

By the Committee on Fiscal Resource and Senators Horne and Grant

314-877D-99

1                                   A bill to be entitled  
2           An act relating to taxation; amending ss.  
3           95.091, 193.063, 212.07, 212.11, 212.18,  
4           213.053, 215.26, F.S.; creating ss. 213.235,  
5           213.255, F.S.; amending certain statutes of  
6           limitations; reducing the period for tolling of  
7           the statute of limitations; prescribing  
8           circumstances for the tolling of the statute of  
9           limitations as a result of administrative or  
10          judicial proceedings; providing for an  
11          extension for filing tangible personal property  
12          tax returns; providing for the annual issuance  
13          of resale certificates to active accounts;  
14          delaying the date for paying estimated taxes;  
15          increasing the minimum threshold for requiring  
16          payment of estimated taxes; authorizing the  
17          Department of Revenue to disclose to a dealer  
18          or taxpayer whether a specified certificate is  
19          active, canceled, inactive, or invalid;  
20          providing for periodic adjustment of the rate  
21          of interest to be charged on certain tax  
22          deficiencies; providing circumstances under  
23          which the Department of Revenue is to pay  
24          interest to the taxpayer; specifying when  
25          applications for refunds must be filed;  
26          directing the Department of Revenue to  
27          establish a toll-free number for the  
28          verification of valid registration numbers and  
29          resale certificates; directing the Department  
30          of Revenue to establish a system for receiving  
31          information from dealers regarding certificate

1 numbers; directing the Department of Revenue to  
2 expand its dealer education program regarding  
3 the proper use of resale certificates;  
4 providing appropriations; providing an  
5 effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9 Section 1. Subsections (3) and (4) of section 95.091,  
10 Florida Statutes, are amended to read:

11 95.091 Limitation on actions to collect taxes.--

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

21 a. For taxes due before July 1, 1999, within 5 years  
22 after the date the tax is due, any return with respect to the  
23 tax is due, or such return is filed, whichever occurs later;  
24 and for taxes due on or after July 1, 1999, within 3 years  
25 after the date the tax is due, any return with respect to the  
26 tax is due, or such return is filed, whichever occurs later;

27 b. For taxes due before July 1, 1999, within 6 years  
28 after the date the taxpayer either makes a substantial  
29 underpayment of tax, or files a substantially incorrect  
30 return;

31

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

3 d. For taxes due before July 1, 1999, at any time  
4 after the taxpayer has filed a grossly false return;

5 ~~e.d.~~ At any time after the taxpayer has failed to make  
6 any required payment of the tax, has failed to file a required  
7 return, or has filed a ~~grossly false or~~ fraudulent return,  
8 except that for taxes due on or after July 1, 1999, the  
9 limitation prescribed in sub-subparagraph a. applies if the  
10 taxpayer has disclosed in writing the tax liability to the  
11 department before the department has contacted the taxpayer;

12 or

13 ~~f.e.~~ In any case in which there has been a refund of  
14 tax erroneously made for any reason:

15 (I) For refunds made before July 1, 1999, within 5  
16 years after making such refund; and

17 (II) For refunds made on or after July 1, 1999, within  
18 3 years after making such refund,

19  
20 or at any time after making such refund if it appears that any  
21 part of the refund was induced by fraud or the  
22 misrepresentation of a material fact.

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

28 (b)1. The limitations in this subsection shall be  
29 tolled for a period of 2 years with respect to audits in which  
30 the notice of intent to conduct the audit was issued before  
31 July 1, 1999, if the Department of Revenue has issued a notice

1 of intent to conduct an audit or investigation of the  
2 taxpayer's account within the applicable period of time as  
3 specified in this subsection. The department shall commence  
4 an audit within 120 days after it issues a notice of intent to  
5 conduct an audit, unless the taxpayer requests a delay. If  
6 the taxpayer does not request a delay and the department does  
7 not begin the audit within 120 days after issuing the notice,  
8 the tolling period shall terminate.

9 2. For audits in which the notice of intent to conduct  
10 the audit was issued on or after July 1, 1999, the limitation  
11 period shall be tolled for 1 year after issuing the notice. If  
12 the taxpayer does not enter into an agreement to extend the  
13 period pursuant to s. 213.23, the tolling period shall  
14 terminate after 1 year.

15 (4) If administrative or judicial proceedings for  
16 review of the tax assessment or collection are initiated by a  
17 taxpayer begun within the a period of limitation prescribed in  
18 this section, the running of the period shall be tolled during  
19 the pendency of the proceeding. Administrative proceedings  
20 shall include taxpayer protest proceedings initiated under s.  
21 213.21 and department rules.

22 Section 2. Section 193.063, Florida Statutes, is  
23 amended to read:

24 193.063 Extension of date for filing tangible personal  
25 property tax returns.--The property appraiser shall grant an  
26 extension for the filing of a tangible personal property tax  
27 return for 30 days and may, at her or his discretion, grant an  
28 additional extension for the filing of a tangible personal  
29 property tax return for up to 15 additional ~~45~~ days. A request  
30 for extension must be made in time for the property appraiser  
31 to consider the request and act on it before the regular due

1 date of the return. However, a property appraiser may not  
2 require that a request for extension be made more than 10 days  
3 before the due date of the return.A request for extension, at  
4 the option of the property appraiser, shall ~~must~~ include the  
5 name of the taxable entity, the tax identification number of  
6 the taxable entity, and the reason a discretionary an  
7 extension should be granted.

8 Section 3. Effective February 1, 2000, paragraph (b)  
9 of subsection (1) of section 212.07, Florida Statutes, 1998  
10 Supplement, is amended to read:

11 212.07 Sales, storage, use tax; tax added to purchase  
12 price; dealer not to absorb; liability of purchasers who  
13 cannot prove payment of the tax; penalties; general  
14 exemptions.--

15 (1)

16 (b) A resale must be in strict compliance with s.  
17 212.18 and the rules and regulations, and any dealer who makes  
18 a sale for resale which is not in strict compliance with s.  
19 212.18 and the rules and regulations shall himself or herself  
20 be liable for and pay the tax. A dealer who makes a sale for  
21 resale shall document the exempt status of the transaction, as  
22 established by rules adopted by the department, by retaining a  
23 copy of the purchaser's resale certificate. In lieu of  
24 maintaining a copy of the certificate, a dealer may document,  
25 before the sale, an authorization number provided by the  
26 department electronically or telephonically, or by other means  
27 established by the department by rule. The department shall  
28 adopt rules that provide that, for purchasers who continually  
29 purchase on account from a dealer, the dealer may rely on a  
30 resale certificate issued under s. 212.18(3)(c) which is valid  
31 at the time of receipt from the purchaser, without seeking

1 annual verification of the resale certificate.A dealer may,  
2 through the informal protest provided for in s. 213.21 and the  
3 rules of the Department of Revenue, provide the department  
4 with evidence of the exempt status of a sale. ~~The Department~~  
5 ~~of Revenue shall adopt rules which provide that valid resale~~  
6 ~~certificates and~~ Consumer certificates of exemption executed  
7 by those ~~dealers or~~ exempt entities that ~~which~~ were registered  
8 with the department at the time of sale, resale certificates  
9 provided by purchasers who were active dealers at the time of  
10 sale, and verification by the department of a purchaser's  
11 active dealer status at the time of sale in lieu of a resale  
12 certificate shall be accepted by the department when submitted  
13 during the protest period, but may not be accepted in any  
14 proceeding under chapter 120 or any circuit court action  
15 instituted under chapter 72.

16 Section 4. Effective January 1, 2000, subsection (3)  
17 of section 212.18, Florida Statutes, 1998 Supplement, is  
18 amended to read:

19 212.18 Administration of law; registration of dealers;  
20 rules.--

21 (3)(a) Every person desiring to engage in or conduct  
22 business in this state as a dealer, as defined in this  
23 chapter, or to lease, rent, or let or grant licenses in living  
24 quarters or sleeping or housekeeping accommodations in hotels,  
25 apartment houses, roominghouses, or tourist or trailer camps  
26 that are subject to tax under s. 212.03, or to lease, rent, or  
27 let or grant licenses in real property, as defined in this  
28 chapter, and every person who sells or receives anything of  
29 value by way of admissions, must file with the department an  
30 application for a certificate of registration for each place  
31 of business, showing the names of the persons who have

1 interests in such business and their residences, the address  
2 of the business, and such other data as the department may  
3 reasonably require. However, owners and operators of vending  
4 machines or newspaper rack machines are required to obtain  
5 only one certificate of registration for each county in which  
6 such machines are located. The department, by rule, may  
7 authorize a dealer that uses independent sellers to sell its  
8 merchandise to remit tax on the retail sales price charged to  
9 the ultimate consumer in lieu of having the independent seller  
10 register as a dealer and remit the tax. The department may  
11 appoint the county tax collector as the department's agent to  
12 accept applications for registrations. The application must be  
13 made to the department before the person, firm, copartnership,  
14 or corporation may engage in such business, and it must be  
15 accompanied by a registration fee of \$5. However, a  
16 registration fee is not required to accompany an application  
17 to engage in or conduct business to make mail order sales.

18 (b) The department, upon receipt of such application,  
19 will grant to the applicant a separate certificate of  
20 registration for each place of business, which certificate may  
21 be canceled by the department or its designated assistants for  
22 any failure by the certificateholder to comply with any of the  
23 provisions of this chapter. The certificate is not assignable  
24 and is valid only for the person, firm, copartnership, or  
25 corporation to which issued. The certificate must be placed in  
26 a conspicuous place in the business or businesses for which it  
27 is issued and must be displayed at all times. Except as  
28 provided in this subsection ~~paragraph~~, no person shall engage  
29 in business as a dealer or in leasing, renting, or letting of  
30 or granting licenses in living quarters or sleeping or  
31 housekeeping accommodations in hotels, apartment houses,

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

30 (c) In addition to the certificate of registration,  
31 the department shall provide to each newly registered dealer



1 an initial resale certificate that is valid for the remainder  
2 of the period of issuance. The department shall provide each  
3 active dealer with an annual resale certificate. As used in  
4 this section, the term "active dealer" means a person who is  
5 currently registered with the department and who complies with  
6 the requirement to file at least once during each applicable  
7 reporting period.

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

29 (e)~~(c)~~ As used in this paragraph, the term "exhibitor"  
30 means a person who enters into an agreement authorizing the  
31 display of tangible personal property or services at a

1 convention or a trade show. The following provisions apply to  
2 the registration of exhibitors as dealers under this chapter:

3 1. An exhibitor whose agreement prohibits the sale of  
4 tangible personal property or services subject to the tax  
5 imposed in this chapter is not required to register as a  
6 dealer.

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

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

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

18

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

22 Section 5. Effective January 1, 2000, paragraphs (b),  
23 (e), and (f) of subsection (1), and paragraphs (a), (b), (c),  
24 and (d) of subsection (4) of section 212.11, Florida Statutes,  
25 1998 Supplement, are amended to read:

26 212.11 Tax returns and regulations.--

27 (1)

28 (b) For the purpose of ascertaining the amount of tax  
29 payable under this chapter, it shall be the duty of all  
30 dealers to file a return and remit the tax, on or before the  
31 20th day of the month, or on or before the 28th day of the

1 month if the dealer is required to file an estimated tax as  
2 provided in subsection (4),to the department, upon forms  
3 prepared and furnished by it or in a format prescribed by it.  
4 Such return must show the rentals, admissions, gross sales, or  
5 purchases, as the case may be, arising from all leases,  
6 rentals, admissions, sales, or purchases taxable under this  
7 chapter during the preceding calendar month.

8 (e) The department shall accept returns, except those  
9 required to be initiated through an electronic data  
10 interchange, as timely if postmarked on or before the 20th day  
11 of the month, or on or before the 28th day of the month if the  
12 dealer is required to file an estimated tax as provided in  
13 subsection (4); if the filing date if the 20th day falls on a  
14 Saturday, Sunday, or federal or state legal holiday, returns  
15 shall be accepted as timely if postmarked on the next  
16 succeeding workday. Any dealer who operates two or more  
17 places of business for which returns are required to be filed  
18 with the department and maintains records for such places of  
19 business in a central office or place shall have the privilege  
20 on each reporting date of filing a consolidated return for all  
21 such places of business in lieu of separate returns for each  
22 such place of business; however, such consolidated returns  
23 must clearly indicate the amounts collected within each county  
24 of the state. Any dealer who files a consolidated return shall  
25 calculate his or her estimated tax liability for each county  
26 by the same method the dealer uses to calculate his or her  
27 estimated tax liability on the consolidated return as a whole.  
28 Each dealer shall file a return for each tax period even  
29 though no tax is due for such period.

30 (f)1. A taxpayer who is required to remit taxes by  
31 electronic funds transfer shall make a return in a manner that

1 is initiated through an electronic data interchange. The  
2 acceptable method of transfer, the method, form, and content  
3 of the electronic data interchange, giving due regard to  
4 developing uniform standards for formats as adopted by the  
5 American National Standards Institute, the circumstances under  
6 which an electronic data interchange shall serve as a  
7 substitute for the filing of another form of return, and the  
8 means, if any, by which taxpayers will be provided with  
9 acknowledgments, shall be as prescribed by the department. The  
10 department must accept such returns as timely if initiated and  
11 accepted on or before the 20th day of the month, or on or  
12 before the 28th day of the month if the dealer is required to  
13 file an estimated tax as provided in subsection (4). If the  
14 filing date ~~20th day~~ falls on a Saturday, Sunday, or federal  
15 or state legal holiday, returns must be accepted as timely if  
16 initiated and accepted on the next succeeding workday.

17         2. The department may waive the requirement to make a  
18 return through an electronic data interchange due to problems  
19 arising from the taxpayer's computer capabilities, data  
20 systems changes, and taxpayer operating procedures. To obtain  
21 a waiver, the taxpayer shall demonstrate in writing to the  
22 department that such circumstances exist.

23         (4)(a) Each dealer who is subject to the tax imposed  
24 by this chapter and who paid such tax for the preceding state  
25 fiscal year in an amount greater than or equal to \$200,000  
26 ~~\$100,000~~ shall calculate the amount of estimated tax due  
27 pursuant to this section for any month as provided in  
28 paragraph (1)(a).

29         (b) The amount of any estimated tax shall be due,  
30 payable, and remitted by electronic funds transfer by the 28th  
31 ~~20th~~ day of the month for which it is estimated. The

1 difference between the amount of estimated tax paid and the  
2 actual amount of tax due under this chapter for such month  
3 shall be due and payable by the first day of the following  
4 month and remitted by electronic funds transfer by the 28th  
5 ~~20th~~ day thereof.

6 (c) Any dealer who is eligible to file a consolidated  
7 return and who paid the tax imposed by this chapter for the  
8 immediately preceding state fiscal year in an amount greater  
9 than or equal to \$200,000~~\$100,000~~ or would have paid the tax  
10 in such amount if he or she had filed a consolidated return  
11 shall be subject to the provisions of this subsection  
12 notwithstanding an election by the dealer in any month to file  
13 a separate return.

14 (d) A dealer engaged in the business of selling boats,  
15 motor vehicles, or aircraft who made at least one sale of a  
16 boat, motor vehicle, or aircraft with a sales price of  
17 \$200,000~~\$100,000~~ or greater in the previous state fiscal year  
18 may qualify for payment of estimated sales tax pursuant to the  
19 provisions of this paragraph. To qualify, a dealer must apply  
20 annually to the department prior to October 1, and, if  
21 qualified, the department must grant the application for  
22 payment of estimated sales tax pursuant to this paragraph for  
23 the following calendar year. In lieu of the method for  
24 calculating estimated sales tax liability pursuant to  
25 subparagraph (1)(a)3., a qualified dealer must calculate that  
26 option as 66 percent of the average tax liability pursuant to  
27 this chapter for all sales excluding the sale of each boat,  
28 motor vehicle, or aircraft with a sales price of \$200,000  
29 ~~\$100,000~~ or greater during the state fiscal year ending the  
30 year in which the application is made. A qualified dealer  
31 must also remit the sales tax for each sale of a boat, motor

1 vehicle, or aircraft with a sales price of \$200,000~~\$100,000~~  
2 or greater by either electronic funds transfer on the date of  
3 the sale or on a form prescribed by the department and  
4 postmarked on the date of the sale.

5 Section 6. Effective January 1, 2000, subsection (10)  
6 of section 213.053, Florida Statutes, 1998 Supplement, is  
7 amended to read:

8 213.053 Confidentiality and information sharing.--

9 (10) Notwithstanding any other provision of this  
10 section, with respect to a request for verification of a  
11 certificate of registration issued pursuant to s. 212.18 to a  
12 specified dealer or taxpayer or with respect to a request by a  
13 law enforcement officer for verification of a certificate of  
14 registration issued pursuant to s. 538.09 to a specified  
15 secondhand dealer or pursuant to s. 538.25 to a specified  
16 secondary metals recycler, the department may disclose whether  
17 the specified person holds a valid certificate or whether a  
18 specified certificate number is valid, canceled, inactive, or  
19 invalid and the name of the holder of the ~~such~~ certificate.  
20 This subsection shall not be construed to create a duty to  
21 request verification of any certificate of registration.

22 Section 7. Section 213.235, Florida Statutes, is  
23 created to read:

24 213.235 Determination of interest on deficiencies.--

25 (1) Notwithstanding any other provision of law, the  
26 annual rate of interest applicable to tax payment deficiencies  
27 that arise on or after July 1, 1999, shall be the adjusted  
28 rate established by the executive director of the department  
29 under subsection (2), unless a lower rate for the particular  
30 tax is specifically provided for in law, in which case the  
31

1 lower rate applies. This annual rate of interest applies to  
2 all taxes enumerated in s. 213.05.

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

5 (a) The 6-month period ending on September 30 of any  
6 calendar year, or

7 (b) The 6-month period ending on March 31 of any  
8 calendar year

9  
10 differs from the interest rate in effect on such date, the  
11 executive director of the department shall, within 20 days,  
12 establish an adjusted rate of interest equal to such adjusted  
13 prime rate.

14 (3) An adjusted rate of interest established under  
15 this section becomes effective:

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

19 (b) On July 1 of the same calendar year, if based upon  
20 the adjusted prime rate for the 6-month period ending on March  
21 31.

22 (4) As used in this section, the term "adjusted prime  
23 rate charged by banks" means the average predominant prime  
24 rate quoted by commercial banks to large businesses, as  
25 determined by the Board of Governors of the Federal Reserve  
26 System.

27 (5) Once established, an adjusted rate of interest  
28 remains in effect until further adjusted under subsection (2).

29 Section 8. Section 213.255, Florida Statutes, is  
30 created to read:

31

1           213.255 Interest.--Interest shall be paid on  
2 overpayments of taxes, payment of taxes not due, or taxes paid  
3 in error, subject to the following conditions:

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

6           (2) A refund application may not be processed until it  
7 is complete. A refund application is complete if it is filed  
8 on a permitted form and contains:

9           (a) The taxpayer's name, address, identifying numbers,  
10 and signature;

11           (b) Sufficient information, whether on the application  
12 or attachments, to permit mathematical verification of the  
13 amount of the refund;

14           (c) The amount claimed;

15           (d) The specific grounds upon which the refund is  
16 claimed;

17           (e) The taxable years or periods involved; and

18           (f) A completed audit, if an audit is required by the  
19 department.

20           (3) If the refund application is not complete, the  
21 department shall notify the taxpayer of the inadequacy and  
22 instruct the applicant of what is needed to complete the  
23 application.

24           (4) Interest shall not begin to accrue until 90 days  
25 after a complete refund application has been filed and the  
26 amount of overpayment has not been refunded to the taxpayer or  
27 applied as a credit to the taxpayer's account. If the  
28 department and the taxpayer mutually agree that an audit of  
29 the claim is necessary, interest shall not begin to accrue  
30 until the audit of the claim is final or until 90 days after  
31



1 the date the complete refund application has been filed,  
2 whichever is later.

3 (5) If a tax is adjudicated unconstitutional and  
4 refunds are ordered by the court, interest shall not commence  
5 on complete applications until 90 days after the adjudication  
6 becomes final and unappealable or 90 days after a complete  
7 application has been filed, whichever is later.

8 (6) Interest shall be paid until a date determined by  
9 the department which must be no earlier than 7 days before the  
10 date on which the Comptroller issues the refund warrant.

11 (7) Interest shall not be paid if the department has  
12 reasonable cause to believe that it could not recover the  
13 amount of any refund paid in error from the person claiming  
14 the refund, unless the person files a cash bond or a surety  
15 bond in the amount of the refund claimed or the person makes  
16 other security arrangements satisfactory to the department.  
17 The cash or surety bond must be endorsed by the surety company  
18 authorized to do business in this state and must be  
19 conditioned upon payment in full of the amount of any refund  
20 paid in error for any reason. The department shall provide  
21 written notice of its determination that a cash or surety bond  
22 is required, in which event interest shall not commence until  
23 the person filing the claim satisfies this requirement.

24 (8) The rate of interest shall be the adjusted rate  
25 established under s. 213.235. This annual rate of interest  
26 shall be applied to all refunds of taxes administered by the  
27 department.

28 (9) Interest that is paid pursuant to this section  
29 shall be paid proportionately from the funds or sources into  
30 which the tax that is refunded was or should have been  
31 disbursed or distributed after the tax was collected.

1           (10) This section applies to eligible refunds based on  
2 tax payments made on or after July 1, 1999.

3           Section 9. Subsection (2) of section 215.26, Florida  
4 Statutes, is amended to read:

5           215.26 Repayment of funds paid into State Treasury  
6 through error.--

7           (2) Application for refunds as provided by this  
8 section must be filed with the Comptroller, except as  
9 otherwise provided in this subsection, within 3 years after  
10 the right to the refund has accrued or else the right is  
11 barred. Except as provided in chapter 198 and s. 220.23, an  
12 application for a refund of a tax enumerated in s. 72.011,  
13 which tax was paid after September 30, 1994, and before July  
14 1, 1999, must be filed with the Comptroller within 5 years  
15 after the date the tax is paid, and within 3 years after the  
16 date the tax was paid for taxes paid on or after July 1, 1999.  
17 The Comptroller may delegate the authority to accept an  
18 application for refund to any state agency, or the judicial  
19 branch, vested by law with the responsibility for the  
20 collection of any tax, license, or account due. The  
21 application for refund must be on a form approved by the  
22 Comptroller and must be supplemented with additional proof the  
23 Comptroller deems necessary to establish the claim; provided,  
24 the claim is not otherwise barred under the laws of this  
25 state. Upon receipt of an application for refund, the judicial  
26 branch or the state agency to which the funds were paid shall  
27 make a determination of the amount due. If an application for  
28 refund is denied, in whole or in part, the judicial branch or  
29 such state agency shall notify the applicant stating the  
30 reasons therefor. Upon approval of an application for refund,  
31 the judicial branch or such state agency shall furnish the

1 Comptroller with a properly executed voucher authorizing  
2 payment.

3       Section 10. Effective January 1, 2000, the Department  
4 of Revenue shall establish a toll-free number for the  
5 verification of valid registration numbers and resale  
6 certificates. The system must be adequate to guarantee a low  
7 busy rate, must respond to keypad inquiries, and must provide  
8 data that is updated daily.

9       Section 11. The Department of Revenue shall establish  
10 a system, effective January 1, 2000, for receiving information  
11 from dealers regarding certificate numbers of those who are  
12 seeking to make purchases for resale. The department must  
13 provide such dealers, free of charge, with verification of  
14 those numbers that are canceled or invalid.

15       Section 12. Effective July 1, 1999, the Department of  
16 Revenue shall expand its dealer education program regarding  
17 the proper use of resale certificates. The expansion must  
18 include, but need not be limited to, revision of the  
19 registration application for clarity, development of  
20 industry-specific brochures, development of a media campaign  
21 to heighten awareness of resale fraud and its consequences,  
22 outreach to business and professional organizations, and  
23 creation of seminars and continuing-education programs for  
24 taxpayers and licensed professionals.

25       Section 13. (1) There is appropriated from the  
26 General Revenue Fund to the Department of Revenue in fiscal  
27 year 1999-2000, to be used in implementing the changes to the  
28 resale certificate and related provisions of this act:

29       (2) One and one-half full-time-equivalent positions  
30 and the sum of \$211,065 to be used for salaries, benefits, and  
31 expenses; and

1           (3) The sum of \$23,455 to be used for operating  
2 capital outlay.

3           Section 14. Except as otherwise expressly provided in  
4 this act, this act shall take effect July 1, 1999.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2 COMMITTEE SUBSTITUTE FOR  
3 SB 172

4 CS for SB 172 differs significantly from SB 172. A  
5 section-by-section description of SB 172 is provided, and the  
6 treatment of each issue in CS/SB 172 is described.

6 Section 1. Present Situation: Section 95.091, F.S., provides  
7 that the Department of Revenue may take action to collect  
8 taxes within 5 years after the date the tax is due or any  
9 return with respect to the tax is due, or such return is  
10 filed. If a taxpayer makes a substantial underpayment of tax  
11 this period is extended to 6 years. In cases of grossly false  
12 or fraudulent returns, there is no limit of the period for  
13 action to collect. The statute of limitation is tolled for 2  
14 years if the Department of Revenue has issued a notice of  
15 intent to audit or investigate. The statute of limitation is  
16 also tolled during any administrative or judicial review of a  
17 tax assessment.

12 Proposed Change--SB 172: For taxes due on or after July 1,  
13 1999, the statute of limitations is reduced to 3 years. There  
14 is no limit on actions to collect taxes in cases of failure to  
15 make required tax payments, failure to file a required return,  
16 or filing a fraudulent return, but for taxes due on or after  
17 July 1, 1999, the 3-year limit applied if the taxpayer has  
18 disclosed in writing the tax liability before the department  
19 has given the taxpayer notice of that liability. Tolling of  
20 the statute of limitation is not available for taxes due on or  
21 after July 1, 1999 unless the taxpayer has initiated an  
22 administrative or judicial proceeding. No additional penalty  
23 or interest may be imposed after the statute of limitations  
24 has expired except for the period during which the tax  
25 liability is the subject of a circuit court proceeding under  
26 chapter 72.

21 CS/SB 172 amends s. 95.091, F.S., relating to statutes of  
22 limitation on actions to collect taxes, to provide that for  
23 taxes due on or after July 1, 1999, there shall be a  
24 three-year statute of limitations on the ability of the  
25 Department of Revenue to assess an amount of taxes, penalty,  
26 or interest due, with limited exceptions.

24 - The department could make such an assessment at any time  
25 after the taxpayer failed to make any required payment  
26 of the tax, failed to file a required return, or filed a  
27 fraudulent return. If, however, the taxpayer has  
28 disclosed the tax liability in writing to the department  
29 before the department gives the taxpayer notice of the  
30 liability, then the three-year period would apply.

28 - The department could make such an assessment at any time  
29 after making a refund of tax if it appears that any part  
30 of the refund was induced by fraud or misrepresentation,  
31 otherwise the statute of limitations on refunds made in  
error is five years for taxes due before July 1, 1998,  
and three years for taxes due on or after July 1, 1999.

31 The current statutory exceptions to the general five-year

1 statute of limitations shall continue to apply to taxes due  
2 before July 1, 1999.

3 The bill also revises the conditions under which the  
4 limitations period shall be tolled. The measure specifies that  
5 the current statutory authority to toll the limitations period  
6 when the department issues a notice of intent to audit shall  
7 apply solely to taxes due before July 1, 1999, after which the  
8 tolling period shall be one year. In addition, the amendment  
9 specifies that the tolling of the limitations period during an  
10 administrative or judicial proceeding for review of the tax  
11 assessment shall apply solely when such review is initiated by  
12 a taxpayer. When the limitations period is tolled during such  
13 a review proceeding, no additional interest or penalty may be  
14 imposed for the tax liability after the expiration of the time  
15 limitation prescribed in the statute, except for the period  
16 during which the liability is the subject of a proceeding  
17 under ch. 72, F.S.

18 Section 2. Present Situation: Section 193.062, F.S., provides  
19 an April 1 filing date for ad valorem tax returns unless  
20 otherwise specified in general law.

21 Proposed Change--SB 172: The filing date is changed to April  
22 15.

23 This issue is not addressed in CS/SB 172.

24 Section 3. Present Situation: Section 193.063, F.S., provides  
25 for a 45 day extension for filing tangible personal property  
26 tax returns.

27 Proposed Changes--SB 172: The extension period is increased to  
28 6 months, and provision is made for a request for extension to  
29 be signed by the taxpayer, a tax preparer, or an individual  
30 authorized by the taxable entity.

31 Proposed Change--CS/SB 172: This bill amends s. 193.063,  
Florida Statutes, to require the property appraiser to grant a  
30 day extension for filing tangible personal property tax  
returns, and allows the property appraiser to grant an  
additional 15 day extension.

Section 4. Present Situation: Section 194.192, F.S., provides  
for interest of 12 percent per year to be levied on delinquent  
ad valorem taxes in any suit involving the assessment or  
collection of taxes.

Proposed Change--SB 172: This bill provides that interest on  
delinquent taxes be at the rate determined under s. 220.807,  
F.S. It also provides that court ordered tax refunds must  
include an interest payment at 1 percent lower than rate  
determined under s. 220.807, F.S. from the date the refund is  
ordered until it is paid in full.

This issue is not addressed in CS/SB 172.

Section 5. Present Situation: Section 197.172, F.S., provides  
for interest of 18 percent per year to be levied on delinquent  
personal property taxes.

Proposed Change--SB 172: This bill provides that interest on

1 delinquent personal property taxes be at the rate determined  
2 under s. 220.807, F.S. It also provides that refunds of  
3 overpayments must include an interest payment at 1 percent  
4 lower than rate determined under s. 220.807, F.S. from the  
5 date the refund is ordered until it is paid in full.

6 This issue is not addressed in CS/SB 172.

7 Section 6. Present Situation: Section 199.032, F.S., imposes a  
8 2 mill tax on all intangible personal property which has  
9 taxable situs in this state. Section 199.023, F.S., defines  
10 intangible personal property to include all notes, bonds, and  
11 other obligations for the payment of money.

12 Proposed Change--SB 172: This bill provides a maximum  
13 intangibles tax of \$1,000 on any nonsecured loan.

14 This issue is not addressed in CS/SB 172.

15 Section 7. Present Situation: Section 199.185, F.S., provides  
16 a list of assets which are exempt from the annual and  
17 nonrecurring tax on intangibles. Natural persons are entitled  
18 to exemptions of \$20,000 per individual and \$40,000 per  
19 married couple against the first mill of the tax, and \$100,000  
20 per individual and \$200,000 per married couple for the second  
21 mill.

22 Proposed Change--SB 172: "Money equivalent held by a bank,  
23 savings and loan association, investment and securities  
24 company, or other financial institution," is added to the  
25 list of exempt assets. The exemptions for natural persons are  
26 increased to \$100,000 for individuals and \$200,000 per couple  
27 against both mills, and non-natural entitles are also given a  
28 \$100,000 exemption.

29 This issue is not addressed in CS/SB 172.

30 Section 8. Present Situation: Section 199.062, F.S., provides  
31 for annual tax information reports to be filed by corporations  
and security dealers and investment advisers. Corporations  
must provide information to their stockholders on or before  
April 1 concerning the value of its stock, and must file a  
copy of this report with the Department of Revenue by June 30.  
On or before June 30 of each year, all security dealers and  
investment advisers must file with the department a position  
statement as of December 31 for each customer whose mailing  
address is in Florida.

Proposed Change--SB 172: The report which corporations must  
provide to their stockholders can be delayed up to 45 days,  
upon request of the corporation and for good cause shown. The  
report that a corporation files with the department is not due  
until 90 days after it is provided to stockholders. Security  
dealers and investment advisers can delay filing position  
statements up to 45 days if they request an extension at least  
14 days before the report is due and show good cause.

This issue is not addressed in CS/SB 172.

Section 9. Present Situation: Section 199.057, F.S. allows  
corporations to elect of pay the annual tax on any class of  
its stock, as agent for its Florida stockholders. If a

1 corporation elects to do this, it must file a written notice  
2 with the department before June 30 of the year for which the  
election is made. It must notify its stockholders by April 1  
that an election is being made.

3  
4 Proposed Change--SB 172: This bill changes the notification  
dates for the election to pay stockholders' intangibles tax.  
5 The date to notify both the department and stockholders is  
moved to April 15, but a 45 day extension for notifying  
6 stockholders is allowed if the corporation requests and shows  
good cause therefor. The corporation has 90 days after it  
notifies its stockholders to file with the department.

7 This issue is not addressed in CS/SB 172.

8  
9 Section 10. Present Situation: Section 199.282, F.S., provides  
for interest on unpaid intangibles tax of 12 percent per year.  
10 It also provides for a penalty of 10 percent per month, up  
to 50 percent, for delinquent taxes. A specific penalty of 30  
11 percent is imposed if a return is filed and property is  
omitted or undervalued.

12 Proposed Change--SB 172: This bill amends this section to  
13 provide that the interest rate on delinquent intangibles tax  
is at the rate determined under s. 220.807, F.S. It reduces  
penalties by 50 percent, and provides that no penalty is  
14 imposed upon a showing of reasonable cause for failure to pay  
the tax. It also provides that a person is exempt from a  
15 delinquency penalty if payment of the penalty would cause or  
exacerbate financial hardship. The penalty for undervaluation  
16 or omission may be waived upon showing that there was  
reasonable cause for the undervaluation or omission.

17  
18 CS/SB 172 creates s. 213.235, F.S., providing for the payment  
of an adjusted rate of interest on tax deficiencies that arise  
on or after July 1, 1999. The amendment specifies, however,  
19 that if a lower rate of interest for the tax is specifically  
provided for in law, the lower rate shall apply. The adjusted  
20 rate of interest is based upon the adjusted prime rate charged  
by banks. The adjusted rate of interest is applicable to taxes  
21 enumerated in s. 213.05, F.S. Penalties on delinquent taxes  
are not addressed in this bill.

22  
23 Section 11. Present Situation: Section 199.232, F.S., provides  
that the Department of Revenue shall credit or refund any  
overpayment of tax that is revealed on an audit or for which a  
24 claim for refund is filed. The department is also authorized  
to refund overpayments discovered upon investigation of an  
25 intangibles tax return, whether or not the taxpayer files a  
claim for refund. There is no provision for payment of  
26 interest upon refunds.

27 Proposed Change--SB 172: Section 199.2825, F.S., is created to  
28 provide that the department must refund any overpayment of tax  
within 60 days after the tax was due or paid, whichever comes  
later. Interest must be paid on refunds later than 60 days  
29 after the tax was due or paid at a rate 1 percent lower than  
the rate determined under s. 220.807, F.S.

30  
31 CS/SB 172 creates s. 213.255, F.S., providing for the payment  
of interest on overpayments of taxes, payment of taxes not  
due, or taxes paid in error. The amendment specifies that this



1 provision applies to eligible refunds based on tax payments  
2 made on or after July 1, 1999. The interest rate is the  
adjusted rate established under s. 213.235, F.S.

3 Under the measure, interest does not commence until 90 days  
4 after a completed application is filed with the department and  
the amount of overpayment has not been refunded or applied as  
5 a credit. In the event of a court-ordered refund based upon  
the unconstitutionality of a tax, interest shall not commence  
6 until 90 days after the adjudication becomes final and  
unappealable or 90 days after a complete application is filed,  
7 whichever is later. If the department has reasonable cause to  
believe that it could not recover a refund paid in error from  
8 the person claiming the refund, no interest shall be required  
unless the person files a cash bond or a surety bond or makes  
9 other security arrangements.

10 Section 12. Present Situation: Part III of chapter 199, F.S.,  
provides that the Department of Revenue shall administer and  
11 enforce the assessment and collection of taxes, penalties and  
interest imposed by this chapter. It has the authority to  
12 audit taxpayers, and may assess any tax deficiency with or  
without an audit. Tax liability lies with taxpayers who either  
13 own or control taxable assets.

14 Proposed Change--SB 172: Section 199.252, F.S., is created to  
provide for assessment of property for back taxes. It provides  
15 that if intangible personal property appears to have escaped  
taxation, the authorized officers shall make the assessment of  
16 taxes upon the property in addition to the assessment for the  
current year. This back assessment is limited to 2 years, but  
17 attaches to the property, not to the taxpayer, so that a  
taxpayer could potentially be liable for back taxes on an  
18 intangible asset which they did not own at the time for which  
the tax is assessed.

19 CS/SB 172 does not address this issue.

20 Section 13. Present Situation: Section 201.16, F.S., provides  
that all revenue laws relating to the assessment and  
21 collection of taxes are extended to the collection of  
documentary stamp taxes.

22 Proposed Change--SB 172: This section is amended to provide  
23 for taxation of documents that escaped taxation for a period  
of no more than 2 years. The taxation shall be at the rate  
24 that prevailed in the year that the document escaped taxation.

25 This issue is not addressed in CS/SB 172.

26 Section 14. Present Situation: Section 201.17, F.S., imposes a  
penalty upon delinquent documentary stamp taxes of 10 percent  
27 per month, up to 50 percent of any unpaid tax. Interest is  
imposed upon unpaid taxes at a rate of 1 percent per month.

28 Proposed Change--SB 172: This section is amended to reduce  
29 penalties to 5 percent a month, up to 25 percent of any unpaid  
tax. The interest rate for unpaid taxes is set at the rate  
30 determined under s. 220.807. Upon a showing of reasonable  
cause for not timely paying the tax, a person is exempt from  
31 penalties.

1 CS/SB 172 creates s. 213.235, F.S., providing for the payment  
2 of an adjusted rate of interest on tax deficiencies that arise  
3 on or after July 1, 1999. The amendment specifies, however,  
4 that if a lower rate of interest for the tax is specifically  
5 provided for in law, the lower rate shall apply. The adjusted  
6 rate of interest is based upon the adjusted prime rate charged  
7 by banks. The adjusted rate of interest is applicable to taxes  
8 enumerated in s. 213.05, F.S. Penalties on delinquent taxes  
9 are not addressed in this bill.

6 Section 15. Present Situation: Section 205.053 provides  
7 penalties for failure to pay occupational license taxes.  
8 Failure to renew and pay for an occupational license results  
9 in a penalty of 10 percent for the month of October, the month  
10 after the license expires, and 5 percent for each subsequent  
11 month until the delinquency is paid. The total penalty is  
12 capped at 25 percent of the license tax. Any person who  
13 engages in or manages a business without first obtaining a  
14 required local occupational license is subject to a penalty of  
15 25 percent of the license. Any person who engages in any  
16 business, occupation, or profession who does not pay the  
17 required occupational license tax within 150 days after the  
18 initial notice of tax due is subject to civil actions and  
19 penalties, and a penalty up to \$250.

13 Proposed Change--SB 172: The bill reduces the penalty for  
14 failure to renew an occupational license to 5 percent per  
15 month of delinquency. It provides that the penalty for failure  
16 to obtain a required occupational license is 5 percent per  
17 month, not to exceed 25 percent. It provides that civil  
18 penalties do not become applicable until 6 months after the  
19 initial notice of tax due. It further provides that in order  
20 to impose a local occupational license tax for a license that  
21 was required to be obtained or renewed in any year preceding  
22 the current year, but was not obtained or renewed, the  
23 appropriate tax collector must have discovered the failure to  
24 pay the required tax and must have given notice of delinquency  
25 to the licensee within 2 years after the date on which the  
26 license should have been obtained or renewed. This provision  
27 appears to create a situation where, if a person engaged in a  
28 business, occupation, or profession which would normally  
29 require an occupational license evades notice of the tax  
30 collector for 2 years, that person cannot be required to  
31 obtain a license.

23 This issue is not addressed in CS/SB 172.

24 Section 16. Present Situation: Section 212.12, F.S., provides  
25 penalties for noncompliance with sales and use tax laws. It  
26 provides a penalty of 10 percent per 30 days for unpaid taxes  
27 or failure to timely file a tax return. The total penalty may  
28 not exceed 50 percent of the unpaid tax.

27 Proposed Change--SB 172: This section is amended to reduce the  
28 applicable penalty to 5 percent, with a maximum of 25 percent.  
29 It also provides that there is no penalty for failure to file  
30 a tax return if there is no tax owed. Upon a showing of  
31 reasonable cause for not timely paying the tax, a person is  
exempt from penalties and interest. The person or entity must  
promptly make the return and pay the delinquent taxes as soon  
as the reasonable cause no longer applies.

1 This issue is not addressed in CS/SB 172.

2 Section 17. Present Situation: Section 215.26, F.S., provides  
3 general procedures by which overpayments of taxes or taxes  
4 paid in error may be refunded by the Comptroller. There is no  
5 provision for the payment of interest on refunds.

6 Proposed Change--SB 172: The bill creates s. 212.125, F.S.,  
7 which provides that if a taxpayer pays more than the amount  
8 owed for taxes imposed under chapter 212, the department must  
9 refund the overpayment within 60 days after the tax was due or  
10 paid, whichever occurred later. Interest at the rate of 1  
11 percent less than the rate determined under s. 220.807 must be  
12 paid on the balance due the taxpayer from 60 days after the  
13 tax was due or paid until the refund is paid in full.

14 CS/SB 172 creates s. 213.255, F.S., providing for the payment  
15 of interest on overpayments of taxes, payment of taxes not  
16 due, or taxes paid in error. The amendment specifies that this  
17 provision applies to eligible refunds based on tax payments  
18 made on or after July 1, 1999. The interest rate is the  
19 adjusted rate established under s. 213.235, F.S.

20 Under the measure, interest does not commence until 90 days  
21 after a completed application is filed with the department and  
22 the amount of over payment has not been refunded or applied as  
23 a credit. In the event of a court-ordered refund based upon  
24 the unconstitutionality of a tax, interest shall not commence  
25 until 90 days after the adjudication becomes final and  
26 unappealable or 90 days after a complete application is filed,  
27 whichever is later. If the department has reasonable cause to  
28 believe that it could not recover a refund paid in error from  
29 the person claiming the refund, no interest shall be required  
30 unless the person files a cash bond or a surety bond or makes  
31 other security arrangements.

32 Section 18. Present Situation: Section 220.231 provides that  
33 an additional penalty is imposed for incomplete corporate  
34 income tax returns of \$300 or 10 percent of the tax finally  
35 determined to be due, whichever is greater, not to exceed  
36 \$10,000.

37 Proposed Change--SB 172: This section is amended to reduce the  
38 penalty for an incomplete return to 5 percent a month, up to  
39 10 percent of the tax finally determined to be due or \$10,000,  
40 whichever is smaller. There is no penalty if no tax is due,  
41 and the taxpayer is exempt from this penalty if the penalty  
42 under s. 220.801, F.S., is imposed with respect to the same  
43 return.

44 This issue is not addressed in CS/SB 172.

45 Section 19. Present Situation: Section 220.222, F.S., provides  
46 direction for filing corporate income tax returns and allows  
47 for up to six months' extension for filing, upon written  
48 request from the taxpayer.

49 Proposed Change--SB 172: This bill provides that if a taxpayer  
50 has been granted an extension for filing federal income tax  
51 return, the due date for filing its Florida return is  
52 automatically extended if the taxpayer has sent to the  
53 department, by the original due date of the return, a copy of

1 the application for federal extension. The 6 month limit for  
2 extension of filing is deleted.

3 This issue is not addressed in CS/SB 172.

4 Section 20. Present Situation: Section 220.34, F.S., provides  
5 a 12 percent annual interest rate on any underpayment of  
6 estimated tax.

7 Proposed Change--SB 172: The interest rate for underpayment of  
8 estimated tax is changed to the rate determined under 220.807,  
9 F.S.

10 CS/SB 172 creates s. 213.235, F.S., providing for the payment  
11 of an adjusted rate of interest on tax deficiencies that arise  
12 on or after July 1, 1999. The amendment specifies, however,  
13 that if a lower rate of interest for the tax is specifically  
14 provided for in law, the lower rate shall apply. The adjusted  
15 rate of interest is based upon the adjusted prime rate charged  
16 by banks. The adjusted rate of interest is applicable to taxes  
17 enumerated in s. 213.05, F.S.

18 Section 21. Present Situation: Section 220.723, F.S., provides  
19 that interest is paid on overpayments of corporate income tax,  
20 if such overpayments are not refunded within 3 months after  
21 the date when the taxpayer files a written notice advising the  
22 department of such overpayment. The interest rate on  
23 overpayments is the rate determined under s. 220.807, F.S.

24 Proposed Change--SB 172: Interest will be paid on overpayments  
25 that are not refunded within 60 days after the tax was due or  
26 paid. The taxpayer need not file a written notice advising the  
27 department of an overpayment. The rate of interest paid on  
28 refunds is 1 percent less than the rate determined under s.  
29 220.807, F.S.

30 CS/SB 172 creates s. 213.255, F.S., providing for the payment  
31 of interest on overpayments of taxes, payment of taxes not  
due, or taxes paid in error. The amendment specifies that this  
provision applies to eligible refunds based on tax payments  
made on or after July 1, 1999. The interest rate is the  
adjusted rate established under s. 213.235, F.S.

Under the measure, interest does not commence until 90 days  
after a completed application is filed with the department and  
the amount of overpayment has not been refunded or applied as  
a credit. In the event of a court-ordered refund based upon  
the unconstitutionality of a tax, interest shall not commence  
until 90 days after the adjudication becomes final and  
unappealable or 90 days after a complete application is filed,  
whichever is later. If the department has reasonable cause to  
believe that it could not recover a refund paid in error from  
the person claiming the refund, no interest shall be required  
unless the person files a cash bond or a surety bond or makes  
other security arrangements.

Section 22. Present Situation: Section 220.737 allows the  
department to provide by regulation that amounts less than \$1  
need not be paid, refunded, or credited, or that amounts less  
than \$1 may be rounded to the nearest dollar.

Proposed Change--SB 172: This section is amended to provide

1 that a taxpayer need not file a return or pay any tax if the  
2 tax due is less than \$20.

3 This issue is not addressed in CS/SB 172.

4 Section 23. Present Situation: Section 220.801, F.S., provides  
5 penalties for failure to timely file any tax required under  
6 this chapter. The penalty is 10 percent of the tax per month  
7 while the delinquency exists, not exceeding 50 percent of the  
8 aggregate tax due. Failure to file a required tax return, even  
9 if no tax is due, is subject to a penalty of \$50 per month, up  
10 to \$300. This provision applies only to corporations when they  
11 are also required to file a federal income tax return. No  
12 taxpayer is assessed penalties for failure to file a return by  
13 the prescribed date and failure to file a return with no tax  
14 owed with respect to the same return.

15 Proposed Change--SB 172: The penalty for failure to timely  
16 file a tax return is reduced to 5 percent per month, not to  
17 exceed 25 percent, and the penalty for failure to file a  
18 return with no tax owed is deleted.

19 This issue is not addressed in CS/SB 172.

20 Section 24. Present Situation: Section 213.21, F.S., gives the  
21 Department of Revenue authority to settle or compromise a  
22 taxpayer's liability for tax, penalty or interest. The  
23 department is directed to settle or compromise penalties if it  
24 is determined by the department that the noncompliance is due  
25 to reasonable cause and not to willful negligence, willful  
26 neglect, or fraud.

27 Proposed Change--SB 172: This bill creates s. 220.8051, F.S.,  
28 providing for waiver of penalties for corporate income tax  
29 upon a showing of reasonable cause for a taxpayer's filing of  
30 an incomplete return or failure to timely file a return or pay  
31 tax owed. The taxpayer must promptly file the return and pay  
the overdue tax as soon as the reasonable cause no longer  
applies.

32 This issue is not addressed in CS/SB 172.

33 Section 25. Present Situation: Section 220.809, F.S., provides  
34 for interest to be charged for overdue corporate income tax  
35 payments. Interest accrues on penalties that are not paid  
36 within 20 days of the notice that they are imposed, but only  
37 from the date of the notice. Interest is also imposed upon  
38 erroneous refunds.

39 Proposed Change--SB 172: The provisions that interest accrues  
40 on penalties and refunds made in error are deleted.

41 This issue is not addressed in CS/SB 172.

42 Section 26. Present Situation: Section 221.02, F.S., provides  
43 credit for emergency excise taxes paid. This credit may be  
44 carried forward for five taxable years immediately after the  
45 tax was paid.

46 Proposed Change--SB 172: This section is amended to allow  
47 these credits to be carried forward until they are fully used.

1 This issue is not addressed in CS/SB 172.

2 Section 27. Present Situation: Section 236.081, F.S., provides  
3 that the Legislature shall prescribe the aggregate required  
4 local effort for all school districts as an item in the  
5 General Appropriations Act for each fiscal year. Article VII  
6 Section 9.(b) of the Florida Constitution limits local ad  
7 valorem tax rates to 10 mills for all school purposes.

8 Proposed Change--SB 172: This section is amended to limit the  
9 required local effort to an amount that, based on the most  
10 current information available, would result in an aggregate  
11 required-local-effort millage in excess of 6.029 mills.

12 This issue is not addressed in CS/SB 172.

13 Section 28. of SB 172 provides that for the 1999-2000 fiscal  
14 year only, the base student allocation determined under s.  
15 236.081(1), F.S., may not be less than the base student  
16 allocation in the 1998-1999 fiscal year adjusted for  
17 inflation.

18 This issue is not addressed in CS/SB 172.

19 Two issues are addressed in CS/SB 172 that were not in the  
20 original bill.

21 CS/SB 172 amends ss. 212.07 and 212.18, Florida Statutes,  
22 providing for annual issuance of resale certificates to active  
23 accounts. Specifically, the bill provides the following:

- 24 - A dealer who makes a sale for resale must document the  
25 exempt status of the transaction by either retaining a  
26 copy of the purchaser's resale certificate or by  
27 documenting, before the sale, an authorization number  
28 provided by the DOR electronically or by telephone, or  
29 by other means established by the DOR by rule.
- 30 - Annually, the DOR will provide each active dealer with a  
31 new resale certificate, valid for twelve months. New  
dealers will receive a certificate upon registration.
- "Active dealer" is defined to mean a person who is  
currently registered with the DOR and who complies with  
the requirement to file at least once during each  
applicable reporting period.

CS/SB 172 amends s. 212.11, Florida Statutes, to delay the  
date by which estimated taxes must be filed and paid to the  
28th day of the month. The threshold for being required to pay  
estimated taxes is raised to \$200,000 taxes paid in the  
previous year.

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