

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.
6 194.035, F.S.; providing for appointment of
7 special masters to take testimony and make
8 recommendations on questions of valuation and
9 law and providing requirements for such
10 appointments; amending s. 193.075, F.S.;
11 specifying conditions under which recreational
12 vehicles shall be taxed as real property;
13 providing that recreational vehicles that do
14 not meet these conditions and do not have a
15 current license plate are presumed to be
16 tangible personal property; amending s.
17 197.162, F.S.; providing for application of
18 discount rates for early payment of taxes with
19 respect to corrected tax notices or notices
20 resulting from value adjustment board action;
21 amending s. 197.182, F.S.; providing that
22 overpayments of \$5 or less may be retained by
23 the tax collector unless the taxpayer makes a
24 refund claim; providing for automatic refund of
25 certain overpayments; providing for notice to
26 the property owner of a delinquency resulting
27 from certain refunds; amending s. 197.243,
28 F.S.; excluding boarders and renters from the
29 meaning of "household" under the Homestead
30 Property Tax Deferral Act; amending s. 197.252,
31 F.S.; providing for calculating estimated full

1 year's household income under the act; amending
 2 s. 197.253, F.S.; requiring the property
 3 appraiser to notify the tax collector with
 4 respect to homestead status; amending s.
 5 197.332, F.S.; specifying authority of tax
 6 collectors to collect interest and costs;
 7 amending s. 197.344, F.S.; providing
 8 requirements with respect to mailing of tax
 9 notices to specified persons other than the
 10 taxpayer; including vendees of recorded
 11 contracts for deeds; including such vendees and
 12 lienholders in persons who may receive
 13 information concerning delinquent taxes;
 14 amending s. 197.413, F.S.; authorizing
 15 inclusion of costs of advertising delinquent
 16 personal property taxes in such taxes; amending
 17 s. 197.432, F.S.; providing payment
 18 requirements for persons who bid on tax
 19 certificates; creating s. 197.4325, F.S.;
 20 providing procedures when a check received by
 21 the tax collector for payment of taxes or tax
 22 certificates is dishonored; providing
 23 requirements with respect to forfeiture of a
 24 bidder's deposit; amending s. 197.443, F.S.;
 25 providing for assessment of advertising costs
 26 in connection with void tax certificates;
 27 providing procedures when a tax certificate
 28 holder requests the certificate be canceled
 29 with no refund; amending s. 197.542, F.S.;
 30 providing that the clerk of the circuit court
 31 may refuse to recognize certain bids at sales

1 of lands at public auction; amending s.
 2 199.052, F.S.; specifying when a trust or a
 3 portion thereof has Florida situs for purposes
 4 of intangible personal property tax; amending
 5 s. 212.02, F.S.; revising definitions for
 6 purposes of the tax on sales, use, and other
 7 transactions; revising standards for excluding
 8 certain packaging materials and providing that
 9 a separate charge for packaging materials is
 10 considered part of the sales price or rental
 11 charge when determining applicability of tax;
 12 specifying federal excise taxes that are and
 13 are not included in "sales price"; providing
 14 that "use" does not include certain loan of an
 15 automobile for high school driver education;
 16 defining "itinerant merchant," "flea market
 17 operator, manager, lessor, or owner,"
 18 "agricultural commodity," "farmer," and
 19 "livestock"; amending s. 212.03, F.S.; revising
 20 application of the exemption from transient
 21 rental tax for certain trailer parks and
 22 similar facilities; providing duties of owners
 23 of such facilities regarding determination of
 24 taxable status; amending s. 212.031, F.S.,
 25 relating to the tax on the lease or rental of
 26 or license in real property; providing for
 27 exemption of a portion of property leased or
 28 rented by a residential facility for the aged;
 29 exempting certain utility charges paid by a
 30 tenant; specifying taxable status of charges
 31 paid by a lessee to cancel a lease agreement;

1 amending s. 212.04, F.S., relating to the tax
 2 on admissions; providing standards for
 3 determining taxability of components of
 4 packages sold by travel agents; exempting entry
 5 fees for participants in certain sports events
 6 when spectators are charged a taxable
 7 admission; amending s. 212.05, F.S.; including
 8 certain noncorporate entities as nonresident
 9 purchasers qualified for the exemption for the
 10 sale of boats or airplanes and specifying who
 11 may be deemed a dealer for such exemption;
 12 providing that certain aircraft may be returned
 13 to this state for repairs under certain
 14 conditions without incurring tax liability;
 15 providing taxability of property originally
 16 purchased tax-exempt for use for lease which is
 17 converted to the owner's own use; providing
 18 guidelines for application of tax to the lease
 19 or rental of motor vehicles; providing
 20 application of tax to newspapers; specifying
 21 when inserts are a component part of newspapers
 22 or magazines; providing liability of florists
 23 for tax; providing taxability of prizes awarded
 24 by concessionaires; amending s. 212.0506, F.S.,
 25 relating to taxation of service warranties;
 26 providing authority of the Department of
 27 Revenue when taxable and nontaxable portions of
 28 the consideration are not apportioned in good
 29 faith; providing for exemption of certain
 30 materials and supplies used in performance of a
 31 warranty; amending s. 212.0515, F.S., relating

1 to taxation of sales from vending machines;
 2 providing for application to sales of items
 3 other than food or beverages; specifying the
 4 tax rate when the operator cannot account for
 5 each type of item sold; specifying that a
 6 separate registration certificate is required
 7 for each county where machines are located;
 8 excluding certain persons from eligibility for
 9 a reward for reporting violations; exempting
 10 certain vending machines owned and operated by
 11 nonprofit organizations; amending s. 212.054,
 12 F.S., which provides for administration of
 13 discretionary sales surtaxes; providing for
 14 application of surtaxes in the case of vessels,
 15 railroads, and motor vehicle common carriers
 16 partially exempt under s. 212.08, F.S.;
 17 amending s. 212.0598, F.S.; providing for
 18 determining an air carrier's mileage
 19 apportionment factor during its initial year of
 20 operation; amending s. 212.06, F.S.; revising
 21 provisions relating to application of tax to
 22 persons who manufacture tangible personal
 23 property for their own use; authorizing the
 24 department to establish a cost price amount for
 25 industry groups engaged in such manufacture in
 26 performance of contracts for improvements to
 27 real property and providing requirements with
 28 respect thereto; including taxes on services in
 29 the exemption for taxes paid in other
 30 jurisdictions; specifying effect of registering
 31 a motor vehicle in this state; providing for

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

1 railroads, and motor vehicle common carriers
 2 engaged in such commerce shall be as provided
 3 in s. 212.054, F.S.; revising the exemption for
 4 items used for agricultural purposes; providing
 5 that paint color cards and other samples are
 6 exempt; providing for rules to determine when a
 7 sale is a taxable sale to a government
 8 contractor; revising application of the
 9 exemption for school books and lunches;
 10 providing for payment of tax on certain
 11 school-related items purchased by
 12 parent-teacher associations and organizations,
 13 schools, and others; providing for purchases of
 14 certain items by mobile home lot developers as
 15 a sale for resale; providing that certain
 16 amounts paid to a dealer by the Veterans
 17 Administration are not taxable; providing an
 18 exemption for certain foods, drinks, and other
 19 items provided to customers on a complimentary
 20 basis by a dealer who sells food products at
 21 retail; providing an exemption for foods and
 22 beverages donated by such dealers to certain
 23 organizations; providing an exemption for
 24 certain sales of racing dogs; providing that
 25 exemptions provided to an entity under s.
 26 212.08(7), F.S., shall not inure to
 27 transactions when payment is made by a
 28 representative or employee of the entity;
 29 providing that the partial exemption for
 30 vessels engaged in interstate or foreign
 31 commerce includes commercial fishing vessels;

1 providing that certain aircraft purchased by
 2 nonresidents may be returned to this state for
 3 repairs under certain conditions without
 4 incurring tax liability; providing membership
 5 requirements for the technical assistance
 6 advisory committee established to provide
 7 advice in determining taxability of foods and
 8 medicines; amending s. 212.09, F.S.; providing
 9 requirements and restrictions with respect to
 10 articles taken in trade; amending s. 212.17,
 11 F.S.; providing for reimbursement of taxes paid
 12 on property purchased for a dealer's own use
 13 and subsequently sold; amending s. 212.18,
 14 F.S.; providing registration requirements for
 15 owners and operators of vending machines or
 16 newspaper rack machines, certain independent
 17 sellers, and itinerant merchants selling at
 18 flea markets; authorizing the department to
 19 waive the increased registration fee under
 20 certain circumstances; providing procedures and
 21 requirements for revocation of a dealer's
 22 registration; requiring the dealer to attend an
 23 informal conference; providing duties of flea
 24 market operators, managers, lessors, or owners
 25 regarding registration, collection of tax on
 26 space rentals, obtaining information from
 27 vendors, furnishing certain notices and tax
 28 envelopes, and remitting tax; requiring certain
 29 vendors to register as dealers; requiring
 30 unregistered vendors to remit taxes to the flea
 31 market operator, manager, lessor, or owner;

1 providing a penalty; amending s. 213.21, F.S.;
2 authorizing the department to use informal
3 conferences for resolving disputes relating to
4 denial of refunds; specifying when closing
5 agreements must be in writing; amending s.
6 213.22, F.S.; providing that a technical
7 assistance advisement relating to exemptions in
8 s. 212.08(1) or (2), F.S., may be issued at any
9 time; amending s. 220.222, F.S.; specifying
10 when a taxpayer is not in compliance with
11 requirements relating to payments of tentative
12 corporate income tax in connection with the
13 granting of extensions; amending s. 624.515,
14 F.S., which provides for regulatory assessments
15 on fire insurance premiums; authorizing the
16 department to establish by rule percentages of
17 fire insurance within a line of insurance under
18 certain circumstances; amending s. 896.102,
19 F.S.; authorizing the department to adopt rules
20 to administer and enforce requirements relating
21 to reports of currency more than \$10,000
22 received in trade or business; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (b) of subsection (2) of section
28 72.011, Florida Statutes, is amended to read:

29 72.011 Jurisdiction of circuit courts in specific tax
30 matters; administrative hearings and appeals; time for
31 commencing action; parties; deposits.--

1 (2)

2 (b) The date on which an assessment or a denial of
3 refund becomes final and procedures ~~a procedure~~ by which a
4 taxpayer must be notified of the assessment or of the denial
5 of refund must be established:

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

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

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

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

18 Section 2. Subsection (1) of section 194.035, Florida
19 Statutes, is amended to read:

20 194.035 Special masters; property evaluators.--

21 (1) The board is authorized to appoint special
22 masters, with regard to questions of both valuation and law,
23 for the purpose of taking testimony and making recommendations
24 to the board, which recommendations the board may act upon
25 without further hearing. Such special masters may not be
26 elected or appointed officials or employees of the county but
27 shall be selected from a list of those qualified individuals
28 who are willing to serve as special masters. The clerk of the
29 board shall annually notify such individuals or their
30 professional associations to make known to them that
31 opportunities to serve as special masters exist. A special

1 master making recommendations on questions of law must ~~shall~~
 2 be ~~either~~ a member of The Florida Bar and knowledgeable in the
 3 area of ad valorem taxation, and a special master making
 4 recommendations on questions of valuation must be ~~or~~ a
 5 designated member of a professionally recognized ~~real-estate~~
 6 appraisers' organization and have not less than 5 years'
 7 experience in property valuation. A special master need not
 8 be a resident of the county in which he or she serves. No
 9 special master shall be permitted to represent a person before
 10 the board in any tax year during which he or she has served
 11 that board as a special master. The board shall appoint such
 12 masters from the list so compiled prior to convening of the
 13 board. The expense of hearings before special masters and any
 14 compensation of special masters shall be borne three-fifths by
 15 the board of county commissioners and two-fifths by the school
 16 board.

17 Section 3. Subsections (3) and (4) are added to
 18 section 193.075, Florida Statutes, to read:

19 193.075 Mobile homes and recreational vehicles.--

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

1 shall be determinative. A recreational vehicle that is taxed
2 as real property shall be issued an "RP" series sticker as
3 provided in s. 320.0815.

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

9 Section 4. Section 197.162, Florida Statutes, is
10 amended to read:

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

1 Section 5. 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 6. 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 7. 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 8. 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.

31

1 Section 9. 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 10. Subsections (1) and (2) of section
13 197.344, 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.

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

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

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

19 (c) The face amount of each certificate.

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

21 Section 11. Subsection (1) of section 197.413, Florida
22 Statutes, is amended to read:

23 197.413 Delinquent personal property taxes; warrants;
24 court order for levy and seizure of personal property;
25 seizure; fees of tax collectors.--

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

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

7 Section 12. Subsection (6) of section 197.432, Florida
8 Statutes, is amended to read:

9 197.432 Sale of tax certificates for unpaid taxes.--

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

26 Section 13. Section 197.4325, Florida Statutes, is
27 created to read:

28 197.4325 Procedure when checks received for payment of
29 taxes or tax certificates are dishonored.--

30 (1)(a) Within 10 days after a check received by the
31 tax collector for payment of taxes is dishonored, the tax

1 collector shall notify the maker of the check that the check
2 has been dishonored. The tax collector shall cancel the
3 official receipt issued for the dishonored check and shall
4 make an entry on the tax roll that the receipt was canceled
5 because of a dishonored check. Where practicable, the tax
6 collector shall make a reasonable effort to collect the moneys
7 due before canceling the receipt.

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

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

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

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

1 the second sale shall not be added to the face value of the
2 tax certificate.

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

7 Section 14. Subsection (2) of section 197.443, Florida
8 Statutes, is amended to read:

9 197.443 Cancellation of void tax certificates;
10 correction of tax certificates; procedure.--

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

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

27 (c) When the owner of a tax certificate requests that
28 the certificate be canceled for any reason but does not seek a
29 refund, the tax collector shall cancel the tax certificate and
30 a refund shall not be processed. The tax collector shall
31 require the owner of the tax certificate to execute a written

1 statement that he or she is the holder of the tax certificate,
2 that he or she wishes the certificate to be canceled, and that
3 a refund is not expected and is not to be made.

4 Section 15. Subsection (1) of section 197.542, Florida
5 Statutes, is amended to read:

6 197.542 Sale at public auction.--

7 (1) The lands advertised for sale to the highest
8 bidder as a result of an application filed under s. 197.502
9 shall be sold at public auction by the clerk of the circuit
10 court, or his or her deputy, of the county where the lands are
11 located on the date, at the time, and at the location as set
12 forth in the published notice, which shall be during the
13 regular hours the clerk's office is open. At the time and
14 place, the clerk shall read the notice of sale and shall offer
15 the lands described in the notice for sale to the highest
16 bidder for cash at public outcry. The amount required to
17 redeem the tax certificate, plus the amounts paid by the
18 holder to the clerk of the circuit court in charges for costs
19 of sale, redemption of other tax certificates on the same
20 lands, and all other costs to the applicant for tax deed, plus
21 interest thereon at the rate of 1.5 percent per month for the
22 period running from the month after the date of application
23 for the deed through the month of sale and costs incurred for
24 the service of notice provided for in s. 197.522(2), shall be
25 considered the bid of the certificateholder for the property.
26 However, if the land to be sold is assessed on the latest tax
27 roll as homestead property, the bid of the certificateholder
28 shall be increased to include an amount equal to one-half of
29 the assessed value of the homestead property as required by s.
30 197.502. If there are no higher bids, the land shall be
31 struck off and sold to the certificateholder. If there are

1 other bids, the certificateholder shall have the right to bid
2 as others present may bid, and the property shall be struck
3 off and sold to the highest bidder. The clerk may refuse to
4 recognize the bid of any person who has previously bid and
5 refused, for any reason, to honor such bid.

6 Section 16. Subsection (5) of section 199.052, Florida
7 Statutes, is amended to read:

8 199.052 Annual tax returns; payment of annual tax.--

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

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

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

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

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

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

25 (c) A portion of the trust has Florida situs when
26 there are two trustees, one a resident of this state and one a
27 nonresident, and they share equally in the ownership,
28 management, or control of the trust's intangible property. The
29 tax on such property shall be based on the value apportioned
30 between them.

31

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

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

9 Section 17. Paragraph (c) of subsection (14) and
10 subsections (16) and (20) of section 212.02, Florida Statutes,
11 are amended, and subsections (27), (28), (29), (30), and (31)
12 are added to said section, to read:

13 212.02 Definitions.--The following terms and phrases
14 when used in this chapter have the meanings ascribed to them
15 in this section, except where the context clearly indicates a
16 different meaning:

17 (14)

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

1 fuels except as provided herein, for future processing,
2 manufacture, or conversion into articles of tangible personal
3 property for resale when such industrial materials, including
4 chemicals and fuels except as provided herein, become a
5 component or ingredient of the finished product. However, the
6 ~~said~~ terms include the sale, use, storage, or consumption of
7 tangible personal property, including machinery and equipment
8 or parts thereof, purchased electricity, and fuels used to
9 power machinery, when such ~~said~~ items are used and dissipated
10 in fabricating, converting, or processing tangible personal
11 property for sale, even though they may become ingredients or
12 components of the tangible personal property for sale through
13 accident, wear, tear, erosion, corrosion, or similar means.

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

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

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

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

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

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

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

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

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

18 212.03 Transient rentals tax; rate, procedure,
19 enforcement, exemptions.--

20 (7)

21 (c) The rental of facilities, as defined in s.
22 212.02(10)(f), which are intended primarily for rental as a
23 principal or permanent place of residence is exempt from the
24 tax imposed by this chapter. The rental of such facilities
25 that primarily serve transient guests is not exempt by this
26 subsection. In the application of this law, or in making any
27 determination against the exemption, the department shall
28 consider the facility as primarily serving transient guests
29 unless the facility owner makes a verified declaration on a
30 form prescribed by the department that more than half of the
31 total rental units available are occupied by tenants who have

1 a continuous residence in excess of 3 months. The owner of a
 2 facility declared to be exempt by this paragraph must make a
 3 determination of the taxable status of the facility at the end
 4 of the owner's accounting year using any consecutive 3-month
 5 period. The owner must use a selected consecutive 3-month
 6 period during each annual redetermination. In the event that
 7 an exempt facility no longer qualifies for exemption by this
 8 paragraph, the owner must notify the department on a form
 9 prescribed by the department by the 20th day of the first
 10 month of the owner's next succeeding accounting year that the
 11 facility no longer qualifies for such exemption. The tax
 12 levied by this section shall apply to the rental of facilities
 13 that no longer qualify for exemption under this paragraph
 14 beginning the first day of the owner's next succeeding
 15 accounting year. This paragraph does not apply to mobile home
 16 lots regulated under chapter 723.

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

20 212.031 Lease or rental of or license in real
 21 property.--

22 (1)

23 (b) When a lease involves multiple use of real
 24 property wherein a part of the real property is subject to the
 25 tax herein, and a part of the property would be excluded from
 26 the tax under subparagraph (a)1., subparagraph (a)2., or
 27 subparagraph (a)3., the department shall determine, from the
 28 lease or license and such other information as may be
 29 available, that portion of the total rental charge which is
 30 exempt from the tax imposed by this section. The portion of
 31 the premises leased or rented by a for-profit entity providing

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

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

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

29 Section 20. Paragraph (d) of subsection (1) and
 30 paragraph (a) of subsection (2) of section 212.04, Florida
 31 Statutes, are amended to read:

1 212.04 Admissions tax; rate, procedure, enforcement.--
2 (1)
3 (d) No additional tax is due on components ~~an~~
4 ~~admission if the admission is~~ incorporated as part of a
5 package sold by a travel agent ~~if the package includes~~ two or
6 more components such as admissions, and transient rentals,
7 transportation, or meals; if all of the components were
8 purchased by the travel agent from other parties and any sales
9 tax due on such purchases was paid; and if there is no
10 separate itemization of the admission, transient rental,
11 transportation, ~~or meal,~~ or other components in the sales
12 price of the package. This paragraph does not apply if the
13 actual price charged for a component ~~the admission~~ by the
14 dealer to a travel agent is less than the price charged to
15 unrelated parties under normal industry practices and the
16 dealer and the travel agent are members of the same controlled
17 group of corporations for federal income tax purposes.
18 (2)(a)1. No tax shall be levied on admissions to
19 athletic or other events sponsored by elementary schools,
20 junior high schools, middle schools, high schools, community
21 colleges, public or private colleges and universities, deaf
22 and blind schools, facilities of the youth services programs
23 of the Department of Children and Family Services, and state
24 correctional institutions when only student, faculty, or
25 inmate talent is used. However, this exemption shall not apply
26 to admission to athletic events sponsored by an institution
27 within the State University System, and the proceeds of the
28 tax collected on such admissions shall be retained and used by
29 each institution to support women's athletics as provided in
30 s. 240.533(3)(c).
31

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

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

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

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

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

28 6. Also exempt from the tax imposed by this section to
29 the extent provided in this subparagraph are admissions to
30 live theater, live opera, or live ballet productions in this
31 state which are sponsored by an organization that has received

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

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

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

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

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

21 212.05 Sales, storage, use tax.--It is hereby declared
22 to be the legislative intent that every person is exercising a
23 taxable privilege who engages in the business of selling
24 tangible personal property at retail in this state, including
25 the business of making mail order sales, or who rents or
26 furnishes any of the things or services taxable under this
27 chapter, or who stores for use or consumption in this state
28 any item or article of tangible personal property as defined
29 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 a period of not less
8 than 12 months, sales tax is due on the lease or rental
9 payments if the vehicle is registered in this state; however,
10 no tax shall be due if the taxpayer documents use of the motor
11 vehicle outside this state and tax is being paid on the lease
12 or rental payments in 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 tax was paid on the
17 purchase price ~~acquisition~~ of such vehicle by the lessor. To
18 the extent tax was paid with respect to the purchase of such
19 vehicle in another state, territory of the United States, or
20 the District of Columbia, the Florida tax payable shall be
21 reduced in accordance with the provisions of s. 212.06(7).
22 This subparagraph shall only be available when the lease or
23 rental of such property is an established business or part of
24 an established business or the same is incidental or germane
25 to such business.

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

28 2. Notwithstanding other provisions of this chapter,
29 inserts of printed materials which are distributed with a
30 newspaper or magazine are a component part of the newspaper or
31

1 magazine and neither the sale nor use of such inserts is
2 subject to tax when:

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

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

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

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

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

26 Section 22. Subsection (8) of section 212.0506,
27 Florida Statutes, is amended, subsection (10) is renumbered as
28 subsection (11), and a new subsection (10) is added to said
29 section, to read:

30 212.0506 Taxation of service warranties.--
31

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

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

24 Section 23. Subsections (1), (2), (3), and (6) of
25 section 212.0515, Florida Statutes, are amended to read:

26 212.0515 Sales from vending machines; sales to vending
27 machine operators; special provisions; registration; quarterly
28 reports; penalties.--

29 (1) As used in this section:

30 (a) "Vending machine" means a machine, operated by
31 coin, currency, credit card, slug, token, coupon, or similar

1 device, which dispenses food, beverages, or other ~~or beverage~~
 2 items of tangible personal property.

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

7 (2) Notwithstanding any other provision of law, the
 8 amount of the tax to be paid on food, beverages, or other ~~and~~
 9 ~~beverage~~ items of tangible personal property that are sold in
 10 vending machines shall be calculated by dividing the gross
 11 receipts from such sales for the applicable reporting period
 12 by a divisor, determined as provided in this subsection, to
 13 compute gross taxable sales, and then subtracting gross
 14 taxable sales from gross receipts to arrive at the amount of
 15 tax due. The divisor shall be equal to the sum of 1.0665 for
 16 beverage items, ~~or~~ 1.0645 for food items, or 1.0659 for other
 17 items of tangible personal property, except that for counties
 18 with a 0.5 percent sales surtax rate the divisor shall be
 19 equal to the sum of 1.0707 for beverages and other beverage
 20 items of tangible personal property or 1.0686 for food items,
 21 for counties with a 1 percent sales surtax rate the divisor
 22 shall be equal to the sum of 1.0749 for beverages and other
 23 beverage items of tangible personal property or 1.0726 for
 24 food items, and for counties with a 1.5 percent sales surtax
 25 rate the divisor shall be equal to the sum of 1.0791 for
 26 beverages and other beverage items of tangible personal
 27 property or 1.0767 for food items. However, the amount of the
 28 tax to be paid on natural fluid milk, homogenized milk,
 29 pasteurized milk, whole milk, chocolate milk, or similar milk
 30 products, natural fruit juices, or natural vegetable juices
 31 shall be calculated using the divisor that is specified for

1 food items. If an operator cannot account for each type of
2 item sold through a vending machine, the highest tax rate
3 shall be used for all products sold through that machine.

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

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

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

1 Section 24. 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 25. 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 26. 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 rock, shell, fill
23 dirt, or similar materials from a location that he or she owns
24 or leases and uses such materials to fulfill a real property
25 improvement contract on the property of another person, the
26 contractor is the ultimate consumer of such materials and is
27 liable for use tax thereon. This paragraph does not apply to a
28 person who secures such materials from a location that he or
29 she owns for use on his or her own property. The basis upon
30 which the contractor shall remit the tax is the fair retail
31 market value determined by establishing either the price he or

1 she would have to pay for it on the open market or the price
2 he or she would regularly charge if he or she sold it to other
3 contractors or users.

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

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

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

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

27 (b) For the purposes of this subsection, "cost price"
28 means the actual cost of printing of newspapers, magazines,
29 and other publications, without any deductions therefrom on
30 account of the cost of materials used, labor or services cost,
31 transportation charges, or other direct or indirect overhead

1 costs that are a part of printing costs of the property.
2 However, the cost of labor to manufacture, produce, compound,
3 process, or fabricate expendable items of tangible personal
4 property which are directly used by such person in printing
5 other tangible personal property for sale or for his or her
6 own use is exempt. Authors' royalties, fees, or salaries,
7 general overhead, and other costs not directly related to
8 printing shall be deemed to be labor associated with
9 manufacturing, producing, compounding, processing, or
10 fabricating expendable items.

11 Section 27. Subsection (8) of section 212.07, Florida
12 Statutes, is repealed, paragraph (c) is added to subsection
13 (1) of said section, and subsection (5) of said section is
14 amended, to read:

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

19 (1)

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

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

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

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

18 Section 28. Subsections (1), (2), (3), (6), (7), (9),
 19 and (14), paragraph (a) of subsection (4), paragraph (a) of
 20 subsection (8), and paragraph (d) of subsection (11) of
 21 section 212.08, Florida Statutes, are amended, and paragraph
 22 (a) of subsection (5) is amended and paragraph (k) is added to
 23 said subsection, to read:

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

30 (1) EXEMPTIONS; GENERAL GROCERIES.--

31

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

3 (b) As used in this subsection, "food products" means
4 edible commodities, whether processed, cooked, raw, canned, or
5 in any other form, which are generally regarded as food. This
6 includes, but is not limited to:

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

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

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

21 (c) The exemption provided by this subsection does not
22 apply:

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

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

30 3. When the food products are ordinarily sold for
31 immediate consumption on the premises or near a location at

1 which parking facilities are provided primarily for the use of
2 patrons in consuming the products purchased at the location,
3 even though such products are sold on a "take out" or "to go"
4 order and are actually packaged or wrapped and taken from the
5 premises of the dealer.

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

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

11 6. When the food products are sold as hot prepared
12 food products.

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

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

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

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

29 11. To candy and any similar product regarded as candy
30 or confection, based on its normal use, as indicated on the
31 label or advertising thereof.

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

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

7 (d) As used in this subsection:

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

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

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

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

1 in such combination, such as a hot meal, a hot specialty dish
2 or serving, or a hot sandwich or hot pizza, including cold
3 components or side items.

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

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

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

25 3. ~~Soft drinks, which include, but are not limited to,~~
26 ~~any nonalcoholic beverage, any preparation or beverage~~
27 ~~commonly referred to as a "soft drink," or any noncarbonated~~
28 ~~drink made from milk derivatives or tea, when sold in cans or~~
29 ~~similar containers. The term "soft drink" does not include:~~
30 ~~natural fruit or vegetable juices or their concentrates or~~
31 ~~reconstituted natural concentrated fruit or vegetable juices,~~

1 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
2 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
3 ~~unseasoned; coffee or coffee substitutes; tea except when sold~~
4 ~~in containers as provided herein; cocoa; products intended to~~
5 ~~be mixed with milk; or natural fluid milk;~~

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

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

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

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

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

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

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

11 (2) EXEMPTIONS; MEDICAL.--

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

1 become a part thereof; dentures; hearing aids; crutches;
2 prosthetic and orthopedic appliances; and funerals. In
3 addition, any items intended for one-time use which transfer
4 essential optical characteristics to contact lenses shall be
5 exempt from the tax imposed by this chapter; however, this
6 exemption shall apply only after \$100,000 of the tax imposed
7 by this chapter on such items has been paid in any calendar
8 year by a taxpayer who claims the exemption in such year.
9 Funeral directors shall pay tax on all tangible personal
10 property used by them in their business.

11 (b) For the purposes of this subsection:

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

26 2. "Cosmetics" means articles intended to be rubbed,
27 poured, sprinkled, or sprayed on, introduced into, or
28 otherwise applied to the human body for cleansing,
29 beautifying, promoting attractiveness, or altering the
30 appearance and also means articles intended for use as a
31

1 compound of any such articles, including, but not limited to,
2 cold creams, suntan lotions, makeup, and body lotions.

3 3. "Toilet articles" means any article advertised or
4 held out for sale for grooming purposes and those articles
5 that are customarily used for grooming purposes, regardless of
6 the name by which they may be known, including, but not
7 limited to, soap, toothpaste, hair spray, shaving products,
8 colognes, perfumes, shampoo, deodorant, and mouthwash.

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

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

30 (d) Lithotripters are exempt.

31 (e) Human organs are exempt.

1 (f) Sales of drugs to or by physicians, dentists,
2 veterinarians, and hospitals in connection with medical
3 treatment are exempt.

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

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

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

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

28 (k)~~(d)~~ This subsection shall be strictly construed and
29 enforced.

30 (3) EXEMPTIONS, PARTIAL; CERTAIN FARM
31 EQUIPMENT.--There shall be taxable at the rate of 3 percent

1 the sale, use, consumption, or storage for use in this state
2 of self-propelled or power-drawn farm equipment used
3 exclusively by a farmer on a farm owned, leased, or
4 sharecropped by the farmer in plowing, planting, cultivating,
5 ~~or harvesting crops, or for fire prevention and suppression~~
6 work. The rental of self-propelled or power-drawn farm
7 equipment shall be taxed at the rate of 6 percent. The 3
8 percent tax rate provided for machines and farm equipment
9 shall be disallowed when such machines and equipment are used
10 by the farmer for activities other than plowing, planting,
11 cultivating, harvesting crops, or fire prevention and
12 suppression work within 6 months after the date of purchase.

13 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,
14 ETC.--

15 (a) Also exempt are:

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

27 2. All fuels used by a public or private utility,
28 including any municipal corporation or rural electric
29 cooperative association, in the generation of electric power
30 or energy for sale. Fuel other than motor fuel and diesel
31 fuel is taxable as provided in this chapter with the exception

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

20 3. The transmission or wheeling of electricity.

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

22 (a) Items in agricultural use and certain nets.--There
 23 are exempt from the tax imposed by this chapter nets designed
 24 and used exclusively by commercial fisheries; disinfectants,
 25 fertilizers, insecticides, pesticides, herbicides, and
 26 fungicides, and weed killers used for application on crops or
 27 groves, including commercial nurseries and home vegetable
 28 gardens, used in dairy barns or on poultry farms for the
 29 purpose of protecting poultry or livestock, or used directly
 30 on poultry or livestock; portable containers used for
 31 processing farm products; field and garden seeds, including

1 flower seeds; nursery stock, seedlings, cuttings, or other
 2 propagative material purchased for growing stock; seeds,
 3 seedlings, cuttings, and plants used to produce food for human
 4 consumption; cloth, plastic, and other similar materials used
 5 for shade, mulch, or protection from frost or insects on a
 6 farm; and liquefied petroleum gas or other fuel used to heat a
 7 structure in which started pullets or broilers are raised;
 8 however, such exemption shall not be allowed unless the
 9 purchaser or lessee signs a certificate stating that the item
 10 to be exempted is for the exclusive use designated herein.

11 (k) Paint color cards and other samples.--Paint color
 12 cards, flooring and wallpaper samples, laminate chips, fabric
 13 swatches, window covering samples, and other similar samples,
 14 which serve no useful purpose other than for comparing color,
 15 texture, or design, and which are available at no charge, are
 16 exempt.

17 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are
 18 also exempt from the tax imposed by this chapter sales made to
 19 the United States Government, a state, or any county,
 20 municipality, or political subdivision of a state when payment
 21 is made directly to the dealer by the governmental entity.
 22 This exemption shall not inure to any transaction otherwise
 23 taxable under this chapter when payment is made by a
 24 government employee by any means, including, but not limited
 25 to, cash, check, or credit card when that employee is
 26 subsequently reimbursed by the governmental entity. This
 27 exemption does not include sales of tangible personal property
 28 made to contractors employed either directly or as agents of
 29 any such government or political subdivision thereof when such
 30 tangible personal property goes into or becomes a part of
 31 public works owned by such government or political subdivision

1 thereof. A determination whether a particular transaction is
2 properly characterized as an exempt sale to a government
3 entity or a taxable sale to a contractor shall be based on the
4 substance of the transaction rather than the form in which the
5 transaction is cast. The department shall adopt rules that
6 give special consideration to factors that govern the status
7 of the tangible personal property before its affixation to
8 real property. In developing these rules, assumption of the
9 risk of damage or loss is of paramount consideration in the
10 determination.This exemption does not include sales, rental,
11 use, consumption, or storage for use in any political
12 subdivision or municipality in this state of machines and
13 equipment and parts and accessories therefor used in the
14 generation, transmission, or distribution of electrical energy
15 by systems owned and operated by a political subdivision in
16 this state for transmission or distribution expansion.
17 Likewise exempt are charges for services rendered by radio and
18 television stations, including line charges, talent fees, or
19 license fees and charges for films, videotapes, and
20 transcriptions used in producing radio or television
21 broadcasts. The exemption provided in this subsection does not
22 include sales, rental, use, consumption, or storage for use in
23 any political subdivision or municipality in this state of
24 machines and equipment and parts and accessories therefor used
25 in providing two-way telecommunications services to the public
26 for hire by the use of a telecommunications facility, as
27 defined in s. 364.02(13), and for which a certificate is
28 required under chapter 364, which facility is owned and
29 operated by any county, municipality, or other political
30 subdivision of the state. Any immunity of any political
31 subdivision of the state or other entity of local government

1 from taxation of the property used to provide
 2 telecommunication services that is taxed as a result of this
 3 section is hereby waived. However, the exemption provided in
 4 this subsection includes transactions taxable under this part
 5 which are for use by the operator of a public-use airport, as
 6 defined in s. 322.004, in providing such telecommunications
 7 services for the airport or its tenants, concessionaires, or
 8 licensees, or which are for use by a public hospital for the
 9 provision of such telecommunications services.

10 (7) MISCELLANEOUS EXEMPTIONS.--

11 (a) Artificial commemorative flowers.--Exempt from the
 12 tax imposed by this chapter is the sale of artificial
 13 commemorative flowers by bona fide nationally chartered
 14 veterans' organizations.

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

31

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

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

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

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

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

18 (h) Guide dogs for the blind.--Also exempt are the
19 sale or rental of guide dogs for the blind, commonly referred
20 to as "seeing-eye dogs," and the sale of food or other items
21 for such guide dogs.

22 1. The department shall issue a consumer's certificate
23 of exemption to any blind person who holds an identification
24 card as provided for in s. 413.091 and who either owns or
25 rents, or contemplates the ownership or rental of, a guide dog
26 for the blind. The consumer's certificate of exemption shall
27 be issued without charge and shall be of such size as to be
28 capable of being carried in a wallet or billfold.

29 2. The department shall make such rules concerning
30 items exempt from tax under the provisions of this paragraph
31 as may be necessary to provide that any person authorized to

1 have a consumer's certificate of exemption need only present
 2 such a certificate at the time of paying for exempt goods and
 3 shall not be required to pay any tax thereon.

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

20 (j) Household fuels.--Also exempt from payment of the
 21 tax imposed by this chapter are sales of utilities to
 22 residential households or owners of residential models in this
 23 state by utility companies who pay the gross receipts tax
 24 imposed under s. 203.01, and sales of fuel to residential
 25 households or owners of residential models, including oil,
 26 kerosene, liquefied petroleum gas, coal, wood, and other fuel
 27 products used in the household or residential model for the
 28 purposes of heating, cooking, lighting, and refrigeration,
 29 regardless of whether such sales of utilities and fuels are
 30 separately metered and billed direct to the residents or are
 31 metered and billed to the landlord. If any part of the utility

1 or fuel is used for a nonexempt purpose, the entire sale is
2 taxable. The landlord shall provide a separate meter for
3 nonexempt utility or fuel consumption. For the purposes of
4 this paragraph, licensed family day care homes shall also be
5 exempt.

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

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

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

25 (n) Organizations providing special educational,
26 cultural, recreational, and social benefits to minors.--There
27 shall be exempt from the tax imposed by this chapter nonprofit
28 organizations which are incorporated pursuant to chapter 617
29 or which hold a current exemption from federal corporate
30 income tax pursuant to s. 501(c)(3) of the Internal Revenue
31 Code the primary purpose of which is providing activities that

1 contribute to the development of good character or good
2 sportsmanship, or to the educational or cultural development,
3 of minors. This exemption is extended only to that level of
4 the organization that has a salaried executive officer or an
5 elected nonsalaried executive officer.

6 (o) Religious, charitable, scientific, educational,
7 and veterans' institutions and organizations.--

8 1. There are exempt from the tax imposed by this
9 chapter transactions involving:

10 a. Sales or leases directly to churches or sales or
11 leases of tangible personal property by churches;

12 b. Sales or leases to nonprofit religious, nonprofit
13 charitable, nonprofit scientific, or nonprofit educational
14 institutions when used in carrying on their customary
15 nonprofit religious, nonprofit charitable, nonprofit
16 scientific, or nonprofit educational activities, including
17 church cemeteries; and

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

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

30 a. "Religious institutions" means churches,
31 synagogues, and established physical places for worship at

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

26 b. "Charitable institutions" means only nonprofit
27 corporations qualified as nonprofit pursuant to s. 501(c)(3),
28 Internal Revenue Code of 1954, as amended, and other nonprofit
29 entities, the sole or primary function of which is to provide,
30 or to raise funds for organizations which provide, one or more
31 of the following services if a reasonable percentage of such

1 service is provided free of charge, or at a substantially
2 reduced cost, to persons, animals, or organizations that are
3 unable to pay for such service:
4 (I) Medical aid for the relief of disease, injury, or
5 disability;
6 (II) Regular provision of physical necessities such as
7 food, clothing, or shelter;
8 (III) Services for the prevention of or rehabilitation
9 of persons from alcoholism or drug abuse; the prevention of
10 suicide; or the alleviation of mental, physical, or sensory
11 health problems;
12 (IV) Social welfare services including adoption
13 placement, child care, community care for the elderly, and
14 other social welfare services which clearly and substantially
15 benefit a client population which is disadvantaged or suffers
16 a hardship;
17 (V) Medical research for the relief of disease,
18 injury, or disability;
19 (VI) Legal services; or
20 (VII) Food, shelter, or medical care for animals or
21 adoption services, cruelty investigations, or education
22 programs concerning animals;
23
24 and the term includes groups providing volunteer staff to
25 organizations designated as charitable institutions under this
26 sub-subparagraph; nonprofit organizations the sole or primary
27 purpose of which is to coordinate, network, or link other
28 institutions designated as charitable institutions under this
29 sub-subparagraph with those persons, animals, or organizations
30 in need of their services; and nonprofit national, state,
31 district, or other governing, coordinating, or administrative

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

16 c. "Scientific organizations" means scientific
17 organizations which hold current exemptions from federal
18 income tax under s. 501(c)(3) of the Internal Revenue Code and
19 also means organizations the purpose of which is to protect
20 air and water quality or the purpose of which is to protect
21 wildlife and which hold current exemptions from the federal
22 income tax under s. 501(c)(3) of the Internal Revenue Code.

23 d. "Educational institutions" means state
24 tax-supported or parochial, church and nonprofit private
25 schools, colleges, or universities which conduct regular
26 classes and courses of study required for accreditation by, or
27 membership in, the Southern Association of Colleges and
28 Schools, the Department of Education, the Florida Council of
29 Independent Schools, or the Florida Association of Christian
30 Colleges and Schools, Inc., or nonprofit private schools which
31 conduct regular classes and courses of study accepted for

1 continuing education credit by a Board of the Division of
2 Medical Quality Assurance of the Department of Business and
3 Professional Regulation or which conduct regular classes and
4 courses of study accepted for continuing education credit by
5 the American Medical Association. Nonprofit libraries, art
6 galleries, performing arts centers that provide educational
7 programs to school children, which programs involve
8 performances or other educational activities at the performing
9 arts center and serve a minimum of 50,000 school children a
10 year, and museums open to the public are defined as
11 educational institutions and are eligible for exemption. The
12 term "educational institutions" includes private nonprofit
13 organizations the purpose of which is to raise funds for
14 schools teaching grades kindergarten through high school,
15 colleges, and universities. The term "educational
16 institutions" includes any nonprofit newspaper of free or paid
17 circulation primarily on university or college campuses which
18 holds a current exemption from federal income tax under s.
19 501(c)(3) of the Internal Revenue Code, and any educational
20 television or radio network or system established pursuant to
21 s. 229.805 or s. 229.8051 and any nonprofit television or
22 radio station which is a part of such network or system and
23 which holds a current exemption from federal income tax under
24 s. 501(c)(3) of the Internal Revenue Code. The term
25 "educational institutions" also includes state, district, or
26 other governing or administrative offices the function of
27 which is to assist or regulate the customary activities of
28 educational organizations or members. The term "educational
29 institutions" also includes a nonprofit educational cable
30 consortium which holds a current exemption from federal income
31 tax under s. 501(c)(3) of the Internal Revenue Code of 1986,

1 as amended, whose primary purpose is the delivery of
2 educational and instructional cable television programming and
3 whose members are composed exclusively of educational
4 organizations which hold a valid consumer certificate of
5 exemption and which are either an educational institution as
6 defined in this sub-subparagraph, or qualified as a nonprofit
7 organization pursuant to s. 501(c)(3) of the Internal Revenue
8 Code of 1986, as amended.

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

17 (p) Resource recovery equipment.--Also exempt is
18 resource recovery equipment which is owned and operated by or
19 on behalf of any county or municipality, certified by the
20 Department of Environmental Protection under the provisions of
21 s. 403.715.

22 (q) School books and school lunches.--This exemption
23 applies to school books used in regularly prescribed courses
24 of study, and to school lunches served ~~to students~~, in public,
25 parochial, or nonprofit schools operated for and attended by
26 pupils of kindergarten through grade ~~grades 1 through~~ 12.
27 Yearbooks, magazines, newspapers, directories, bulletins, and
28 similar publications distributed by such educational
29 institutions to their students are also exempt. School books
30 and food sold or served at community colleges and other
31 institutions of higher learning are taxable.

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

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

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

13 1. Notwithstanding the provisions of chapters 327 and
14 328, pertaining to the registration of vessels, a boat upon
15 which the state sales or use tax has not been paid is exempt
16 from the use tax under this chapter if it enters and remains
17 in this state for a period not to exceed a total of 20 days in
18 any calendar year calculated from the date of first dockage or
19 slippage at a facility, registered with the department, that
20 rents dockage or slippage space in this state. If a boat
21 brought into this state for use under this paragraph is placed
22 in a facility, registered with the department, for repairs,
23 alterations, refitting, or modifications and such repairs,
24 alterations, refitting, or modifications are supported by
25 written documentation, the 20-day period shall be tolled
26 during the time the boat is physically in the care, custody,
27 and control of the repair facility, including the time spent
28 on sea trials conducted by the facility. The 20-day time
29 period may be tolled only once within a calendar year when a
30 boat is placed for the first time that year in the physical
31 care, custody, and control of a registered repair facility;

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

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

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

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

5 a. A full-service facility that:

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

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

10 (III) Has adequate piers and storage facilities to
11 provide safe berthing of vessels in its care, custody, and
12 control; and

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

16 b. A marina that:

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

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

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

23 c. A shoreside facility 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.

30 (u) Volunteer fire departments.--Also exempt are
31 firefighting and rescue service equipment and supplies

1 purchased by volunteer fire departments, duly chartered under
2 the Florida Statutes as corporations not for profit.

3 (v) Professional services.--

4 1. Also exempted are professional, insurance, or
5 personal service transactions that involve sales as
6 inconsequential elements for which no separate charges are
7 made.

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

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

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

24 (w) Certain newspaper, magazine, and newsletter
25 subscriptions, shoppers, and community newspapers.--Likewise
26 exempt are newspaper, magazine, and newsletter subscriptions
27 in which the product is delivered to the customer by mail.
28 Also exempt are free, circulated publications that are
29 published on a regular basis, the content of which is
30 primarily advertising, and that are distributed through the
31 mail, home delivery, or newsstands. The exemption for

1 newspaper, magazine, and newsletter subscriptions which is
2 provided in this paragraph applies only to subscriptions
3 entered into after March 1, 1997.

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

10 (y) Charter fishing vessels.--The charge for
11 chartering any boat or vessel, with the crew furnished, solely
12 for the purpose of fishing is exempt from the tax imposed
13 under s. 212.04 or s. 212.05. This exemption does not apply
14 to any charge to enter or stay upon any "head-boat," party
15 boat, or other boat or vessel. Nothing in this paragraph
16 shall be construed to exempt any boat from sales or use tax
17 upon the purchase thereof except as provided in paragraph (t)
18 and s. 212.05.

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

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

29 1. The sale, lease, or rental occurs between two
30 commonly owned and controlled corporations;
31

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

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

5 (bb) Community cemeteries.--Also exempt are purchases
6 by any nonprofit corporation that has qualified under s.
7 501(c)(13) of the Internal Revenue Code of 1986, as amended,
8 and is operated for the purpose of maintaining a cemetery that
9 was donated to the community by deed.

10 (cc) Coast Guard auxiliaries.--A nonprofit
11 organization that is affiliated with the Coast Guard, that is
12 exempt from federal income tax pursuant to s. 501(a) and
13 (c)(3) of the Internal Revenue Code of 1986, as amended, and
14 the primary purpose of which is to promote safe boating and to
15 conduct free public education classes in basic seamanship is
16 exempt from the tax imposed by this chapter.

17 (dd) Works of art.--

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

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

27 3. A work of art is presumed to have been purchased in
28 or imported into this state exclusively for loan as provided
29 in subparagraph 2., if it is so loaned or placed in storage in
30 preparation for such a loan within 90 days after purchase or
31 importation, whichever is later; but a work of art is not

1 deemed to be placed in storage for purposes of this exemption
2 if it is displayed at any place other than an educational
3 institution.

4 4. The exemptions provided by this paragraph are
5 allowed only if the person who purchased the work of art gives
6 to the vendor an affidavit meeting the requirements,
7 established by rule, to document entitlement to the exemption.
8 The person who purchased the work of art shall forward a copy
9 of such affidavit to the Department of Revenue at the time it
10 is issued to the vendor.

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

24 6. For purposes of the exemptions provided by this
25 paragraph, the term "work of art" includes pictorial
26 representations, sculpture, jewelry, antiques, stamp
27 collections and coin collections, and other tangible personal
28 property, the value of which is attributable predominantly to
29 its artistic, historical, political, cultural, or social
30 importance.

31

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

4 (ee) Taxicab leases.--The lease of or license to use a
5 taxicab or taxicab-related equipment and services provided by
6 a taxicab company to an independent taxicab operator are
7 exempt, provided, however, the exemptions provided under this
8 paragraph only apply if sales or use tax has been paid on the
9 acquisition of the taxicab and its related equipment.

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

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

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

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

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

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

29 (ii) Certain electricity uses.--Charges for
30 electricity used directly and exclusively at a fixed location
31 in this state to operate machinery and equipment that is used

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

- 26 1. Beginning July 1, 1996, 20 percent of the charges
- 27 for such electricity shall be exempt.
- 28 2. Beginning July 1, 1997, 40 percent of the charges
- 29 for such electricity shall be exempt.
- 30 3. Beginning July 1, 1998, 60 percent of the charges
- 31 for such electricity shall be exempt.

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

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

5
6 Notwithstanding any other provision in this paragraph to the
7 contrary, in order to receive the exemption provided in this
8 paragraph a taxpayer must register with the WAGES Program
9 Business Registry established by the local WAGES coalition for
10 the area in which the taxpayer is located. Such registration
11 establishes a commitment on the part of the taxpayer to hire
12 WAGES program participants to the maximum extent possible
13 consistent with the nature of their business. In order to
14 determine whether the exemption provided in this paragraph
15 from the tax on charges for electricity has an effect on
16 retaining or attracting companies to this state, the Office of
17 Program Policy Analysis and Governmental Accountability shall
18 periodically monitor and report on the industries receiving
19 the exemption. The first report shall be submitted no later
20 than January 1, 1997, and must be conducted in such a manner
21 as to specifically determine the number of companies within
22 each SIC Industry Major Group receiving the exemption as of
23 September 1, 1996, and the number of individuals employed by
24 companies within each SIC Industry Major Group receiving the
25 exemption as of September 1, 1996. The second report shall be
26 submitted no later than January 1, 2001, and must be
27 comprehensive in scope, but, at a minimum, must be conducted
28 in such a manner as to specifically determine the number of
29 companies within each SIC Industry Major Group receiving the
30 exemption as of September 1, 2000, the number of individuals
31 employed by companies within each SIC Industry Major Group

1 receiving the exemption as of September 1, 2000, whether the
 2 change, if any, in such number of companies or employees is
 3 attributable to the exemption provided in this paragraph,
 4 whether it would be sound public policy to continue or
 5 discontinue the exemption, and the consequences of doing so.
 6 Both reports shall be submitted to the President of the
 7 Senate, the Speaker of the House of Representatives, the
 8 Senate Minority Leader, and the House Minority Leader.

9 (jj) Fair associations.--Also exempt from the tax
 10 imposed by this chapter is the sale, use, lease, rental, or
 11 grant of a license to use, made directly to or by a fair
 12 association, of real or tangible personal property; any charge
 13 made by a fair association, or its agents, for parking,
 14 admissions, or for temporary parking of vehicles used for
 15 sleeping quarters; rentals, subleases, and sublicenses of real
 16 or tangible personal property between the owner of the central
 17 amusement attraction and any owner of amusement devices and
 18 amusement attractions, as those terms are used in ss.
 19 616.15(1)(b) and 616.242(3)(a) and (i), for the furnishing of
 20 amusement devices and amusement attractions at a public fair
 21 or exposition; and other transactions of a fair association
 22 which are incurred directly by the fair association in the
 23 financing, construction, and operation of a fair, exposition,
 24 or other event or facility that is authorized by s. 616.08. As
 25 used in this paragraph, the terms "fair association" and
 26 "public fair or exposition" have the same meaning as those
 27 terms are defined in s. 616.001. This exemption does not apply
 28 to the sale of tangible personal property made by a fair
 29 association through an agent or independent contractor; sales
 30 of admissions and tangible personal property by a
 31 concessionaire, vendor, exhibitor, or licensee; or rentals and

1 subleases of tangible personal property or real property
2 between the owner of the central amusement attraction and a
3 concessionaire, vendor, exhibitor, or licensee, except for the
4 furnishing of amusement devices or amusement attractions,
5 which transactions are exempt.

6 (kk) Citizen support organizations.--Beginning July 1,
7 1996, nonprofit organizations that are incorporated under
8 chapter 617 or hold a current exemption from federal corporate
9 income tax under s. 501(c)(3) of the Internal Revenue Code, as
10 amended, and that have been designated citizen support
11 organizations in support of state-funded environmental
12 programs or the management of state-owned lands in accordance
13 with s. 370.0205, or to support one or more state parks in
14 accordance with s. 258.015 are exempt from the tax imposed by
15 this chapter.

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

21 (mm) Solar energy systems.--Also exempt are solar
22 energy systems or any component thereof. The Florida Solar
23 Energy Center shall from time to time certify to the
24 department a list of equipment and requisite hardware
25 considered to be a solar energy system or a component thereof.
26 This exemption is repealed July 1, 2002.

27 (nn) Nonprofit cooperative hospital
28 laundries.--Nonprofit organizations that are incorporated
29 under chapter 617 and which are treated, for federal income
30 tax purposes, as cooperatives under subchapter T of the
31 Internal Revenue Code, whose sole purpose is to offer laundry

1 supplies and services to their members, which members must all
 2 be exempt from federal income tax pursuant to s. 501(c)(3) of
 3 the Internal Revenue Code, are exempt from the tax imposed by
 4 this chapter.

5 (oo) Complimentary meals.--Also exempt from the tax
 6 imposed by this part are food or drinks that are furnished as
 7 part of a packaged room rate by any person offering for rent
 8 or lease any transient living accommodations as described in
 9 s. 509.013(4)(a) which are licensed under part I of chapter
 10 509 and which are subject to the tax under s. 212.03, if a
 11 separate charge or specific amount for the food or drinks is
 12 not shown. Such food or drinks are considered to be sold at
 13 retail as part of the total charge for the transient living
 14 accommodations. Moreover, the person offering the
 15 accommodations is not considered to be the consumer of items
 16 purchased in furnishing such food or drinks and may purchase
 17 those items under conditions of a sale for resale.

18 (pp) Nonprofit corporation conducting the correctional
 19 work programs.--Products sold pursuant to s. 946.515 by the
 20 corporation organized pursuant to part II of chapter 946 are
 21 exempt from the tax imposed by this chapter. This exemption
 22 applies retroactively to July 1, 1983.

23 (qq) Parent-teacher organizations, parent-teacher
 24 associations, and schools having kindergarten through grade
 25 12.--Parent-teacher organizations and associations qualified
 26 as educational institutions under paragraph (o) associated
 27 with schools having kindergarten through grade 12, and schools
 28 having kindergarten through grade 12, may pay tax to their
 29 suppliers on the cost price of school materials and supplies
 30 purchased, rented, or leased for resale or rental to students
 31 in kindergarten through grade 12, of items sold for

1 fundraising purposes, and of items sold through vending
2 machines located on the school premises, in lieu of collecting
3 the tax imposed by this chapter from the purchaser. This
4 paragraph also applies to food or beverages sold through
5 vending machines located in the student lunchroom or dining
6 room of a school having kindergarten through grade 12.

7 (rr) Mobile home lot improvements.--Items purchased by
8 developers for use in making improvements to a mobile home lot
9 owned by the developer may be purchased tax-exempt as a sale
10 for resale if made pursuant to a contract that requires the
11 developer to sell a mobile home to a purchaser, place the
12 mobile home on the lot, and make the improvements to the lot
13 for a single lump-sum price. The developer must collect and
14 remit sales tax on the entire lump-sum price.

15 (ss) Veterans Administration.--When a veteran of the
16 Armed Forces purchases an aircraft, boat, mobile home, motor
17 vehicle, or other vehicle from a dealer pursuant to the
18 provisions of s. 3902(a), Title 38, U.S.C., or any successor
19 provision of the United States Code, the amount that is paid
20 directly to the dealer by the Veterans Administration is not
21 taxable. However, any portion of the purchase price which is
22 paid directly to the dealer by the veteran is taxable.

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

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

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

1
2 The exemptions in this paragraph do not apply to businesses
3 with the primary activity of serving prepared meals or
4 alcoholic beverages for immediate consumption.

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

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

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

21 (8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE
22 OR FOREIGN COMMERCE.--

23 (a) The sale or use of vessels and parts thereof used
24 to transport persons or property in interstate or foreign
25 commerce, including commercial fishing vessels,is subject to
26 the taxes imposed in this chapter only to the extent provided
27 herein. The basis of the tax shall be the ratio of intrastate
28 mileage to interstate or foreign mileage traveled by the
29 carrier's vessels which were used in interstate or foreign
30 commerce and which had at least some Florida mileage during
31 the previous fiscal year. The ratio would be determined at

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

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

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

1 The basis for imposition of any discretionary surtax is set
 2 forth in s. 212.054.Railroads which are licensed as common
 3 carriers by the Interstate Commerce Commission and parts
 4 thereof used to transport persons or property in interstate
 5 and foreign commerce are hereby determined to be susceptible
 6 to a distinct and separate classification for taxation under
 7 the provisions of this chapter.

8 (b) Motor vehicles which are engaged in interstate
 9 commerce as common carriers, and parts thereof, used to
 10 transport persons or property in interstate or foreign
 11 commerce are subject to tax imposed in this chapter only to
 12 the extent provided herein. The basis of the tax shall be the
 13 ratio of intrastate mileage to interstate or foreign mileage
 14 traveled by the carrier's motor vehicles which were used in
 15 interstate or foreign commerce and which had at least some
 16 Florida mileage during the previous fiscal year of the
 17 carrier. Such ratio is to be determined at the close of the
 18 carrier's fiscal year. This ratio shall be applied each month
 19 to the total purchases of such motor vehicles and parts
 20 thereof which are used in this state to establish that portion
 21 of the total used and consumed in intrastate movement and
 22 subject to tax under this chapter. The basis for imposition of
 23 any discretionary surtax is set forth in s. 212.054.Motor
 24 vehicles which are engaged in interstate commerce, and parts
 25 thereof, used to transport persons or property in interstate
 26 and foreign commerce are hereby determined to be susceptible
 27 to a distinct and separate classification for taxation under
 28 the provisions of this chapter. Motor vehicles and parts
 29 thereof used exclusively in intrastate commerce do not qualify
 30 for the proration of tax. For purposes of this paragraph,
 31 parts of a motor vehicle engaged in interstate commerce

1 include a separate tank not connected to the fuel supply
 2 system of the motor vehicle into which diesel fuel is placed
 3 to operate a refrigeration unit or other equipment.

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

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

13 Notwithstanding the provisions of this paragraph, the owner of
 14 an aircraft purchased pursuant to this subsection may permit
 15 the aircraft to be returned to this state for repairs within 6
 16 months after the date of sale without the aircraft being in
 17 violation of the law and without incurring liability for
 18 payment of tax or penalty on the purchase price of the
 19 aircraft, so long as the aircraft is removed from this state
 20 within 20 days after the completion of the repairs and such
 21 removal can be proven by invoices for fuel, tie-down, or
 22 hangar charges issued by out-of-state vendors or suppliers or
 23 similar documentation.

24 (14) TECHNICAL ASSISTANCE ADVISORY COMMITTEE.--The
 25 department shall establish a technical assistance advisory
 26 committee with public and private sector members, including
 27 representatives of both manufacturers and retailers,to advise
 28 the Department of Revenue and the Department of Health ~~and~~
 29 ~~Rehabilitative Services~~ in determining the taxability of
 30 specific products and product lines pursuant to subsection (1)
 31 and paragraph (2)(a). In determining taxability and in

1 preparing a list of specific products and product lines which
2 are or are not taxable, the committee shall not be subject to
3 the provisions of chapter 120. Private sector members shall
4 not be compensated for serving on the committee.

5 Section 29. Section 212.09, Florida Statutes, is
6 amended to read:

7 212.09 Trade-ins deducted.--

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

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

18 (3) A person who is not registered with the department
19 as a seller of aircraft, boats, mobile homes, or motor
20 vehicles who is selling an aircraft, boat, mobile home, or
21 motor vehicle and who takes in trade an item other than an
22 aircraft, boat, mobile home, or motor vehicle may not use the
23 item as a credit against sales price.

24 Section 30. Subsection (1) of section 212.17, Florida
25 Statutes, is amended to read:

26 212.17 Credits for returned goods, rentals, or
27 admissions; goods acquired for dealer's own use and
28 subsequently sold; additional powers of department.--

29 (1)(a) In the event purchases are returned to a ~~the~~
30 dealer by the purchaser or consumer after the tax imposed by
31 this chapter has been collected from or charged to the account

1 of the consumer or user, the dealer shall be entitled to
2 reimbursement of the amount of tax collected or charged by the
3 dealer, in the manner prescribed by the department, ~~and in~~
4 ~~case~~

5 (b) A registered dealer that purchases property for
6 the dealer's own use, pays tax on acquisition, and sells the
7 property subsequent to acquisition without ever having used
8 the property is entitled to reimbursement, in the manner
9 prescribed by the department, of the amount of tax paid on the
10 property's acquisition.

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

26 Section 31. Subsection (3) of section 212.18, Florida
27 Statutes, is amended, and subsection (6) is added to said
28 section, to read:

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

31

1 (3)(a) Every person desiring to engage in or conduct
2 business in this state as a dealer, as defined in this
3 chapter, or to lease, rent, or let or grant licenses in living
4 quarters or sleeping or housekeeping accommodations in hotels,
5 apartment houses, roominghouses, or tourist or trailer camps
6 that are subject to tax under s. 212.03, or to lease, rent, or
7 let or grant licenses in real property, as defined in this
8 chapter, and every person who sells or receives anything of
9 value by way of admissions, must file with the department an
10 application for a certificate of registration for each place
11 of business, showing the names of the persons who have
12 interests in such business and their residences, the address
13 of the business, and such other data as the department may
14 reasonably require. Owners and operators of vending machines
15 or newspaper rack machines are required to obtain only one
16 certificate of registration for each county in which such
17 machines are located. The department, by rule, may authorize a
18 dealer that uses independent sellers to sell its merchandise
19 to remit tax on the retail sales price charged to the ultimate
20 consumer in lieu of having the independent seller register as
21 a dealer and remit the tax. Itinerant merchants selling
22 exclusively at flea markets may in lieu of registration remit
23 tax on their sales to the registered flea market operator in
24 the manner provided for in subsection (6) if they fall below
25 the threshold requirement for individual registration
26 specified in that subsection.The department may appoint the
27 county tax collector as the department's agent to accept
28 applications for registrations. The application must be made
29 to the department before the person, firm, copartnership, or
30 corporation may engage in such business, and it must be
31 accompanied by a registration fee of \$5. However, a

1 registration fee is not required to accompany an application
2 to engage in or conduct business to make mail order sales. The
3 department, upon receipt of such application, will grant to
4 the applicant a separate certificate of registration for each
5 place of business, which certificate may be canceled by the
6 department or its designated assistants for any failure by the
7 certificateholder to comply with any of the provisions of this
8 chapter. The certificate is not assignable and is valid only
9 for the person, firm, copartnership, or corporation to which
10 issued. The certificate must be placed in a conspicuous place
11 in the business or businesses for which it is issued and must
12 be displayed at all times. Except as provided in this
13 paragraph, no person shall engage in business as a dealer or
14 in leasing, renting, or letting of or granting licenses in
15 living quarters or sleeping or housekeeping accommodations in
16 hotels, apartment houses, roominghouses, tourist or trailer
17 camps, or real property as hereinbefore defined, nor shall any
18 person sell or receive anything of value by way of admissions,
19 without first having obtained such a certificate or after such
20 certificate has been canceled; no person shall receive any
21 license from any authority within the state to engage in any
22 such business without first having obtained such a certificate
23 or after such certificate has been canceled. The engaging in
24 the business of selling or leasing tangible personal property
25 or services or as a dealer, as defined in this chapter, or the
26 engaging in leasing, renting, or letting of or granting
27 licenses in living quarters or sleeping or housekeeping
28 accommodations in hotels, apartment houses, roominghouses, or
29 tourist or trailer camps that are taxable under this chapter,
30 or real property, or the engaging in the business of selling
31 or receiving anything of value by way of admissions, without

1 such certificate first being obtained or after such
2 certificate has been canceled by the department, is
3 prohibited. The failure or refusal of any person, firm,
4 copartnership, or corporation to so qualify when required
5 hereunder is a misdemeanor of the first degree, punishable as
6 provided in s. 775.082 or s. 775.083, or subject to injunctive
7 proceedings as provided by law. Such failure or refusal also
8 subjects the offender to a \$100 initial registration fee in
9 lieu of the \$5 registration fee authorized in this paragraph.
10 However, the department may waive the increase in the
11 registration fee if it is determined by the department that
12 the failure to register was due to reasonable cause and not to
13 willful negligence, willful neglect, or fraud.

14 (b) The department may revoke any dealer's certificate
15 of registration when the dealer fails to comply with this
16 chapter. Prior to revocation of a dealer's certificate of
17 registration, the department must schedule an informal
18 conference at which the dealer may present evidence regarding
19 the department's intended revocation or enter into a
20 compliance agreement with the department. The department must
21 notify the dealer of its intended action and the time, place,
22 and date of the scheduled informal conference by written
23 notification sent by United States mail to the dealer's last
24 known address of record furnished by the dealer on a form
25 prescribed by the department. The dealer is required to attend
26 the informal conference and present evidence refuting the
27 department's intended revocation or enter into a compliance
28 agreement with the department which resolves the dealer's
29 failure to comply with this chapter. The department shall
30 issue an administrative complaint under s. 120.60 if the
31 dealer fails to attend the department's informal conference,

1 fails to enter into a compliance agreement with the department
2 resolving the dealer's noncompliance with this chapter, or
3 fails to comply with the executed compliance agreement.

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

9 1. An exhibitor whose agreement prohibits the sale of
10 tangible personal property or services subject to the tax
11 imposed in this chapter is not required to register as a
12 dealer.

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

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

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

24
25 Any person who conducts a convention or a trade show must make
26 their exhibitor's agreements available to the department for
27 inspection and copying.

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

30 1. Register with the Department of Revenue. Only one
31 tax number is required for each flea market business location.

1 The flea market operator, manager, lessor, or owner shall
2 remit the tax collected on the space rentals and the tax
3 collected from unregistered flea market vendors under this
4 number monthly, unless otherwise notified.

5 2. Collect tax on all space rentals from flea market
6 vendors and remit it to the department. The amount of tax
7 shall be separately stated from the rental charge and must be
8 shown as Florida tax on any rental agreement, invoice, or
9 other tangible evidence that authorizes the use of the rental
10 space.

11 3.a. Obtain from each unregistered flea market vendor
12 a signed statement declaring that the unregistered flea market
13 vendor agrees to collect the applicable tax on his or her
14 sales and remit it to the flea market operator, manager,
15 lessor, or owner at the close of each business day. The
16 statement shall include both the permanent business address,
17 if applicable, and the residence address of the flea market
18 vendor. These documents shall be retained for a period of 5
19 years. Records of taxes collected and remitted shall be
20 retained for the period specified in s. 213.35. The flea
21 market operator, manager, lessor, or owner is not responsible
22 for the failure of the flea market vendor to properly collect,
23 remit, and account for the sales tax.

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

29 (Name of vendor) is duly authorized to collect
30 Florida sales tax for remittance by the flea
31 market operator to the Department of Revenue.

1 c. Furnish unregistered flea market vendors with tax
2 envelopes so that the unregistered vendor can record the daily
3 sales transactions and remit the taxes collected and due to
4 the flea market operator, manager, lessor, or owner. The
5 department may adopt necessary rules to prescribe the format
6 for the tax envelopes.

7 4.a. Obtain from each registered flea market vendor a
8 photocopy of the vendor's certificate of registration or, in
9 lieu thereof, a statement from the registered vendor attesting
10 that the vendor has a valid certificate of registration. The
11 statement shall contain the registration number and the
12 effective date the number was issued and shall be signed by
13 the vendor. These documents shall be retained for a period of
14 5 years.

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

20 (Name of vendor) is duly authorized to collect
21 and remit Florida sales tax to the Department
22 of Revenue.

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

27 (c) A flea market operator, manager, lessor, or owner
28 is required to remit the sales tax collected from each
29 unregistered flea market vendor when the vendor has collected
30 and remitted the tax to the flea market operator, manager,
31 lessor, or owner at the same time and on the same tax return

1 as required for the space rentals. Flea market vendors with an
 2 estimated monthly sales tax liability of \$50 or greater must
 3 register with the department and report their own taxes. Flea
 4 market vendors with an estimated monthly sales tax liability
 5 of less than \$50 must elect to either remit the tax to the
 6 flea market operator, manager, lessor, or owner or to
 7 register, report, and remit their own taxes. Taxes collected
 8 become state funds at the moment of collection. Any person
 9 who, with intent to unlawfully deprive or defraud the state of
 10 its moneys or the use or benefit thereof, fails to remit taxes
 11 collected pursuant to this chapter commits theft of state
 12 funds, as provided in s. 212.15(2).

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

19 Section 32. Paragraph (a) of subsection (1) and
 20 paragraph (a) of subsection (2) of section 213.21, Florida
 21 Statutes, are amended to read:

22 213.21 Informal conferences; compromises.--

23 (1)(a) The Department of Revenue may adopt rules for
 24 establishing informal conference procedures within the
 25 department for resolution of disputes relating to assessment
 26 of taxes, interest, and penalties and the denial of refunds,
 27 and for informal hearings under ss. 120.569 and 120.57(2).

28 (2)(a) The executive director of the department or his
 29 or her designee is authorized to enter into ~~a written~~ closing
 30 agreements ~~agreement~~ with any taxpayer settling or
 31 compromising the taxpayer's liability for any tax, interest,

1 or penalty assessed under any of the chapters specified in s.
 2 72.011(1). Such agreements shall be in writing when the amount
 3 of tax, penalty, or interest compromised exceeds \$30,000, or
 4 for lesser amounts when the department deems it appropriate or
 5 when requested by the taxpayer.When a written ~~such a~~ closing
 6 agreement has been approved by the department and signed by
 7 the executive director or his or her designee and the
 8 taxpayer, it shall be final and conclusive; and, except upon a
 9 showing of fraud or misrepresentation of material fact or
 10 except as to adjustments pursuant to ss. 198.16 and 220.23, no
 11 additional assessment may be made by the department against
 12 the taxpayer for the tax, interest, or penalty specified in
 13 the closing agreement for the time period specified in the
 14 closing agreement, and the taxpayer shall not be entitled to
 15 institute any judicial or administrative proceeding to recover
 16 any tax, interest, or penalty paid pursuant to the closing
 17 agreement. The department is authorized to delegate to the
 18 executive director the authority to approve any such closing
 19 agreement resulting in a tax reduction of \$100,000 or less.

20 Section 33. Subsection (1) of section 213.22, Florida
 21 Statutes, is amended to read:

22 213.22 Technical assistance advisements.--

23 (1) The department may issue informal technical
 24 assistance advisements to persons, upon written request, as to
 25 the position of the department on the tax consequences of a
 26 stated transaction or event, under existing statutes, rules,
 27 or policies. After the issuance of an assessment, a technical
 28 assistance advisement may not be issued to a taxpayer who
 29 requests an advisement relating to the tax or liability for
 30 tax in respect to which the assessment has been made, except
 31 that a technical assistance advisement may be issued to a

1 taxpayer who requests an advisement relating to the exemptions
 2 in s. 212.08(1) or (2) at any time. Technical assistance
 3 advisements shall have no precedential value except to the
 4 taxpayer who requests the advisement and then only for the
 5 specific transaction addressed in the technical assistance
 6 advisement, unless specifically stated otherwise in the
 7 advisement. Any modification of an advisement shall be
 8 prospective only. A technical assistance advisement is not an
 9 order issued pursuant to s. 120.565 or s. 120.569 or a rule or
 10 policy of general applicability under s. 120.54. The
 11 provisions of s. 120.53(1) are not applicable to technical
 12 assistance advisements.

13 Section 34. Paragraph (c) is added to subsection (2)
 14 of section 220.222, Florida Statutes, to read:

15 220.222 Returns; time and place for filing.--
 16 (2)

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

22 Section 35. Subsection (1) of section 624.515, Florida
 23 Statutes, is amended to read:

24 624.515 State Fire Marshal regulatory assessment and
 25 surcharge; levy and amount.--

26 (1)(a) In addition to any other license or excise tax
 27 now or hereafter imposed, and such taxes as may be imposed
 28 under other statutes, there is hereby assessed and imposed
 29 upon every domestic, foreign, and alien insurer authorized to
 30 engage in this state in the business of issuing policies of
 31 fire insurance, a regulatory assessment in an amount equal to

1 1 percent of the gross amount of premiums collected by each
2 such insurer on policies of fire insurance issued by it and
3 insuring property in this state. The assessment shall be
4 payable annually on or before March 1 to the Department of
5 Revenue by the insurer on such premiums collected by it during
6 the preceding calendar year.

7 (b) When it is impractical, due to the nature of the
8 business practices within the insurance industry, to determine
9 the percentage of fire insurance contained within a line of
10 insurance written by an insurer on risks located or resident
11 in Florida, the Department of Revenue may establish by rule
12 such percentages for the industry. The Department of Revenue
13 may also amend the percentages as the insurance industry
14 changes its practices concerning the portion of fire insurance
15 within a line of insurance.

16 Section 36. Subsection (3) is added to section
17 896.102, Florida Statutes, to read:

18 896.102 Currency more than \$10,000 received in trade
19 or business; report required; noncompliance penalties.--

20 (3) The Department of Revenue may adopt rules and
21 guidelines to administer and enforce these reporting
22 requirements.

23 Section 37. This act shall take effect July 1 of the
24 year in which enacted.

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