

By the Committee on Finance & Taxation and Representative  
Starks

1                                   A bill to be entitled  
2           An act relating to taxation; amending s.  
3           72.011, F.S.; providing for adoption of  
4           procedures for notifying a taxpayer of an  
5           assessment or denial of a refund; amending s.  
6           193.075, F.S.; specifying conditions under  
7           which recreational vehicles shall be taxed as  
8           real property; providing that recreational  
9           vehicles that do not meet these conditions and  
10          do not have a current license plate are  
11          presumed to be tangible personal property;  
12          amending s. 197.162, F.S.; providing for  
13          application of discount rates for early payment  
14          of taxes with respect to corrected tax notices  
15          or notices resulting from value adjustment  
16          board action; amending s. 197.182, F.S.;  
17          providing that overpayments of \$5 or less may  
18          be retained by the tax collector unless the  
19          taxpayer makes a refund claim; providing for  
20          automatic refund of certain overpayments;  
21          providing for notice to the property owner of a  
22          delinquency resulting from certain refunds;  
23          amending s. 197.243, F.S.; excluding boarders  
24          and renters from the meaning of "household"  
25          under the Homestead Property Tax Deferral Act;  
26          amending s. 197.252, F.S.; providing for  
27          calculating estimated full year's household  
28          income under the act; amending s. 197.253,  
29          F.S.; requiring the property appraiser to  
30          notify the tax collector with respect to  
31          homestead status; amending s. 197.332, F.S.;

1 specifying authority of tax collectors to  
2 collect interest and costs; amending s.  
3 197.344, F.S.; providing requirements with  
4 respect to mailing of tax notices to specified  
5 persons other than the taxpayer; including  
6 vendees of recorded contracts for deeds;  
7 including such vendees and lienholders in  
8 persons who may receive information concerning  
9 delinquent taxes; amending s. 197.413, F.S.;  
10 authorizing inclusion of costs of advertising  
11 delinquent personal property taxes in such  
12 taxes; amending s. 197.432, F.S.; providing  
13 payment requirements for persons who bid on tax  
14 certificates; creating s. 197.4325, F.S.;  
15 providing procedures when a check received by  
16 the tax collector for payment of taxes or tax  
17 certificates is dishonored; providing  
18 requirements with respect to forfeiture of a  
19 bidder's deposit; amending s. 197.443, F.S.;  
20 providing for assessment of advertising costs  
21 in connection with void tax certificates;  
22 providing procedures when a tax certificate  
23 holder requests the certificate be canceled  
24 with no refund; amending s. 197.542, F.S.;  
25 providing that the clerk of the circuit court  
26 may refuse to recognize certain bids at sales  
27 of lands at public auction; amending s.  
28 199.052, F.S.; specifying when a trust or a  
29 portion thereof has Florida situs for purposes  
30 of intangible personal property tax; amending  
31 s. 212.02, F.S.; revising definitions for

1 purposes of the tax on sales, use, and other  
2 transactions; revising standards for excluding  
3 certain packaging materials and providing that  
4 a separate charge for packaging materials is  
5 considered part of the sales price or rental  
6 charge when determining applicability of tax;  
7 specifying federal excise taxes that are and  
8 are not included in "sales price"; providing  
9 that "use" does not include certain loan of an  
10 automobile for high school driver education;  
11 defining "itinerant merchant," "flea market  
12 operator, manager, lessor, or owner,"  
13 "agricultural commodity," "farmer," and  
14 "livestock"; amending s. 212.03, F.S.; revising  
15 application of the exemption from transient  
16 rental tax for certain trailer parks and  
17 similar facilities; providing duties of owners  
18 of such facilities regarding determination of  
19 taxable status; amending s. 212.031, F.S.,  
20 relating to the tax on the lease or rental of  
21 or license in real property; providing for  
22 exemption of a portion of property leased or  
23 rented by a residential facility for the aged;  
24 exempting certain utility charges paid by a  
25 tenant; specifying taxable status of charges  
26 paid by a lessee to cancel a lease agreement;  
27 amending s. 212.04, F.S., relating to the tax  
28 on admissions; providing standards for  
29 determining taxability of components of  
30 packages sold by travel agents; exempting entry  
31 fees for participants in certain sports events

1 when spectators are charged a taxable  
2 admission; amending s. 212.05, F.S.; including  
3 certain noncorporate entities as nonresident  
4 purchasers qualified for the exemption for the  
5 sale of boats or airplanes and specifying who  
6 may be deemed a dealer for such exemption;  
7 providing that certain aircraft may be returned  
8 to this state for repairs under certain  
9 conditions without incurring tax liability;  
10 providing taxability of property originally  
11 purchased tax-exempt for use for lease which is  
12 converted to the owner's own use; providing  
13 guidelines for application of tax to the lease  
14 or rental of motor vehicles; providing  
15 application of tax to newspapers; specifying  
16 when inserts are a component part of newspapers  
17 or magazines; providing liability of florists  
18 for tax; providing taxability of prizes awarded  
19 by concessionaires; amending s. 212.0506, F.S.,  
20 relating to taxation of service warranties;  
21 providing authority of the Department of  
22 Revenue when taxable and nontaxable portions of  
23 the consideration are not apportioned in good  
24 faith; providing for exemption of certain  
25 materials and supplies used in performance of a  
26 warranty; amending s. 212.0515, F.S., relating  
27 to taxation of sales from vending machines;  
28 providing for application to sales of items  
29 other than food or beverages; specifying the  
30 tax rate when the operator cannot account for  
31 each type of item sold; specifying that a

1 separate registration certificate is required  
2 for each county where machines are located;  
3 excluding certain persons from eligibility for  
4 a reward for reporting violations; exempting  
5 certain vending machines owned and operated by  
6 nonprofit organizations; amending s. 212.054,  
7 F.S., which provides for administration of  
8 discretionary sales surtaxes; providing for  
9 application of surtaxes in the case of vessels,  
10 railroads, and motor vehicle common carriers  
11 partially exempt under s. 212.08, F.S.;  
12 amending s. 212.0598, F.S.; providing for  
13 determining an air carrier's mileage  
14 apportionment factor during its initial year of  
15 operation; amending s. 212.06, F.S.; revising  
16 provisions relating to application of tax to  
17 persons who manufacture tangible personal  
18 property for their own use; authorizing the  
19 department to establish a cost price amount for  
20 industry groups engaged in such manufacture in  
21 performance of contracts for improvements to  
22 real property and providing requirements with  
23 respect thereto; including taxes on services in  
24 the exemption for taxes paid in other  
25 jurisdictions; specifying effect of registering  
26 a motor vehicle in this state; providing for  
27 application of use tax to aircraft purchased by  
28 registered dealers for resale; defining "real  
29 property," "fixtures," and "improvements to  
30 real property" for purposes of determining if a  
31 person is improving real property; providing

1 for determining the taxable basis for rock,  
2 fill, and similar materials used by a  
3 contractor in a real property improvement  
4 contract; providing application of tax to use  
5 by a publisher of a newspaper or other  
6 periodical of copies for his or her own  
7 consumption or to give away; amending s.  
8 212.07, F.S.; providing dealer liability for  
9 tax in certain cases where the purchaser does  
10 not extend a required certificate; providing  
11 for applicability of tax to sales of race  
12 horses at claiming races; repealing s.  
13 212.07(8), F.S., which defines "agricultural  
14 commodity"; amending s. 212.08, F.S.; revising  
15 the exemption for food and drinks; providing  
16 definitions; revising the exemption for medical  
17 products and supplies and providing additional  
18 exemptions; providing a definition; providing  
19 that the partial exemption for farm equipment  
20 includes equipment for fire prevention and  
21 suppression; providing conditions under which  
22 said exemption is disallowed and providing the  
23 farmer's responsibility to pay tax due;  
24 providing requirements with respect to the  
25 exemption for water; providing that the basis  
26 for imposition of discretionary sales surtaxes  
27 on fuel used in interstate or foreign commerce  
28 and vessels, railroads, and motor vehicle  
29 common carriers engaged in such commerce shall  
30 be as provided in s. 212.054, F.S.; revising  
31 the exemption for items used for agricultural

1 purposes; providing that paint color cards and  
2 other samples are exempt; providing for rules  
3 to determine when a sale is a taxable sale to a  
4 government contractor; revising application of  
5 the exemption for school books and lunches;  
6 providing for payment of tax on certain  
7 school-related items purchased by  
8 parent-teacher associations and organizations,  
9 schools, and others; providing for purchases of  
10 certain items by mobile home lot developers as  
11 a sale for resale; providing that certain  
12 amounts paid to a dealer by the Veterans  
13 Administration are not taxable; providing an  
14 exemption for certain foods, drinks, and other  
15 items provided to customers on a complimentary  
16 basis by a dealer who sells food products at  
17 retail; providing an exemption for foods and  
18 beverages donated by such dealers to certain  
19 organizations; providing an exemption for  
20 certain sales of racing dogs; providing that  
21 exemptions provided to an entity under s.  
22 212.08(7), F.S., shall not inure to  
23 transactions when payment is made by a  
24 representative or employee of the entity;  
25 providing that the partial exemption for  
26 vessels engaged in interstate or foreign  
27 commerce includes commercial fishing vessels;  
28 providing that certain aircraft purchased by  
29 nonresidents may be returned to this state for  
30 repairs under certain conditions without  
31 incurring tax liability; providing membership

1 requirements for the technical assistance  
2 advisory committee established to provide  
3 advice in determining taxability of foods and  
4 medicines; amending s. 212.09, F.S.; providing  
5 requirements and restrictions with respect to  
6 articles taken in trade; amending s. 212.17,  
7 F.S.; providing for reimbursement of taxes paid  
8 on property purchased for a dealer's own use  
9 and subsequently sold; amending s. 212.18,  
10 F.S.; providing registration requirements for  
11 owners and operators of vending machines or  
12 newspaper rack machines, certain independent  
13 sellers, and itinerant merchants selling at  
14 flea markets; authorizing the department to  
15 waive the increased registration fee under  
16 certain circumstances; providing procedures and  
17 requirements for revocation of a dealer's  
18 registration; requiring the dealer to attend an  
19 informal conference; providing duties of flea  
20 market operators, managers, lessors, or owners  
21 regarding registration, collection of tax on  
22 space rentals, obtaining information from  
23 vendors, furnishing certain notices and tax  
24 envelopes, and remitting tax; requiring certain  
25 vendors to register as dealers; requiring  
26 unregistered vendors to remit taxes to the flea  
27 market operator, manager, lessor, or owner;  
28 providing a penalty; amending s. 213.21, F.S.;  
29 authorizing the department to use informal  
30 conferences for resolving disputes relating to  
31 denial of refunds; specifying when closing



1 agreements must be in writing; amending s.  
2 213.22, F.S.; providing that a technical  
3 assistance advisement relating to exemptions in  
4 s. 212.08(1) or (2), F.S., may be issued at any  
5 time; amending s. 220.222, F.S.; specifying  
6 when a taxpayer is not in compliance with  
7 requirements relating to payments of tentative  
8 corporate income tax in connection with the  
9 granting of extensions; amending s. 624.515,  
10 F.S., which provides for regulatory assessments  
11 on fire insurance premiums; authorizing the  
12 department to establish by rule percentages of  
13 fire insurance within a line of insurance under  
14 certain circumstances; amending s. 896.102,  
15 F.S.; authorizing the department to adopt rules  
16 to administer and enforce requirements relating  
17 to reports of currency more than \$10,000  
18 received in trade or business; providing an  
19 effective date.

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

22  
23 Section 1. Paragraph (b) of subsection (2) of section  
24 72.011, Florida Statutes, is amended to read:

25 72.011 Jurisdiction of circuit courts in specific tax  
26 matters; administrative hearings and appeals; time for  
27 commencing action; parties; deposits.--

28 (2)

29 (b) The date on which an assessment or a denial of  
30 refund becomes final and procedures ~~a procedure~~ by which a

31

1 taxpayer must be notified of the assessment or of the denial  
2 of refund must be established:

3 1. By rule adopted by the Department of Revenue;

4 2. With respect to assessments or refund denials under  
5 chapter 207, by rule adopted by the Department of Highway  
6 Safety and Motor Vehicles;

7 3. With respect to assessments or refund denials under  
8 chapters 210, 550, 561, 562, 563, 564, and 565, by rule  
9 adopted by the Department of Business and Professional  
10 Regulation; or

11 4. With respect to taxes that a county collects or  
12 enforces under s. 125.0104(10) or s. 212.0305(5), by an  
13 ordinance that may additionally provide for informal dispute  
14 resolution procedures in accordance with s. 213.21.

15 Section 2. Subsections (3) and (4) are added to  
16 section 193.075, Florida Statutes, to read:

17 193.075 Mobile homes and recreational vehicles.--

18 (3) A recreational vehicle shall be taxed as real  
19 property if the owner of the recreational vehicle is also the  
20 owner of the land on which the vehicle is permanently affixed.  
21 A recreational vehicle shall be considered permanently affixed  
22 if it is connected to the normal and usual utilities and if it  
23 is tied down or it is attached or affixed in such a way that  
24 it cannot be removed without material or substantial damage to  
25 the recreational vehicle. Except when the mode of attachment  
26 or affixation is such that the recreational vehicle cannot be  
27 removed without material or substantial damage to the  
28 recreational vehicle or the real property, the intent of the  
29 owner to make the recreational vehicle permanently affixed  
30 shall be determinative. A recreational vehicle that is taxed  
31

1 as real property shall be issued an "RP" series sticker as  
2 provided in s. 320.0815.

3 (4) A recreational vehicle that is not taxed as real  
4 property shall have a current license plate properly affixed  
5 as provided in s. 320.08(9). Any such recreational vehicle  
6 without a current license plate properly affixed shall be  
7 presumed to be tangible personal property.

8 Section 3. Section 197.162, Florida Statutes, is  
9 amended to read:

10 197.162 Discounts; amount and time.--On all taxes  
11 assessed on the county tax rolls and collected by the county  
12 tax collector, discounts for early payment thereof shall be at  
13 the rate of 4 percent in the month of November or at any time  
14 within 30 days after the mailing of the original tax notice; 3  
15 percent in the month of December; 2 percent in the following  
16 month of January; 1 percent in the following month of  
17 February; and zero percent in the following month of March or  
18 within 30 days prior to the date of delinquency if the date of  
19 delinquency is after April 1. When a taxpayer makes a request  
20 to have the original tax notice corrected, the discount rate  
21 for early payment applicable at the time the request for  
22 correction is made shall apply for 30 days after the mailing  
23 of the corrected tax notice. A discount shall apply at the  
24 rate of 4 percent for 30 days after the mailing of a tax  
25 notice resulting from the action of a value adjustment board.  
26 Thereafter, the regular discount periods shall apply.For the  
27 purposes of this section, when a discount period ends on a  
28 Saturday, Sunday, or legal holiday, the discount period shall  
29 be extended to the next working day, if payment is delivered  
30 to a designated collection office of the tax collector.

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1           Section 4. Paragraph (b) of subsection (1) and  
2 subsection (3) of section 197.182, Florida Statutes, are  
3 amended to read:

4           197.182 Department of Revenue to pass upon and order  
5 refunds.--

6           (1)

7           (b) Those refunds which have been ordered by a court  
8 and those refunds which do not result from changes made in the  
9 assessed value on a tax roll certified to the tax collector  
10 shall be made directly by the tax collector without order from  
11 the department and shall be made from undistributed funds  
12 without approval of the various taxing authorities.

13 Overpayments in the amount of \$5 or less may be retained by  
14 the tax collector unless a written claim for a refund is  
15 received from the taxpayer. Overpayments over \$5 resulting  
16 from taxpayer error, if determined within the 4-year period of  
17 limitation, are to be automatically refunded to the taxpayer.  
18 Such refunds do not require approval from the department.

19           (3) A refund ordered by the department pursuant to  
20 this section shall be made by the tax collector in one  
21 aggregate amount composed of all the pro rata shares of the  
22 several taxing authorities concerned, except that a partial  
23 refund is allowed when one or more of the taxing authorities  
24 concerned do not have funds currently available to pay their  
25 pro rata shares of the refund and this would cause an  
26 unreasonable delay in the total refund. A statement by the  
27 tax collector explaining the refund shall accompany the refund  
28 payment. When taxes become delinquent as a result of a refund  
29 pursuant to subparagraph (1)(a)4., the tax collector shall  
30 notify the property owner that the taxes have become  
31 delinquent and that a tax certificate will be sold if the

1 taxes are not paid within 30 days after the date of  
2 delinquency.

3 Section 5. Subsection (1) of section 197.243, Florida  
4 Statutes, is amended to read:

5 197.243 Definitions.--

6 (1) "Household" means a person or group of persons  
7 living together in a room or group of rooms as a housing unit,  
8 but does not include persons boarding in or renting a portion  
9 of the dwelling.

10 Section 6. Paragraph (c) of subsection (2) of section  
11 197.252, Florida Statutes, is amended to read:

12 197.252 Homestead tax deferral.--

13 (2)

14 (c) The household income of an applicant who applies  
15 for a tax deferral before the end of the calendar year in  
16 which the taxes and non-ad valorem assessments are assessed  
17 shall be for the current year, adjusted to reflect estimated  
18 income for the full calendar year period. The estimate of a  
19 full year's household income shall be made by multiplying the  
20 household income received to the date of application by a  
21 fraction, the numerator being 365 and the denominator being  
22 the number of days expired in the calendar year to the date of  
23 application.

24 Section 7. Subsection (7) is added to section 197.253,  
25 Florida Statutes, to read:

26 197.253 Homestead tax deferral; application.--

27 (7) The property appraiser shall promptly notify the  
28 tax collector of denials of homestead application and changes  
29 in ownership of properties that have been granted a tax  
30 deferral.

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1           Section 8. Section 197.332, Florida Statutes, is  
2 amended to read:

3           197.332 Duties of tax collectors.--The tax collector  
4 has the authority and obligation to collect all taxes as shown  
5 on the tax roll by the date of delinquency or to collect  
6 delinquent taxes, interest, and costs, by sale of tax  
7 certificates on real property and by seizure and sale of  
8 personal property. The tax collector shall be allowed to  
9 collect reasonable attorney's fees and court costs in actions  
10 on proceedings to recover delinquent taxes, interest, and  
11 costs.

12           Section 9. Subsections (1) and (2) of section 197.344,  
13 Florida Statutes, are amended to read:

14           197.344 Lienholders; receipt of notices and delinquent  
15 taxes.--

16           (1) When requested in writing, a tax notice shall be  
17 mailed according to the following procedures:

18           (a) Upon request by any taxpayer aged 60 or over, the  
19 tax collector shall mail the tax notice to a third party  
20 designated by the taxpayer. A duplicate copy of the notice  
21 shall be mailed to the taxpayer.

22           (b) Upon request by a mortgagee stating that the  
23 mortgagee is the trustee of an escrow account for ad valorem  
24 taxes due on the property, the tax notice shall be mailed to  
25 such trustee. When the original tax notice is mailed to such  
26 trustee, the tax collector shall mail a duplicate notice to  
27 the owner of the property with the additional statement that  
28 the original has been sent to the trustee.

29           (c) Upon request by a vendee of an unrecorded or  
30 recorded contract for deed, the tax collector shall mail a  
31 duplicate notice to such vendee.

1  
2 The tax collector may establish cutoff dates, periods for  
3 updating the list, and any other reasonable requirements to  
4 ensure that the tax notices are mailed to the proper party on  
5 time. The trustee or vendee shall submit the written request  
6 annually by a date determined by the tax collector.

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

17 (a) The description of property on which certificates  
18 were sold ~~as requested by the mortgagee.~~

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

20 (c) The face amount of each certificate.

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

22 Section 10. Subsection (1) of section 197.413, Florida  
23 Statutes, is amended to read:

24 197.413 Delinquent personal property taxes; warrants;  
25 court order for levy and seizure of personal property;  
26 seizure; fees of tax collectors.--

27 (1) Prior to May 1 of each year immediately following  
28 the year of assessment, the tax collector shall prepare a list  
29 of the unpaid personal property taxes containing the names and  
30 addresses of the taxpayers and the property subject to the tax  
31 as the same appear on the tax roll. Prior to April 30 of the

1 next year, the tax collector shall prepare warrants against  
2 the delinquent taxpayers providing for the levy upon, and  
3 seizure of, tangible personal property. The cost of  
4 advertising delinquent tax shall be added to the delinquent  
5 taxes at the time of advertising.The tax collector is not  
6 required to issue warrants if delinquent taxes are less than  
7 \$50. However, such taxes shall remain due and payable.

8 Section 11. Subsection (6) of section 197.432, Florida  
9 Statutes, is amended to read:

10 197.432 Sale of tax certificates for unpaid taxes.--

11 (6) The tax collector shall require immediate payment  
12 of a reasonable deposit from any person who wishes to bid for  
13 a tax certificate to whom a certificate may be struck off, and  
14 the failure to pay such deposit shall cause the bid to be  
15 canceled. A person who fails or refuses to pay any bid made  
16 by, or on behalf of, him or her is not entitled to bid or have  
17 any other bid accepted or enforced by the tax collector until  
18 a new deposit of 100 percent of the amount of estimated  
19 purchases has been paid to the tax collector.When tax  
20 certificates are ready for issuance, the tax collector shall  
21 notify each person to whom a certificate was struck off that  
22 the certificate is ready for issuance and payment must be made  
23 within 48 hours from the mailing of such notice or the deposit  
24 shall be forfeited and the bid canceled. In any event,  
25 payment shall be made before delivery of the certificate by  
26 the tax collector.

27 Section 12. Section 197.4325, Florida Statutes, is  
28 created to read:

29 197.4325 Procedure when checks received for payment of  
30 taxes or tax certificates are dishonored.--

31



1       (1)(a) Within 10 days after a check received by the  
2 tax collector for payment of taxes is dishonored, the tax  
3 collector shall notify the maker of the check that the check  
4 has been dishonored. The tax collector shall cancel the  
5 official receipt issued for the dishonored check and shall  
6 make an entry on the tax roll that the receipt was canceled  
7 because of a dishonored check. Where practicable, the tax  
8 collector shall make a reasonable effort to collect the moneys  
9 due before canceling the receipt.

10       (b) The tax collector shall retain a copy of the  
11 canceled tax receipt and the dishonored check for the period  
12 of time required by law.

13       (2)(a) When a check received by the tax collector for  
14 the purchase of a tax certificate is dishonored and the  
15 certificate has not been delivered to the bidder, the tax  
16 collector shall retain the deposit and resell the tax  
17 certificate. If the certificate has been delivered to the  
18 bidder, the tax collector shall notify the department, and,  
19 upon approval by the department, the certificate shall be  
20 canceled and resold.

21       (b) When a bidder's deposit is forfeited the tax  
22 collector shall retain the deposit and resell the tax  
23 certificate.

24       1. If the tax certificate sale has adjourned, the tax  
25 collector shall readvertise the tax certificate to be resold.  
26 When the bidder's deposit is forfeited and the certificate is  
27 readvertised, the deposit shall be used to pay the advertising  
28 fees before other costs or charges are imposed. Any portion of  
29 the bidder's forfeit deposit that remains after advertising  
30 and other costs or charges have been paid shall be deposited  
31 by the tax collector into his or her official office account.

1 If the tax collector fails to require a deposit and tax  
2 certificates are resold, the advertising charges required for  
3 the second sale shall not be added to the face value of the  
4 tax certificate.

5 2. If the tax certificate sale has not been adjourned,  
6 the tax collector shall add the certificates to be resold to  
7 the sale list and continue the sale until all tax certificates  
8 are sold.

9 Section 13. Subsection (2) of section 197.443, Florida  
10 Statutes, is amended to read:

11 197.443 Cancellation of void tax certificates;  
12 correction of tax certificates; procedure.--

13 (2)(a) The holder of a tax certificate who pays,  
14 redeems, or causes to be corrected or to be canceled and  
15 surrendered by any other tax certificates, or pays any  
16 subsequent and omitted taxes or costs, in connection with the  
17 foreclosure of a tax certificate or tax deed, and when such  
18 other certificates or such subsequent and omitted taxes are  
19 void or corrected for any reason, the person paying,  
20 redeeming, or causing to be corrected or to be canceled and  
21 surrendered the other tax certificates or paying the other  
22 subsequent and omitted taxes is entitled to obtain the return  
23 of the amount paid therefor.

24 (b) The county officer or taxing authority, as the  
25 case may be, which causes an error that results in the  
26 issuance of a void tax certificate shall be charged for the  
27 costs of advertising incurred in the sale of the tax  
28 certificate.

29 (c) When the owner of a tax certificate requests that  
30 the certificate be canceled for any reason but does not seek a  
31 refund, the tax collector shall cancel the tax certificate and

1 a refund shall not be processed. The tax collector shall  
2 require the owner of the tax certificate to execute a written  
3 statement that he or she is the holder of the tax certificate,  
4 that he or she wishes the certificate to be canceled, and that  
5 a refund is not expected and is not to be made.

6 Section 14. Subsection (1) of section 197.542, Florida  
7 Statutes, is amended to read:

8 197.542 Sale at public auction.--

9 (1) The lands advertised for sale to the highest  
10 bidder as a result of an application filed under s. 197.502  
11 shall be sold at public auction by the clerk of the circuit  
12 court, or his or her deputy, of the county where the lands are  
13 located on the date, at the time, and at the location as set  
14 forth in the published notice, which shall be during the  
15 regular hours the clerk's office is open. At the time and  
16 place, the clerk shall read the notice of sale and shall offer  
17 the lands described in the notice for sale to the highest  
18 bidder for cash at public outcry. The amount required to  
19 redeem the tax certificate, plus the amounts paid by the  
20 holder to the clerk of the circuit court in charges for costs  
21 of sale, redemption of other tax certificates on the same  
22 lands, and all other costs to the applicant for tax deed, plus  
23 interest thereon at the rate of 1.5 percent per month for the  
24 period running from the month after the date of application  
25 for the deed through the month of sale and costs incurred for  
26 the service of notice provided for in s. 197.522(2), shall be  
27 considered the bid of the certificateholder for the property.  
28 However, if the land to be sold is assessed on the latest tax  
29 roll as homestead property, the bid of the certificateholder  
30 shall be increased to include an amount equal to one-half of  
31 the assessed value of the homestead property as required by s.

1 197.502. If there are no higher bids, the land shall be  
2 struck off and sold to the certificateholder. If there are  
3 other bids, the certificateholder shall have the right to bid  
4 as others present may bid, and the property shall be struck  
5 off and sold to the highest bidder. The clerk may refuse to  
6 recognize the bid of any person who has previously bid and  
7 refused, for any reason, to honor such bid.

8 Section 15. Subsection (5) of section 199.052, Florida  
9 Statutes, is amended to read:

10 199.052 Annual tax returns; payment of annual tax.--

11 (5) The trustee of a Florida-situs trust is primarily  
12 responsible for returning the trust's intangible personal  
13 property and paying the annual tax on it.

14 (a) A trust has a Florida situs when:

15 1. All trustees are residents of the state; or

16 2. There are three or more trustees sharing equally in  
17 the ownership, management, or control of the trust's  
18 intangible property, and the majority of the trustees are  
19 residents of this state; or

20 3. Trustees are both residents and nonresidents and  
21 management or control of the trust is with the Florida  
22 trustee.

23 (b) When trustees are both residents and nonresidents,  
24 and management or control is with an out-of-state trustee, the  
25 trust does not have a Florida situs and no return is necessary  
26 by the Florida trustee.

27 (c) A portion of the trust has Florida situs when  
28 there are two trustees, one a resident of this state and one a  
29 nonresident, and they share equally in the ownership,  
30 management, or control of the trust's intangible property. The  
31

1 tax on such property shall be based on the value apportioned  
2 between them.

3 (d) If there is more than one trustee in the state,  
4 only one tax return for the trust must be filed.

5 (e) The trust's beneficiaries, however, may  
6 individually return their equitable shares of the trust's  
7 intangible personal property and pay the tax on such shares,  
8 in which case the trustee need not return such property or pay  
9 such tax, although the department may require the trustee to  
10 file an informational return.

11 Section 16. Paragraph (c) of subsection (14) and  
12 subsections (16) and (20) of section 212.02, Florida Statutes,  
13 are amended, and subsections (27), (28), (29), (30), and (31)  
14 are added to said section, to read:

15 212.02 Definitions.--The following terms and phrases  
16 when used in this chapter have the meanings ascribed to them  
17 in this section, except where the context clearly indicates a  
18 different meaning:

19 (14)

20 (c) "Retail sales," "sale at retail," "use,"  
21 "storage," and "consumption" do not include materials,  
22 containers, labels, sacks, ~~or~~ bags, or similar items intended  
23 to accompany a product sold to a customer without which  
24 delivery of the product would be impracticable because of the  
25 character of the contents, and intended to be used one time  
26 only for packaging tangible personal property for sale or for  
27 the convenience of the customer or for packaging in the  
28 process of providing a service taxable under this chapter.  
29 When a separate charge for packaging materials is made, the  
30 charge shall be considered part of the sales price or rental  
31 charge for purposes of determining the applicability of tax.

1 The terms also ~~and~~ do not include the sale, use, storage, or  
2 consumption of industrial materials, including chemicals and  
3 fuels except as provided herein, for future processing,  
4 manufacture, or conversion into articles of tangible personal  
5 property for resale when such industrial materials, including  
6 chemicals and fuels except as provided herein, become a  
7 component or ingredient of the finished product. However, the  
8 ~~said~~ terms include the sale, use, storage, or consumption of  
9 tangible personal property, including machinery and equipment  
10 or parts thereof, purchased electricity, and fuels used to  
11 power machinery, when such ~~said~~ items are used and dissipated  
12 in fabricating, converting, or processing tangible personal  
13 property for sale, even though they may become ingredients or  
14 components of the tangible personal property for sale through  
15 accident, wear, tear, erosion, corrosion, or similar means.

16 (16) "Sales price" means the total amount paid for  
17 tangible personal property, including any services that are a  
18 part of the sale, valued in money, whether paid in money or  
19 otherwise, and includes any amount for which credit is given  
20 to the purchaser by the seller, without any deduction  
21 therefrom on account of the cost of the property sold, the  
22 cost of materials used, labor or service cost, interest  
23 charged, losses, or any other expense whatsoever. "Sales  
24 price" also includes the consideration for a transaction which  
25 requires both labor and material to alter, remodel, maintain,  
26 adjust, or repair tangible personal property. Trade-ins or  
27 discounts allowed and taken at the time of sale shall not be  
28 included within the purview of this subsection. "Sales price"  
29 also includes the full face value of any coupon used by a  
30 purchaser to reduce the price paid to a retailer for an item  
31 of tangible personal property; where the retailer will be

1 reimbursed for such coupon, in whole or in part, by the  
2 manufacturer of the item of tangible personal property; or  
3 whenever it is not practicable for the retailer to determine,  
4 at the time of sale, the extent to which reimbursement for the  
5 coupon will be made. "Sales price" does not include federal  
6 excise taxes imposed upon the retailer on the sale of tangible  
7 personal property. "Sales price" does include federal  
8 manufacturers' excise taxes, even if the federal tax is listed  
9 as a separate item on the invoice.

10 (20) "Use" means and includes the exercise of any  
11 right or power over tangible personal property incident to the  
12 ownership thereof, or interest therein, except that it does  
13 not include the sale at retail of that property in the regular  
14 course of business. "Use" does not include the loan of an  
15 automobile by a motor vehicle dealer to a high school for use  
16 in its driver education and safety program.

17 (27) "Itinerant merchant" means any person, as defined  
18 in this chapter, who solicits, engages in, transacts, or  
19 offers for sale any new or used merchandise either in one  
20 location or while traveling from place to place in this state,  
21 who does not intend to become or who does not become a  
22 permanent merchant at any one location, and who for the  
23 purpose of transacting such business rents, hires, leases,  
24 occupies, or uses any building, structure, lot, tract, motor  
25 vehicle, sample case, display case, or any portion thereof,  
26 for the exhibition and sale of goods, wares, or merchandise.  
27 Flea market vendors are included within this definition.  
28 However, "itinerant merchant" does not mean any person who  
29 occasionally sells tangible personal property from his or her  
30 place of residence, if the person does not hold himself or  
31

1 herself out as engaged in business and if the person does not  
2 conduct more than two sales events per calendar year.

3 (28) "Flea market operator, manager, lessor, or owner"  
4 means any person who provides space to flea market vendors.

5 (29) "Agricultural commodity" means horticultural,  
6 aquacultural, poultry, and farm products, and livestock and  
7 livestock products.

8 (30) "Farmer" means a person directly engaged in the  
9 business of producing crops, livestock, or other farm  
10 products. The term includes, but is not limited to, horse  
11 breeders, nurserymen, dairymen, poultrymen, cattle ranchers,  
12 apiarists, and persons raising fish.

13 (31) "Livestock" includes all animals of the equine,  
14 bovine, or swine class, including goats, sheep, mules, horses,  
15 hogs, cattle, ostriches, and other grazing animals raised for  
16 commercial purposes. "Livestock" also includes fish raised for  
17 commercial purposes.

18 Section 17. Paragraph (c) of subsection (7) of section  
19 212.03, Florida Statutes, is amended to read:

20 212.03 Transient rentals tax; rate, procedure,  
21 enforcement, exemptions.--

22 (7)

23 (c) The rental of facilities, as defined in s.  
24 212.02(10)(f), except mobile home lots regulated under chapter  
25 723, which are intended primarily for rental as a principal or  
26 permanent place of residence is exempt from the tax imposed by  
27 this chapter. The rental of such facilities that primarily  
28 serve transient guests is not exempt by this subsection. In  
29 the application of this law, or in making any determination  
30 against the exemption, the department shall consider the  
31 facility as primarily serving transient guests unless the



1 facility owner makes a verified declaration on a form  
2 prescribed by the department that more than half of the total  
3 rental units available are occupied by tenants who have a  
4 continuous residence in excess of 3 months. The owner of a  
5 facility declared to be exempt by this paragraph must make a  
6 determination of the taxable status of the facility at the end  
7 of the owner's accounting year using any consecutive 3-month  
8 period. The owner must use a selected consecutive 3-month  
9 period during each annual redetermination. In the event that  
10 an exempt facility no longer qualifies for exemption by this  
11 paragraph, the owner must notify the department on a form  
12 prescribed by the department by the 20th day of the first  
13 month of the owner's next succeeding accounting year that the  
14 facility no longer qualifies for such exemption. The tax  
15 levied by this section shall apply to the rental of facilities  
16 that no longer qualify for exemption under this paragraph  
17 beginning the first day of the owner's next succeeding  
18 accounting year.

19 Section 18. Paragraph (b) of subsection (1) of section  
20 212.031, Florida Statutes, is amended, and subsections (7) and  
21 (8) are added to said section, to read:

22 212.031 Lease or rental of or license in real  
23 property.--

24 (1)

25 (b) When a lease involves multiple use of real  
26 property wherein a part of the real property is subject to the  
27 tax herein, and a part of the property would be excluded from  
28 the tax under subparagraph (a)1., subparagraph (a)2., or  
29 subparagraph (a)3., the department shall determine, from the  
30 lease or license and such other information as may be  
31 available, that portion of the total rental charge which is

1 exempt from the tax imposed by this section. The portion of  
2 the premises leased or rented by a for-profit entity providing  
3 a residential facility for the aged is exempt on the basis of  
4 a pro rata portion calculated by combining the square footage  
5 of the areas used for residential units by the aged and for  
6 the care of such residents and dividing the resultant sum by  
7 the total square footage of the rented premises. For purposes  
8 of this section, a "residential facility for the aged" is a  
9 facility that is licensed or certified in whole or in part  
10 under chapter 400 or chapter 651; or that provides residences  
11 to the elderly and is financed by a mortgage or loan made or  
12 insured by the United States Department of Housing and Urban  
13 Development under s. 202, s. 202 with a s. 8 subsidy, s.  
14 221(d)(3) or (4), s. 232, or s. 236 of the National Housing  
15 Act; or other such similar facility which provides residences  
16 primarily for the elderly.

17 (7) Utility charges subject to sales tax which are  
18 paid by a tenant to the lessor and which are part of a payment  
19 for the privilege or right to use or occupy real property are  
20 exempt from tax if the lessor has paid sales tax on the  
21 purchase of such utilities and the charges billed by the  
22 lessor to the tenant are separately stated and at the same or  
23 a lower price than those paid by the lessor.

24 (8) Charges by lessors to a lessee to cancel or  
25 terminate a lease agreement are presumed taxable if the lessor  
26 records such charges as rental income in its books and  
27 records. This presumption can be overcome by the provision of  
28 sufficient documentation by either the lessor or the lessee  
29 that such charges were other than for the rental of real  
30 property.

31

1           Section 19. Paragraph (d) of subsection (1) and  
2 paragraph (a) of subsection (2) of section 212.04, Florida  
3 Statutes, are amended to read:

4           212.04 Admissions tax; rate, procedure, enforcement.--

5           (1)

6           (d) No additional tax is due on components ~~an~~  
7 ~~admission if the admission is~~ incorporated as part of a  
8 package sold by a travel agent ~~if the package includes~~ two or  
9 more components such as admissions, and transient rentals,  
10 transportation, or meals; if all of the components were  
11 purchased by the travel agent from other parties and any sales  
12 tax due on such purchases was paid; and if there is no  
13 separate itemization of the admission, transient rental,  
14 transportation, ~~or~~ meal, or other components in the sales  
15 price of the package. This paragraph does not apply if the  
16 actual price charged for a component ~~the admission~~ by the  
17 dealer to a travel agent is less than the price charged to  
18 unrelated parties under normal industry practices and the  
19 dealer and the travel agent are members of the same controlled  
20 group of corporations for federal income tax purposes.

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

1 each institution to support women's athletics as provided in  
2 s. 240.533(3)(c).

3 2.a. No tax shall be levied on dues, membership fees,  
4 and admission charges imposed by not-for-profit sponsoring  
5 organizations. To receive this exemption, the sponsoring  
6 organization must qualify as a not-for-profit entity under the  
7 provisions of s. 501(c)(3) of the Internal Revenue Code of  
8 1954, as amended.

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

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

20 4. No tax shall be levied on admissions to the  
21 National Football League championship game.

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

30 6. Also exempt from the tax imposed by this section to  
31 the extent provided in this subparagraph are admissions to

1 live theater, live opera, or live ballet productions in this  
2 state which are sponsored by an organization that has received  
3 a determination from the Internal Revenue Service that the  
4 organization is exempt from federal income tax under s.  
5 501(c)(3) of the Internal Revenue Code of 1954, as amended, if  
6 the organization actively participates in planning and  
7 conducting the event, is responsible for the safety and  
8 success of the event, is organized for the purpose of  
9 sponsoring live theater, live opera, or live ballet  
10 productions in this state, has more than 10,000 subscribing  
11 members and has among the stated purposes in its charter the  
12 promotion of arts education in the communities which it  
13 serves, and will receive at least 20 percent of the net  
14 profits, if any, of the events which the organization sponsors  
15 and will bear the risk of at least 20 percent of the losses,  
16 if any, from the events which it sponsors if the organization  
17 employs other persons as agents to provide services in  
18 connection with a sponsored event. Prior to March 1 of each  
19 year, such organization may apply to the department for a  
20 certificate of exemption for admissions to such events  
21 sponsored in this state by the organization during the  
22 immediately following state fiscal year. The application shall  
23 state the total dollar amount of admissions receipts collected  
24 by the organization or its agents from such events in this  
25 state sponsored by the organization or its agents in the year  
26 immediately preceding the year in which the organization  
27 applies for the exemption. Such organization shall receive the  
28 exemption only to the extent of \$1.5 million multiplied by the  
29 ratio that such receipts bear to the total of such receipts of  
30 all organizations applying for the exemption in such year;  
31 however, in no event shall such exemption granted to any

1 organization exceed 6 percent of such admissions receipts  
2 collected by the organization or its agents in the year  
3 immediately preceding the year in which the organization  
4 applies for the exemption. Each organization receiving the  
5 exemption shall report each month to the department the total  
6 admissions receipts collected from such events sponsored by  
7 the organization during the preceding month and shall remit to  
8 the department an amount equal to 6 percent of such receipts  
9 reduced by any amount remaining under the exemption. Tickets  
10 for such events sold by such organizations shall not reflect  
11 the tax otherwise imposed under this section.

12 7. Also exempt from the tax imposed by this section  
13 are entry fees for participation in freshwater fishing  
14 tournaments.

15 8. Also exempt from the tax imposed by this section  
16 are participation or entry fees charged to participants in a  
17 game, race, or other sport or recreational event if spectators  
18 are charged a taxable admission to such event.

19 Section 20. Paragraphs (a), (b), (c), and (h) of  
20 subsection (1) of section 212.05, Florida Statutes, are  
21 amended, and paragraphs (m) and (n) are added to said  
22 subsection, to read:

23 212.05 Sales, storage, use tax.--It is hereby declared  
24 to be the legislative intent that every person is exercising a  
25 taxable privilege who engages in the business of selling  
26 tangible personal property at retail in this state, including  
27 the business of making mail order sales, or who rents or  
28 furnishes any of the things or services taxable under this  
29 chapter, or who stores for use or consumption in this state  
30 any item or article of tangible personal property as defined  
31 herein and who leases or rents such property within the state.

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

4           (a)1.a. At the rate of 6 percent of the sales price of  
5 each item or article of tangible personal property when sold  
6 at retail in this state, computed on each taxable sale for the  
7 purpose of remitting the amount of tax due the state, and  
8 including each and every retail sale.

9           b. Each occasional or isolated sale of an aircraft,  
10 boat, mobile home, or motor vehicle of a class or type which  
11 is required to be registered, licensed, titled, or documented  
12 in this state or by the United States Government shall be  
13 subject to tax at the rate provided in this paragraph. The  
14 department shall by rule adopt any nationally recognized  
15 publication for valuation of used motor vehicles as the  
16 reference price list for any used motor vehicle which is  
17 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),  
18 (b), (c), or (e), or (9). If any party to an occasional or  
19 isolated sale of such a vehicle reports to the tax collector a  
20 sales price which is less than 80 percent of the average loan  
21 price for the specified model and year of such vehicle as  
22 listed in the most recent reference price list, the tax levied  
23 under this paragraph shall be computed by the department on  
24 such average loan price unless the parties to the sale have  
25 provided to the tax collector an affidavit signed by each  
26 party, or other substantial proof, stating the actual sales  
27 price. Any party to such sale who reports a sales price less  
28 than the actual sales price is guilty of a misdemeanor of the  
29 first degree, punishable as provided in s. 775.082 or s.  
30 775.083. The department shall collect or attempt to collect  
31 from such party any delinquent sales taxes. In addition, such

1 party shall pay any tax due and any penalty and interest  
2 assessed plus a penalty equal to twice the amount of the  
3 additional tax owed. Notwithstanding any other provision of  
4 law, the Department of Revenue may waive or compromise any  
5 penalty imposed pursuant to this subparagraph.

6         2. This paragraph does not apply to the sale of a boat  
7 or airplane by or through a registered dealer under this  
8 chapter to a purchaser who, at the time of taking delivery, is  
9 a nonresident of this state, does not make his or her  
10 permanent place of abode in this state, and is not engaged in  
11 carrying on in this state any employment, trade, business, or  
12 profession in which the boat will be used in this state, or is  
13 a corporation none of the officers or directors of which is a  
14 resident of, or makes his or her permanent place of abode in,  
15 this state, or is a noncorporate entity which has no  
16 individual vested with authority to participate in the  
17 management, direction, or control of the entity's affairs who  
18 is a resident of, or makes his or her permanent place of abode  
19 in, this state. For purposes of this exemption, either a  
20 registered dealer acting on his or her own behalf as seller, a  
21 registered dealer acting as broker on behalf of a seller, or a  
22 registered dealer acting as broker on behalf of the purchaser  
23 may be deemed to be the selling dealer. This exemption shall  
24 not be allowed unless:

25         a. The purchaser removes a qualifying boat, as  
26 described in sub-subparagraph f., from the state within 90  
27 days after the date of purchase or the purchaser removes a  
28 nonqualifying boat or an airplane from this state within 10  
29 days after the date of purchase or, when the boat or airplane  
30 is repaired or altered, within 20 days after completion of the  
31 repairs or alterations;



1           b. The purchaser, within 30 days from the date of  
2 departure, shall provide the department with written proof  
3 that the purchaser licensed, registered, titled, or documented  
4 the boat or airplane outside the state. If such written proof  
5 is unavailable, within 30 days the purchaser shall provide  
6 proof that the purchaser applied for such license, title,  
7 registration, or documentation. The purchaser shall forward  
8 to the department proof of title, license, registration, or  
9 documentation upon receipt.

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

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

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

23           f. Unless the nonresident purchaser of a boat of 5 net  
24 tons of admeasurement or larger intends to remove the boat  
25 from this state within 10 days after the date of purchase or  
26 when the boat is repaired or altered, within 20 days after  
27 completion of the repairs or alterations, the nonresident  
28 purchaser shall apply to the selling dealer for a decal which  
29 authorizes 90 days after the date of purchase for removal of  
30 the boat. The department is authorized to issue decals in  
31 advance to dealers. The number of decals issued in advance to

1 a dealer shall be consistent with the volume of the dealer's  
2 past sales of boats which qualify under this sub-subparagraph.  
3 The selling dealer or his or her agent shall mark and affix  
4 the decals to qualifying boats in the manner prescribed by the  
5 department, prior to delivery of the boat.

6 (I) The department is hereby authorized to charge  
7 dealers a fee sufficient to recover the costs of decals  
8 issued.

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

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

14 (IV) The department is authorized to require dealers  
15 who purchase decals to file reports with the department and  
16 may prescribe all necessary records by rule. All such records  
17 are subject to inspection by the department.

18 (V) Any dealer or his or her agent who issues a decal  
19 falsely, fails to affix a decal, mismarks the expiration date  
20 of a decal, or fails to properly account for decals will be  
21 considered prima facie to have committed a fraudulent act to  
22 evade the tax and will be liable for payment of the tax plus a  
23 mandatory penalty of 200 percent of the tax, and shall be  
24 liable for fine and punishment as provided by law for a  
25 conviction of a misdemeanor of the first degree, as provided  
26 in s. 775.082 or s. 775.083.

27 (VI) Any nonresident purchaser of a boat who removes a  
28 decal prior to permanently removing the boat from the state,  
29 or defaces, changes, modifies, or alters a decal in a manner  
30 affecting its expiration date prior to its expiration, or who  
31 causes or allows the same to be done by another, will be

1 considered prima facie to have committed a fraudulent act to  
2 evade the tax and will be liable for payment of the tax plus a  
3 mandatory penalty of 200 percent of the tax, and shall be  
4 liable for fine and punishment as provided by law for a  
5 conviction of a misdemeanor of the first degree, as provided  
6 in s. 775.082 or s. 775.083.

7 (VII) The department is authorized to adopt rules  
8 necessary to administer and enforce this subparagraph and to  
9 publish the necessary forms and instructions.

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

13

14 If the purchaser fails to remove the qualifying boat from this  
15 state within 90 days after purchase or a nonqualifying boat or  
16 an airplane from this state within 10 days after purchase or,  
17 when the boat or airplane is repaired or altered, within 20  
18 days after completion of such repairs or alterations, or  
19 permits the boat or airplane to return to this state within 6  
20 months from the date of departure, or if the purchaser fails  
21 to furnish the department with any of the documentation  
22 required by this subparagraph within the prescribed time  
23 period, the purchaser shall be liable for use tax on the cost  
24 price of the boat or airplane and, in addition thereto,  
25 payment of a penalty to the Department of Revenue equal to the  
26 tax payable. This penalty shall be in lieu of the penalty  
27 imposed by s. 212.12(2) and is mandatory and shall not be  
28 waived by the department. The 90-day period following the  
29 sale of a qualifying boat tax exempt to a nonresident may not  
30 be tolled for any reason. Notwithstanding other provisions of  
31 this paragraph to the contrary, an aircraft purchased in this

1 state under the provisions of this paragraph may be returned  
2 to this state for repairs within 6 months after the date of  
3 its departure without being in violation of the law and  
4 without incurring liability for the payment of tax or penalty  
5 on the purchase price of the aircraft if the aircraft is  
6 removed from this state within 20 days after the completion of  
7 the repairs and if such removal can be demonstrated by  
8 invoices for fuel, tie-down, hangar charges issued by  
9 out-of-state vendors or suppliers, or similar documentation.

10 (b) At the rate of 6 percent of the cost price of each  
11 item or article of tangible personal property when the same is  
12 not sold but is used, consumed, distributed, or stored for use  
13 or consumption in this state; however, for tangible property  
14 originally purchased exempt from tax for use exclusively for  
15 lease and which is converted to the owner's own use, tax may  
16 be paid on the fair market value of the property at the time  
17 of conversion. If the fair market value of the property cannot  
18 be determined, use tax at the time of conversion shall be  
19 based on the owner's acquisition cost. Under no circumstances  
20 may the aggregate amount of sales tax from leasing the  
21 property and use tax due at the time of conversion be less  
22 than the total sales tax that would have been due on the  
23 original acquisition cost paid by the owner.

24 (c) At the rate of 6 percent of the gross proceeds  
25 derived from the lease or rental of tangible personal  
26 property, as defined herein; however, the following special  
27 provisions apply to the lease or rental of motor vehicles:

28 1. When a motor vehicle is leased or rented for a  
29 period of less than 12 months:  
30  
31

1           a. If the motor vehicle is rented in Florida, the  
2 entire amount of such rental is taxable, even if the vehicle  
3 is dropped off in another state.

4           b. If the motor vehicle is rented in another state and  
5 dropped off in Florida, the rental is exempt from Florida tax.

6           2. Except as provided in subparagraph 3., for the  
7 lease or rental of a motor vehicle for 12 months or more,  
8 sales tax is due on the lease or rental payment if the vehicle  
9 is registered in this state; however, no tax shall be due if  
10 the taxpayer documents that the motor vehicle is being used  
11 outside of this state and sales tax is being paid on the lease  
12 or rental payments to another state.

13           3. The tax imposed by this chapter does not apply to  
14 ~~except~~ the lease or rental of a commercial motor vehicle as  
15 defined in s. 316.003(66)(a) to one lessee or rentee for a  
16 period of not less than 12 months when Florida tax was paid on  
17 the acquisition of such vehicle by the lessor, when the lease  
18 or rental of such property is an established business or part  
19 of an established business or the same is incidental or  
20 germane to such business. The provisions of s. 212.06(7) shall  
21 apply with respect to credit for tax paid with respect to the  
22 acquisition of such a commercial motor vehicle in another  
23 state.

24           (h)1. At the rate of 6 percent on the retail price of  
25 newspapers and magazines sold or used in Florida.

26           2. Notwithstanding other provisions of this chapter,  
27 inserts of printed materials which are distributed with a  
28 newspaper or magazine are a component part of the newspaper or  
29 magazine and neither the sale nor use of such inserts is  
30 subject to tax when:

31

1           a. Printed by a newspaper or magazine publisher or  
2 commercial printer and distributed as a component part of a  
3 newspaper or magazine, which means that the items after being  
4 printed are delivered directly to a newspaper or magazine  
5 publisher by the printer for inclusion in editions of the  
6 distributed newspaper or magazine;

7           b. Such publications are labeled as part of the  
8 designated newspaper or magazine publication into which they  
9 are to be inserted; and

10           c. The purchaser of the insert presents a resale  
11 certificate to the vendor stating that the inserts are to be  
12 distributed as a component part of a newspaper or magazine.

13           (m) Florists located in this state are liable for  
14 sales tax on sales to retail customers regardless of where or  
15 by whom the items sold are to be delivered. Florists located  
16 in this state are not liable for sales tax on payments  
17 received from other florists for items delivered to customers  
18 in this state.

19           (n) Operators of game concessions or other  
20 concessionaires who customarily award tangible personal  
21 property as prizes may, in lieu of paying tax on the cost  
22 price of such property, pay tax on 25 percent of the gross  
23 receipts from such concession activity.

24           Section 21. Subsection (8) of section 212.0506,  
25 Florida Statutes, is amended, subsection (10) is renumbered as  
26 subsection (11), and a new subsection (10) is added to said  
27 section, to read:

28           212.0506 Taxation of service warranties.--

29           (8) If a transaction involves both the issuance of a  
30 service warranty which is subject to such tax and the issuance  
31 of a warranty, guaranty, extended warranty or extended

1 guaranty, contract, agreement, or other written promise which  
2 is not subject to such tax, the consideration shall be  
3 separately identified and stated with respect to the taxable  
4 and nontaxable portions of the transaction. If the  
5 consideration is separately apportioned and identified in good  
6 faith, such tax shall apply to the transaction to the extent  
7 that the consideration received or to be received in  
8 connection with the transaction is payment for a service  
9 warranty subject to such tax. If the consideration is not  
10 apportioned in good faith, the department may reform the  
11 contract. Such reformation by the department shall be  
12 considered prima facie correct, and the burden to show the  
13 contrary rests upon the dealer. If the consideration for such  
14 a transaction is not separately identified and stated, the  
15 entire transaction is taxable.

16 (10) Materials and supplies used in the performance of  
17 a factory or manufacturer's warranty are exempt if the  
18 contract is furnished at no extra charge with the equipment  
19 guaranteed thereunder and such materials and supplies are paid  
20 for by the factory or manufacturer.

21 Section 22. Subsections (1), (2), (3), and (6) of  
22 section 212.0515, Florida Statutes, are amended to read:

23 212.0515 Sales from vending machines; sales to vending  
24 machine operators; special provisions; registration; quarterly  
25 reports; penalties.--

26 (1) As used in this section:

27 (a) "Vending machine" means a machine, operated by  
28 coin, currency, credit card, slug, token, coupon, or similar  
29 device, which dispenses food, beverages, or other ~~or beverage~~  
30 items of tangible personal property.

31

1           (b) "Operator" means any person who possesses a  
2 vending machine for the purpose of generating sales through  
3 that machine and who maintains the inventory in and removes  
4 the receipts from that vending machine.

5           (2) Notwithstanding any other provision of law, the  
6 amount of the tax to be paid on food, beverages, or other ~~and~~  
7 ~~beverage~~ items of tangible personal property that are sold in  
8 vending machines shall be calculated by dividing the gross  
9 receipts from such sales for the applicable reporting period  
10 by a divisor, determined as provided in this subsection, to  
11 compute gross taxable sales, and then subtracting gross  
12 taxable sales from gross receipts to arrive at the amount of  
13 tax due. The divisor shall be equal to the sum of 1.0665 for  
14 beverage items, ~~or~~ 1.0645 for food items, or 1.0659 for other  
15 items of tangible personal property, except that for counties  
16 with a 0.5 percent sales surtax rate the divisor shall be  
17 equal to the sum of 1.0707 for beverages and other ~~beverage~~  
18 ~~items of tangible personal property~~ or 1.0686 for food items,  
19 for counties with a 1 percent sales surtax rate the divisor  
20 shall be equal to the sum of 1.0749 for beverages and other  
21 ~~beverage~~ items of tangible personal property or 1.0726 for  
22 food items, and for counties with a 1.5 percent sales surtax  
23 rate the divisor shall be equal to the sum of 1.0791 for  
24 beverages and other ~~beverage~~ items of tangible personal  
25 property or 1.0767 for food items. However, the amount of the  
26 tax to be paid on natural fluid milk, homogenized milk,  
27 pasteurized milk, whole milk, chocolate milk, or similar milk  
28 products, natural fruit juices, or natural vegetable juices  
29 shall be calculated using the divisor that is specified for  
30 food items. If an operator cannot account for each type of  
31



1 item sold through a vending machine, the highest tax rate  
2 shall be used for all products sold through that machine.

3 (3)(a) An operator of a vending machine may not  
4 operate or cause to be operated in this state any vending  
5 machine until the operator has registered with the department,  
6 has obtained a separate registration certificate for each  
7 county in which such machines are located,and has affixed a  
8 notice to each vending machine selling food or beverages which  
9 states the operator's name, address, and Federal Employer  
10 Identification (FEI) number. If the operator is not required  
11 to have an FEI number, the notice shall include the operator's  
12 sales tax registration number. The notice must be  
13 conspicuously displayed on the vending machine when it is  
14 being operated in this state and shall contain the following  
15 language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW  
16 REQUIRES THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE  
17 VENDING MACHINES. REPORT ANY MACHINE WITHOUT A NOTICE TO  
18 (TOLL-FREE NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

19 (b) The department shall establish a toll-free number  
20 to report any violations of this section. Upon a  
21 determination that a violation has occurred, the department  
22 shall pay the informant a reward of up to 10 percent of  
23 previously unpaid taxes recovered as a result of the  
24 information provided. A person who receives information  
25 concerning a violation of this section from an employee as  
26 specified in s. 213.30 is not eligible for a cash reward.

27 (6) The provisions of this section do not apply to  
28 vending machines owned and operated by churches,~~or~~  
29 synagogues, or nonprofit or charitable organizations exempt  
30 pursuant to s. 212.08(7)(z).

31

1           Section 23. Paragraph (b) of subsection (2) of section  
2 212.054, Florida Statutes, is amended to read:

3           212.054 Discretionary sales surtax; limitations,  
4 administration, and collection.--

5           (2)

6           (b) However:

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

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

30           3. In the case of written contracts which are signed  
31 prior to the effective date of any such surtax for the

1 construction of improvements to real property or for  
2 remodeling of existing structures, the surtax shall be paid by  
3 the contractor responsible for the performance of the  
4 contract. However, the contractor may apply for one refund of  
5 any such surtax paid on materials necessary for the completion  
6 of the contract. Any application for refund shall be made no  
7 later than 15 months following initial imposition of the  
8 surtax in that county. The application for refund shall be in  
9 the manner prescribed by the department by rule. A complete  
10 application shall include proof of the written contract and of  
11 payment of the surtax. The application shall contain a sworn  
12 statement, signed by the applicant or its representative,  
13 attesting to the validity of the application. The department  
14 shall, within 30 days after approval of a complete  
15 application, certify to the county information necessary for  
16 issuance of a refund to the applicant. Counties are hereby  
17 authorized to issue refunds for this purpose and shall set  
18 aside from the proceeds of the surtax a sum sufficient to pay  
19 any refund lawfully due. Any person who fraudulently obtains  
20 or attempts to obtain a refund pursuant to this subparagraph,  
21 in addition to being liable for repayment of any refund  
22 fraudulently obtained plus a mandatory penalty of 100 percent  
23 of the refund, is guilty of a felony of the third degree,  
24 punishable as provided in s. 775.082, s. 775.083, or s.  
25 775.084.

26 4. In the case of any vessel, railroad, or motor  
27 vehicle common carrier entitled to partial exemption from tax  
28 imposed under this chapter pursuant to s. 212.08(4), (8), or  
29 (9), the basis for imposition of surtax shall be the same as  
30 provided in s. 212.08 and the ratio shall be applied each  
31 month to total purchases in this state of property qualified

1 for proration which is delivered or sold in the taxing county  
2 to establish the portion used and consumed in intracounty  
3 movement and subject to surtax.

4 Section 24. Subsection (2) of section 212.0598,  
5 Florida Statutes, is amended to read:

6 212.0598 Special provisions; air carriers.--

7 (2) The basis of the tax shall be the ratio of Florida  
8 mileage to total mileage as determined pursuant to chapter 220  
9 and this section. The ratio shall be determined at the close  
10 of the carrier's preceding fiscal year. However, during the  
11 fiscal year in which the air carrier begins initial operations  
12 in this state, the carrier may determine its mileage  
13 apportionment factor based on an estimated ratio of  
14 anticipated revenue miles in this state to anticipated total  
15 revenue miles. In such cases, the air carrier shall pay  
16 additional tax or apply for a refund based on the actual ratio  
17 for that year.The applicable ratio shall be applied each  
18 month to the carrier's total systemwide gross purchases of  
19 tangible personal property and services otherwise taxable in  
20 Florida. Additionally, the ratio shall be applied each month  
21 to the carrier's total systemwide payments for the lease or  
22 rental of, or license in, real property used by the carrier  
23 substantially for aircraft maintenance if that carrier  
24 employed, on average, during the previous calendar quarter in  
25 excess of 3,000 full-time equivalent maintenance or repair  
26 employees at one maintenance base that it leases, rents, or  
27 has a license in, in this state. In all other instances, the  
28 tax on real property leased, rented, or licensed by the  
29 carrier shall be as provided in s. 212.031.

30 Section 25. Paragraph (b) of subsection (1) of section  
31 212.06, Florida Statutes, is amended, paragraph (d) is

1 redesignated as paragraph (e) and a new paragraph (d) is added  
2 to said subsection, subsections (7) and (10) are amended, and  
3 subsections (13), (14), (15), and (16) are added to said  
4 section, to read:

5           212.06 Sales, storage, use tax; collectible from  
6 dealers; "dealer" defined; dealers to collect from purchasers;  
7 legislative intent as to scope of tax.--

8           (1)

9           (b) Except as otherwise provided, any person who  
10 manufactures, produces, compounds, processes, or fabricates in  
11 any manner tangible personal property for his or her own use  
12 shall pay a tax upon the cost of the product manufactured,  
13 produced, compounded, processed, or fabricated without any  
14 deduction therefrom on account of the cost of material used,  
15 labor or service costs, ~~or~~ transportation charges, overhead  
16 costs, or any other costs that are directly or indirectly  
17 attributable to the manufacturing, producing, compounding,  
18 processing, or fabricating of such tangible personal property  
19 and which are properly chargeable to a capital account or to  
20 the cost of the product under generally accepted cost  
21 accounting standards; however, the cost of labor to  
22 manufacture, produce, compound, process, or fabricate  
23 expendable items of tangible personal property which are  
24 directly used by such person in manufacturing, producing,  
25 compounding, processing, or fabricating other tangible  
26 personal property for sale or his or her own use is not  
27 included in such taxable cost.~~notwithstanding the provisions~~  
28 ~~of s. 212.02 defining "cost price."~~However, the tax levied  
29 under this paragraph shall not be imposed upon any person who  
30 manufactures or produces electrical power or energy, steam  
31 energy, or other energy at a single location, when such power

1 or energy is used directly and exclusively at such location,  
2 or at other locations if the energy is transferred through  
3 facilities of the owner in the operation of machinery or  
4 equipment that is used to manufacture, process, compound,  
5 produce, fabricate, or prepare for shipment tangible personal  
6 property for sale or to operate pollution control equipment,  
7 maintenance equipment, or monitoring or control equipment used  
8 in such operations. The manufacture or production of  
9 electrical power or energy that is used for space heating,  
10 lighting, office equipment, or air-conditioning or any other  
11 nonmanufacturing, nonprocessing, noncompounding, nonproducing,  
12 nonfabricating, or nonshipping activity is taxable. Electrical  
13 power or energy consumed or dissipated in the transmission or  
14 distribution of electrical power or energy for resale is also  
15 not taxable. Fabrication labor shall not be taxable when a  
16 person is using his or her own equipment and personnel, for  
17 his or her own account, as a producer, subproducer, or  
18 coproducer of a qualified motion picture. For purposes of  
19 this chapter, the term "qualified motion picture" means all or  
20 any part of a series of related images, either on film, tape,  
21 or other embodiment, including, but not limited to, all items  
22 comprising part of the original work and film-related products  
23 derived therefrom as well as duplicates and prints thereof and  
24 all sound recordings created to accompany a motion picture,  
25 which is produced, adapted, or altered for exploitation in,  
26 on, or through any medium or device and at any location,  
27 primarily for entertainment, commercial, industrial, or  
28 educational purposes. A person who manufactures factory-built  
29 buildings for his or her own use in the performance of  
30 contracts for the construction or improvement of real property  
31

1 shall pay a tax only upon the person's cost price of items  
2 used in the manufacture of such buildings.

3 (d) For purposes of paragraph (b), the department may  
4 establish a cost price amount for industry groups that  
5 manufacture, produce, compound, process, or fabricate tangible  
6 personal property for their own use in the performance of  
7 contracts for improvements to real property. Such cost price  
8 amount must be established as a percentage, rounded to the  
9 nearest whole number, of the total contract price charged for  
10 the improvement. The cost price percentages established must  
11 be adopted by rule pursuant to the procedures provided in s.  
12 120.54, upon petition of a majority of the members of an  
13 industry group or by a statewide association that represents  
14 such industry group, and must be based on a reasonable  
15 estimate of average costs incurred by members of the  
16 petitioning industry group. The department is required to  
17 adopt a cost price percentage only if sufficient information  
18 is available to determine such percentage. The information  
19 considered by the department to establish the cost price  
20 percentage must be that set forth in the petition or that  
21 which is otherwise made available to the department. Any cost  
22 price percentage so established must be available only by  
23 election of a member of the industry group for which the  
24 percentage was established and shall apply only to such  
25 periods or contracts for which the election is made. The  
26 election must be made by the taxpayer by timely accruing and  
27 remitting tax on the contract using the established percentage  
28 figure. If the taxpayer does not timely accrue and remit the  
29 use tax due for a contract using the percentage figure, the  
30 taxpayer may not later use this method of calculating the use  
31 tax due for that contract. Taxpayers must maintain adequate

1 records showing the accrual of tax using the percentage figure  
2 on actual cost price. Any cost price so established must  
3 remain available for use for a period of at least 5 years from  
4 the date of its adoption and must be reviewed and be subject  
5 to adjustment by the department no more frequently than at  
6 5-year intervals. The provisions of this paragraph are not  
7 available to persons subject to paragraph (c).

8           (7) The provisions of this chapter do not apply in  
9 respect to the use or consumption of tangible personal  
10 property or services, or distribution or storage of tangible  
11 personal property for use or consumption in this state, upon  
12 which a like tax equal to or greater than the amount imposed  
13 by this chapter has been lawfully imposed and paid in another  
14 state, territory of the United States, or the District of  
15 Columbia. The proof of payment of such tax shall be made  
16 according to rules and regulations of the department. If the  
17 amount of tax paid in another state, territory of the United  
18 States, or the District of Columbia is not equal to or greater  
19 than the amount of tax imposed by this chapter, then the  
20 dealer shall pay to the department an amount sufficient to  
21 make the tax paid in the other state, territory of the United  
22 States, or the District of Columbia and in this state equal to  
23 the amount imposed by this chapter.

24           (10) No title certificate may be issued on any boat,  
25 mobile home, motor vehicle, or other vehicle, or, if no title  
26 is required by law, no license or registration may be issued  
27 for any boat, mobile home, motor vehicle, or other vehicle,  
28 unless there is filed with such application for title  
29 certificate or license or registration certificate a receipt,  
30 issued by an authorized dealer or a designated agent of the  
31 Department of Revenue, evidencing the payment of the tax



1 imposed by this chapter where the same is payable. A  
2 presumption of sales and use tax applicability is created if  
3 the motor vehicle is registered in this state. For the  
4 purpose of enforcing this provision, all county tax collectors  
5 and all persons or firms authorized to sell or issue boat,  
6 mobile home, and motor vehicle licenses are hereby designated  
7 agents of the department and are required to perform such duty  
8 in the same manner and under the same conditions prescribed  
9 for their other duties by the constitution or any statute of  
10 this state. All transfers of title to boats, mobile homes,  
11 motor vehicles, and other vehicles are taxable transactions,  
12 unless expressly exempt under this chapter.

13 (13) Registered aircraft dealers who purchase aircraft  
14 exclusively for resale and do not pay sales tax on the  
15 purchase price at the time of purchase shall pay a use tax  
16 computed on 1 percent of the value of the aircraft each  
17 calendar month that the aircraft is used by the dealer.  
18 Payment of such tax shall commence in the month during which  
19 the aircraft is first used for any purpose for which income is  
20 received by the dealer. A dealer may pay the sales tax on the  
21 purchase of the aircraft in lieu of the monthly use tax. The  
22 value of the aircraft shall include its acquisition cost and  
23 the cost of reconditioning that enhances the value of the  
24 aircraft and shall generally be the value shown on the books  
25 of the dealer in accordance with generally accepted accounting  
26 principles. Notwithstanding the payment by the dealer of tax  
27 computed on 1 percent of the value of any aircraft, if the  
28 aircraft is leased or rented, the dealer shall collect from  
29 the customer and remit the tax that is due on the lease or  
30 rental of the aircraft; such payments do not diminish or  
31 offset any use tax due from the dealer.

1       (14) For the purpose of determining whether a person  
2 is improving real property:  
3       (a) "Real property" means the land and improvements  
4 thereto and fixtures and is synonymous with the terms "realty"  
5 and "real estate."  
6       (b) "Fixtures" means items that are an accessory to a  
7 building, other structure, or land and that do not lose their  
8 identity as accessories when installed but that do become  
9 permanently attached to realty. However, the term does not  
10 include the following items, whether or not such items are  
11 attached to real property in a permanent manner: trade  
12 fixtures; property of a type that is required to be  
13 registered, licensed, titled, or documented by this state or  
14 by the United States Government, including, but not limited  
15 to, mobile homes, except mobile homes assessed as real  
16 property; or machinery or equipment. For an item to be  
17 considered a fixture, it is not necessary that the owner of  
18 the item also own the real property to which it is attached.  
19       (c) "Improvements to real property" includes the  
20 activities of building, erecting, constructing, altering,  
21 improving, repairing, or maintaining real property.  
22       (15)(a) When a contractor secures the rock, shell,  
23 fill dirt, and similar materials he or she uses in a real  
24 property improvement contract from a quarry, pit, or other  
25 location that he or she owns or leases, the contractor is the  
26 ultimate consumer of such materials and is liable for use tax  
27 thereon. The basis upon which the contractor shall remit the  
28 tax is the fair retail market value determined by establishing  
29 either the price he or she would have to pay for it on the  
30 open market or the price he or she would regularly charge if  
31 he or she sold it to other contractors or users.

1       (b) When a contractor does not own or lease the land  
2 but has entered into an agreement to purchase fill dirt, rock,  
3 shell, or similar materials for his or her own use and the  
4 contractor will excavate and remove the material, the taxable  
5 basis shall include the cost of the material plus all costs of  
6 clearing, excavating, and removing, including labor and all  
7 other costs incurred by the contractor.

8       (c) In lieu of the method described in paragraph (a)  
9 for determining the taxable basis on rock, shell, fill dirt,  
10 and similar materials a contractor uses in performing a  
11 contract for the improvement of real property, the taxable  
12 basis may be calculated as the land cost plus all costs of  
13 clearing, excavating, and loading, including labor, power,  
14 blasting, and similar costs.

15       (d) No tax is applicable when the Department of  
16 Transportation furnishes without charge the borrow materials  
17 or the pits where materials are to be extracted for use on a  
18 road contract.

19       (16)(a) Notwithstanding other provisions of this  
20 chapter, the use by the publisher of a newspaper, magazine, or  
21 periodical of copies for his or her own consumption or to be  
22 given away is taxable at the usual retail price thereof, if  
23 any, or at the cost price.

24       (b) For the purposes of this subsection, "cost price"  
25 means the actual cost of printing of newspapers, magazines,  
26 and other publications, without any deductions therefrom on  
27 account of the cost of materials used, labor or services cost,  
28 transportation charges, or other direct or indirect overhead  
29 costs that are a part of printing costs of the property.  
30 However, the cost of labor to manufacture, produce, compound,  
31 process, or fabricate expendable items of tangible personal

1 property which are directly used by such person in printing  
2 other tangible personal property for sale or for his or her  
3 own use is exempt. Authors' royalties, fees, or salaries,  
4 general overhead, and other costs not directly related to  
5 printing shall be deemed to be labor associated with  
6 manufacturing, producing, compounding, processing, or  
7 fabricating expendable items.

8 Section 26. Subsection (8) of section 212.07, Florida  
9 Statutes, is repealed, paragraph (c) is added to subsection  
10 (1) of said section, and subsection (5) of said section is  
11 amended, to read:

12 212.07 Sales, storage, use tax; tax added to purchase  
13 price; dealer not to absorb; liability of purchasers who  
14 cannot prove payment of the tax; penalties; general  
15 exemptions.--

16 (1)

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

25 (5)(a) The gross proceeds derived from the sale in  
26 this state of livestock, poultry, and other farm products  
27 direct from the farm are exempted from the tax levied by this  
28 chapter provided such sales are made directly by the  
29 producers. The producers shall be entitled to such exemptions  
30 although the livestock so sold in this state may have been  
31 registered with a breeders' or registry association prior to

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

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

15 Section 27. Subsections (1), (2), (3), (6), (7), (9),  
16 and (14), paragraph (a) of subsection (4), paragraph (a) of  
17 subsection (8), and paragraph (d) of subsection (11) of  
18 section 212.08, Florida Statutes, are amended, and paragraph  
19 (a) of subsection (5) is amended and paragraph (k) is added to  
20 said subsection, to read:

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

27 (1) EXEMPTIONS; GENERAL GROCERIES.--

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

30 (b) As used in this subsection, "food products" means  
31 edible commodities, whether processed, cooked, raw, canned, or

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

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

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

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

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

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

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

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

- 1 order and are actually packaged or wrapped and taken from the  
2 premises of the dealer.
- 3 4. To sandwiches sold ready for immediate consumption  
4 on or off the premises.
- 5 5. When the food products are sold ready for immediate  
6 consumption within a place, the entrance to which is subject  
7 to an admission charge.
- 8 6. When the food products are sold as hot prepared  
9 food products.
- 10 7. To soft drinks, which include, but are not limited  
11 to, any nonalcoholic beverage, any preparation or beverage  
12 commonly referred to as a "soft drink," or any noncarbonated  
13 drink made from milk derivatives or tea, when sold in cans or  
14 similar containers.
- 15 8. To ice cream, frozen yogurt, and similar frozen  
16 dairy or nondairy products in cones, small cups, or pints,  
17 popsicles, frozen fruit bars, or other novelty items, whether  
18 or not sold separately.
- 19 9. To food prepared, whether on or off the premises,  
20 and sold for immediate consumption. This does not apply to  
21 food prepared off the premises and sold in the original sealed  
22 container, or the slicing of products into smaller portions.
- 23 10. When the food products are sold through a vending  
24 machine, pushcart, motor vehicle, or any other form of  
25 vehicle.
- 26 11. To candy and any similar product regarded as candy  
27 or confection, based on its normal use, as indicated on the  
28 label or advertising thereof.
- 29 12. To bakery products sold by bakeries, pastry shops,  
30 or like establishments that have eating facilities, except  
31 when sold for consumption off the premises.

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

4           (d) As used in this subsection:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

8           (2) EXEMPTIONS; MEDICAL.--

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

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

8 (b) For the purposes of this subsection:

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

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

30 3. "Toilet articles" means any article advertised or  
31 held out for sale for grooming purposes and those articles

1 that are customarily used for grooming purposes, regardless of  
2 the name by which they may be known, including, but not  
3 limited to, soap, toothpaste, hair spray, shaving products,  
4 colognes, perfumes, shampoo, deodorant, and mouthwash.

5 4. "Prescription" includes any order for drugs or  
6 medicinal supplies written or transmitted by any means of  
7 communication by a duly licensed practitioner authorized by  
8 the laws of this state to prescribe such drugs or medicinal  
9 supplies and intended to be dispensed by a pharmacist. The  
10 term also includes an orally transmitted order by the lawfully  
11 designated agent of such practitioner. The term also includes  
12 an order written or transmitted by a practitioner licensed to  
13 practice in a jurisdiction other than this state, but only if  
14 the pharmacist called upon to dispense such order determines,  
15 in the exercise of his or her professional judgment, that the  
16 order is valid and necessary for the treatment of a chronic or  
17 recurrent illness. The term also includes a pharmacist's order  
18 for a product selected from the formulary created pursuant to  
19 s. 465.186. A prescription may be retained in written form, or  
20 the pharmacist may cause it to be recorded in a  
21 data-processing system, provided that such order can be  
22 produced in printed form upon lawful request.

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

26 (d) Lithotripters are exempt.

27 (e) Human organs are exempt.

28 (f) Sales of drugs to or by physicians, dentists,  
29 veterinarians, and hospitals in connection with medical  
30 treatment are exempt.

31

1       (g) Medical products and supplies used in the cure,  
2 mitigation, alleviation, prevention, or treatment of injury,  
3 disease, or incapacity which are temporarily or permanently  
4 incorporated into a patient or client by a practitioner of the  
5 healing arts licensed in this state are exempt.

6       (h) The purchase by a veterinarian of commonly  
7 recognized substances possessing curative or remedial  
8 properties which are ordered and dispensed as treatment for a  
9 diagnosed health disorder by or on the prescription of a duly  
10 licensed veterinarian, and which are applied to or consumed by  
11 animals for alleviation of pain or the cure or prevention of  
12 sickness, disease, or suffering are exempt. Also exempt are  
13 the purchase by a veterinarian of antiseptics, absorbent  
14 cotton, gauze for bandages, lotions, vitamins, and worm  
15 remedies.

16       (i) X-ray opaques, also known as opaque drugs and  
17 radiopaque, such as the various opaque dyes and barium  
18 sulphate, when used in connection with medical x-rays for  
19 treatment of bodies of humans and animals, are exempt.

20       (j) Parts, special attachments, special lettering, and  
21 other like items that are added to or attached to tangible  
22 personal property so that a handicapped person can use them  
23 are exempt when such items are purchased by a person pursuant  
24 to an individual prescription.

25       (k)~~(d)~~ This subsection shall be strictly construed and  
26 enforced.

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

1 sharecropped by the farmer in plowing, planting, cultivating,  
2 ~~or harvesting crops, or for fire prevention and suppression~~  
3 work. The rental of self-propelled or power-drawn farm  
4 equipment shall be taxed at the rate of 6 percent. The 3  
5 percent tax rate provided for machines and farm equipment  
6 shall be disallowed when such machines and equipment are used  
7 by the farmer for activities other than plowing, planting,  
8 cultivating, harvesting crops, or fire prevention and  
9 suppression work on a farm owned, leased, or sharecropped by  
10 the farmer within 6 months after the date of purchase. The  
11 fact that the amount of other use derived from such machines  
12 and farm equipment may be relatively insignificant is  
13 irrelevant. In such cases, it is the farmer's responsibility  
14 to disclose the facts to the department and pay the amount of  
15 tax difference due on the basis of 6 percent of the cost price  
16 at the time of purchase.

17 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,  
18 ETC.--

19 (a) Also exempt are:

20 1. Water delivered to the purchaser through pipes or  
21 conduits or delivered for irrigation purposes. The sale of  
22 drinking water in bottles, cans, or other containers,  
23 including water that contains minerals or carbonation in its  
24 natural state or water to which minerals have been added at a  
25 water treatment facility regulated by the Department of  
26 Environmental Protection, is exempt. This exemption does not  
27 apply to the sale of drinking water in bottles, cans, or other  
28 containers if carbonation, minerals, or flavorings, except  
29 those added at a water treatment facility, have been added.  
30 ~~(not exempting mineral water or carbonated water).~~

31

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

25           3. The transmission or wheeling of electricity.

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

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



1 groves, including commercial nurseries and home vegetable  
2 gardens, used in dairy barns or on poultry farms for the  
3 purpose of protecting poultry or livestock, or used directly  
4 on poultry or livestock; portable containers used for  
5 processing farm products; field and garden seeds, including  
6 flower seeds; nursery stock, seedlings, cuttings, or other  
7 propagative material purchased for growing stock; seeds,  
8 seedlings, cuttings, and plants used to produce food for human  
9 consumption; cloth, plastic, and other similar materials used  
10 for shade, mulch, or protection from frost or insects on a  
11 farm; and liquefied petroleum gas or other fuel used to heat a  
12 structure in which started pullets or broilers are raised;  
13 however, such exemption shall not be allowed unless the  
14 purchaser or lessee signs a certificate stating that the item  
15 to be exempted is for the exclusive use designated herein.

16 (k) Paint color cards and other samples.--Paint color  
17 cards, flooring and wallpaper samples, laminate chips, fabric  
18 swatches, window covering samples, and other similar samples,  
19 which serve no useful purpose other than for comparing color,  
20 texture, or design, and which are available at no charge, are  
21 exempt.

22 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are  
23 also exempt from the tax imposed by this chapter sales made to  
24 the United States Government, a state, or any county,  
25 municipality, or political subdivision of a state when payment  
26 is made directly to the dealer by the governmental entity.  
27 This exemption shall not inure to any transaction otherwise  
28 taxable under this chapter when payment is made by a  
29 government employee by any means, including, but not limited  
30 to, cash, check, or credit card when that employee is  
31 subsequently reimbursed by the governmental entity. This

1 exemption does not include sales of tangible personal property  
2 made to contractors employed either directly or as agents of  
3 any such government or political subdivision thereof when such  
4 tangible personal property goes into or becomes a part of  
5 public works owned by such government or political subdivision  
6 thereof. A determination whether a particular transaction is  
7 properly characterized as an exempt sale to a government  
8 entity or a taxable sale to a contractor shall be based on the  
9 substance of the transaction rather than the form in which the  
10 transaction is cast. The department shall adopt rules that  
11 give special consideration to factors that govern the status  
12 of the tangible personal property before its affixation to  
13 real property. In developing these rules, assumption of the  
14 risk of damage or loss is of paramount consideration in the  
15 determination. This exemption does not include sales, rental,  
16 use, consumption, or storage for use in any political  
17 subdivision or municipality in this state of machines and  
18 equipment and parts and accessories therefor used in the  
19 generation, transmission, or distribution of electrical energy  
20 by systems owned and operated by a political subdivision in  
21 this state for transmission or distribution expansion.  
22 Likewise exempt are charges for services rendered by radio and  
23 television stations, including line charges, talent fees, or  
24 license fees and charges for films, videotapes, and  
25 transcriptions used in producing radio or television  
26 broadcasts. The exemption provided in this subsection does not  
27 include sales, rental, use, consumption, or storage for use in  
28 any political subdivision or municipality in this state of  
29 machines and equipment and parts and accessories therefor used  
30 in providing two-way telecommunications services to the public  
31 for hire by the use of a telecommunications facility, as

1 defined in s. 364.02(13), and for which a certificate is  
2 required under chapter 364, which facility is owned and  
3 operated by any county, municipality, or other political  
4 subdivision of the state. Any immunity of any political  
5 subdivision of the state or other entity of local government  
6 from taxation of the property used to provide  
7 telecommunication services that is taxed as a result of this  
8 section is hereby waived. However, the exemption provided in  
9 this subsection includes transactions taxable under this part  
10 which are for use by the operator of a public-use airport, as  
11 defined in s. 322.004, in providing such telecommunications  
12 services for the airport or its tenants, concessionaires, or  
13 licensees, or which are for use by a public hospital for the  
14 provision of such telecommunications services.

15 (7) MISCELLANEOUS EXEMPTIONS.--

16 (a) Artificial commemorative flowers.--Exempt from the  
17 tax imposed by this chapter is the sale of artificial  
18 commemorative flowers by bona fide nationally chartered  
19 veterans' organizations.

20 (b) Boiler fuels.--When purchased for use as a  
21 combustible fuel, purchases of natural gas, residual oil,  
22 recycled oil, waste oil, solid waste material, coal, sulfur,  
23 wood, wood residues or wood bark used in an industrial  
24 manufacturing, processing, compounding, or production process  
25 at a fixed location in this state are exempt from the taxes  
26 imposed by this chapter; however, such exemption shall not be  
27 allowed unless the purchaser signs a certificate stating that  
28 the fuel to be exempted is for the exclusive use designated  
29 herein. This exemption does not apply to the use of boiler  
30 fuels that are not used in manufacturing, processing,  
31 compounding, or producing items of tangible personal property

1 for sale, or to the use of boiler fuels used by any firm  
2 subject to regulation by the Division of Hotels and  
3 Restaurants of the Department of Business and Professional  
4 Regulation.

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

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

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

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

17 (g) Florida Retired Educators Association and its  
18 local chapters.--Also exempt from payment of the tax imposed  
19 by this chapter are purchases of office supplies, equipment,  
20 and publications made by the Florida Retired Educators  
21 Association and its local chapters.

22 (h) Guide dogs for the blind.--Also exempt are the  
23 sale or rental of guide dogs for the blind, commonly referred  
24 to as "seeing-eye dogs," and the sale of food or other items  
25 for such guide dogs.

26 1. The department shall issue a consumer's certificate  
27 of exemption to any blind person who holds an identification  
28 card as provided for in s. 413.091 and who either owns or  
29 rents, or contemplates the ownership or rental of, a guide dog  
30 for the blind. The consumer's certificate of exemption shall  
31

1 be issued without charge and shall be of such size as to be  
2 capable of being carried in a wallet or billfold.

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

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

25           (j) Household fuels.--Also exempt from payment of the  
26 tax imposed by this chapter are sales of utilities to  
27 residential households or owners of residential models in this  
28 state by utility companies who pay the gross receipts tax  
29 imposed under s. 203.01, and sales of fuel to residential  
30 households or owners of residential models, including oil,  
31 kerosene, liquefied petroleum gas, coal, wood, and other fuel

1 products used in the household or residential model for the  
2 purposes of heating, cooking, lighting, and refrigeration,  
3 regardless of whether such sales of utilities and fuels are  
4 separately metered and billed direct to the residents or are  
5 metered and billed to the landlord. If any part of the utility  
6 or fuel is used for a nonexempt purpose, the entire sale is  
7 taxable. The landlord shall provide a separate meter for  
8 nonexempt utility or fuel consumption. For the purposes of  
9 this paragraph, licensed family day care homes shall also be  
10 exempt.

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

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

22 (m) Nonprofit corporations; homes for the aged,  
23 nursing homes, or hospices.--Nonprofit corporations which hold  
24 current exemptions from federal corporate income tax pursuant  
25 to s. 501(c)(3), Internal Revenue Code of 1954, as amended,  
26 and which either qualify as homes for the aged pursuant to s.  
27 196.1975(2) or are licensed as a nursing home or hospice under  
28 the provisions of chapter 400, are exempt from the tax imposed  
29 by this chapter.

30 (n) Organizations providing special educational,  
31 cultural, recreational, and social benefits to minors.--There

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

11 (o) Religious, charitable, scientific, educational,  
12 and veterans' institutions and organizations.--

13 1. There are exempt from the tax imposed by this  
14 chapter transactions involving:

15 a. Sales or leases directly to churches or sales or  
16 leases of tangible personal property by churches;

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

23 c. Sales or leases to the state headquarters of  
24 qualified veterans' organizations and the state headquarters  
25 of their auxiliaries when used in carrying on their customary  
26 veterans' organization activities. If a qualified veterans'  
27 organization or its auxiliary does not maintain a permanent  
28 state headquarters, then transactions involving sales or  
29 leases to such organization and used to maintain the office of  
30 the highest ranking state official are exempt from the tax  
31 imposed by this chapter.

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

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

31



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

10           (I) Medical aid for the relief of disease, injury, or  
11 disability;

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

14           (III) Services for the prevention of or rehabilitation  
15 of persons from alcoholism or drug abuse; the prevention of  
16 suicide; or the alleviation of mental, physical, or sensory  
17 health problems;

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

23           (V) Medical research for the relief of disease,  
24 injury, or disability;

25           (VI) Legal services; or

26           (VII) Food, shelter, or medical care for animals or  
27 adoption services, cruelty investigations, or education  
28 programs concerning animals;

29

30 and the term includes groups providing volunteer staff to  
31 organizations designated as charitable institutions under this

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

22 c. "Scientific organizations" means scientific  
23 organizations which hold current exemptions from federal  
24 income tax under s. 501(c)(3) of the Internal Revenue Code and  
25 also means organizations the purpose of which is to protect  
26 air and water quality or the purpose of which is to protect  
27 wildlife and which hold current exemptions from the federal  
28 income tax under s. 501(c)(3) of the Internal Revenue Code.

29 d. "Educational institutions" means state  
30 tax-supported or parochial, church and nonprofit private  
31 schools, colleges, or universities which conduct regular

1 classes and courses of study required for accreditation by, or  
2 membership in, the Southern Association of Colleges and  
3 Schools, the Department of Education, the Florida Council of  
4 Independent Schools, or the Florida Association of Christian  
5 Colleges and Schools, Inc., or nonprofit private schools which  
6 conduct regular classes and courses of study accepted for  
7 continuing education credit by a Board of the Division of  
8 Medical Quality Assurance of the Department of Business and  
9 Professional Regulation or which conduct regular classes and  
10 courses of study accepted for continuing education credit by  
11 the American Medical Association. Nonprofit libraries, art  
12 galleries, performing arts centers that provide educational  
13 programs to school children, which programs involve  
14 performances or other educational activities at the performing  
15 arts center and serve a minimum of 50,000 school children a  
16 year, and museums open to the public are defined as  
17 educational institutions and are eligible for exemption. The  
18 term "educational institutions" includes private nonprofit  
19 organizations the purpose of which is to raise funds for  
20 schools teaching grades kindergarten through high school,  
21 colleges, and universities. The term "educational  
22 institutions" includes any nonprofit newspaper of free or paid  
23 circulation primarily on university or college campuses which  
24 holds a current exemption from federal income tax under s.  
25 501(c)(3) of the Internal Revenue Code, and any educational  
26 television or radio network or system established pursuant to  
27 s. 229.805 or s. 229.8051 and any nonprofit television or  
28 radio station which is a part of such network or system and  
29 which holds a current exemption from federal income tax under  
30 s. 501(c)(3) of the Internal Revenue Code. The term  
31 "educational institutions" also includes state, district, or

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

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

23 (p) Resource recovery equipment.--Also exempt is  
24 resource recovery equipment which is owned and operated by or  
25 on behalf of any county or municipality, certified by the  
26 Department of Environmental Protection under the provisions of  
27 s. 403.715.

28 (q) School books and school lunches.--This exemption  
29 applies to school books used in regularly prescribed courses  
30 of study, and to school lunches served ~~to students~~, in public,  
31 parochial, or nonprofit schools operated for and attended by

1 pupils of kindergarten through grade ~~grades 1 through~~ 12.  
2 Yearbooks, magazines, newspapers, directories, bulletins, and  
3 similar publications distributed by such educational  
4 institutions to their students are also exempt. School books  
5 and food sold or served at community colleges and other  
6 institutions of higher learning are taxable.

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

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

18 (t) Boats temporarily docked in state.--  
19 1. Notwithstanding the provisions of chapters 327 and  
20 328, pertaining to the registration of vessels, a boat upon  
21 which the state sales or use tax has not been paid is exempt  
22 from the use tax under this chapter if it enters and remains  
23 in this state for a period not to exceed a total of 20 days in  
24 any calendar year calculated from the date of first dockage or  
25 slippage at a facility, registered with the department, that  
26 rents dockage or slippage space in this state. If a boat  
27 brought into this state for use under this paragraph is placed  
28 in a facility, registered with the department, for repairs,  
29 alterations, refitting, or modifications and such repairs,  
30 alterations, refitting, or modifications are supported by  
31 written documentation, the 20-day period shall be tolled

1 during the time the boat is physically in the care, custody,  
2 and control of the repair facility, including the time spent  
3 on sea trials conducted by the facility. The 20-day time  
4 period may be tolled only once within a calendar year when a  
5 boat is placed for the first time that year in the physical  
6 care, custody, and control of a registered repair facility;  
7 however, the owner may request and the department may grant an  
8 additional tolling of the 20-day period for purposes of  
9 repairs that arise from a written guarantee given by the  
10 registered repair facility, which guarantee covers only those  
11 repairs or modifications made during the first tolled period.  
12 Within 72 hours after the date upon which the registered  
13 repair facility took possession of the boat, the facility must  
14 have in its possession, on forms prescribed by the department,  
15 an affidavit which states that the boat is under its care,  
16 custody, and control and that the owner does not use the boat  
17 while in the facility. Upon completion of the repairs,  
18 alterations, refitting, or modifications, the registered  
19 repair facility must, within 72 hours after the date of  
20 release, have in its possession a copy of the release form  
21 which shows the date of release and any other information the  
22 department requires. The repair facility shall maintain a log  
23 that documents all alterations, additions, repairs, and sea  
24 trials during the time the boat is under the care, custody,  
25 and control of the facility. The affidavit shall be  
26 maintained by the registered repair facility as part of its  
27 records for as long as required by s. 213.35. When, within 6  
28 months after the date of its purchase, a boat is brought into  
29 this state under this paragraph, the 6-month period provided  
30 in s. 212.05(1)(a)2. or s. 212.06(8) shall be tolled.  
31

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

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

10          4. As used in this paragraph, "registered repair  
11 facility" means:

12           a. A full-service facility that:

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

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

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

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

23           b. A marina that:

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

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

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

30           c. A shoreside facility that:

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

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

4           (III) Has necessary shops and equipment to provide  
5 repairs or warranty work.

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

10           (v) Professional services.--

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

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

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

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

31



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

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

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

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

1 corporation qualified as nonprofit pursuant to s. 501(c)(3) or  
2 (4) of the Internal Revenue Code of 1986, as amended.

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

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

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

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

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

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

25 (dd) Works of art.--

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

29 2. This exemption also applies to the sale to or use  
30 in this state of any work of art by any person if it was  
31 purchased or imported exclusively for the purpose of being

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

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

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

19           5. The exemption provided by subparagraph 2. applies  
20 only for the period during which a work of art is in the  
21 possession of the educational institution or is in storage  
22 before transfer of possession to that institution; and when it  
23 ceases to be so possessed or held, tax based upon the sales  
24 price paid by the owner is payable, and the statute of  
25 limitations provided in s. 95.091 shall begin to run at that  
26 time. Any educational institution which has received a work  
27 of art pursuant to this paragraph shall make available to the  
28 department information relating to the work of art. Any  
29 educational institution that transfers from its possession a  
30 work of art as defined by this paragraph must notify the  
31 Department of Revenue within 60 days after the transfer.

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

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

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

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

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

- 26           1.a. Are incorporated pursuant to chapter 617; and  
27           b. Hold a current exemption from federal corporate  
28 income tax liability pursuant to s. 501(c)(3) of the Internal  
29 Revenue Code of 1986, as amended; and  
30           2. Sponsor golf tournaments sanctioned by the PGA  
31 Tour, PGA of America, or the LPGA.

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

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

1 the purchaser was not entitled to the exemption. Such  
2 exemption shall be applied as follows:  
3       1. Beginning July 1, 1996, 20 percent of the charges  
4 for such electricity shall be exempt.  
5       2. Beginning July 1, 1997, 40 percent of the charges  
6 for such electricity shall be exempt.  
7       3. Beginning July 1, 1998, 60 percent of the charges  
8 for such electricity shall be exempt.  
9       4. Beginning July 1, 1999, 80 percent of the charges  
10 for such electricity shall be exempt.  
11       5. Beginning July 1, 2000, 100 percent of the charges  
12 for such electricity shall be exempt.  
13  
14 Notwithstanding any other provision in this paragraph to the  
15 contrary, in order to receive the exemption provided in this  
16 paragraph a taxpayer must register with the WAGES Program  
17 Business Registry established by the local WAGES coalition for  
18 the area in which the taxpayer is located. Such registration  
19 establishes a commitment on the part of the taxpayer to hire  
20 WAGES program participants to the maximum extent possible  
21 consistent with the nature of their business. In order to  
22 determine whether the exemption provided in this paragraph  
23 from the tax on charges for electricity has an effect on  
24 retaining or attracting companies to this state, the Office of  
25 Program Policy Analysis and Governmental Accountability shall  
26 periodically monitor and report on the industries receiving  
27 the exemption. The first report shall be submitted no later  
28 than January 1, 1997, and must be conducted in such a manner  
29 as to specifically determine the number of companies within  
30 each SIC Industry Major Group receiving the exemption as of  
31 September 1, 1996, and the number of individuals employed by

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

17 (jj) Fair associations.--Also exempt from the tax  
18 imposed by this chapter is the sale, use, lease, rental, or  
19 grant of a license to use, made directly to or by a fair  
20 association, of real or tangible personal property; any charge  
21 made by a fair association, or its agents, for parking,  
22 admissions, or for temporary parking of vehicles used for  
23 sleeping quarters; rentals, subleases, and sublicenses of real  
24 or tangible personal property between the owner of the central  
25 amusement attraction and any owner of amusement devices and  
26 amusement attractions, as those terms are used in ss.  
27 616.15(1)(b) and 616.242(3)(a) and (i), for the furnishing of  
28 amusement devices and amusement attractions at a public fair  
29 or exposition; and other transactions of a fair association  
30 which are incurred directly by the fair association in the  
31 financing, construction, and operation of a fair, exposition,

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

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

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

29 (mm) Solar energy systems.--Also exempt are solar  
30 energy systems or any component thereof. The Florida Solar  
31 Energy Center shall from time to time certify to the



1 department a list of equipment and requisite hardware  
2 considered to be a solar energy system or a component thereof.  
3 This exemption is repealed July 1, 2002.

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

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

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

31

1       (qq) Parent-teacher organizations, parent-teacher  
2 associations, and schools having kindergarten through grade  
3 12.--Parent-teacher organizations and associations qualified  
4 as educational institutions under paragraph (o) associated  
5 with schools having kindergarten through grade 12, and schools  
6 having kindergarten through grade 12, may pay tax to their  
7 suppliers on the cost price of school materials and supplies  
8 purchased, rented, or leased for resale or rental to students  
9 in kindergarten through grade 12, of items sold for  
10 fundraising purposes, and of items sold through vending  
11 machines located on the school premises, in lieu of collecting  
12 the tax imposed by this chapter from the purchaser. This  
13 paragraph also applies to food or beverages sold through  
14 vending machines located in the student lunchroom or dining  
15 room of a school having kindergarten through grade 12.

16       (rr) Mobile home lot improvements.--Items purchased by  
17 developers for use in making improvements to a mobile home lot  
18 owned by the developer may be purchased tax-exempt as a sale  
19 for resale if made pursuant to a contract that requires the  
20 developer to sell a mobile home to a purchaser, place the  
21 mobile home on the lot, and make the improvements to the lot  
22 for a single lump-sum price. The developer must collect and  
23 remit sales tax on the entire lump-sum price.

24       (ss) Veterans Administration.--When a veteran of the  
25 Armed Forces purchases an aircraft, boat, mobile home, motor  
26 vehicle, or other vehicle from a dealer pursuant to the  
27 provisions of s. 3902(a), Title 38, U.S.C., or any successor  
28 provision of the United States Code, the amount that is paid  
29 directly to the dealer by the Veterans Administration is not  
30 taxable. However, any portion of the purchase price which is  
31 paid directly to the dealer by the veteran is taxable.

1       (tt) Complimentary items.--There is exempt from the  
2 tax imposed by this chapter:

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

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

10  
11 The exemptions in this paragraph do not apply to businesses  
12 with the primary activity of serving prepared meals or  
13 alcoholic beverages for immediate consumption.

14       (uu) Donated foods or beverages.--Any food or beverage  
15 donated by a dealer that sells food products at retail to a  
16 food bank or an organization that holds a current exemption  
17 from federal corporate income tax pursuant to s. 501(c) of the  
18 Internal Revenue Code of 1986, as amended, is exempt from the  
19 tax imposed by this chapter.

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

23  
24 Exemptions provided to any entity by this subsection shall not  
25 inure to any transaction otherwise taxable under this chapter  
26 when payment is made by a representative or employee of such  
27 entity by any means, including, but not limited to, cash,  
28 check, or credit card, even when that representative or  
29 employee is subsequently reimbursed by such entity.

30       (8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE  
31 OR FOREIGN COMMERCE.--

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

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

29           (a) Railroads which are licensed as common carriers by  
30 the Interstate Commerce Commission and parts thereof used to  
31 transport persons or property in interstate or foreign

1 commerce are subject to tax imposed in this chapter only to  
2 the extent provided herein. The basis of the tax shall be the  
3 ratio of intrastate mileage to interstate or foreign mileage  
4 traveled by the carrier during the previous fiscal year of the  
5 carrier. Such ratio is to be determined at the close of the  
6 carrier's fiscal year. This ratio shall be applied each month  
7 to the total purchases of the railroad which are used in this  
8 state to establish that portion of the total used and consumed  
9 in intrastate movement and subject to tax under this chapter.  
10 The basis for imposition of any discretionary surtax is set  
11 forth in s. 212.054. Railroads which are licensed as common  
12 carriers by the Interstate Commerce Commission and parts  
13 thereof used to transport persons or property in interstate  
14 and foreign commerce are hereby determined to be susceptible  
15 to a distinct and separate classification for taxation under  
16 the provisions of this chapter.

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

1 any discretionary surtax is set forth in s. 212.054.Motor  
2 vehicles which are engaged in interstate commerce, and parts  
3 thereof, used to transport persons or property in interstate  
4 and foreign commerce are hereby determined to be susceptible  
5 to a distinct and separate classification for taxation under  
6 the provisions of this chapter. Motor vehicles and parts  
7 thereof used exclusively in intrastate commerce do not qualify  
8 for the proration of tax. For purposes of this paragraph,  
9 parts of a motor vehicle engaged in interstate commerce  
10 include a separate tank not connected to the fuel supply  
11 system of the motor vehicle into which diesel fuel is placed  
12 to operate a refrigeration unit or other equipment.

13 (11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.--

14 (d) The purchaser shall execute a sworn affidavit  
15 attesting that he or she is not a resident of this state and  
16 stating where the aircraft will be domiciled. If the aircraft  
17 is subsequently used in this state within 6 months of the time  
18 of purchase, in violation of the intent of this subsection,  
19 the purchaser shall be liable for payment of the full use tax  
20 imposed by this chapter and shall be subject to the penalty  
21 imposed by s. 212.12(2), which penalty shall be mandatory.

22 Notwithstanding the provisions of this paragraph, the owner of  
23 an aircraft purchased pursuant to this subsection may permit  
24 the aircraft to be returned to this state for repairs within 6  
25 months after the date of sale without the aircraft being in  
26 violation of the law and without incurring liability for  
27 payment of tax or penalty on the purchase price of the  
28 aircraft, so long as the aircraft is removed from this state  
29 within 20 days after the completion of the repairs and such  
30 removal can be proven by invoices for fuel, tie-down, or

31

1 hangar charges issued by out-of-state vendors or suppliers or  
2 similar documentation.

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

15 Section 28. Section 212.09, Florida Statutes, is  
16 amended to read:

17 212.09 Trade-ins deducted.--

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

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

28 (3) A person who is not registered with the department  
29 as a seller of aircraft, boats, mobile homes, or motor  
30 vehicles who is selling an aircraft, boat, mobile home, or  
31 motor vehicle and who takes in trade an item other than an

1 aircraft, boat, mobile home, or motor vehicle may not use the  
2 item as a credit against sales price.

3 Section 29. Subsection (1) of section 212.17, Florida  
4 Statutes, is amended to read:

5 212.17 Credits for returned goods, rentals, or  
6 admissions; goods acquired for dealer's own use and  
7 subsequently sold;additional powers of department.--

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

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

21 (c) If the tax has not been remitted by a ~~the~~ dealer  
22 to the department, the dealer may deduct the same in  
23 submitting his or her return upon receipt of a signed  
24 statement of the dealer as to the gross amount of such refunds  
25 during the period covered by said signed statement, which  
26 period shall not be longer than 90 days. The department shall  
27 issue to the dealer an official credit memorandum equal to the  
28 net amount remitted by the dealer for such tax collected or  
29 paid. Such memorandum shall be accepted by the department at  
30 full face value from the dealer to whom it is issued, in the  
31 remittance for subsequent taxes accrued under the provisions



1 of this chapter. ~~If; provided, in cases where~~ a dealer has  
2 retired from business and has filed a final return, a refund  
3 of tax may be made if it can be established to the  
4 satisfaction of the department that the tax was not due.

5 Section 30. Subsection (3) of section 212.18, Florida  
6 Statutes, is amended, and subsection (6) is added to said  
7 section, to read:

8 212.18 Administration of law; registration of dealers;  
9 rules.--

10 (3)(a) Every person desiring to engage in or conduct  
11 business in this state as a dealer, as defined in this  
12 chapter, or to lease, rent, or let or grant licenses in living  
13 quarters or sleeping or housekeeping accommodations in hotels,  
14 apartment houses, roominghouses, or tourist or trailer camps  
15 that are subject to tax under s. 212.03, or to lease, rent, or  
16 let or grant licenses in real property, as defined in this  
17 chapter, and every person who sells or receives anything of  
18 value by way of admissions, must file with the department an  
19 application for a certificate of registration for each place  
20 of business, showing the names of the persons who have  
21 interests in such business and their residences, the address  
22 of the business, and such other data as the department may  
23 reasonably require. Owners and operators of vending machines  
24 or newspaper rack machines are required to obtain only one  
25 certificate of registration for each county in which such  
26 machines are located. The department, by rule, may authorize a  
27 dealer that uses independent sellers to sell its merchandise  
28 to remit tax on the retail sales price charged to the ultimate  
29 consumer in lieu of having the independent seller register as  
30 a dealer and remit the tax. Itinerant merchants selling  
31 exclusively at flea markets may in lieu of registration remit

1 tax on their sales to the registered flea market operator in  
2 the manner provided for in subsection (6) if they fall below  
3 the threshold requirement for individual registration  
4 specified in that subsection.The department may appoint the  
5 county tax collector as the department's agent to accept  
6 applications for registrations. The application must be made  
7 to the department before the person, firm, copartnership, or  
8 corporation may engage in such business, and it must be  
9 accompanied by a registration fee of \$5. However, a  
10 registration fee is not required to accompany an application  
11 to engage in or conduct business to make mail order sales. The  
12 department, upon receipt of such application, will grant to  
13 the applicant a separate certificate of registration for each  
14 place of business, which certificate may be canceled by the  
15 department or its designated assistants for any failure by the  
16 certificateholder to comply with any of the provisions of this  
17 chapter. The certificate is not assignable and is valid only  
18 for the person, firm, copartnership, or corporation to which  
19 issued. The certificate must be placed in a conspicuous place  
20 in the business or businesses for which it is issued and must  
21 be displayed at all times. Except as provided in this  
22 paragraph, no person shall engage in business as a dealer or  
23 in leasing, renting, or letting of or granting licenses in  
24 living quarters or sleeping or housekeeping accommodations in  
25 hotels, apartment houses, roominghouses, tourist or trailer  
26 camps, or real property as hereinbefore defined, nor shall any  
27 person sell or receive anything of value by way of admissions,  
28 without first having obtained such a certificate or after such  
29 certificate has been canceled; no person shall receive any  
30 license from any authority within the state to engage in any  
31 such business without first having obtained such a certificate

1 or after such certificate has been canceled. The engaging in  
2 the business of selling or leasing tangible personal property  
3 or services or as a dealer, as defined in this chapter, or the  
4 engaging in leasing, renting, or letting of or granting  
5 licenses in living quarters or sleeping or housekeeping  
6 accommodations in hotels, apartment houses, roominghouses, or  
7 tourist or trailer camps that are taxable under this chapter,  
8 or real property, or the engaging in the business of selling  
9 or receiving anything of value by way of admissions, without  
10 such certificate first being obtained or after such  
11 certificate has been canceled by the department, is  
12 prohibited. The failure or refusal of any person, firm,  
13 copartnership, or corporation to so qualify when required  
14 hereunder is a misdemeanor of the first degree, punishable as  
15 provided in s. 775.082 or s. 775.083, or subject to injunctive  
16 proceedings as provided by law. Such failure or refusal also  
17 subjects the offender to a \$100 initial registration fee in  
18 lieu of the \$5 registration fee authorized in this paragraph.  
19 However, the department may waive the increase in the  
20 registration fee if it is determined by the department that  
21 the failure to register was due to reasonable cause and not to  
22 willful negligence, willful neglect, or fraud.

23 (b) The department may revoke any dealer's certificate  
24 of registration when the dealer fails to comply with this  
25 chapter. Prior to revocation of a dealer's certificate of  
26 registration, the department must schedule an informal  
27 conference at which the dealer may present evidence regarding  
28 the department's intended revocation or enter into a  
29 compliance agreement with the department. The department must  
30 notify the dealer of its intended action and the time, place,  
31 and date of the scheduled informal conference by written

1 notification sent by United States mail to the dealer's last  
2 known address of record furnished by the dealer on a form  
3 prescribed by the department. The dealer is required to attend  
4 the informal conference and present evidence refuting the  
5 department's intended revocation or enter into a compliance  
6 agreement with the department which resolves the dealer's  
7 failure to comply with this chapter. The department shall  
8 issue an administrative complaint under s. 120.60 if the  
9 dealer fails to attend the department's informal conference,  
10 fails to enter into a compliance agreement with the department  
11 resolving the dealer's noncompliance with this chapter, or  
12 fails to comply with the executed compliance agreement.

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

18 1. An exhibitor whose agreement prohibits the sale of  
19 tangible personal property or services subject to the tax  
20 imposed in this chapter is not required to register as a  
21 dealer.

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

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

31

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

3  
4 Any person who conducts a convention or a trade show must make  
5 their exhibitor's agreements available to the department for  
6 inspection and copying.

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

9           1. Register with the Department of Revenue. Only one  
10 tax number is required for each flea market business location.  
11 The flea market operator, manager, lessor, or owner shall  
12 remit the tax collected on the space rentals and the tax  
13 collected from unregistered flea market vendors under this  
14 number monthly, unless otherwise notified.

15           2. Collect tax on all space rentals from flea market  
16 vendors and remit it to the department. The amount of tax  
17 shall be separately stated from the rental charge and must be  
18 shown as Florida tax on any rental agreement, invoice, or  
19 other tangible evidence that authorizes the use of the rental  
20 space.

21           3.a. Obtain from each unregistered flea market vendor  
22 a signed statement declaring that the unregistered flea market  
23 vendor agrees to collect the applicable tax on his or her  
24 sales and remit it to the flea market operator, manager,  
25 lessor, or owner at the close of each business day. The  
26 statement shall include both the permanent business address,  
27 if applicable, and the residence address of the flea market  
28 vendor. These documents shall be retained for a period of 5  
29 years. Records of taxes collected and remitted shall be  
30 retained for the period specified in s. 213.35. The flea  
31 market operator, manager, lessor, or owner is not responsible

1 for the failure of the flea market vendor to properly collect,  
2 remit, and account for the sales tax.

3 b. Provide each unregistered flea market vendor with a  
4 sign no smaller than 8 inches by 10 inches with lettering at  
5 least 1 inch high, which must be displayed in a conspicuous  
6 place at the stall or other place of sale by the vendor and  
7 which reads:

8 (Name of vendor) is duly authorized to collect  
9 Florida sales tax for remittance by the flea  
10 market operator to the Department of Revenue.

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

17 4.a. Obtain from each registered flea market vendor a  
18 photocopy of the vendor's certificate of registration or, in  
19 lieu thereof, a statement from the registered vendor attesting  
20 that the vendor has a valid certificate of registration. The  
21 statement shall contain the registration number and the  
22 effective date the number was issued and shall be signed by  
23 the vendor. These documents shall be retained for a period of  
24 5 years.

25 b. Provide each registered flea market vendor with a  
26 sign no smaller than 8 inches by 10 inches with lettering at  
27 least 1 inch high, which must be displayed in a conspicuous  
28 place at the stall or other place of sale by the vendor and  
29 which reads:

30  
31

1           (Name of vendor) is duly authorized to collect  
2           and remit Florida sales tax to the Department  
3           of Revenue.

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

8           (c) A flea market operator, manager, lessor, or owner  
9 is required to remit the sales tax collected from each  
10 unregistered flea market vendor when the vendor has collected  
11 and remitted the tax to the flea market operator, manager,  
12 lessor, or owner at the same time and on the same tax return  
13 as required for the space rentals. Flea market vendors with an  
14 estimated monthly sales tax liability of \$50 or greater must  
15 register with the department and report their own taxes. Flea  
16 market vendors with an estimated monthly sales tax liability  
17 of less than \$50 must elect to either remit the tax to the  
18 flea market operator, manager, lessor, or owner or to  
19 register, report, and remit their own taxes. Taxes collected  
20 become state funds at the moment of collection. Any person  
21 who, with intent to unlawfully deprive or defraud the state of  
22 its moneys or the use or benefit thereof, fails to remit taxes  
23 collected pursuant to this chapter commits theft of state  
24 funds, as provided in s. 212.15(2).

25           (d) A flea market operator, manager, lessor, or owner  
26 shall furnish and post signs at each entrance of the flea  
27 market and in other conspicuous places throughout the flea  
28 market area. Such signs must state: "Florida Law Requires  
29 Sales Tax To Be Collected On All Taxable Sales." The signs  
30 shall have lettering at least 3 inches high.

31

1           Section 31. Paragraph (a) of subsection (1) and  
2 paragraph (a) of subsection (2) of section 213.21, Florida  
3 Statutes, are amended to read:

4           213.21 Informal conferences; compromises.--

5           (1)(a) The Department of Revenue may adopt rules for  
6 establishing informal conference procedures within the  
7 department for resolution of disputes relating to assessment  
8 of taxes, interest, and penalties and the denial of refunds,  
9 and for informal hearings under ss. 120.569 and 120.57(2).

10           (2)(a) The executive director of the department or his  
11 or her designee is authorized to enter into ~~a written~~ closing  
12 agreements ~~agreement~~ with any taxpayer settling or  
13 compromising the taxpayer's liability for any tax, interest,  
14 or penalty assessed under any of the chapters specified in s.  
15 72.011(1). Such agreements shall be in writing when the amount  
16 of tax, penalty, or interest compromised exceeds \$30,000, or  
17 for lesser amounts when the department deems it appropriate or  
18 when requested by the taxpayer.When a written ~~such a~~ closing  
19 agreement has been approved by the department and signed by  
20 the executive director or his or her designee and the  
21 taxpayer, it shall be final and conclusive; and, except upon a  
22 showing of fraud or misrepresentation of material fact or  
23 except as to adjustments pursuant to ss. 198.16 and 220.23, no  
24 additional assessment may be made by the department against  
25 the taxpayer for the tax, interest, or penalty specified in  
26 the closing agreement for the time period specified in the  
27 closing agreement, and the taxpayer shall not be entitled to  
28 institute any judicial or administrative proceeding to recover  
29 any tax, interest, or penalty paid pursuant to the closing  
30 agreement. The department is authorized to delegate to the  
31



1 executive director the authority to approve any such closing  
2 agreement resulting in a tax reduction of \$100,000 or less.

3 Section 32. Subsection (1) of section 213.22, Florida  
4 Statutes, is amended to read:

5 213.22 Technical assistance advisements.--

6 (1) The department may issue informal technical  
7 assistance advisements to persons, upon written request, as to  
8 the position of the department on the tax consequences of a  
9 stated transaction or event, under existing statutes, rules,  
10 or policies. After the issuance of an assessment, a technical  
11 assistance advisement may not be issued to a taxpayer who  
12 requests an advisement relating to the tax or liability for  
13 tax in respect to which the assessment has been made, except  
14 that a technical assistance advisement may be issued to a  
15 taxpayer who requests an advisement relating to the exemptions  
16 in s. 212.08(1) or (2) at any time. Technical assistance  
17 advisements shall have no precedential value except to the  
18 taxpayer who requests the advisement and then only for the  
19 specific transaction addressed in the technical assistance  
20 advisement, unless specifically stated otherwise in the  
21 advisement. Any modification of an advisement shall be  
22 prospective only. A technical assistance advisement is not an  
23 order issued pursuant to s. 120.565 or s. 120.569 or a rule or  
24 policy of general applicability under s. 120.54. The  
25 provisions of s. 120.53(1) are not applicable to technical  
26 assistance advisements.

27 Section 33. Paragraph (c) is added to subsection (2)  
28 of section 220.222, Florida Statutes, to read:

29 220.222 Returns; time and place for filing.--

30 (2)

31

1       (c) For purposes of this subsection, a taxpayer is not  
2 in compliance with the requirements of s. 220.32 if the  
3 taxpayer underpays the required payment by more than the  
4 greater of \$500 or 10 percent of the tax shown on the return  
5 when filed.

6           Section 34. Subsection (1) of section 624.515, Florida  
7 Statutes, is amended to read:

8           624.515 State Fire Marshal regulatory assessment and  
9 surcharge; levy and amount.--

10           (1)(a) In addition to any other license or excise tax  
11 now or hereafter imposed, and such taxes as may be imposed  
12 under other statutes, there is hereby assessed and imposed  
13 upon every domestic, foreign, and alien insurer authorized to  
14 engage in this state in the business of issuing policies of  
15 fire insurance, a regulatory assessment in an amount equal to  
16 1 percent of the gross amount of premiums collected by each  
17 such insurer on policies of fire insurance issued by it and  
18 insuring property in this state. The assessment shall be  
19 payable annually on or before March 1 to the Department of  
20 Revenue by the insurer on such premiums collected by it during  
21 the preceding calendar year.

22           (b) When it is impractical, due to the nature of the  
23 business practices within the insurance industry, to determine  
24 the percentage of fire insurance contained within a line of  
25 insurance written by an insurer on risks located or resident  
26 in Florida, the Department of Revenue may establish by rule  
27 such percentages for the industry. The Department of Revenue  
28 may also amend the percentages as the insurance industry  
29 changes its practices concerning the portion of fire insurance  
30 within a line of insurance.

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1           Section 35. Subsection (3) is added to section  
2 896.102, Florida Statutes, to read:  
3           896.102 Currency more than \$10,000 received in trade  
4 or business; report required; noncompliance penalties.--  
5           (3) The Department of Revenue may adopt rules and  
6 guidelines to administer and enforce these reporting  
7 requirements.

8           Section 36. This act shall take effect July 1 of the  
9 year in which enacted.

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HOUSE SUMMARY

Provides statutory authority for various rules of the Department of Revenue in the following areas:

1. Ad valorem taxes: taxation of recreational vehicles as real property; application of discount rates for early payment; refunds of overpayments; the meaning of "household" and calculation of income under the Homestead Property Deferral Act; property appraisers' duties; tax collectors' authority; tax notices and delinquency information; advertisement of delinquent taxes and payment of advertising costs; dishonored checks and forfeited bidders' deposits; void and canceled tax certificates; and requirements for bidding on tax certificates and lands at public auction.

2. Intangible taxes: Florida situs of a trust or portion thereof.

3. Sales tax administration: packaging materials; application of federal excise taxes; automobile loans for driver education; duties of trailer park owners; property leased by a residential facility for the aged; certain charges to tenants or lessees; travel agent packages; purchases of boats and aircraft by nonresidents; lease or rental of motor vehicles; newspapers and newspaper inserts; florists' liability; concessionaires' prizes; service warranties; sales from vending machines; application of discretionary sales surtaxes with respect to interstate and foreign commerce; air carriers' mileage apportionment; persons who manufacture property for their own use; improvements to real property; taxes paid in other jurisdictions; various items purchased for resale or for ones' own use or given away, or converted to ones' own use; sales of race horses; articles taken in trade; various registration requirements; procedures for revocation of registration; collection of tax at flea markets; and certain dealers' liability.

4. Sales tax exemptions: entry fees for certain sports events participants; livestock and agricultural products; food and drinks; medical products and supplies; farm equipment; water; items used for agricultural purposes; paint color cards and other samples; government contractors; school books and lunches; certain school materials and supplies and fundraising items; certain items purchased by mobile home lot developers; certain amounts paid by the Veterans Administration; complimentary and donated foods and drinks; racing dogs; commercial fishing vessels; requirements with respect to purchases made by representatives or employees of exempt entities; and the advisory committee which advises on the taxability of foods and medicines.

5. Corporate income tax: determination of when a taxpayer is not in compliance with respect to payments of tentative tax.

6. General tax administration: notices of assessment or denial of a refund; informal conferences relating to denial of refund; closing agreements; and technical assistance advisements regarding certain exemptions.

7. Other: establishment of percentages of fire

1 insurance within an insurance line for the regulatory  
2 assessment on fire insurance premiums; and reporting  
3 requirements regarding receipt of more than \$10,000 in  
4 currency.  
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