

By the Committee on Finance & Taxation and Representative
Albright

1 A bill to be entitled
2 An act relating to tax administration; creating
3 s. 166.235, F.S.; providing procedures and
4 requirements for purchasers to obtain a refund
5 of or credit for municipal public service tax
6 collected in error; providing duties of sellers
7 and of municipalities; specifying that these
8 procedures must be exhausted before an action
9 may be brought; providing defenses and time
10 limitations with respect to such actions;
11 providing application and effect on pending
12 litigation; amending s. 196.1975, F.S.;
13 deleting provisions relating to conditions
14 under which certain corporations qualify as a
15 nonprofit home for the aged for ad valorem tax
16 exemption purposes; repealing s. 198.12, F.S.,
17 which requires a personal representative to
18 give preliminary notice of a decedent's death
19 to the Department of Revenue; amending s.
20 198.13, F.S.; transferring to said section
21 provisions relating to issuance of a
22 certificate by the department that no estate
23 taxes are owed, and providing that said
24 provisions apply when an estate has filed a
25 return; amending s. 198.23, F.S., to conform;
26 amending s. 198.26, F.S.; removing limitations
27 on those estates with respect to which the
28 personal representative may not be discharged
29 until all estate taxes have been paid;
30 specifying that the court may consider the
31 personal representative's affidavit that the

1 estate is not taxable; amending s. 198.32,
2 F.S.; providing that the personal
3 representative of an estate that is not subject
4 to estate tax and not required to file a return
5 may execute an affidavit to that effect;
6 amending s. 198.33, F.S.; conforming provisions
7 relating to when an estate is deemed discharged
8 of liability for estate taxes; amending s.
9 198.39, F.S.; providing a penalty for making a
10 false statement in any affidavit under ch. 198,
11 F.S.; amending s. 199.106, F.S.; revising the
12 applicability of provisions which allow a
13 credit against the annual intangible personal
14 property tax for a like tax imposed by another
15 state, a territory of the United States, or the
16 District of Columbia; creating s. 201.165,
17 F.S.; providing such a credit for a like tax
18 paid in such jurisdictions against any excise
19 tax on documents; providing for rules;
20 providing for retroactive application; amending
21 s. 212.02, F.S.; revising provisions relating
22 to the conditions under which the tax on sales,
23 use, and other transactions does not apply to
24 the sale of materials used in repairing a motor
25 vehicle, airplane, or boat; amending s. 212.04,
26 F.S.; specifying applicability to sellers of
27 admissions of the same penalties applicable to
28 dealers in tangible personal property for
29 failure to file returns, pay taxes, or maintain
30 or produce records under ch. 212, F.S.;
31 amending ss. 212.12 and 212.13, F.S.; revising

1 penalties for failure to file returns and for
2 false or fraudulent returns under ch. 212,
3 F.S.; providing penalties for subsequent
4 offenses involving destruction of records with
5 an intent to evade payment of tax; amending s.
6 212.11, F.S.; correcting a reference; creating
7 s. 213.757, F.S.; providing penalties for
8 willful failure to remit tax payments, and for
9 intentional destruction of records to deprive
10 the state of tax revenues, by a taxpayer's
11 agent; amending s. 212.07, F.S.; providing
12 requirements with respect to sales for resale
13 and documentation thereof; amending s. 212.18,
14 F.S.; providing for issuance of initial and
15 annual resale certificates to active sales tax
16 dealers; amending s. 213.053, F.S.; authorizing
17 the Department of Revenue to disclose certain
18 information regarding registration certificate
19 numbers; directing the department to establish
20 a toll-free number for verification of
21 registration numbers and resale certificates,
22 to establish a system to receive information
23 from dealers regarding certificate numbers of
24 purchasers for resale, and to expand its dealer
25 education program regarding resale
26 certificates; providing appropriations and
27 authorizing positions; amending s. 212.08,
28 F.S.; revising provisions relating to the sales
29 tax exemption for charges for electricity or
30 steam used to operate machinery and equipment
31 under specified conditions; specifying

1 application of a condition relating to
2 percentage of use; providing intent; revising
3 provisions which specify application of tax to
4 the sale of a motor vehicle in this state to a
5 resident of another state; revising the time
6 period within which the purchaser must license
7 the vehicle in his or her home state and
8 providing construction regarding removal of the
9 vehicle from this state; amending s. 213.27,
10 F.S.; authorizing the executive director of the
11 department to contract with vendors to develop
12 and implement systems to enhance tax
13 collections where compensation to the vendor is
14 funded through increased tax collections;
15 providing restrictions; providing for
16 application of confidentiality requirements and
17 providing a penalty; amending s. 213.67, F.S.;
18 specifying the amount of credits, other
19 personal property, or debts of a delinquent
20 taxpayer held by another person which are
21 subject to garnishment when the taxpayer has no
22 prior tax delinquencies; amending s. 220.03,
23 F.S.; updating references to the Internal
24 Revenue Code for corporate income tax purposes;
25 amending s. 220.151, F.S.; revising the method
26 for apportioning to this state for corporate
27 income tax the tax base of an insurance company
28 whose principal source of premiums is from
29 reinsurance policies; amending ss. 220.21,
30 220.221, and 220.222, F.S.; authorizing filing
31 of corporate income tax returns in a form

1 initiated through a telephonic or electronic
2 data interchange; providing duties of the
3 department; amending ss. 193.052 and 199.052,
4 F.S.; authorizing filing of tangible personal
5 property and intangible personal property
6 returns in a form initiated through electronic
7 data interchange; providing duties of the
8 department; creating s. 443.163, F.S.;
9 authorizing filing of required reports relating
10 to unemployment compensation by employers in
11 such form; providing duties of the Division of
12 Unemployment Compensation; providing effective
13 dates.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. (1) Section 166.235, Florida Statutes, is
18 created to read:

19 166.235 Procedure on purchaser's request for refund or
20 credit--

21 (1) A purchaser seeking a refund of or credit for
22 public service tax shall submit a written request therefor to
23 the seller within the time prescribed in s. 166.234(6) and in
24 accordance with this section. No such request shall be granted
25 unless the amount claimed was collected from the purchaser and
26 was not due to any municipality.

27 (a) The request shall be signed by the purchaser and
28 shall be deemed completed for purposes of this section and the
29 limitation period if it states the purchaser's name, mailing
30 address, account number, the tax amounts claimed, the specific
31 months during which those amounts were collected, and the

1 reason for the purchaser's claim that such amounts were not
2 due to any municipality. Upon receipt of a completed request,
3 the seller shall ascertain whether it collected the tax
4 claimed from the purchaser and whether the request is timely.

5 (b) Within 30 days following receipt of a completed
6 request, the seller shall determine whether lists available
7 pursuant to s. 166.233(3) support the purchaser's claim and
8 whether all or any portion of the tax timely claimed was not
9 due to any municipality and was collected solely as a result
10 of the seller's error. The seller shall refund or credit the
11 purchaser's account for any such amount within 45 days
12 following its determination thereof.

13 (c) With respect to all amounts timely claimed which
14 the seller collected from the purchaser and which the seller
15 has not determined to be subject to refund or credit pursuant
16 to paragraph (b), the seller shall, within 30 days following
17 receipt of the completed request, provide a copy thereof to
18 each municipality to which the taxes claimed were remitted and
19 to each municipality which has asserted in writing the right
20 to impose the tax in a geographic area that includes the
21 purchaser's billing address or service address, as the case
22 may be. Within 30 days following receipt of such information,
23 each such municipality shall notify the seller in writing if
24 it approves the issuance of a refund or credit for all or a
25 specified portion of the purchaser's claim. A municipality
26 shall approve the refund or credit except to the extent the
27 tax was due to such municipality. Within 45 days following
28 receipt of notifications establishing that all of the
29 municipalities receiving the request have approved a refund or
30 credit, the seller shall issue a refund or credit the
31 purchaser's account for the amount approved by all such

1 municipalities. The seller's obligation to issue a refund or
2 credit the purchaser's account shall be limited to amounts
3 approved in accordance with this section. The seller shall be
4 entitled to a corresponding refund or credit from any
5 municipality to which the tax was remitted.

6 (d) The seller shall issue a written response advising
7 the purchaser of the disposition of his or her request. The
8 response shall specify any portion of the tax claimed that is
9 being refunded or credited to the purchaser's account, and the
10 reason for denial of any portion of the request. Reasons for
11 denial include untimely submission of the request, that the
12 seller did not collect the tax claimed, the absence of
13 municipal approval to issue a refund or credit, that the
14 purchaser previously received a refund of or credit for the
15 same tax, and failure to provide information required to
16 complete the request. A copy of each notification received
17 from a municipality pursuant to paragraph (c) shall accompany
18 the response. If the seller submitted the request to a
19 municipality but received no such notification, the response
20 shall so state. With respect to any portion of the request
21 that is granted, the response shall be issued at the time of
22 the refund or credit to the purchaser's account. With respect
23 to any portion of the request which is denied, the response
24 shall be issued within 90 days following receipt of a
25 purchaser's completed request.

26 (e) The seller may deduct from any refund or credit
27 under this section any amount owed by the purchaser to the
28 seller which is delinquent.

29 (2) This section provides the sole and exclusive
30 procedure and remedy for a purchaser who claims that a seller
31 has collected municipal public service taxes that were not

1 due. No action arising as a result of the claimed collection
2 of municipal public service taxes that were not due may be
3 commenced or maintained by or on behalf of a purchaser against
4 a seller or municipality unless the purchaser pleads and
5 proves that he or she has exhausted the procedures in
6 subsection (1) and that the defendant has failed to comply
7 with said subsection; however, no determination of a seller
8 under paragraph (1)(b) shall be deemed a failure to comply
9 with subsection (1) if the seller has complied with paragraphs
10 (1)(c) and (d). In any such action it shall be a complete
11 defense that the seller or municipality has refunded the taxes
12 claimed or credited the purchaser's account therewith;
13 further, in such an action against a seller it shall be a
14 complete defense that the seller collected the tax in reliance
15 upon written information provided by a municipality pursuant
16 to s. 166.233(3) or supplementing such information. Such
17 action shall be commenced no later than 180 days following the
18 purchaser's submission of a completed request, or shall be
19 barred. The relief available to a purchaser as a result of
20 collection of municipal public service taxes that were not due
21 shall be limited to a refund of or credit for such taxes.

22 (2) This section is remedial in nature, and shall
23 apply to all claims asserted by purchasers prior or subsequent
24 to the effective date of this section based upon the alleged
25 collection of municipal public service taxes that were not
26 due, except for claims that have been finally resolved by
27 judgment, settlement, or the issuance of refunds or credits
28 prior to the effective date of this section. With respect to
29 any claim which was properly asserted prior to the effective
30 date of this section and which is the subject of pending
31 litigation in a trial or appellate court on or after the

1 effective date of this section, the court shall upon motion
2 direct the parties to comply with the procedures prescribed in
3 s. 166.235, Florida Statutes, and allow such amendments of the
4 pleadings and enter such other orders as are appropriate to
5 dispose of the cause in a manner consistent with said section.

6 Section 2. Subsection (1) of section 196.1975, Florida
7 Statutes, is amended to read:

8 196.1975 Exemption for property used by nonprofit
9 homes for the aged.--Nonprofit homes for the aged are exempt
10 to the extent that they meet the following criteria:

11 (1) The applicant must be a corporation not for profit
12 that has been exempt as of January 1 of the year for which
13 exemption from ad valorem property taxes is requested from
14 federal income taxation by having qualified as an exempt
15 charitable organization under the provisions of s. 501(c)(3)
16 of the Internal Revenue Code of 1954 or of the corresponding
17 section of a subsequently enacted federal revenue act. ~~A~~
18 ~~corporation will not be disqualified under this subsection if,~~
19 ~~for purposes of allocating tax credits, under s. 42(h)(5) of~~
20 ~~the Internal Revenue Code of 1986, by the Florida Housing~~
21 ~~Finance Agency as defined by s. 420.0004(4), the property is~~
22 ~~leased to a Florida limited partnership, the sole general~~
23 ~~partner of which is the nonprofit corporation, and the home~~
24 ~~for the aged was in existence or under construction on or~~
25 ~~before April 1, 1995.~~

26 Section 3. (1) Section 198.12, Florida Statutes, is
27 repealed.

28 (2) This section shall take effect January 1, 2000,
29 and shall apply with respect to decedents whose death occurs
30 on or after that date.

31

1 Section 4. (1) Subsection (2) of section 198.13,
2 Florida Statutes, is renumbered as subsection (3), and a new
3 subsection (2) is added to said section to read:

4 198.13 Tax return to be made in certain cases;
5 certificate of nonliability.--

6 (2) Whenever it is made to appear to the department
7 that an estate that has filed a return owes no taxes under
8 this chapter, the department shall issue to the personal
9 representative a certificate in writing to that effect, which
10 certificate shall have the same force and effect as a receipt
11 showing payment. The certificate shall be subject to record
12 and admissible in evidence in like manner as a receipt showing
13 payment of taxes. A fee of \$5 shall be paid to the department
14 for each certificate so issued.

15 (2) This section shall take effect January 1, 2000,
16 and shall apply with respect to decedents whose death occurs
17 on or after that date.

18 Section 5. (1) Section 198.23, Florida Statutes, is
19 amended to read:

20 198.23 Personal liability of personal
21 representative.--If any personal representative shall make
22 distribution either in whole or in part of any of the property
23 of an estate to the heirs, next of kin, distributees,
24 legatees, or devisees without having paid or secured the tax
25 due the state under this chapter, or having obtained the
26 release of such property from the lien of such tax either by
27 the department or pursuant to s. 198.32(2), he or she shall
28 become personally liable for the tax so due the state, or so
29 much thereof as may remain due and unpaid, to the full extent
30 of the full value of any property belonging to such person or
31

1 estate which may come into the personal representative's
2 hands, custody, or control.

3 (2) This section shall take effect January 1, 2000,
4 and shall apply with respect to decedents whose death occurs
5 on or after that date.

6 Section 6. (1) Section 198.26, Florida Statutes, is
7 amended to read:

8 198.26 No discharge of personal representative until
9 tax is paid.--No final account of a personal representative of
10 ~~the estate of a nonresident, nor of the estate of a resident~~
11 ~~when the value of the gross estate wherever situate exceeds~~
12 ~~\$60,000~~ shall be allowed by any court unless and until such
13 account shows, and the judge of said court finds, that the tax
14 imposed by the provisions of this chapter upon the personal
15 representative, which has become payable, has been paid. The
16 certificate of the department of nonliability for the tax or
17 its receipt for the amount of tax therein certified shall be
18 conclusive in such proceedings as to the liability or the
19 payment of the tax to the extent of said certificate. In the
20 case of a nontaxable estate, the court may consider the
21 affidavit prepared pursuant to s. 198.32(2) as evidence of the
22 nonliability for tax.

23 (2) This section shall take effect January 1, 2000,
24 and shall apply with respect to decedents whose death occurs
25 on or after that date.

26 Section 7. (1) Section 198.32, Florida Statutes, is
27 amended to read:

28 198.32 Prima facie liability for tax.--

29 (1) The estate of each decedent whose property is
30 subject to the laws of the state shall be deemed prima facie
31 liable for estate taxes under this chapter and shall be

1 subject to a lien therefor in such amount as may be later
2 determined to be due and payable on the estate as provided in
3 this chapter. This presumption of liability shall begin on
4 the date of the death of the decedent and shall continue until
5 the full settlement of all taxes which may be found to be due
6 under this chapter, the settlement to be shown by receipts for
7 all taxes due to be issued by the department as provided for
8 in this chapter. ~~Whenever it is made to appear to the~~
9 ~~department that an estate is not subject to any tax under this~~
10 ~~chapter, the department shall issue to the personal~~
11 ~~representative, administrator, or curator, or to the heirs,~~
12 ~~devisees, or legatees of the decedent, a certificate in~~
13 ~~writing to that effect, showing such nonliability to tax,~~
14 ~~which certificate of nonliability shall have the same force~~
15 ~~and effect as a receipt showing payment. The certificate of~~
16 ~~nonliability shall be subject to record and admissible in~~
17 ~~evidence in like manner as receipts showing payment of taxes.~~
18 ~~A fee of \$5 shall be paid to the department for each~~
19 ~~certificate so issued.~~

20 (2) Whenever an estate is not subject to tax under
21 this chapter and is not required to file a return, the
22 personal representative may execute an affidavit attesting
23 that the estate is not taxable. The form of the affidavit
24 shall be prescribed by the department, and shall include, but
25 not be limited to, statements regarding the decedent's
26 domicile and whether a federal estate tax return will be
27 filed, and acknowledgment of the personal representative's
28 personal liability under s. 198.23. This affidavit shall be
29 subject to record and admissible in evidence to show
30 nonliability for tax.

31

1 (2) This section shall take effect January 1, 2000,
2 and shall apply with respect to decedents whose death occurs
3 on or after that date.

4 Section 8. (1) Subsection (1) of section 198.33,
5 Florida Statutes, is amended to read:

6 198.33 Discharge of estate, notice of lien, limitation
7 on lien, etc.--

8 (1) Where no receipt for the payment of taxes, or no
9 affidavit or certificate ~~receipt~~ of nonliability for taxes has
10 been issued or recorded as provided for in this chapter, the
11 property constituting the estate of the decedent in this state
12 shall be deemed fully acquitted and discharged of all
13 liability for estate and inheritance taxes under this chapter
14 after a lapse of 10 years ~~from the date of the filing with the~~
15 ~~department of notice of the decedent's death, or after a lapse~~
16 ~~of 10 years~~ from the date of the filing with the department of
17 an estate tax return, ~~whichever date shall be earlier,~~ unless
18 the department shall make out and file and have recorded in
19 the public records of the county wherein any part of the
20 estate of the decedent may be situated in this state, a notice
21 of lien against the property of the estate, specifying the
22 amount or approximate amount of taxes claimed to be due to the
23 state under this chapter, which notice of lien shall continue
24 said lien in force for an additional period of 5 years or
25 until payment is made. Such notice of lien shall be filed and
26 recorded in the book of deeds in the office of the clerk of
27 the circuit court; provided, where no receipt for the payment
28 of taxes, or no affidavit or certificate of nonliability for
29 taxes, has been issued or recorded as provided for in this
30 chapter, the property constituting the estate of the decedent
31 in this state, if said decedent was a resident of this state

1 at the time of death, shall be deemed fully acquitted and
2 discharged of all liability for tax under this chapter after a
3 lapse of 10 years from the date of the death of the decedent,
4 unless the department shall make out and file and have
5 recorded notice of lien as herein provided, which notice shall
6 continue said lien in force against such property of the
7 estate as is situate in the county wherein said notice of lien
8 was recorded for an additional period of 5 years or until
9 payment is made.

10 (2) This section shall take effect January 1, 2000,
11 and shall apply with respect to decedents whose death occurs
12 on or after that date.

13 Section 9. (1) Section 198.39, Florida Statutes, is
14 amended to read:

15 198.39 False statement in return; penalty.--Whoever
16 knowingly makes any false statement in any notice, affidavit,
17 or return required to be filed or made under this chapter is
18 guilty of a misdemeanor of the first degree, punishable as
19 provided in s. 775.082 or s. 775.083.

20 (2) This section shall take effect January 1, 2000,
21 and shall apply with respect to decedents whose death occurs
22 on or after that date.

23 Section 10. Subsections (2) and (3) of section
24 199.106, Florida Statutes, are amended to read:

25 199.106 Credit for taxes imposed by other states.--

26 (2) For intangible personal property that has a
27 taxable situs in this state under s. 199.175(1) or any similar
28 predecessor statute, a credit against the tax imposed by s.
29 199.032 is allowed to a taxpayer, ~~other than a natural person,~~
30 in an amount equal to a like tax lawfully imposed and paid by
31 that taxpayer on the same property in another state, territory

1 of the United States, or the District of Columbia when the
2 other taxing authority is also claiming situs under provisions
3 similar or identical to those in s. 199.175(1) or any similar
4 predecessor statute. For purposes of this subsection, "like
5 tax" means an ad valorem tax on intangible personal property
6 which is also subject to tax under s. 199.032. The credit may
7 not exceed the tax imposed on the property under s. 199.032.
8 Proof of entitlement to such a credit must be made pursuant to
9 rules and forms adopted by the department.

10 (3) The credits provided by this section ~~subsections~~
11 ~~(1) and (2)~~ apply retroactively to ~~December 31, 1979~~.

12 However, notwithstanding the retroactivity of these credit
13 provisions, this section does not reopen a closed period of
14 nonclaim under s. 215.26 or any other statute or extend the
15 period of nonclaim under s. 215.26 or any other statute.

16 Section 11. Section 201.165, Florida Statutes, is
17 created to read:

18 201.165 Credit for tax paid to other states.--

19 (1) For a tax imposed by any section of this chapter,
20 a credit against the specific tax imposed by that section is
21 allowed in an amount equal to a like tax lawfully imposed and
22 paid on the same document or instrument in another state,
23 territory of the United States, or the District of Columbia.
24 For purposes of this subsection, "like tax" means an excise
25 tax on documents that is in substance identical to the tax
26 imposed by this chapter on the same document. The credit may
27 not exceed the tax imposed by this chapter on the document.
28 Proof of entitlement to such a credit must be provided to the
29 department. The department may adopt rules to implement this
30 credit and designate forms that establish what proof is
31 required.

1 (2) The credit provided by this section applies
2 retroactively. Notwithstanding the retroactivity of this
3 credit provision, this section does not reopen a closed period
4 of nonclaim under s. 215.26 or any other statute or extend the
5 period of nonclaim under s. 215.26 or any other statute.

6 Section 12. Paragraph (c) of subsection (14) of
7 section 212.02, Florida Statutes, 1998 Supplement, is amended
8 to read:

9 212.02 Definitions.--The following terms and phrases
10 when used in this chapter have the meanings ascribed to them
11 in this section, except where the context clearly indicates a
12 different meaning:

13 (14)

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

1 ingredient of the finished product ~~and do not include the~~
2 ~~sale, use, storage, or consumption of materials for use in~~
3 ~~repairing a motor vehicle, airplane, or boat, when such~~
4 ~~materials are incorporated into the repaired vehicle,~~
5 ~~airplane, or boat.~~ However, the terms include the sale, use,
6 storage, or consumption of tangible personal property,
7 including machinery and equipment or parts thereof, purchased
8 electricity, and fuels used to power machinery, when such
9 items are used and dissipated in fabricating, converting, or
10 processing tangible personal property for sale, even though
11 they may become ingredients or components of the tangible
12 personal property for sale through accident, wear, tear,
13 erosion, corrosion, or similar means. The terms do not
14 include the sale of materials to a registered repair facility
15 for use in repairing a motor vehicle, airplane, or boat, when
16 such materials are incorporated into and sold as part of the
17 repair. Such a sale shall be deemed a purchase for resale by
18 the repair facility, even though every material is not
19 separately stated or separately priced on the repair invoice.

20 Section 13. Effective January 1, 2000, subsections (4)
21 and (5) of section 212.04, Florida Statutes, 1998 Supplement,
22 are amended to read:

23 212.04 Admissions tax; rate, procedure, enforcement.--

24 (4) Each person who exercises the privilege of
25 charging admission taxes, as herein defined, shall apply for,
26 and at that time shall furnish the information and comply with
27 the provisions of s. 212.18 not inconsistent herewith and
28 receive from the department, a certificate of right to
29 exercise such privilege, which certificate shall apply to each
30 place of business where such privilege is exercised and shall
31 be in the manner and form prescribed by the department. Such

1 certificate shall be issued upon payment to the department of
2 a registration fee of \$5 by the applicant. Each person
3 exercising the privilege of charging such admission taxes as
4 herein defined shall cause to be kept records and accounts
5 showing the admission which shall be in the form as the
6 department may from time to time prescribe, inclusive of
7 records of all tickets numbered and issued for a period of not
8 less than the time within which the department may, as
9 permitted by s. 95.091(3), make an assessment with respect to
10 any admission evidenced by such records and accounts, and
11 inclusive of all bills or checks of customers who are charged
12 any of the taxes defined herein, showing the charge made to
13 each for that period. The department is empowered to use each
14 and every one of the powers granted herein to the department
15 to discover the amount of tax to be paid by each such person
16 and to enforce the payment thereof as are hereby granted the
17 department for the discovery and enforcement of the payment of
18 taxes hereinafter levied on the sales of tangible personal
19 property. ~~The failure of any person to pay such taxes before~~
20 ~~the 21st day of the succeeding month after the taxes are~~
21 ~~collected shall render such person liable to the same~~
22 ~~penalties that are hereafter imposed upon such person for~~
23 ~~being delinquent in the payment of taxes imposed upon the~~
24 ~~sales of tangible personal property; the failure of any person~~
25 ~~to render returns and to pay taxes as prescribed herein shall~~
26 ~~render such person subject to the same penalties, by way of~~
27 ~~charges for delinquencies, at the rate of 10 percent per month~~
28 ~~for a total amount of tax delinquent up to a total of 50~~
29 ~~percent of such tax and at the rate of 100 percent penalty for~~
30 ~~attempted evasion of payment of any such tax or for any~~
31

1 ~~attempt to file false or misleading returns that are required~~
2 ~~to be filed by the department.~~

3 (5) All of the provisions of this chapter relating to
4 collection, investigation, discovery, and aids to collection
5 of taxes upon sales of tangible personal property shall
6 likewise apply to all privileges described or referred to in
7 this section, and the obligations imposed in this chapter upon
8 retailers are hereby imposed upon the seller of such
9 admissions. All penalties applicable to a dealer in tangible
10 personal property for failure to meet any such obligation,
11 including, but not limited to, any failure related to the
12 filing of returns, the payment of taxes, or the maintenance
13 and production of records, are applicable to the seller of
14 admissions.When tickets or admissions are sold and not used
15 but returned and credited by the seller, the seller may apply
16 to the department for a credit allowance for such returned
17 tickets or admissions if advance payments have been made by
18 the buyer and have been returned by the seller, upon such form
19 and in such manner as the department may from time to time
20 prescribe. The department may, upon obtaining satisfactory
21 proof of the refunds on the part of the seller, credit the
22 seller for taxes paid upon admissions that have been returned
23 unused to the purchaser of those admissions. The seller of
24 admissions, upon the payment of the taxes before they become
25 delinquent and the rendering of the returns in accordance with
26 the requirement of the department and as provided in this law,
27 shall be entitled to a discount of 2.5 percent of the amount
28 of taxes upon the payment thereof before such taxes become
29 delinquent, in the same manner as permitted the sellers of
30 tangible personal property in this chapter. However, if the
31 amount of the tax due and remitted to the department for the

1 reporting period exceeds \$1,200, no discount shall be allowed
2 for all amounts in excess of \$1,200.

3 Section 14. Effective January 1, 2000, subsections (2)
4 and (13) of section 212.12, Florida Statutes, 1998 Supplement,
5 are amended to read:

6 212.12 Dealer's credit for collecting tax; penalties
7 for noncompliance; powers of Department of Revenue in dealing
8 with delinquents; brackets applicable to taxable transactions;
9 records required.--

10 (2)(a) When any person, firm, or corporation required
11 hereunder to make any return or to pay any tax or fee imposed
12 by this chapter fails to timely file such return or fails to
13 pay the tax or fee due within the time required hereunder, in
14 addition to all other penalties provided herein and by the
15 laws of this state in respect to such taxes or fees, a
16 specific penalty shall be added to the tax or fee in the
17 amount of 10 percent of any unpaid tax or fee if the failure
18 is for not more than 30 days, with an additional 10 percent of
19 any unpaid tax or fee for each additional 30 days, or fraction
20 thereof, during the time which the failure continues, not to
21 exceed a total penalty of 50 percent, in the aggregate, of any
22 unpaid tax or fee. In no event may the penalty be less than
23 \$10 for failure to timely file a tax return required by s.
24 212.11(1)(b) or \$5 for failure to timely file a tax return
25 authorized by s. 212.11(1)(c) or (d). ~~In the case of a false
26 or fraudulent return or a willful intent to evade payment of
27 any tax or fee imposed under this chapter, in addition to the
28 other penalties provided by law, the person making such false
29 or fraudulent return or willfully attempting to evade the
30 payment of such a tax or fee shall be liable for a specific
31 penalty of 100 percent of the tax bill or fee and for fine and~~

1 ~~punishment as provided by law for a conviction of a~~
2 ~~misdemeanor of the first degree.~~

3 (b) Any person who knowingly and with a willful intent
4 to evade any tax imposed under this chapter fails to file six
5 consecutive returns as required by law commits a felony of the
6 third degree, punishable as provided in s. 775.082 or s.
7 775.083.

8 (c) Any person who makes a false or fraudulent return
9 with a willful intent to evade payment of any tax or fee
10 imposed under this chapter shall, in addition to the other
11 penalties provided by law, be liable for a specific penalty of
12 100 percent of the tax bill or fee and, upon conviction, for
13 fine and punishment as provided in s. 775.082, s. 775.083, or
14 s. 775.084.

15 1. If the total amount of unreported taxes or fees is
16 less than \$300, the first offense resulting in conviction is a
17 misdemeanor of the second degree, the second offense resulting
18 in conviction is a misdemeanor of the first degree, and the
19 third and all subsequent offenses resulting in conviction are
20 felonies of the third degree.

21 2. If the total amount of unreported taxes or fees is
22 \$300 or more but less than \$20,000, the offense is a felony of
23 the third degree.

24 3. If the total amount of unreported taxes or fees is
25 \$20,000 or more but less than \$100,000, the offense is a
26 felony of the second degree.

27 4. If the total amount of unreported taxes or fees is
28 \$100,000 or more, the offense is a felony of the first degree.

29 (d)(b) When any person, firm, or corporation fails to
30 timely remit the proper estimated payment required under s.
31 212.11, a specific penalty shall be added in an amount equal

1 to 10 percent of any unpaid estimated tax. Beginning with
2 January 1, 1985, returns, the department, upon a showing of
3 reasonable cause, is authorized to waive or compromise
4 penalties imposed by this paragraph. However, other penalties
5 and interest shall be due and payable if the return on which
6 the estimated payment was due was not timely or properly
7 filed.

8 (e)~~(c)~~ Dealers filing a consolidated return pursuant
9 to s. 212.11(1)(e)~~(d)~~ shall be subject to the penalty
10 established in paragraph(d)~~(b)~~ unless the dealer has paid
11 the required estimated tax for his or her consolidated return
12 as a whole without regard to each location. If the dealer
13 fails to pay the required estimated tax for his or her
14 consolidated return as a whole, each filing location shall
15 stand on its own with respect to calculating penalties
16 pursuant to paragraph(d)~~(b)~~.

17 (13) In order to aid the administration and
18 enforcement of the provisions of this chapter with respect to
19 the rentals and license fees, each lessor or person granting
20 the use of any hotel, apartment house, roominghouse, tourist
21 or trailer camp, real property, or any interest therein, or
22 any portion thereof, inclusive of owners; property managers;
23 lessors; landlords; hotel, apartment house, and roominghouse
24 operators; and all licensed real estate agents within the
25 state leasing, granting the use of, or renting such property,
26 shall be required to keep a record of each and every such
27 lease, license, or rental transaction which is taxable under
28 this chapter, in such a manner and upon such forms as the
29 department may prescribe, and to report such transaction to
30 the department or its designated agents, and to maintain such
31 records as long as required by s. 213.35, subject to the

1 inspection of the department and its agents. Upon the failure
2 by such owner; property manager; lessor; landlord; hotel,
3 apartment house, roominghouse, tourist or trailer camp
4 operator; or real estate agent to keep and maintain such
5 records and to make such reports upon the forms and in the
6 manner prescribed, such owner; property manager; lessor;
7 landlord; hotel, apartment house, roominghouse, tourist or
8 trailer camp operator; receiver of rent or license fees; or
9 real estate agent is guilty of a misdemeanor of the second
10 degree, punishable as provided in s. 775.082 or s. 775.083,
11 for the first offense; for subsequent offenses, they are each
12 guilty of a misdemeanor of the first degree, punishable as
13 provided in s. 775.082 or s. 775.083. If, however, any
14 subsequent offense involves intentional destruction of such
15 records with an intent to evade payment of or deprive the
16 state of any tax revenues, such subsequent offense shall be a
17 felony of the third degree, punishable as provided in s.
18 775.082 or s. 775.083.

19 Section 15. Effective January 1, 2000, paragraph (e)
20 of subsection (4) of section 212.11, Florida Statutes, 1998
21 Supplement, is amended to read:

22 212.11 Tax returns and regulations.--

23 (4)

24 (e) The penalty provisions of this chapter, except s.
25 212.12(2)(~~e~~), apply to the provisions of this subsection.

26 Section 16. Effective January 1, 2000, subsections (1)
27 and (2) of section 212.13, Florida Statutes, are amended to
28 read:

29 212.13 Records required to be kept; power to inspect;
30 audit procedure.--

31

1 (1) For the purpose of enforcing the collection of the
2 tax levied by this chapter, the department is hereby
3 specifically authorized and empowered to examine at all
4 reasonable hours the books, records, and other documents of
5 all transportation companies, agencies, or firms that conduct
6 their business by truck, rail, water, aircraft, or otherwise,
7 in order to determine what dealers, or other persons charged
8 with the duty to report or pay a tax under this chapter, are
9 importing or are otherwise shipping in articles or tangible
10 personal property which are liable for said tax. In the event
11 said transportation company, agency, or firm refuses to permit
12 such examination of its books, records, or other documents by
13 the department as aforesaid, it is guilty of a misdemeanor of
14 the first degree, punishable as provided in s. 775.082 or s.
15 775.083. If, however, any subsequent offense involves
16 intentional destruction of such records with an intent to
17 evade payment of or deprive the state of any tax revenues,
18 such subsequent offense shall be a felony of the third degree,
19 punishable as provided in s. 775.082 or s. 775.083.The
20 department shall have the right to proceed in any chancery
21 court to seek a mandatory injunction or other appropriate
22 remedy to enforce its right against the offender, as granted
23 by this section, to require an examination of the books and
24 records of such transportation company or carrier.

25 (2) Each dealer, as defined in this chapter, shall
26 secure, maintain, and keep as long as required by s. 213.35 a
27 complete record of tangible personal property or services
28 received, used, sold at retail, distributed or stored, leased
29 or rented by said dealer, together with invoices, bills of
30 lading, gross receipts from such sales, and other pertinent
31 records and papers as may be required by the department for

1 the reasonable administration of this chapter; all such
2 records which are located or maintained in this state shall be
3 open for inspection by the department at all reasonable hours
4 at such dealer's store, sales office, general office,
5 warehouse, or place of business located in this state. Any
6 dealer who maintains such books and records at a point outside
7 this state must make such books and records available for
8 inspection by the department where the general records are
9 kept. Any dealer subject to the provisions of this chapter who
10 violates these provisions is guilty of a misdemeanor of the
11 first degree, punishable as provided in s. 775.082 or s.
12 775.083. If, however, any subsequent offense involves
13 intentional destruction of such records with an intent to
14 evade payment of or deprive the state of any tax revenues,
15 such subsequent offense shall be a felony of the third degree,
16 punishable as provided in s. 775.082 or s. 775.083.

17 Section 17. Effective January 1, 2000, section
18 213.757, Florida Statutes, is created to read:

19 213.757 Willful failure to pay over funds or
20 destruction of records by agent.--Any person who accepts money
21 from a taxpayer that is due to the department, for the purpose
22 of acting as the taxpayer's agent to make the payment to the
23 department, but who willfully fails to remit such payment to
24 the department when due, commits a felony of the third degree,
25 punishable as provided in s. 775.082, s. 775.083, or s.
26 775.084. Any person who has possession as a taxpayer's agent
27 of the taxpayer's records that are required to be maintained
28 under the revenue laws of this state and who intentionally
29 destroys those records with the intent of depriving the state
30 of tax revenues commits a felony of the third degree,
31

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

3 Section 18. Effective February 1, 2000, paragraph (b)
4 of subsection (1) of section 212.07, Florida Statutes, 1998
5 Supplement, is amended to read:

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

10 (1)

11 (b) A resale must be in strict compliance with s.
12 212.18 and the rules and regulations, and any dealer who makes
13 a sale for resale which is not in strict compliance with s.
14 212.18 and the rules and regulations shall himself or herself
15 be liable for and pay the tax. Any dealer who makes a sale for
16 resale shall document the exempt nature of the transaction, as
17 established by rules promulgated by the department, by
18 retaining a copy of the purchaser's resale certificate. In
19 lieu of maintaining a copy of the certificate, a dealer may
20 document, prior to the time of sale, an authorization number
21 provided telephonically or electronically by the department,
22 or by such other means established by rule of the department.
23 The department shall adopt rules that provide that, for
24 purchasers who purchase on account from a dealer on a
25 continual basis, the dealer may rely on a resale certificate
26 issued pursuant to s. 212.18(3)(c), valid at the time of
27 receipt from the purchaser, without seeking annual
28 verification of the resale certificate. A dealer may, through
29 the informal protest provided for in s. 213.21 and the rules
30 of the Department of Revenue, provide the department with
31 evidence of the exempt status of a sale. The Department of

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

12 Section 19. Effective January 1, 2000, subsection (3)
13 of section 212.18, Florida Statutes, 1998 Supplement, is
14 amended to read:

15 212.18 Administration of law; registration of dealers;
16 rules.--

17 (3)(a) Every person desiring to engage in or conduct
18 business in this state as a dealer, as defined in this
19 chapter, or to lease, rent, or let or grant licenses in living
20 quarters or sleeping or housekeeping accommodations in hotels,
21 apartment houses, roominghouses, or tourist or trailer camps
22 that are subject to tax under s. 212.03, or to lease, rent, or
23 let or grant licenses in real property, as defined in this
24 chapter, and every person who sells or receives anything of
25 value by way of admissions, must file with the department an
26 application for a certificate of registration for each place
27 of business, showing the names of the persons who have
28 interests in such business and their residences, the address
29 of the business, and such other data as the department may
30 reasonably require. However, owners and operators of vending
31 machines or newspaper rack machines are required to obtain

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

14 (b) The department, upon receipt of such application,
15 will grant to the applicant a separate certificate of
16 registration for each place of business, which certificate may
17 be canceled by the department or its designated assistants for
18 any failure by the certificateholder to comply with any of the
19 provisions of this chapter. The certificate is not assignable
20 and is valid only for the person, firm, copartnership, or
21 corporation to which issued. The certificate must be placed in
22 a conspicuous place in the business or businesses for which it
23 is issued and must be displayed at all times. Except as
24 provided in this subsection ~~paragraph~~, no person shall engage
25 in business as a dealer or in leasing, renting, or letting of
26 or granting licenses in living quarters or sleeping or
27 housekeeping accommodations in hotels, apartment houses,
28 roominghouses, tourist or trailer camps, or real property as
29 hereinbefore defined, nor shall any person sell or receive
30 anything of value by way of admissions, without first having
31 obtained such a certificate or after such certificate has been

1 canceled; no person shall receive any license from any
2 authority within the state to engage in any such business
3 without first having obtained such a certificate or after such
4 certificate has been canceled. The engaging in the business of
5 selling or leasing tangible personal property or services or
6 as a dealer, as defined in this chapter, or the engaging in
7 leasing, renting, or letting of or granting licenses in living
8 quarters or sleeping or housekeeping accommodations in hotels,
9 apartment houses, roominghouses, or tourist or trailer camps
10 that are taxable under this chapter, or real property, or the
11 engaging in the business of selling or receiving anything of
12 value by way of admissions, without such certificate first
13 being obtained or after such certificate has been canceled by
14 the department, is prohibited. The failure or refusal of any
15 person, firm, copartnership, or corporation to so qualify when
16 required hereunder is a misdemeanor of the first degree,
17 punishable as provided in s. 775.082 or s. 775.083, or subject
18 to injunctive proceedings as provided by law. Such failure or
19 refusal also subjects the offender to a \$100 initial
20 registration fee in lieu of the \$5 registration fee authorized
21 in ~~this~~ paragraph(a). However, the department may waive the
22 increase in the registration fee if it is determined by the
23 department that the failure to register was due to reasonable
24 cause and not to willful negligence, willful neglect, or
25 fraud.

26 (c) In addition to the certificate of registration,
27 the department shall provide to each newly registered dealer
28 an initial resale certificate that will be valid for the
29 remainder of the period of issuance. The department shall
30 provide each active dealer with an annual resale certificate.
31 For purposes of this section, "active dealer" means a person

1 who is currently registered with the department and who is
2 required to file at least once during each applicable
3 reporting period.

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

25 (e)~~(c)~~ As used in this paragraph, the term "exhibitor"
26 means a person who enters into an agreement authorizing the
27 display of tangible personal property or services at a
28 convention or a trade show. The following provisions apply to
29 the registration of exhibitors as dealers under this chapter:

30 1. An exhibitor whose agreement prohibits the sale of
31 tangible personal property or services subject to the tax

1 imposed in this chapter is not required to register as a
2 dealer.

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

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

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

14

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

18 Section 20. Effective January 1, 2000, subsection (10)
19 of section 213.053, Florida Statutes, 1998 Supplement, is
20 amended to read:

21 213.053 Confidentiality and information sharing.--

22 (10) Notwithstanding any other provision of this
23 section, with respect to a request for verification of a
24 certificate of registration issued pursuant to s. 212.18 to a
25 specified dealer or taxpayer or with respect to a request by a
26 law enforcement officer for verification of a certificate of
27 registration issued pursuant to s. 538.09 to a specified
28 secondhand dealer or pursuant to s. 538.25 to a specified
29 secondary metals recycler, the department may disclose whether
30 the specified person holds a valid certificate or whether a
31 specified certificate number is valid or whether a specified

1 certificate number has been canceled or is inactive or invalid
2 and the name of the holder of such certificate. This
3 subsection shall not be construed to create a duty to request
4 verification of any certificate of registration.

5 Section 21. Effective January 1, 2000, the Department
6 of Revenue shall establish a toll-free number for verification
7 of valid registration numbers and resale certificates. The
8 system must be sufficient to guarantee a low busy rate and
9 must respond to keypad inquiries, and data must be updated
10 daily.

11 Section 22. Effective January 1, 2000, the Department
12 of Revenue shall establish a system for receiving information
13 from dealers regarding certificate numbers of those seeking to
14 make purchases for resale. The department must provide such
15 dealers with verification of those numbers which are canceled
16 or invalid. This information must be provided by the
17 department free of charge.

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

28 Section 24. (1) The sums of \$211,065 to be used for
29 salaries, benefits, and expenses and \$23,455 to be used for
30 operating capital outlay are appropriated from the General
31 Revenue Fund to the Department of Revenue, and 1.5 FTEs are

1 authorized, to implement the provisions of this act regarding
2 resale certificates under chapter 212, Florida Statutes.

3 (2) This section shall take effect July 1, 1999.

4 Section 25. (1) Paragraph (ii) of subsection (7) and
5 subsection (10) of section 212.08, Florida Statutes, 1998
6 Supplement, are amended to read:

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

13 (7) MISCELLANEOUS EXEMPTIONS.--

14 (ii) Certain electricity or steam uses.--

15 1. Subject to the provisions of subparagraph 4.,
16 charges for electricity or steam used to operate machinery and
17 equipment at a fixed location in this state when such
18 machinery and equipment is used to manufacture, process,
19 compound, produce, or prepare for shipment items of tangible
20 personal property for sale, or to operate pollution control
21 equipment, recycling equipment, maintenance equipment, or
22 monitoring or control equipment used in such operations are
23 exempt to the extent provided in this paragraph. ~~If in order~~
24 ~~to qualify for this exemption,~~75 percent or more of the
25 electricity or steam used at the fixed location ~~is must be~~
26 used to operate qualifying machinery or equipment, 100 percent
27 of the charges for electricity or steam used at the fixed
28 location are exempt. If less than 75 percent but 50 percent or
29 more of the electricity or steam ~~is~~ used at the a fixed
30 location is used to operate qualifying machinery or equipment,
31 ~~then it is presumed that~~ 50 percent of the charges for

1 electricity or steam used at the fixed location are exempt
2 ~~charge for electricity is for nonexempt purposes.~~ If less than
3 50 percent of the electricity or steam used at the fixed
4 location is used to operate qualifying machinery or equipment,
5 none of the charges for electricity or steam used at the fixed
6 location are exempt.

7 2. This exemption applies only to industries
8 classified under SIC Industry Major Group Numbers 10, 12, 13,
9 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,
10 35, 36, 37, 38, and 39. As used in this paragraph, "SIC" means
11 those classifications contained in the Standard Industrial
12 Classification Manual, 1987, as published by the Office of
13 Management and Budget, Executive Office of the President.

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

21 4. Such exemption shall be applied as follows:

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

24 b. Beginning July 1, 1997, 40 percent of the charges
25 for such electricity shall be exempt.

26 c. Beginning July 1, 1998, 60 percent of the charges
27 for such electricity or steam shall be exempt.

28 d. Beginning July 1, 1999, 80 percent of the charges
29 for such electricity or steam shall be exempt.

30 e. Beginning July 1, 2000, 100 percent of the charges
31 for such electricity or steam shall be exempt.

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

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

15 b. The first report shall be submitted no later than
16 January 1, 1997, and must be conducted in such a manner as to
17 specifically determine the number of companies within each SIC
18 Industry Major Group receiving the exemption as of September
19 1, 1996, and the number of individuals employed by companies
20 within each SIC Industry Major Group receiving the exemption
21 as of September 1, 1996.

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

1 policy to continue or discontinue the exemption, and the
2 consequences of doing so.

3 d. Both reports shall be submitted to the President of
4 the Senate, the Speaker of the House of Representatives, the
5 Senate Minority Leader, and the House Minority Leader.

6
7 Exemptions provided to any entity by this subsection shall not
8 inure to any transaction otherwise taxable under this chapter
9 when payment is made by a representative or employee of such
10 entity by any means, including, but not limited to, cash,
11 check, or credit card even when that representative or
12 employee is subsequently reimbursed by such entity.

13 (10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT
14 OF ANOTHER STATE.--The tax collected on the sale of a new or
15 used motor vehicle in this state to a resident of another
16 state shall be an amount equal to the sales tax which would be
17 imposed on such sale under the laws of the state of which the
18 purchaser is a resident, except that such tax shall not exceed
19 the tax that would otherwise be imposed under this chapter.
20 At the time of the sale, the purchaser shall execute a
21 notarized statement of his or her intent to license the
22 vehicle in the state of which the purchaser is a resident
23 within 45 ~~10~~ days of the sale and of the fact of the payment
24 to the State of Florida of a sales tax in an amount equivalent
25 to the sales tax of his or her state of residence and shall
26 submit the statement to the appropriate sales tax collection
27 agency in his or her state of residence. Nothing in this
28 subsection shall be construed to require the removal of the
29 vehicle from this state following the filing of an intent to
30 license the vehicle in the purchaser's home state if the

31

1 purchaser licenses the vehicle in his or her home state within
2 45 days after the date of sale.

3 (2) It is the intent of the Legislature that the
4 amendments to s. 212.08(7)(ii), Florida Statutes, 1998
5 Supplement, by this section are remedial in nature and merely
6 clarify existing law.

7 Section 26. Subsection (8) is added to section 213.27,
8 Florida Statutes, to read:

9 213.27 Contracts with debt collection agencies and
10 certain vendors.--

11 (8)(a) The executive director of the department may
12 enter into contracts with private vendors to develop and
13 implement systems to enhance tax collections where
14 compensation to the vendors is funded through increased tax
15 collections. The amount of compensation paid to a vendor
16 shall be based on a percentage of increased tax collections
17 attributable to the system after all administrative and
18 judicial appeals are exhausted, and the total amount of
19 compensation paid to a vendor shall not exceed the maximum
20 amount stated in the contract.

21 (b) A person acting on behalf of the department under
22 a contract authorized by this subsection does not exercise any
23 of the powers of the department, except that the person is an
24 agent of the department for the purposes of developing and
25 implementing a system to enhance tax collection.

26 (c) Disclosure of information under this subsection
27 shall be pursuant to a written agreement between the executive
28 director and the private vendors. The vendors shall be bound
29 by the same requirements of confidentiality as the department.
30 Breach of confidentiality is a misdemeanor of the first
31 degree, punishable as provided in s. 775.082 or s. 775.083.

1 Section 27. Subsection (1) of section 213.67, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 213.67 Garnishment.--

4 (1) If a person is delinquent in the payment of any
5 taxes, penalties, and interest owed to the department, the
6 executive director or his or her designee may give notice of
7 the amount of such delinquency by registered mail to all
8 persons having in their possession or under their control any
9 credits or personal property, exclusive of wages, belonging to
10 the delinquent taxpayer, or owing any debts to such delinquent
11 taxpayer at the time of receipt by them of such notice.

12 Thereafter, any person who has been notified may not transfer
13 or make any other disposition of such credits, other personal
14 property, or debts until the executive director or his or her
15 designee consents to a transfer or disposition or until 60
16 days after the receipt of such notice, except that the
17 credits, other personal property, or debts which exceed the
18 delinquent amount stipulated in the notice shall not be
19 subject to the provisions of this section, wherever held, in
20 any case in which the taxpayer does not have a prior history
21 of tax delinquencies. If during the effective period of the
22 notice to withhold, any person so notified makes any transfer
23 or disposition of the property or debts required to be
24 withheld hereunder, he or she is liable to the state for any
25 indebtedness owed to the department by the person with respect
26 to whose obligation the notice was given to the extent of the
27 value of the property or the amount of the debts thus
28 transferred or paid if, solely by reason of such transfer or
29 disposition, the state is unable to recover the indebtedness
30 of the person with respect to whose obligation the notice was
31 given. If the delinquent taxpayer contests the intended levy

1 in circuit court or under chapter 120, the notice under this
2 section remains effective until that final resolution of the
3 contest. Any financial institution receiving such notice will
4 maintain a right of setoff for any transaction involving a
5 debit card occurring on or before the date of receipt of such
6 notice.

7 Section 28. (1) Paragraph (n) of subsection (1) and
8 paragraph (c) of subsection (2) of section 220.03, Florida
9 Statutes, 1998 Supplement, are amended to read:

10 220.03 Definitions.--

11 (1) SPECIFIC TERMS.--When used in this code, and when
12 not otherwise distinctly expressed or manifestly incompatible
13 with the intent thereof, the following terms shall have the
14 following meanings:

15 (n) "Internal Revenue Code" means the United States
16 Internal Revenue Code of 1986, as amended and in effect on
17 January 1, 1999 ~~1998~~, except as provided in subsection (3).

18 (2) DEFINITIONAL RULES.--When used in this code and
19 neither otherwise distinctly expressed nor manifestly
20 incompatible with the intent thereof:

21 (c) Any term used in this code shall have the same
22 meaning as when used in a comparable context in the Internal
23 Revenue Code and other statutes of the United States relating
24 to federal income taxes, as such code and statutes are in
25 effect on January 1, 1999 ~~1998~~. However, if subsection (3) is
26 implemented, the meaning of any term shall be taken at the
27 time the term is applied under this code.

28 (2) This section shall take effect upon this act
29 becoming a law and shall operate retroactively to January 1,
30 1999.

31

1 Section 29. Effective January 1, 2000, paragraph (b)
2 of subsection (1) of section 220.151, Florida Statutes, is
3 amended to read:

4 220.151 Apportionment; methods for special
5 industries.--

6 (1)

7 (b) If the principal source of premiums written by an
8 insurance company consists of premiums for reinsurance
9 accepted by it, the tax base of such company shall be
10 apportioned to this state by multiplying such base by a
11 fraction the numerator of which is the sum of:

12 1. Direct premiums written for insurance upon
13 properties and risks in this state, plus

14 2. Premiums written for reinsurance, accepted in
15 respect to properties and risks in this state,

16
17 and the denominator of which is the sum of direct premiums
18 written for insurance upon properties and risks everywhere
19 plus premiums written for reinsurance accepted in respect to
20 properties and risks everywhere. For purposes of this
21 paragraph, premiums written for reinsurance accepted in
22 respect to properties and risks in this state, whether or not
23 otherwise determinable, shall ~~may, at the election of the~~
24 ~~company, either~~ be determined on the basis of the proportion
25 which premiums written for reinsurance accepted from companies
26 resident in or having a regional home office in the state
27 bears to premiums written for reinsurance accepted from all
28 sources ~~or, alternatively, on the basis of the proportion~~
29 ~~which the sum of the direct premiums written for insurance~~
30 ~~upon properties and risks in this state by each ceding company~~
31 ~~from which reinsurance is accepted bears to the sum of the~~

1 ~~total direct premiums written by each such ceding company for~~
2 ~~the taxable year.~~

3 Section 30. Section 220.21, Florida Statutes, is
4 amended to read:

5 220.21 Returns and records; regulations.--

6 (1) Every taxpayer liable for the tax imposed by this
7 code shall keep such records, render such statements, make
8 such returns and notices, and comply with such rules and
9 regulations, as the department may from time to time
10 prescribe. The director may require any taxpayer or class of
11 taxpayers, by notice or by regulation, to make such returns
12 and notices, render such statements, and keep such records as
13 the director deems necessary to determine whether such
14 taxpayer or taxpayers are liable for tax under this code.

15 (2) A taxpayer may choose to file a return required by
16 this code in a form initiated through a telephonic or
17 electronic data interchange using an advanced encrypted
18 transmission by means of the Internet or other suitable
19 transmission. The department shall prescribe by rule the
20 format and instructions necessary for such filing to ensure a
21 full collection of taxes due. The acceptable method of
22 transfer, the method, form, and content of the electronic data
23 interchange, and the means, if any, by which the taxpayer will
24 be provided with an acknowledgment shall be prescribed by the
25 department.

26 Section 31. Subsection (3) of section 220.221, Florida
27 Statutes, is amended to read:

28 220.221 Returns; signing and verification.--

29 (3) Each return or notice required to be filed under
30 this code shall be verified by a ~~written~~ declaration that it
31 is made under the penalties of perjury, and if prepared by

1 someone other than the taxpayer the return shall also contain
2 a declaration by the preparer that it was prepared on the
3 basis of all information of which the preparer had knowledge.

4 Section 32. Paragraphs (a) and (b) of subsection (2)
5 of section 220.222, Florida Statutes, 1998 Supplement, are
6 amended to read:

7 220.222 Returns; time and place for filing.--

8 (2)(a) When a taxpayer has been granted an extension
9 or extensions of time within which to file its federal income
10 tax return for any taxable year, and if the requirements of s.
11 220.32 are met, the filing of a ~~written~~ request for such
12 extension or extensions with the department shall
13 automatically extend the due date of the return required under
14 this code until 15 days after the expiration of the federal
15 extension or until the expiration of 6 months from the
16 original due date, whichever first occurs.

17 (b) The department may grant an extension or
18 extensions of time for the filing of any return required under
19 this code upon receiving a prior ~~written~~ request therefor if
20 good cause for an extension is shown. However, the aggregate
21 extensions of time under paragraphs (a) and (b) shall not
22 exceed 6 months. No extension granted under this paragraph
23 shall be valid unless the taxpayer complies with the
24 requirements of s. 220.32.

25 Section 33. Subsection (7) is added to section
26 193.052, Florida Statutes, to read:

27 193.052 Preparation and serving of returns.--

28 (7) A property appraiser may accept a tangible
29 personal property tax return in a form initiated through an
30 electronic data interchange. The department shall prescribe by
31 rule the format and instructions necessary for such filing to

1 ensure that all property is properly listed and returned with
2 valuation information. The acceptable method of transfer, the
3 method, form, and content of the electronic data interchange,
4 the means, if any, by which the taxpayer will be provided with
5 an acknowledgment, and the duties of the property appraiser
6 with respect to such filing shall be prescribed by the
7 department. The department's rules shall provide: a uniform
8 format for all counties; that the format shall resemble form
9 DR-405 as closely as possible; and that adequate safeguards
10 for verification of taxpayers' identities are established to
11 avoid filing by unauthorized persons.

12 Section 34. Subsection (16) of section 199.052,
13 Florida Statutes, 1998 Supplement, is amended to read:

14 199.052 Annual tax returns; payment of annual tax.--

15 (16)(a) Except as provided in paragraph (b), all banks
16 and financial organizations filing annual intangible tax
17 returns for their customers shall file return information for
18 taxes due January 1, 1999, and thereafter using
19 machine-sensible media. The information required by this
20 subsection must be reported by banks or financial
21 organizations on machine-sensible media, using specifications
22 and instructions of the department. A bank or financial
23 organization that demonstrates to the satisfaction of the
24 department that a hardship exists is not required to file
25 intangible tax returns for its customers using
26 machine-sensible media. The department shall adopt rules
27 necessary to administer this ~~paragraph~~ subsection.

28 (b) A taxpayer may choose to file an annual intangible
29 personal property tax return in a form initiated through an
30 electronic data interchange using an advanced encrypted
31 transmission by means of the Internet or other suitable

1 transmission. The department shall prescribe by rule the
2 format and instructions necessary for such filing to ensure a
3 full collection of taxes due. The acceptable method of
4 transfer, the method, form, and content of the electronic data
5 interchange, and the means, if any, by which the taxpayer will
6 be provided with an acknowledgment shall be prescribed by the
7 department.

8 Section 35. Section 443.163, Florida Statutes, is
9 created to read:

10 443.163 Electronic reporting.--An employer may choose
11 to file any report required by this chapter in a form
12 initiated through an electronic data interchange using an
13 advanced encrypted transmission by means of the Internet or
14 other suitable transmission. The division shall prescribe by
15 rule the format and instructions necessary for such filing to
16 ensure a full collection of contributions due. The acceptable
17 method of transfer, the method, form, and content of the
18 electronic data interchange, and the means, if any, by which
19 the employer will be provided with an acknowledgment, shall be
20 prescribed by the division.

21 Section 36. Except as otherwise provided herein, this
22 act shall take effect upon becoming a law.

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HOUSE SUMMARY

Revises various provisions relating to administration of revenue laws by the Department of Revenue as follows:

1. Municipal public service tax: Provides procedures and requirements for purchasers to obtain a refund of or credit for municipal public service tax collected in error.

2. Ad valorem tax exemption: Deletes provisions relating to conditions under which certain corporations qualify as a nonprofit home for the aged.

3. Estate taxes: Removes a requirement that the personal representative give notice to the department of a decedent's death. Provides that, when no return is required, the personal representative may execute an affidavit that the estate is not subject to tax and provides a penalty for false statements in an affidavit. Removes limitations on those estates with respect to which the personal representative may not be discharged until all estate taxes are paid.

4. Credit for like taxes: Revises the application of the credit against the annual intangible tax for a like tax imposed by another jurisdiction, and provides such a credit for documentary excise taxes.

5. Sales tax: Revises provisions which exempt the sale of materials used in repairing a motor vehicle, airplane, or boat, and charges for electricity or steam used to operate certain machinery and equipment. Revises provisions relating to the sale of a motor vehicle to a resident of another state. Revises penalties for failure to file returns and for false or fraudulent returns and provides penalties for subsequent offenses involving destruction of records with an intent to evade payment of tax.

6. Sales for resale: Provides requirements with respect to sales for resale and documentation thereof, and provides for issuance of initial and annual resale certificates to active sales tax dealers. Authorizes the department to disclose certain information regarding registration certificate numbers. Directs the department to establish a toll-free number for verification of registration numbers and resale certificates and a system to receive information from dealers regarding purchasers for resale, and to expand its dealer education program regarding resale certificates. Provides an appropriation.

7. Enforcement: Provides penalties for willful failure to remit tax payments, and for intentional destruction of records, by a taxpayer's agent. Authorizes the executive director to contract with vendors to develop and implement systems to enhance tax collections where the vendor's compensation is funded through increased tax collections. Specifies the amount of property of a delinquent taxpayer held by another person which is subject to garnishment when the taxpayer has no prior tax delinquencies.

8. Corporate income tax: Updates references to the Internal Revenue Code. Revises the apportionment method for insurance companies primarily writing reinsurance.

9. Electronic filing: Authorizes electronic filing

1 of tangible and intangible personal property tax returns
2 and employers' unemployment compensation reports, and
3 telephonic or electronic filing of corporate income tax
4 returns.
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