fees, commissions, or other charges or  
6 gains from loans secured by mortgages, deeds of trust, or  
7 other liens upon real or tangible personal property located in  
8 this state or from installment sale agreements originally  
9 executed by a taxpayer or the taxpayer's agent to sell real or  
10 tangible personal property located in this state;

11           6. Rents from real or tangible personal property  
12 located in this state; or

13           7. Any other gross income, including other interest,  
14 resulting from the operation as a financial organization  
15 within this state.

16  
17 In computing the amounts under this paragraph, any amount  
18 received by a member of an affiliated group (determined under  
19 s. 1504(a) of the Internal Revenue Code, but without reference  
20 to whether any such corporation is an "includable corporation"  
21 under s. 1504(b) of the Internal Revenue Code) from another  
22 member of such group shall be included only to the extent such  
23 amount exceeds expenses of the recipient directly related  
24 thereto. No research and development activities certified by  
25 the Board of Regents as being conducted in conjunction with  
26 and through a state university within this state shall cause  
27 any corporation to become subject to the taxes imposed by this  
28 chapter if the corporation would otherwise not be subject to  
29 the tax levied under this chapter. The property and payroll  
30 eliminated from the apportionment formula pursuant to the  
31 provisions of paragraphs (2)(c) and (4)(c) shall be eliminated



1 only for the duration of the contractual period specified in  
2 the contracts for the conduct of the sponsored research. The  
3 reduction in tax due as a result of the property and payroll  
4 eliminated from the apportionment formula pursuant to the  
5 provisions of paragraphs (2)(c) and (4)(c) shall not exceed  
6 the amount paid to the state university for the conduct of the  
7 sponsored research. No sponsored research contracts in  
8 existence prior to July 1, 1997, shall be eligible to  
9 participate in the provisions of paragraphs (2)(c) and (4)(c).

10 (2) The Department of Revenue is directed to adopt any  
11 rules necessary to administer the amendment to s. 220.15,  
12 Florida Statutes, by this section. The Board of Regents shall  
13 monitor the various sponsored research contracts and make a  
14 report to the Speaker of the House of Representatives and to  
15 the President of the Senate by February 1, 1999, which shall  
16 provide any necessary information which indicates if the  
17 provisions of this section have been successful in attracting  
18 additional sponsored research contracts.

19 Section 13. Section 221.02, Florida Statutes, is  
20 amended to read:

21 221.02 Credit for emergency excise tax paid.--The  
22 emergency excise tax paid pursuant to s. 221.01 plus any  
23 credit or carryover properly applied to reduce the amount of  
24 the emergency excise tax due for the taxable year shall be  
25 allowed as a credit against the emergency excise tax, if any,  
26 to be charged and collected pursuant to this chapter for the  
27 return filed for the fifth taxable year following the taxable  
28 year for which the tax was paid or, if earlier, the taxable  
29 year for which a final return is required. To the extent that  
30 the credit exceeds the emergency excise tax, if any, for the  
31 return filed for the fifth taxable year following the taxable

1 year for which the tax was paid or, if earlier, the taxable  
2 year for which a final return is required, such excess shall  
3 be allowed as a reduction of, and credit against, any tax  
4 imposed by chapter 220 upon the taxpayer for the fifth taxable  
5 year following the taxable year for which the tax was paid or,  
6 if earlier, the taxable year for which a final return is  
7 required. If the taxpayer is unable to fully utilize the  
8 credit in the year in which it is first allowed, it may be  
9 carried over to each of the 5 taxable years immediately  
10 thereafter; however, any such credit which would have expired  
11 on or after July 1, 1996, may be carried over until such  
12 credit is fully utilized.

13 Section 14. Paragraph (o) of subsection (7) of section  
14 212.08, Florida Statutes, 1996 Supplement, is amended to read:

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

21 (7) MISCELLANEOUS EXEMPTIONS.--

22 (o) Religious, charitable, scientific, educational,  
23 and veterans' institutions and organizations.--

24 1. There are exempt from the tax imposed by this part  
25 transactions involving:

26 a. Sales or leases directly to churches or sales or  
27 leases of tangible personal property by churches;

28 b. Sales or leases to nonprofit religious, nonprofit  
29 charitable, nonprofit scientific, or nonprofit educational  
30 institutions when used in carrying on their customary  
31 nonprofit religious, nonprofit charitable, nonprofit

1 scientific, or nonprofit educational activities, including  
2 church cemeteries; and  
3 c. Sales or leases to the state headquarters of  
4 qualified veterans' organizations and the state headquarters  
5 of their auxiliaries when used in carrying on their customary  
6 veterans' organization activities. If a qualified veterans'  
7 organization or its auxiliary does not maintain a permanent  
8 state headquarters, then transactions involving sales or  
9 leases to such organization and used to maintain the office of  
10 the highest ranking state official are exempt from the tax  
11 imposed by this part.  
12 2. The provisions of this section authorizing  
13 exemptions from tax shall be strictly defined, limited, and  
14 applied in each category as follows:  
15 a. "Religious institutions" means churches,  
16 synagogues, and established physical places for worship at  
17 which nonprofit religious services and activities are  
18 regularly conducted and carried on. The term "religious  
19 institutions" includes nonprofit corporations the sole purpose  
20 of which is to provide free transportation services to church  
21 members, their families, and other church attendees. The term  
22 "religious institutions" also includes state, district, or  
23 other governing or administrative offices the function of  
24 which is to assist or regulate the customary activities of  
25 religious organizations or members. The term "religious  
26 institutions" also includes any nonprofit corporation which is  
27 qualified as nonprofit pursuant to s. 501(c)(3), United States  
28 Internal Revenue Code of 1986, as amended, which owns and  
29 operates a Florida television station, at least 90 percent of  
30 the programming of which station consists of programs of a  
31 religious nature, and the financial support for which,

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

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

20 (I) Medical aid for the relief of disease, injury, or  
21 disability;

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

24 (III) Services for the prevention of or rehabilitation  
25 of persons from alcoholism or drug abuse; the prevention of  
26 suicide; or the alleviation of mental, physical, or sensory  
27 health problems;

28 (IV) Social welfare services including adoption  
29 placement, child care, community care for the elderly, and  
30 other social welfare services which clearly and substantially  
31

1 benefit a client population which is disadvantaged or suffers  
2 a hardship;  
3 (V) Medical research for the relief of disease,  
4 injury, or disability;  
5 (VI) Legal services; or  
6 (VII) Food, shelter, or medical care for animals or  
7 adoption services, cruelty investigations, or education  
8 programs concerning animals;  
9  
10 and the term includes groups providing volunteer staff to  
11 organizations designated as charitable institutions under this  
12 sub-subparagraph; nonprofit organizations the sole or primary  
13 purpose of which is to coordinate, network, or link other  
14 institutions designated as charitable institutions under this  
15 sub-subparagraph with those persons, animals, or organizations  
16 in need of their services; and nonprofit national, state,  
17 district, or other governing, coordinating, or administrative  
18 organizations the sole or primary purpose of which is to  
19 represent or regulate the customary activities of other  
20 institutions designated as charitable institutions under this  
21 sub-subparagraph. Notwithstanding any other requirement of  
22 this section, any blood bank that relies solely upon volunteer  
23 donations of blood and tissue, that is licensed under chapter  
24 483, and that qualifies as tax exempt under s. 501(c)(3) of  
25 the Internal Revenue Code constitutes a charitable institution  
26 and is exempt from the tax imposed by this part. Sales to a  
27 health system, qualified as nonprofit pursuant to s.  
28 501(c)(3), United States Internal Revenue Code of 1986, as  
29 amended, which filed an application for exemption with the  
30 department prior to April 5, 1997, and which application is  
31

1 subsequently approved, shall be exempt as to any unpaid taxes  
2 on purchases made from January 1, 1994, to June 1, 1997.

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

10 d. "Educational institutions" means state  
11 tax-supported or parochial, church and nonprofit private  
12 schools, colleges, or universities which conduct regular  
13 classes and courses of study required for accreditation by, or  
14 membership in, the Southern Association of Colleges and  
15 Schools, the Department of Education, the Florida Council of  
16 Independent Schools, or the Florida Association of Christian  
17 Colleges and Schools, Inc., or nonprofit private schools which  
18 conduct regular classes and courses of study accepted for  
19 continuing education credit by a Board of the Division of  
20 Medical Quality Assurance of the Department of Business and  
21 Professional Regulation or which conduct regular classes and  
22 courses of study accepted for continuing education credit by  
23 the American Medical Association. Nonprofit libraries, art  
24 galleries, and museums open to the public are defined as  
25 educational institutions and are eligible for exemption. The  
26 term "educational institutions" includes private nonprofit  
27 organizations the purpose of which is to raise funds for  
28 schools teaching grades kindergarten through high school,  
29 colleges, and universities. The term "educational  
30 institutions" includes any nonprofit newspaper of free or paid  
31 circulation primarily on university or college campuses which

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

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

31

1           Section 15. Effective January 1, 1999, and applicable  
2 to taxes due, taxes paid, or returns filed after the effective  
3 date, paragraph (a) of subsection (3) of section 95.091,  
4 Florida Statutes, is amended to read:

5           95.091 Limitation on actions to collect taxes.--

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

15           a. Within 3 5 years after the date the tax is due, any  
16 return with respect to the tax is due, or such return is  
17 filed, whichever occurs later;

18           b. Within 4 6 years after the date the taxpayer either  
19 makes a substantial underpayment of tax, or files a  
20 substantially incorrect return;

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

23           d. At any time after the taxpayer has failed to make  
24 any required payment of the tax, has failed to file a required  
25 return, or has filed a grossly false or fraudulent return; or

26           e. In any case in which there has been a refund of tax  
27 erroneously made for any reason, within 5 years after making  
28 such refund, or at any time after making such refund if it  
29 appears that any part of the refund was induced by fraud or  
30 the misrepresentation of a material fact.

31



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

6           Section 16. Effective July 1, 1997, subsection (16) is  
7 added to section 213.015, Florida Statutes, 1996 Supplement,  
8 and, effective January 1, 1999, subsections (17), (18), and  
9 (19) are added to said section, to read:

10           213.015 Taxpayer rights.--There is created a Florida  
11 Taxpayer's Bill of Rights to guarantee that the rights,  
12 privacy, and property of Florida taxpayers are adequately  
13 safeguarded and protected during tax assessment, collection,  
14 and enforcement processes administered under the revenue laws  
15 of this state. The Taxpayer's Bill of Rights compiles, in one  
16 document, brief but comprehensive statements which explain, in  
17 simple, nontechnical terms, the rights and obligations of the  
18 Department of Revenue and taxpayers. The rights afforded  
19 taxpayers to assure that their privacy and property are  
20 safeguarded and protected during tax assessment and collection  
21 are available only insofar as they are implemented in other  
22 parts of the Florida Statutes or rules of the Department of  
23 Revenue. The rights so guaranteed Florida taxpayers in the  
24 Florida Statutes and the departmental rules are:

25           (16) The right to assurance that no part of the  
26 compensation of employees or agents of any governmental entity  
27 in Florida, when performing tax audits, will be based on the  
28 amount of tax assessed or collected as a result of the audit  
29 (see ss. 213.28 and 213.34).

30           (17) The right to receive interest when a refund is  
31 not paid within 90 days after receipt of a complete

1 application for refund for overpayments, payment of taxes not  
2 due, or taxes paid in error (see ss. 213.255 and 220.723).

3 (18) The right to market interest rates on delinquent  
4 taxes (see s. 213.235).

5 (19) The right to the same statute of limitations on  
6 assessments and refunds (see ss. 95.091, 213.25, 215.26, and  
7 220.727).

8 Section 17. Effective January 1, 1999, and applicable  
9 to taxes unpaid after the effective date, section 213.235,  
10 Florida Statutes, is created to read:

11 213.235 Determination of interest on deficiencies.--

12 (1) The annual rate of interest applicable to tax  
13 payment deficiencies shall be two percentage points greater  
14 than the adjusted rate established by the executive director  
15 of the department under subsection (2). This annual rate of  
16 interest is applicable to all taxes enumerated in s. 213.05,  
17 except those taxes imposed in chapters 192 through 197 and  
18 chapter 200.

19 (2) If the adjusted prime rate charged by banks,  
20 rounded to the nearest full percent, during either:

21 (a) The 6-month period ending on September 30 of any  
22 calendar year; or

23 (b) The 6-month period ending on March 31 of any  
24 calendar year,

25  
26 differs from the interest rate in effect on such date, the  
27 executive director of the department shall, within 20 days,  
28 establish an adjusted rate of interest equal to such adjusted  
29 prime rate.

30 (3) An adjusted rate of interest established under  
31 this section shall become effective:

1           (a) On January 1 of the succeeding year, if based upon  
2 the adjusted prime rate for the 6-month period ending on  
3 September 30; or

4           (b) On July 1 of the same calendar year, if based upon  
5 the adjusted prime rate for the 6-month period ending on March  
6 31.

7           (4) For the purposes of this section, "adjusted prime  
8 rate charged by banks" means the average predominant prime  
9 rate quoted by commercial banks to large businesses, as  
10 determined by the Board of Governors of the Federal Reserve  
11 System.

12           (5) Once established, an adjusted rate of interest  
13 shall remain in effect until an adjustment is made under  
14 subsection (2).

15           Section 18. Effective January 1, 1999, and applicable  
16 to amounts paid after the effective date, section 213.255,  
17 Florida Statutes, is created to read:

18           213.255 Interest.--Interest shall be paid on  
19 overpayments of taxes, payment of taxes not due, or taxes paid  
20 in error, subject to the following conditions:

21           (1) A refund application must be filed with the  
22 department within the time specified by s. 215.26.

23           (2) A refund application shall not be processed until  
24 it is determined complete. A refund application is complete  
25 if it is filed on a permitted form and contains:

26           (a) The taxpayer's name, address, identifying number,  
27 and signature.

28           (b) Sufficient information, whether on the application  
29 or attachments, to permit mathematical verification of the  
30 amount of the refund.

31

1        (c) The amount claimed and proof that such amount was  
2 paid to the state.

3        (d) The specific grounds upon which the refund is  
4 claimed.

5        (e) The taxable years or periods involved.

6        (f) A completed audit, if an audit is required by the  
7 department.

8        (g) In the case of taxes collected and remitted to the  
9 state, proof that such monies have first been refunded to the  
10 party from whom they were collected.

11        (h) Any other statutory requirement regarding such  
12 refund, including restrictions requiring a delay in such  
13 refund have been met.

14        (3) If the refund application is not complete, the  
15 department shall return the application to the taxpayer with  
16 instructions to include any documents needed to complete the  
17 application.

18        (4) Interest shall not commence until 90 days after a  
19 complete refund application has been filed and the amount of  
20 overpayment has not been refunded to the taxpayer or applied  
21 as a credit to the taxpayer's account. If the department and  
22 the taxpayer mutually agree that an audit of the claim is  
23 necessary, interest shall not commence until the audit of the  
24 claim is final.

25        (5) If a refund claim is denied and such denial is  
26 reversed by a court of last resort or if a tax is adjudicated  
27 unconstitutional by the Supreme Court of Florida or higher  
28 court, and a refund of the tax is ordered, interest shall not  
29 commence on complete applications until 90 days after the  
30 adjudication becomes final and unappealable or 90 days after a  
31 complete application has been filed, whichever is later.

1       (6) Interest shall be paid until a date determined by  
2 the department which shall be no more than 7 days prior to the  
3 date of the issuance of the refund warrant by the Comptroller.

4       (7) No interest shall be paid if the department has  
5 reasonable cause to believe that it could not recover the  
6 amount of any refund paid in error from the person claiming  
7 the refund, unless such person files a cash bond or a surety  
8 bond in the amount of the refund claimed or such person makes  
9 other security arrangements satisfactory to the department.  
10 The cash or surety bond shall be endorsed by a surety company  
11 authorized to do business in this state and shall be  
12 conditioned upon payment in full of the amount of any refund  
13 paid in error for any reason. The department shall provide a  
14 written notice of its determination that a cash or surety bond  
15 is required, in which event interest shall not commence until  
16 the person filing the claim satisfies this requirement.

17       (8) The rate of interest shall be 1 percentage point  
18 lower than the adjusted rate established pursuant to s.  
19 213.235, except that the annual rate of interest shall never  
20 be greater than 11 percent. This annual rate of interest  
21 shall be applied to all refunds of taxes administered by the  
22 department except for corporate income taxes and emergency  
23 excise taxes governed by ss. 220.721 and 220.723.

24       (9) The provisions of this section are not applicable  
25 to refunds where the amount refunded is based on a statutory  
26 exemption given by way of refund.

27       (10) The interest provisions of this section shall be  
28 tolled, if at the request of the taxpayer, the Department  
29 holds an application for refund pending the outcome of a court  
30 proceeding challenging the validity of a previously denied  
31 refund claim or assessment.

1           Section 19. Effective July 1, 1997, subsection (1) of  
2 section 213.34, Florida Statutes, is amended to read:

3           213.34 Authority to audit.--

4           (1) The Department of Revenue shall have the authority  
5 to audit and examine the accounts, books, or records of all  
6 persons who are subject to a revenue law made applicable to  
7 this chapter, or otherwise placed under the control and  
8 administration of the department, for the purpose of  
9 ascertaining the correctness of any return which has been  
10 filed or payment which has been made, or for the purpose of  
11 making a return where none has been made. No part of the  
12 compensation of any employee or agent of the state performing  
13 a tax audit shall be based on the amount of tax assessed or  
14 collected as a result of the audit.

15           Section 20. Effective January 1, 1999, and applicable  
16 to taxes paid on or after September 30, 1994, subsection (2)  
17 of section 215.26, Florida Statutes, 1996 Supplement, is  
18 amended to read:

19           215.26 Repayment of funds paid into State Treasury  
20 through error.--

21           (2) Application for refunds as provided by this  
22 section must be filed with the Comptroller, except as  
23 otherwise provided in this subsection, within 3 years after  
24 the right to the refund has accrued or else the right is  
25 ~~barred. Except as provided in chapter 198 and s. 220.23, an~~  
26 ~~application for a refund of a tax enumerated in s. 72.011,~~  
27 ~~which tax was paid after September 30, 1994, must be filed~~  
28 ~~with the Comptroller within 5 years after the date the tax is~~  
29 ~~paid.~~The Comptroller may delegate the authority to accept an  
30 application for refund to any state agency, or the judicial  
31 branch, vested by law with the responsibility for the

1 collection of any tax, license, or account due. The  
 2 application for refund must be on a form approved by the  
 3 Comptroller and must be supplemented with additional proof the  
 4 Comptroller deems necessary to establish the claim; provided,  
 5 the claim is not otherwise barred under the laws of this  
 6 state. Upon receipt of an application for refund, the judicial  
 7 branch or the state agency to which the funds were paid shall  
 8 make a determination of the amount due. If an application for  
 9 refund is denied, in whole or in part, the judicial branch or  
 10 such state agency shall notify the applicant stating the  
 11 reasons therefor. Upon approval of an application for refund,  
 12 the judicial branch or such state agency shall furnish the  
 13 Comptroller with a properly executed voucher authorizing  
 14 payment.

15 Section 21. Subsection (2) of section 198.18, Florida  
 16 Statutes, is amended to read:

17 198.18 Failure to pay tax; penalties; delinquent or  
 18 deficient taxes, interest.--

19 (2) Any deficiency in tax or any tax payment not  
 20 received by the department on or before the due date as  
 21 provided in s. 198.15, in addition to any other penalties,  
 22 shall bear interest at the adjusted rate established pursuant  
 23 to s. 213.235 ~~of 1 percent per month of the amount due~~ from  
 24 the due date until paid. The department may settle or  
 25 compromise such interest pursuant to s. 213.21.

26 Section 22. Subsection (2) of section 199.282, Florida  
 27 Statutes, is amended to read:

28 199.282 Penalties for violation of this chapter.--

29 (2) If any annual or nonrecurring tax is not paid by  
 30 the statutory due date, then despite any extension granted  
 31 under s. 199.232(6), interest shall run on the unpaid balance

1 from such due date until paid at the adjusted rate established  
2 pursuant to s. 213.235 of 12 percent per year.

3 Section 23. Paragraph (c) of subsection (2) of section  
4 201.17, Florida Statutes, 1996 Supplement, as amended by  
5 chapter 96-395, Laws of Florida, is amended to read:

6 201.17 Penalties for failure to pay tax required.--

7 (2) If any document, instrument, or paper upon which  
8 the tax under this chapter is imposed, upon audit or at time  
9 of recordation, does not show the proper amount of tax paid,  
10 or if the tax imposed by this chapter on any document,  
11 instrument, or paper is not timely reported and paid as  
12 required by s. 201.133, the person or persons liable for the  
13 tax upon the document, instrument, or paper shall be subject  
14 to:

15 (c) Payment of interest to the Department of Revenue,  
16 accruing from the date the tax is due until paid, at the  
17 adjusted rate established pursuant to s. 213.235 of 1 percent  
18 per month, based on the amount of tax not paid.

19 Section 24. Section 203.06, Florida Statutes, is  
20 amended to read:

21 203.06 Interest on delinquent payments.--Any payments  
22 as imposed in this chapter, if not received by the Department  
23 of Revenue on or before the due date as provided by law, shall  
24 include, as an additional part of such amount due, interest at  
25 the adjusted rate established pursuant to s. 213.235 of 1  
26 percent per month, accruing from the date due until paid.

27 Section 25. For the purpose of incorporating the  
28 amendment to section 203.06, Florida Statutes, in a reference  
29 thereto, section 203.62, Florida Statutes, is reenacted to  
30 read:

31



1           203.62 Applicability of specified sections of part  
2 I.--The provisions of ss. 203.01, 203.012, 203.013, 203.02,  
3 203.03, 203.04, 203.06, and 203.07 shall be applicable to the  
4 levy and collection of taxes imposed pursuant to this part as  
5 if fully set out in this part.

6           Section 26. Subsection (2) of section 206.44, Florida  
7 Statutes, is amended to read:

8           206.44 Penalty and interest for failure to report on  
9 time; penalty and interest on tax deficiencies.--

10           (2) Any payment that is not received by the department  
11 on or before the due date as provided in s. 206.43 shall bear  
12 interest at the adjusted rate established pursuant to s.  
13 213.235 ~~of 1 percent per month~~, from the date due until paid.  
14 Interest on any delinquent tax shall be calculated beginning  
15 on the 21st day of the month for which the tax is due, except  
16 as otherwise provided in this part.

17           Section 27. For the purpose of incorporating the  
18 amendment to section 206.44, Florida Statutes, in a reference  
19 thereto, subsection (1) of section 206.06, Florida Statutes,  
20 as amended by chapter 95-417, Laws of Florida, is reenacted to  
21 read:

22           206.06 Estimate of amount of fuel taxes due and  
23 unpaid.--

24           (1) Whenever any terminal supplier, importer,  
25 exporter, or wholesaler neglects or refuses to make and file  
26 any report for any calendar month, as required by the fuel tax  
27 laws of this state, or files an incorrect or fraudulent  
28 report, or is in default in the payment of any fuel taxes and  
29 penalties thereon payable under the laws of this state, the  
30 department shall, from any information it may be able to  
31 obtain from its office or elsewhere, estimate the number of

1 gallons of motor fuel with respect to which the terminal  
2 supplier, importer, exporter, or wholesaler has become liable  
3 for taxes under the fuel tax laws of this state and the amount  
4 of taxes due and payable thereon, to which sum shall be added  
5 a penalty and interest as provided in s. 206.44.

6 Section 28. For the purpose of incorporating the  
7 amendment to section 206.44, Florida Statutes, in a reference  
8 thereto, section 206.94, Florida Statutes, as amended by  
9 chapter 95-417, Laws of Florida, is reenacted to read:

10 206.94 Department may estimate diesel fuels sold or  
11 used.--When any person neglects or refuses to file any report  
12 as required by s. 206.91 or files an incorrect or fraudulent  
13 report, the department shall determine, after investigation,  
14 the number of gallons of diesel fuels with respect to which  
15 the person has incurred liability under this part for any  
16 particular period and fix the amount of taxes due and payable  
17 thereon, to which taxes due shall be added the penalties and  
18 interest imposed by s. 206.44 as a penalty for the default of  
19 such person. The department may settle or compromise such  
20 penalties pursuant to s. 213.21.

21 Section 29. For the purpose of incorporating the  
22 amendment to section 206.44, Florida Statutes, in a reference  
23 thereto, section 206.97, Florida Statutes, as amended by  
24 chapter 95-417, Laws of Florida, is reenacted to read:

25 206.97 Applicability of specified sections of part  
26 I.--The provisions of ss. 206.01, 206.02, 206.026, 206.027,  
27 206.028, 206.04, 206.051, 206.052, 206.054, 206.055, 206.07,  
28 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,  
29 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,  
30 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,  
31 206.23, 206.24, 206.25, 206.27, 206.28, 206.41, 206.415,

1 206.416, 206.43, 206.435, 206.44, 206.48, 206.49, 206.56,  
2 206.59, 206.606, 206.608, 206.61, and 206.62 of part I of this  
3 chapter shall, as far as lawful or practicable, be applicable  
4 to the tax herein levied and imposed and to the collection  
5 thereof as if fully set out in this part. However, no  
6 provision of any such section shall apply if it conflicts with  
7 any provision of this part.

8 Section 30. For the purpose of incorporating the  
9 amendment to section 206.44, Florida Statutes, in a reference  
10 thereto, subsection (3) of section 206.9915, Florida Statutes,  
11 1996 Supplement, is reenacted to read:

12 206.9915 Legislative intent and general provisions.--

13 (3) The provisions of ss. 206.01, 206.02, 206.026,  
14 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06,  
15 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,  
16 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175,  
17 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215,  
18 206.22, 206.24, 206.27, 206.28, 206.416, 206.42, 206.425,  
19 206.44, 206.48, 206.49, 206.56, 206.59, 206.86, 206.87,  
20 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.8745,  
21 206.94, 206.945, and 206.9815 shall, as far as lawful or  
22 practicable, be applicable to the levy and collection of taxes  
23 imposed pursuant to this part as if fully set out in this part  
24 and made expressly applicable to the taxes imposed herein.

25 Section 31. For the purpose of incorporating the  
26 amendment to section 206.44, Florida Statutes, in a reference  
27 thereto, paragraph (a) of subsection (2) of section 336.021,  
28 Florida Statutes, 1996 Supplement, is reenacted to read:

29 336.021 County transportation system; levy of  
30 ninth-cent fuel tax on motor fuel and diesel fuel.--

31

1           (2)(a) The tax collected by the department pursuant to  
2 subsection (1) shall be transferred to the Ninth-cent Fuel Tax  
3 Trust Fund, which fund is created for distribution to the  
4 counties pursuant to paragraph (1)(d). The department has the  
5 authority to prescribe and publish all forms upon which  
6 reports shall be made to it and other forms and records deemed  
7 to be necessary for proper administration and collection of  
8 the tax levied by any county and shall adopt rules necessary  
9 to enforce this section, which rules shall have the full force  
10 and effect of law. The provisions of ss. 206.026, 206.027,  
11 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07,  
12 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,  
13 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,  
14 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,  
15 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.48,  
16 206.49, 206.56, 206.59, 206.626, 206.87, 206.872, 206.873,  
17 206.8735, 206.874, 206.8741, 206.8745, 206.94, and 206.945  
18 shall, as far as practicable, be applicable to the levy and  
19 collection of the tax imposed pursuant to this section as if  
20 fully set out in this section.

21           Section 32. Effective July 1, 1999, for the purpose of  
22 incorporating the amendment to section 206.44, Florida  
23 Statutes, in a reference thereto, paragraph (a) of subsection  
24 (2) of section 336.021, Florida Statutes, 1996 Supplement, as  
25 amended by section 17 of chapter 96-397, Laws of Florida, is  
26 reenacted to read:

27           336.021 County transportation system; levy of  
28 ninth-cent fuel tax on motor fuel and diesel fuel.--

29           (2)(a) The tax collected by the department pursuant to  
30 subsection (1) shall be transferred to the Ninth-cent Fuel Tax  
31 Trust Fund, which fund is created for distribution to the

1 counties pursuant to paragraph (1)(d). The department shall  
 2 deduct the administrative costs incurred by it in collecting,  
 3 administering, enforcing, and distributing back to the  
 4 counties the tax, which administrative costs may not exceed 2  
 5 percent of collections authorized by this section. The total  
 6 administrative cost shall be prorated among those counties  
 7 levying the tax according to the following formula, which  
 8 shall be revised on July 1 of each year: Two-thirds of the  
 9 amount deducted shall be based on the county's proportional  
 10 share of the number of taxpayers who are registered and  
 11 required to file tax returns on June 30th of the preceding  
 12 state fiscal year, and one-third of the amount deducted shall  
 13 be based on the county's share of the total amount of the tax  
 14 collected during the preceding state fiscal year. The  
 15 department has the authority to prescribe and publish all  
 16 forms upon which reports shall be made to it and other forms  
 17 and records deemed to be necessary for proper administration  
 18 and collection of the tax levied by any county and shall adopt  
 19 rules necessary to enforce this section, which rules shall  
 20 have the full force and effect of law. The provisions of ss.  
 21 206.026, 206.027, 206.028, 206.051, 206.052, 206.054, 206.055,  
 22 206.06, 206.07, 206.075, 206.08, 206.09, 206.095, 206.10,  
 23 206.11, 206.12, 206.13, 206.14, 206.15, 206.16, 206.17,  
 24 206.175, 206.18, 206.199, 206.20, 206.204, 206.205, 206.21,  
 25 206.215, 206.22, 206.24, 206.27, 206.28, 206.41, 206.416,  
 26 206.44, 206.45, 206.48, 206.49, 206.56, 206.59, 206.626,  
 27 206.87, 206.872, 206.873, 206.8735, 206.874, 206.8741,  
 28 206.8745, 206.94, and 206.945 shall, as far as practicable, be  
 29 applicable to the levy and collection of the tax imposed  
 30 pursuant to this section as if fully set out in this section.  
 31

1           Section 33. For the purpose of incorporating the  
2 amendment to section 206.44, Florida Statutes, in a reference  
3 thereto, paragraph (a) of subsection (2) of section 336.025,  
4 Florida Statutes, 1996 Supplement, is reenacted to read:

5           336.025 County transportation system; levy of local  
6 option fuel tax on motor fuel and diesel fuel.--

7           (2)(a) The tax levied pursuant to paragraph (1)(a)  
8 shall be collected and remitted in the same manner provided by  
9 ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to  
10 paragraph (1)(b) shall be collected and remitted in the same  
11 manner provided by s. 206.41(1)(e). The taxes remitted  
12 pursuant to this section shall be transferred to the Local  
13 Option Fuel Tax Trust Fund, which fund is created for  
14 distribution to the county and eligible municipal governments  
15 within the county in which the tax was collected and which  
16 fund is subject to the service charge imposed in chapter 215.  
17 The tax shall be distributed monthly by the department in the  
18 same manner provided by s. 336.021(1)(c) and (d). The  
19 department has the authority to prescribe and publish all  
20 forms upon which reports shall be made to it and other forms  
21 and records deemed to be necessary for proper administration  
22 and collection of the taxes levied by any county and shall  
23 promulgate such rules as may be necessary for the enforcement  
24 of this section, which rules shall have the full force and  
25 effect of law. The provisions of ss. 206.026, 206.027,  
26 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07,  
27 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,  
28 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,  
29 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,  
30 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.48,  
31 206.49, 206.56, 206.59, 206.626, 206.87, 206.872, 206.873,

1 206.8735, 206.874, 206.8741, 206.94, and 206.945 shall, as far  
2 as practicable, be applicable to the levy and collection of  
3 taxes imposed pursuant to this section as if fully set out in  
4 this section.

5 Section 34. Effective July 1, 1999, for the purpose of  
6 incorporating the amendment to section 206.44, Florida  
7 Statutes, in a reference thereto, paragraph (a) of subsection  
8 (2) of section 336.025, Florida Statutes, 1996 Supplement, is  
9 reenacted to read:

10 336.025 County transportation system; levy of local  
11 option fuel tax on motor fuel and diesel fuel.--

12 (2)(a) The tax levied pursuant to paragraph (1)(a)  
13 shall be collected and remitted in the same manner provided by  
14 ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to  
15 paragraph (1)(b) shall be collected and remitted in the same  
16 manner provided by s. 206.41(1)(e). The taxes remitted  
17 pursuant to this section shall be transferred to the Local  
18 Option Fuel Tax Trust Fund, which fund is created for  
19 distribution to the county and eligible municipal governments  
20 within the county in which the tax was collected and which  
21 fund is subject to the service charge imposed in chapter 215.  
22 The tax shall be distributed monthly by the department in the  
23 same manner provided by s. 336.021(1)(c) and (d). The  
24 department shall deduct the administrative costs incurred by  
25 it in collecting, administering, enforcing, and distributing  
26 back to the counties the tax, which administrative costs may  
27 not exceed 2 percent of collections authorized by this  
28 section. The total administrative costs shall be prorated  
29 among those counties levying the tax according to the  
30 following formula, which shall be revised on July 1 of each  
31 year: Two-thirds of the amount deducted shall be based on the

1 county's proportional share of the number of taxpayers who are  
 2 registered and required to file tax returns on June 30 of the  
 3 preceding state fiscal year, and one-third of the amount  
 4 deducted shall be based on the county's share of the total  
 5 amount of the tax collected during the preceding state fiscal  
 6 year. The department has the authority to prescribe and  
 7 publish all forms upon which reports shall be made to it and  
 8 other forms and records deemed to be necessary for proper  
 9 administration and collection of the taxes levied by any  
 10 county and shall promulgate such rules as may be necessary for  
 11 the enforcement of this section, which rules shall have the  
 12 full force and effect of law. The provisions of ss. 206.026,  
 13 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06,  
 14 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,  
 15 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175,  
 16 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215,  
 17 206.22, 206.24, 206.27, 206.28, 206.41, 206.416, 206.44,  
 18 206.45, 206.48, 206.49, 206.56, 206.59, 206.626, 206.87,  
 19 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.94, and  
 20 206.945 shall, as far as practicable, be applicable to the  
 21 levy and collection of taxes imposed pursuant to this section  
 22 as if fully set out in this section.

23 Section 35. Subsection (2) of section 207.007, Florida  
 24 Statutes, is amended to read:

25 207.007 Offenses; penalties and interest.--

26 (2) In addition to any other penalties, any delinquent  
 27 tax shall bear interest at the adjusted rate established  
 28 pursuant to s. 213.235 ~~of 1 percent per month, or fraction~~  
 29 ~~thereof~~, calculated from the date the tax was due. If the  
 30 department enters into a cooperative reciprocal agreement  
 31 under the provisions of s. 207.0281, the department shall



1 collect and distribute all interest due to other jurisdictions  
2 at the same rate as if such interest were due to the state.

3 Section 36. Subsection (1) of section 211.076, Florida  
4 Statutes, as amended to read:

5 211.076 Interest and penalties; failure to pay tax or  
6 file return; estimated tax underpayments.--

7 (1) If any part of the tax imposed by this part is not  
8 paid on or before the due date, interest shall be added to the  
9 amount due at the adjusted rate established pursuant to s.  
10 213.235 of 12 percent per year from the due date until the  
11 date of payment.

12 Section 37. Paragraph (d) of subsection (2) of section  
13 211.33, Florida Statutes, 1996 Supplement, is amended to read:

14 211.33 Administration of the tax; returns; delinquency  
15 penalties and interest; departmental inspections of records.--

16 (2)

17 (d) In addition to the delinquency penalty provided in  
18 paragraph (c), the department shall assess interest on the  
19 unpaid balance of any such tax which becomes delinquent,  
20 without regard to any extensions, at the adjusted rate  
21 established pursuant to s. 213.235 of 12 percent per year,  
22 from April 1 to the date of payment. Interest prescribed by  
23 this paragraph shall be deemed assessed upon the assessment of  
24 the tax and shall be collected and paid in the same manner.

25 Section 38. Subsection (3) of section 212.12, Florida  
26 Statutes, 1996 Supplement, is amended to read:

27 212.12 Dealer's credit for collecting tax; penalties  
28 for noncompliance; powers of Department of Revenue in dealing  
29 with delinquents; brackets applicable to taxable transactions;  
30 records required.--

31

1           (3) When any dealer, or other person charged herein,  
2 fails to remit the tax, or any portion thereof, on or before  
3 the day when such tax is required by law to be paid, there  
4 shall be added to the amount due interest on ~~at the rate of 1~~  
5 ~~percent per month of~~ the amount due from the date due until  
6 paid at the adjusted rate established pursuant to s. 213.235.  
7 Interest on the delinquent tax shall be calculated beginning  
8 on the 21st day of the month following the month for which the  
9 tax is due, except as otherwise provided in this part.

10           Section 39. For the purpose of incorporating the  
11 amendment to section 212.12, Florida Statutes, 1996  
12 Supplement, in a reference thereto, paragraph (e) of  
13 subsection (6) of section 193.501, Florida Statutes, is  
14 reenacted to read:

15           193.501 Assessment of lands subject to a conservation  
16 easement, environmentally endangered lands, or lands used for  
17 outdoor recreational or park purposes when land development  
18 rights have been conveyed or conservation restrictions have  
19 been covenanted.--

20           (6) The following terms whenever used as referred to  
21 in this section have the following meanings unless a different  
22 meaning is clearly indicated by the context:

23           (e) "Deferred tax liability" means an amount equal to  
24 the difference between the total amount of taxes that would  
25 have been due in March in each of the previous years in which  
26 the conveyance or covenant was in effect if the property had  
27 been assessed under the provisions of s. 193.011 and the total  
28 amount of taxes actually paid in those years when the property  
29 was assessed under the provisions of this section, plus  
30 interest on that difference computed as provided in s.  
31 212.12(3).

1           Section 40. For the purpose of incorporating the  
2 amendment to section 212.12, Florida Statutes, 1996  
3 Supplement, in a reference thereto, subsection (8) of section  
4 193.505, Florida Statutes, is reenacted to read:

5           193.505 Assessment of historically significant  
6 property when development rights have been conveyed or  
7 historic preservation restrictions have been covenanted.--

8           (8) For the purposes of this section, the term  
9 "deferred tax liability" means an amount equal to the  
10 difference between the total amount of taxes which would have  
11 been due in March in each of the previous years in which a  
12 covenant executed and accepted pursuant to this section was in  
13 effect if the property had been assessed under the provisions  
14 of s. 193.011 irrespective of any negative impact on fair  
15 market value that restrictions imposed pursuant to this  
16 section may have caused and the total amount of taxes actually  
17 paid in those years, plus interest on that difference computed  
18 as provided in s. 212.12(3).

19           Section 41. For the purpose of incorporating the  
20 amendment to section 212.12, Florida Statutes, 1996  
21 Supplement, in a reference thereto, subsection (7) of section  
22 196.1997, Florida Statutes, is reenacted to read:

23           196.1997 Ad valorem tax exemptions for historic  
24 properties.--

25           (7) To qualify for an exemption, the property owner  
26 must enter into a covenant or agreement with the governing  
27 body for the term for which the exemption is granted. The  
28 form of the covenant or agreement must be established by the  
29 Department of State and must require that the character of the  
30 property, and the qualifying improvements to the property, be  
31 maintained during the period that the exemption is granted.

1 The covenant or agreement shall be binding on the current  
2 property owner, transferees, and their heirs, successors, or  
3 assigns. Violation of the covenant or agreement results in  
4 the property owner being subject to the payment of the  
5 differences between the total amount of taxes which would have  
6 been due in March in each of the previous years in which the  
7 covenant or agreement was in effect had the property not  
8 received the exemption and the total amount of taxes actually  
9 paid in those years, plus interest on the difference  
10 calculated as provided in s. 212.12(3).

11 Section 42. Section 220.807, Florida Statutes, is  
12 amended to read:

13 220.807 ~~Determination of Rate of interest.--~~

14 (1) The annual rate of interest applicable to this  
15 chapter shall be the adjusted rate established pursuant to s.  
16 213.235 ~~by the Executive Director of the Department of Revenue~~  
17 ~~under subsection (2).~~

18 (2) ~~If the adjusted prime rate charged by banks,~~  
19 ~~rounded to the nearest full percent, during either:~~

20 (a) ~~The 6-month period ending on September 30 of any~~  
21 ~~calendar year; or~~

22 (b) ~~The 6-month period ending on March 31 of any~~  
23 ~~calendar year,~~

24  
25 ~~differs from the interest rate in effect on either such date,~~  
26 ~~the Executive Director of the Department of Revenue shall,~~  
27 ~~within 20 days, establish an adjusted rate of interest equal~~  
28 ~~to such adjusted prime rate.~~

29 (3) ~~An adjusted rate of interest established under~~  
30 ~~this section shall become effective:~~

31

1           ~~(a) On January 1 of the succeeding year, if based upon~~  
2 ~~the adjusted prime rate for the 6-month period ending on~~  
3 ~~September 30; or~~

4           ~~(b) On July 1 of the same calendar year, if based upon~~  
5 ~~the adjusted prime rate for the 6-month period ending on March~~  
6 ~~31.~~

7           ~~(4) For the purposes of this section, "adjusted prime~~  
8 ~~rate charged by banks" means the average predominant prime~~  
9 ~~rate quoted by commercial banks to large business, as~~  
10 ~~determined by the Board of Governors of the Federal Reserve~~  
11 ~~System.~~

12           ~~(5) Once established, an adjusted rate of interest~~  
13 ~~shall remain in effect until an adjustment is made under~~  
14 ~~subsection (2).~~

15           Section 43. Paragraph (c) of subsection (2) of section  
16 624.5092, Florida Statutes, is amended to read:

17           624.5092 Administration of taxes; payments.--

18           (2)

19           (c) When any taxpayer fails to pay any amount due  
20 under this section, or any portion thereof, on or before the  
21 day when such tax or installment of tax is required by law to  
22 be paid, there shall be added to the amount due interest at  
23 the adjusted rate established pursuant to s. 213.235 ~~of 12~~  
24 ~~percent per year~~ from the date due until paid.

25           Section 44. (1) The Department of Revenue shall  
26 examine the impact of this act and, by January 1, 1998, the  
27 executive director of the Department of Revenue shall submit  
28 to the Speaker of the House of Representatives, the President  
29 of the Senate, and the chairs of the finance and taxation  
30 committees of the Legislature a report containing  
31 recommendations for the effective and efficient implementation

1 of this act and methods to minimize its fiscal impact. These  
2 may include ways to increase voluntary compliance with the  
3 state's tax laws.

4 (2) This section shall take effect July 1, 1997.

5 Section 45. Except as otherwise provided herein, this  
6 act shall take effect July 1, 1997.

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