

By the Committee on Fiscal Resource and Senator Horne

314-1648-99

1 A bill to be entitled
2 An act relating to tax administration;
3 repealing s. 198.12, F.S., and amending ss.
4 198.13, 198.23, 198.26, 198.32, 198.33, 198.39,
5 F.S.; discontinuing the use of unnecessary
6 estate tax returns for small estates that owe
7 no tax; amending s. 199.106, F.S.; granting a
8 credit against the intangibles tax to natural
9 persons for an identical tax paid in another
10 state; creating s. 201.165, F.S.; granting a
11 credit against the documentary stamp tax for an
12 identical tax paid in another state; amending
13 s. 212.02, F.S.; amending the definition of the
14 term "retail sale" with respect to materials
15 that are incorporated into repaired motor
16 vehicles, airplanes, or boats; amending ss.
17 212.04, 212.12, 212.13, F.S., and creating s.
18 213.757, F.S.; increasing the criminal
19 penalties for willful violations of certain tax
20 provisions; amending s. 212.08, F.S.; amending
21 the exemption for electricity and steam used
22 for manufacturing; amending s. 213.27, F.S.;
23 authorizing the Department of Revenue to enter
24 into contracts with private vendors to develop
25 an automated case-tracking system; amending s.
26 213.67, F.S.; authorizing the Department of
27 Revenue to reduce the amount of an
28 administrative garnishment which is subject to
29 a freeze to the amount equal to the delinquent
30 amount; amending ss. 220.151, 220.21, 220.221,
31 220.222, F.S.; authorizing the Department of

1 Revenue to accept electronic or telephonic
2 corporate income tax returns in lieu of written
3 paper returns; providing an effective date.
4

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

7 Section 1. Section 198.12, Florida Statutes, is
8 repealed effective January 1, 2000.

9 Section 2. Effective January 1, 2000, section 198.13,
10 Florida Statutes, is amended to read:

11 198.13 Tax return to be made in certain cases.--

12 (1) The personal representative of every estate
13 required by the laws of the United States to file a federal
14 estate tax return shall file with the department, on or before
15 the last day prescribed by law for filing the initial federal
16 estate tax return for such estate, a return consisting of an
17 executed copy of the federal estate tax return and shall file
18 with such return all supplemental data, if any, as may be
19 necessary to determine and establish the correct tax under
20 this chapter. Such return shall be made in the case of every
21 decedent who at the time of death was not a resident of the
22 United States and whose gross estate includes any real
23 property situate in the state, tangible personal property
24 having an actual situs in the state, and intangible personal
25 property physically present within the state.

26 (2) Whenever it is made to appear to the department
27 that an estate that has filed a return owes no taxes provided
28 in this chapter, the department will issue to the personal
29 representative a certificate in writing to that effect, which
30 certificate will have the same force and effect as a receipt
31 showing payment. The certificate will be subject to record and

1 admissible in evidence in like manner as receipts showing
2 payment of taxes. A fee of \$5 will be paid to the department
3 for each certificate so issued.

4 (3)(2) Every person required to file a return
5 reporting a generation-skipping transfer under applicable
6 federal statutes and regulations shall file with the
7 Department of Revenue, on or before the last day prescribed
8 for filing the federal return, a return consisting of a
9 duplicate copy of the federal return.

10 Section 3. Effective January 1, 2000, section 198.23,
11 Florida Statutes, is amended to read:

12 198.23 Personal liability of personal
13 representative.--If any personal representative shall make
14 distribution either in whole or in part of any of the property
15 of an estate to the heirs, next of kin, distributees,
16 legatees, or devisees without having paid or secured the tax
17 due the state under this chapter, or having obtained the
18 release of such property from the lien of such tax, either by
19 the department or pursuant to s. 198.32(2), he or she shall
20 become personally liable for the tax so due the state, or so
21 much thereof as may remain due and unpaid, to the full extent
22 of the full value of any property belonging to such person or
23 estate which may come into the personal representative's
24 hands, custody, or control.

25 Section 4. Effective January 1, 2000, section 198.26,
26 Florida Statutes, is amended to read:

27 198.26 No discharge of personal representative until
28 tax is paid.--No final account of a personal representative of
29 ~~the estate of a nonresident, nor of the estate of a resident~~
30 ~~when the value of the gross estate wherever situate exceeds~~
31 ~~\$60,000~~ shall be allowed by any court unless and until such

1 account shows, and the judge of said court finds, that the tax
2 imposed by the provisions of this chapter upon the personal
3 representative, which has become payable, has been paid. The
4 certificate of the department of nonliability for the tax or
5 its receipt for the amount of tax therein certified shall be
6 conclusive in such proceedings as to the liability or the
7 payment of the tax to the extent of said certificate. In the
8 case of a nontaxable estate, the court may consider the
9 affidavit prepared pursuant to s. 198.32(2) as evidence of the
10 nonliability for tax.

11 Section 5. Effective January 1, 2000, section 198.32,
12 Florida Statutes, is amended to read:

13 198.32 Prima facie liability for tax.--

14 (1) The estate of each decedent whose property is
15 subject to the laws of the state shall be deemed prima facie
16 liable for estate taxes under this chapter and shall be
17 subject to a lien therefor in such amount as may be later
18 determined to be due and payable on the estate as provided in
19 this chapter. This presumption of liability shall begin on
20 the date of the death of the decedent and shall continue until
21 the full settlement of all taxes which may be found to be due
22 under this chapter, the settlement to be shown by receipts for
23 all taxes due to be issued by the department as provided for
24 in this chapter. ~~Whenever it is made to appear to the~~
25 ~~department that an estate is not subject to any tax under this~~
26 ~~chapter, the department shall issue to the personal~~
27 ~~representative, administrator, or curator, or to the heirs,~~
28 ~~devisees, or legatees of the decedent, a certificate in~~
29 ~~writing to that effect, showing such nonliability to tax,~~
30 ~~which certificate of nonliability shall have the same force~~
31 ~~and effect as a receipt showing payment. The certificate of~~

1 ~~nonliability shall be subject to record and admissible in~~
2 ~~evidence in like manner as receipts showing payment of taxes.~~
3 ~~A fee of \$5 shall be paid to the department for each~~
4 ~~certificate so issued.~~

5 (2) Whenever an estate is not subject to tax under
6 this chapter and is not required to file a return, the
7 personal representative may execute an affidavit attesting
8 that the estate is not taxable. The form of the affidavit will
9 be prescribed by the department, and will include, but not be
10 limited to, statements regarding the decedent's domicile,
11 whether a federal estate tax return will be filed, and
12 acknowledgment of the personal representative's personal
13 liability under s. 198.23. Such affidavit shall be subject to
14 record and admissible in evidence to show nonliability for
15 tax.

16 Section 6. Effective January 1, 2000, subsection (1)
17 of section 198.33, Florida Statutes, is amended to read:

18 198.33 Discharge of estate, notice of lien, limitation
19 on lien, etc.--

20 (1) Where no receipt for the payment of taxes, or no
21 affidavit or certificate ~~receipt~~ of nonliability for taxes has
22 been issued or recorded as provided for in this chapter, the
23 property constituting the estate of the decedent in this state
24 shall be deemed fully acquitted and discharged of all
25 liability for estate and inheritance taxes under this chapter
26 after a lapse of 10 years ~~from the date of the filing with the~~
27 ~~department of notice of the decedent's death, or after a lapse~~
28 ~~of 10 years~~ from the date of the filing with the department of
29 an estate tax return, ~~whichever date shall be earlier,~~ unless
30 the department shall make out and file and have recorded in
31 the public records of the county wherein any part of the

1 estate of the decedent may be situated in this state, a notice
2 of lien against the property of the estate, specifying the
3 amount or approximate amount of taxes claimed to be due to the
4 state under this chapter, which notice of lien shall continue
5 said lien in force for an additional period of 5 years or
6 until payment is made. Such notice of lien shall be filed and
7 recorded in the book of deeds in the office of the clerk of
8 the circuit court; provided, where no receipt for the payment
9 of taxes, or no affidavit or certificate of nonliability for
10 taxes, has been issued or recorded as provided for in this
11 chapter, the property constituting the estate of the decedent
12 in this state, if said decedent was a resident of this state
13 at the time of death, shall be deemed fully acquitted and
14 discharged of all liability for tax under this chapter after a
15 lapse of 10 years from the date of the death of the decedent,
16 unless the department shall make out and file and have
17 recorded notice of lien as herein provided, which notice shall
18 continue said lien in force against such property of the
19 estate as is situate in the county wherein said notice of lien
20 was recorded for an additional period of 5 years or until
21 payment is made.

22 Section 7. Effective January 1, 2000, section 198.39,
23 Florida Statutes, is amended to read:

24 198.39 False statement in return; penalty.--Whoever
25 knowingly makes any false statement in any notice, affidavit,
26 or return required to be filed or made under this chapter is
27 guilty of a misdemeanor of the first degree, punishable as
28 provided in s. 775.082 or s. 775.083.

29 Section 8. Subsections (2) and (3) of section 199.106,
30 Florida Statutes, are amended to read:

31 199.106 Credit for taxes imposed by other states.--

1 (2) For intangible personal property that has a
2 taxable situs in this state under s. 199.175(1) or any similar
3 predecessor statute, a credit against the tax imposed by s.
4 199.032 is allowed to a taxpayer, ~~other than a natural person,~~
5 in an amount equal to a like tax lawfully imposed and paid by
6 that taxpayer on the same property in another state, territory
7 of the United States, or the District of Columbia when the
8 other taxing authority is also claiming situs under provisions
9 similar or identical to those in s. 199.175(1) or any similar
10 predecessor statute. For purposes of this subsection, "like
11 tax" means an ad valorem tax on intangible personal property
12 which is also subject to tax under s. 199.032. The credit may
13 not exceed the tax imposed on the property under s. 199.032.
14 Proof of entitlement to such a credit must be made pursuant to
15 rules and forms adopted by the department.

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

18 However, notwithstanding the retroactivity of these credit
19 provisions, this section does not reopen a closed period of
20 nonclaim under s. 215.26 or any other statute or extend the
21 period of nonclaim under s. 215.26 or any other statute.

22 Section 9. Section 201.165, Florida Statutes, is
23 created to read:

24 201.165 Credit for tax paid to other states.--

25 (1) With respect to each tax imposed by any section of
26 this chapter, a credit against the specific tax imposed by
27 that section is allowed in an amount equal to the amount of a
28 like tax lawfully imposed and paid on the same document or
29 instrument in another state or territory of the United States
30 or in the District of Columbia. As used in this subsection,
31 the term "like tax" means an excise tax on documents which is

1 in substance identical to the tax imposed by this chapter on
2 the same document. The credit may not exceed the amount of the
3 tax imposed on the document by this chapter. Proof of
4 entitlement to the credit must be provided to the department.
5 The department may adopt rules to implement this credit and
6 designate forms that establish what proof is required.

7 (2) The credit provided by this section applies
8 retroactively. Notwithstanding the retroactivity of this
9 credit provision, this section does not reopen a closed period
10 of nonclaim under s. 215.26 or any other statute, nor does
11 this section extend the period of nonclaim under s. 215.26 or
12 any other statute.

13 Section 10. Paragraph (c) of subsection (14) of
14 section 212.02, Florida Statutes, 1998 Supplement, is amended
15 to read:

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

20 (14)

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

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

27 Section 11. Effective January 1, 2000, subsections (4)
28 and (5) of section 212.04, Florida Statutes, 1998 Supplement,
29 are amended to read:

30 212.04 Admissions tax; rate, procedure, enforcement.--
31

1 (4) Each person who exercises the privilege of
2 charging admission taxes, as herein defined, shall apply for,
3 and at that time shall furnish the information and comply with
4 the provisions of s. 212.18 not inconsistent herewith and
5 receive from the department, a certificate of right to
6 exercise such privilege, which certificate shall apply to each
7 place of business where such privilege is exercised and shall
8 be in the manner and form prescribed by the department. Such
9 certificate shall be issued upon payment to the department of
10 a registration fee of \$5 by the applicant. Each person
11 exercising the privilege of charging such admission taxes as
12 herein defined shall cause to be kept records and accounts
13 showing the admission which shall be in the form as the
14 department may from time to time prescribe, inclusive of
15 records of all tickets numbered and issued for a period of not
16 less than the time within which the department may, as
17 permitted by s. 95.091(3), make an assessment with respect to
18 any admission evidenced by such records and accounts, and
19 inclusive of all bills or checks of customers who are charged
20 any of the taxes defined herein, showing the charge made to
21 each for that period. The department is empowered to use each
22 and every one of the powers granted herein to the department
23 to discover the amount of tax to be paid by each such person
24 and to enforce the payment thereof as are hereby granted the
25 department for the discovery and enforcement of the payment of
26 taxes hereinafter levied on the sales of tangible personal
27 ~~property. The failure of any person to pay such taxes before~~
28 ~~the 21st day of the succeeding month after the taxes are~~
29 ~~collected shall render such person liable to the same~~
30 ~~penalties that are hereafter imposed upon such person for~~
31 ~~being delinquent in the payment of taxes imposed upon the~~

1 ~~sales of tangible personal property; the failure of any person~~
2 ~~to render returns and to pay taxes as prescribed herein shall~~
3 ~~render such person subject to the same penalties, by way of~~
4 ~~charges for delinquencies, at the rate of 10 percent per month~~
5 ~~for a total amount of tax delinquent up to a total of 50~~
6 ~~percent of such tax and at the rate of 100-percent penalty for~~
7 ~~attempted evasion of payment of any such tax or for any~~
8 ~~attempt to file false or misleading returns that are required~~
9 ~~to be filed by the department.~~

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

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

10 Section 12. Paragraph (ii) of section 212.08, Florida
11 Statutes, 1998 Supplement, is amended to read:

12 212.08 Sales, rental, use, consumption, distribution,
13 and storage tax; specified exemptions.--The sale at retail,
14 the rental, the use, the consumption, the distribution, and
15 the storage to be used or consumed in this state of the
16 following are hereby specifically exempt from the tax imposed
17 by this chapter.

18 (7) MISCELLANEOUS EXEMPTIONS.--

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

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

1 of the charges for electricity or steam used at the fixed
2 location is exempt. If less than 75 percent but 50 percent or
3 more of the electricity or steam ~~is~~ used at the a fixed
4 location is used to operate qualifying machinery or equipment,
5 ~~then it is presumed that~~ 50 percent of the charges for
6 electricity or steam used at the fixed location is exempt
7 ~~charge for electricity is for nonexempt purposes.~~ If less than
8 50 percent of the electricity or steam used at the fixed
9 location is used to operate qualifying machinery and
10 equipment, none of the charges for electricity or steam used
11 at the fixed location is exempt.

12 2. This exemption applies only to industries
13 classified under SIC Industry Major Group Numbers 10, 12, 13,
14 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,
15 35, 36, 37, 38, and 39. As used in this paragraph, "SIC" means
16 those classifications contained in the Standard Industrial
17 Classification Manual, 1987, as published by the Office of
18 Management and Budget, Executive Office of the President.

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

26 4. Such exemption shall be applied as follows:

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

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

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

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

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

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

15 6.a. In order to determine whether the exemption
16 provided in this paragraph from the tax on charges for
17 electricity or steam has an effect on retaining or attracting
18 companies to this state, the Office of Program Policy Analysis
19 and Governmental Accountability shall periodically monitor and
20 report on the industries receiving the exemption.

21 b. The first report shall be submitted no later than
22 January 1, 1997, and must be conducted in such a manner as to
23 specifically determine the number of companies within each SIC
24 Industry Major Group receiving the exemption as of September
25 1, 1996, and the number of individuals employed by companies
26 within each SIC Industry Major Group receiving the exemption
27 as of September 1, 1996.

28 c. The second report shall be submitted no later than
29 January 1, 2001, and must be comprehensive in scope, but, at a
30 minimum, must be conducted in such a manner as to specifically
31 determine the number of companies within each SIC Industry

1 Major Group receiving the exemption as of September 1, 2000,
2 the number of individuals employed by companies within each
3 SIC Industry Major Group receiving the exemption as of
4 September 1, 2000, whether the change, if any, in such number
5 of companies or employees is attributable to the exemption
6 provided in this paragraph, whether it would be sound public
7 policy to continue or discontinue the exemption, and the
8 consequences of doing so.

9 d. Both reports shall be submitted to the President of
10 the Senate, the Speaker of the House of Representatives, the
11 Senate Minority Leader, and the House Minority Leader.

12
13 Exemptions provided to any entity by this subsection shall not
14 inure to any transaction otherwise taxable under this chapter
15 when payment is made by a representative or employee of such
16 entity by any means, including, but not limited to, cash,
17 check, or credit card even when that representative or
18 employee is subsequently reimbursed by such entity.

19 Section 13. Effective January 1, 2000, subsections (2)
20 and (13) of section 212.12, Florida Statutes, 1998 Supplement,
21 are amended to read:

22 212.12 Dealer's credit for collecting tax; penalties
23 for noncompliance; powers of Department of Revenue in dealing
24 with delinquents; brackets applicable to taxable transactions;
25 records required.--

26 (2)(a) When any person, firm, or corporation required
27 hereunder to make any return or to pay any tax or fee imposed
28 by this chapter fails to timely file such return or fails to
29 pay the tax or fee due within the time required hereunder, in
30 addition to all other penalties provided herein and by the
31 laws of this state in respect to such taxes or fees, a

1 specific penalty shall be added to the tax or fee in the
2 amount of 10 percent of any unpaid tax or fee if the failure
3 is for not more than 30 days, with an additional 10 percent of
4 any unpaid tax or fee for each additional 30 days, or fraction
5 thereof, during the time which the failure continues, not to
6 exceed a total penalty of 50 percent, in the aggregate, of any
7 unpaid tax or fee. In no event may the penalty be less than
8 \$10 for failure to timely file a tax return required by s.
9 212.11(1)(b) or \$5 for failure to timely file a tax return
10 authorized by s. 212.11(1)(c) or (d).

11 (b) Any person who knowingly and with a willful intent
12 to evade any tax imposed under this chapter fails to file six
13 consecutive returns as required by law commits a felony of the
14 third degree, punishable as provided in s. 775.082 or s.
15 775.083.

16 (c) Any person who makes a false or fraudulent return
17 with a willful intent to evade payment of any tax or fee
18 imposed under this chapter is, in addition to the other
19 penalties provided by law, liable for a specific penalty of
20 100 percent of the tax bill or fee and for fine and punishment
21 as provided in s. 775.082, s. 775.083, or s. 775.084.

22 1. If the total amount of unreported taxes or fees is
23 less than \$300, the first offense is a misdemeanor of the
24 second degree, the second offense is a misdemeanor of the
25 first degree, and the third and each subsequent offense is a
26 felony of the third degree.

27 2. If the total amount of unreported taxes or fees is
28 at least \$300 but less than \$20,000, the offense is a felony
29 of the third degree.

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1 3. If the total amount of unreported taxes or fees is
2 at least \$20,000 but less than \$100,000, the offense is a
3 felony of the second degree.

4 4. If the total amount of unreported taxes or fees is
5 \$100,000 or more, the offense is a felony of the first degree.

6 ~~In the case of a false or fraudulent return or a willful~~
7 ~~intent to evade payment of any tax or fee imposed under this~~
8 ~~chapter, in addition to the other penalties provided by law,~~
9 ~~the person making such false or fraudulent return or willfully~~
10 ~~attempting to evade the payment of such a tax or fee shall be~~
11 ~~liable for a specific penalty of 100 percent of the tax bill~~
12 ~~or fee and for fine and punishment as provided by law for a~~
13 ~~conviction of a misdemeanor of the first degree.~~

14 (d)(b) When any person, firm, or corporation fails to
15 timely remit the proper estimated payment required under s.
16 212.11, a specific penalty shall be added in an amount equal
17 to 10 percent of any unpaid estimated tax. ~~Beginning with~~
18 ~~January 1, 1985, returns,~~The department, upon a showing of
19 reasonable cause, is authorized to waive or compromise
20 penalties imposed by this paragraph. However, other penalties
21 and interest shall be due and payable if the return on which
22 the estimated payment was due was not timely or properly
23 filed.

24 (e)(e) Dealers filing a consolidated return pursuant
25 to s. 212.11(1)(e)~~s. 212.11(1)(d)~~ shall be subject to the
26 penalty established in paragraph (b) unless the dealer has
27 paid the required estimated tax for his or her consolidated
28 return as a whole without regard to each location. If the
29 dealer fails to pay the required estimated tax for his or her
30 consolidated return as a whole, each filing location shall
31

1 stand on its own with respect to calculating penalties
2 pursuant to paragraph (b).

3 (13) In order to aid the administration and
4 enforcement of the provisions of this chapter with respect to
5 the rentals and license fees, each lessor or person granting
6 the use of any hotel, apartment house, roominghouse, tourist
7 or trailer camp, real property, or any interest therein, or
8 any portion thereof, inclusive of owners; property managers;
9 lessors; landlords; hotel, apartment house, and roominghouse
10 operators; and all licensed real estate agents within the
11 state leasing, granting the use of, or renting such property,
12 shall be required to keep a record of each and every such
13 lease, license, or rental transaction which is taxable under
14 this chapter, in such a manner and upon such forms as the
15 department may prescribe, and to report such transaction to
16 the department or its designated agents, and to maintain such
17 records as long as required by s. 213.35, subject to the
18 inspection of the department and its agents. Upon the failure
19 by such owner; property manager; lessor; landlord; hotel,
20 apartment house, roominghouse, tourist or trailer camp
21 operator; or real estate agent to keep and maintain such
22 records and to make such reports upon the forms and in the
23 manner prescribed, such owner; property manager; lessor;
24 landlord; hotel, apartment house, roominghouse, tourist or
25 trailer camp operator; receiver of rent or license fees; or
26 real estate agent is guilty of a misdemeanor of the second
27 degree, punishable as provided in s. 775.082 or s. 775.083,
28 for the first offense; for subsequent offenses, they are each
29 guilty of a misdemeanor of the first degree, punishable as
30 provided in s. 775.082 or s. 775.083. However, any subsequent
31 offense that involves intentional destruction of such records

1 with intent to evade payment of or deprive the state of any
2 tax revenues is a felony of the third degree, punishable as
3 provided in s. 775.082 or s. 775.083.

4 Section 14. Effective January 1, 2000, subsection (1)
5 and (2) of section 212.13, Florida Statutes, are amended to
6 read:

7 212.13 Records required to be kept; power to inspect;
8 audit procedure.--

9 (1) For the purpose of enforcing the collection of the
10 tax levied by this chapter, the department is hereby
11 specifically authorized and empowered to examine at all
12 reasonable hours the books, records, and other documents of
13 all transportation companies, agencies, or firms that conduct
14 their business by truck, rail, water, aircraft, or otherwise,
15 in order to determine what dealers, or other persons charged
16 with the duty to report or pay a tax under this chapter, are
17 importing or are otherwise shipping in articles or tangible
18 personal property which are liable for said tax. In the event
19 said transportation company, agency, or firm refuses to permit
20 such examination of its books, records, or other documents by
21 the department as aforesaid, it is guilty of a misdemeanor of
22 the first degree, punishable as provided in s. 775.082 or s.
23 775.083. However, any subsequent offense that involves
24 intentional destruction of such records with an intent to
25 evade payment of or deprive the state of any tax revenues is a
26 felony of the third degree, punishable as provided in s.
27 775.082 or s. 775.083.The department shall have the right to
28 proceed in any chancery court to seek a mandatory injunction
29 or other appropriate remedy to enforce its right against the
30 offender, as granted by this section, to require an

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1 examination of the books and records of such transportation
2 company or carrier.

3 (2) Each dealer, as defined in this chapter, shall
4 secure, maintain, and keep as long as required by s. 213.35 a
5 complete record of tangible personal property or services
6 received, used, sold at retail, distributed or stored, leased
7 or rented by said dealer, together with invoices, bills of
8 lading, gross receipts from such sales, and other pertinent
9 records and papers as may be required by the department for
10 the reasonable administration of this chapter; all such
11 records which are located or maintained in this state shall be
12 open for inspection by the department at all reasonable hours
13 at such dealer's store, sales office, general office,
14 warehouse, or place of business located in this state. Any
15 dealer who maintains such books and records at a point outside
16 this state must make such books and records available for
17 inspection by the department where the general records are
18 kept. Any dealer subject to the provisions of this chapter who
19 violates these provisions is guilty of a misdemeanor of the
20 first degree, punishable as provided in s. 775.082 or s.
21 775.083. However, any subsequent offense that involves
22 intentional destruction of such records with an intent to
23 evade payment of or deprive the state of any tax revenues is a
24 felony of the third degree, punishable as provided in s.
25 775.082 or s. 775.083.

26 Section 15. Subsection (8) is added to section 213.27,
27 Florida Statutes, to read:

28 213.27 Contracts with debt collection agencies.--
29 (8)(a) The executive director of the department may
30 enter into contracts with private vendors to develop and
31 implement systems for enhancing tax collections. The vendor's

1 compensation under such a contract must be funded through
2 increased tax collections. The amount of the compensation paid
3 to a vendor must be a percentage of the increase in the amount
4 of tax collected which is attributable to the system, after
5 all administrative and judicial appeals are exhausted, and the
6 total amount of compensation paid to a vendor may not exceed
7 the maximum amount stated in the contract.

8 (b) A person acting on behalf of the department under
9 a contract authorized by this section does not exercise any of
10 the powers of the department, except that the person is an
11 agent of the department for the purposes of developing and
12 implementing a system for enhancing tax collections.

13 (c) Disclosure of information under this subsection
14 must be governed by a written agreement between the executive
15 director and the private vendor. The vendor is bound by the
16 confidentiality requirements that apply to the Department of
17 Revenue. Breach of confidentiality is a misdemeanor of the
18 first degree, punishable as provided in s. 775.082 or s.
19 775.083.

20 Section 16. Subsection (1) of section 213.67, Florida
21 Statutes, 1998 Supplement, is amended to read:

22 213.67 Garnishment.--

23 (1) If a person is delinquent in the payment of any
24 taxes, penalties, and interest owed to the department, the
25 executive director or his or her designee may give notice of
26 the amount of such delinquency by registered mail to all
27 persons having in their possession or under their control any
28 credits or personal property, exclusive of wages, belonging to
29 the delinquent taxpayer, or owing any debts to such delinquent
30 taxpayer at the time of receipt by them of such notice.
31 Thereafter, any person who has been notified may not transfer

1 or make any other disposition of such credits, other personal
2 property, or debts until the executive director or his or her
3 designee consents to a transfer or disposition or until 60
4 days after the receipt of such notice, except that the amount
5 by which the value of the credits, other personal property, or
6 debts, wherever held, exceeds the delinquent amount stipulated
7 in the notice is exempt from this section if the dealer does
8 not have a prior history of tax delinquencies. If during the
9 effective period of the notice to withhold, any person so
10 notified makes any transfer or disposition of the property or
11 debts required to be withheld hereunder, he or she is liable
12 to the state for any indebtedness owed to the department by
13 the person with respect to whose obligation the notice was
14 given to the extent of the value of the property or the amount
15 of the debts thus transferred or paid if, solely by reason of
16 such transfer or disposition, the state is unable to recover
17 the indebtedness of the person with respect to whose
18 obligation the notice was given. If the delinquent taxpayer
19 contests the intended levy in circuit court or under chapter
20 120, the notice under this section remains effective until
21 that final resolution of the contest. Any financial
22 institution receiving such notice will maintain a right of
23 setoff for any transaction involving a debit card occurring on
24 or before the date of receipt of such notice.

25 Section 17. Effective January 1, 2000, section
26 213.757, Florida Statutes, is created to read:

27 213.757 Willful failure to pay over funds or
28 destruction of records by agent.--Any person who accepts from
29 a taxpayer money that is due to the department, for the
30 purpose of acting as the taxpayer's agent to make the payment
31 to the department, but who willfully fails to remit the

1 payment to the department when due, commits a felony of the
2 third degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084. Any person who has possession as a
4 taxpayer's agent of the taxpayer's records that are required
5 to be maintained under the revenue laws of this state and who
6 intentionally destroys those records with the intent of
7 depriving the state of tax revenues commits a felony of the
8 third degree, punishable as provided in s. 775.082, s.
9 775.083, or s. 775.084.

10 Section 18. Paragraph (b) of subsection (1) of section
11 220.151, Florida Statutes, is amended to read:

12 220.151 Apportionment; methods for special
13 industries.--

14 (1)

15 (b) If the principal source of premiums written by an
16 insurance company consists of premiums for reinsurance
17 accepted by it, the tax base of such company shall be
18 apportioned to this state by multiplying such base by a
19 fraction the numerator of which is the sum of:

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

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

24
25 and the denominator of which is the sum of direct premiums
26 written for insurance upon properties and risks everywhere
27 plus premiums written for reinsurance accepted in respect to
28 properties and risks everywhere. For purposes of this
29 paragraph, premiums written for reinsurance accepted in
30 respect to properties and risks in this state, whether or not
31 otherwise determinable, shall ~~may, at the election of the~~

1 ~~company, either~~ be determined on the basis of the proportion
2 which premiums written for reinsurance accepted from companies
3 resident in or having a regional home office in the state
4 bears to premiums written for reinsurance accepted from all
5 sources ~~or, alternatively, on the basis of the proportion~~
6 ~~which the sum of the direct premiums written for insurance~~
7 ~~upon properties and risks in this state by each ceding company~~
8 ~~from which reinsurance is accepted bears to the sum of the~~
9 ~~total direct premiums written by each such ceding company for~~
10 ~~the taxable year.~~

11 Section 19. Section 220.21, Florida Statutes, is
12 amended to read:

13 220.21 Returns and records; regulations.--Every
14 taxpayer liable for the tax imposed by this code shall keep
15 such records, render such statements, make such returns and
16 notices, and comply with such rules and regulations, as the
17 department may from time to time prescribe. The director may
18 require any taxpayer or class of taxpayers, by notice or by
19 regulation, to make such returns and notices, render such
20 statements, and keep such records as the director deems
21 necessary to determine whether such taxpayer or taxpayers are
22 liable for tax under this code. The department may prescribe
23 standards for acceptance of electronic or telephonic returns;
24 however, national standards for taxpayer authentication must
25 be used in lieu of signature.

26 Section 20. 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 21. 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 22. Except as otherwise expressly provided in
26 this act, this act shall take effect July 1, 1999, except that
27 the amendments made by this act to sections 198.12, 198.13,
28 198.23, 198.26, 198.32, 198.33, and 198.39, Florida Statutes,
29 apply to taxes with respect to estates of decedents who have
30 passed away after December 31, 1999, and the law in effect

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1 before January 1, 2000, shall apply to estates of decedents
2 who have passed away before such date.

3

4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 SB 888

6

7 The bill deletes the sales tax exemption for 501(c)(3)
8 organizations.

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9 The bill deletes the annual issuance of resale certificates to
10 active sales tax accounts.

11 The bill repeals provisions requiring small estates to file a
12 report when no estate tax is due along with a \$5.00 fee and
13 allows the recording with the Clerk of the Court, of an
14 affidavit stating that no tax is due.

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