

By the Committees on Commerce and Economic Opportunities;
Fiscal Resource; and Senator Horne

310-1705A-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, F.S., and creating s. 213.757,
18 F.S.; increasing the criminal penalties for
19 willful violations of certain tax provisions;
20 amending s. 212.08, F.S.; amending the
21 exemption for electricity and steam used for
22 manufacturing; revising provisions which
23 specify application of tax to the sale of a
24 motor vehicle in this state to a resident of
25 another state; revising the time within which
26 the purchaser must license the vehicle in his
27 or her home state; providing construction
28 regarding removal of the vehicle from this
29 state; amending s. 212.11, F.S.; conforming a
30 cross-reference; amending s. 213.27, F.S.;
31 authorizing the Department of Revenue to enter

1 into contracts with private vendors to develop
2 an automated case-tracking system; amending s.
3 213.67, F.S.; authorizing the Department of
4 Revenue to reduce the amount of an
5 administrative garnishment which is subject to
6 a freeze to the amount equal to the delinquent
7 amount; amending ss. 220.151, 220.21, 220.221,
8 220.222, F.S.; authorizing the Department of
9 Revenue to accept electronic or telephonic
10 corporate income tax returns in lieu of written
11 paper returns; creating s. 166.235, F.S. ;
12 providing procedures for purchasers to obtain
13 refund of or credit for public service taxes
14 collected in error; providing transitional
15 provisions; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 198.12, Florida Statutes, is
20 repealed effective January 1, 2000.

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

23 198.13 Tax return to be made in certain cases.--

24 (1) The personal representative of every estate
25 required by the laws of the United States to file a federal
26 estate tax return shall file with the department, on or before
27 the last day prescribed by law for filing the initial federal
28 estate tax return for such estate, a return consisting of an
29 executed copy of the federal estate tax return and shall file
30 with such return all supplemental data, if any, as may be
31 necessary to determine and establish the correct tax under

1 this chapter. Such return shall be made in the case of every
2 decedent who at the time of death was not a resident of the
3 United States and whose gross estate includes any real
4 property situate in the state, tangible personal property
5 having an actual situs in the state, and intangible personal
6 property physically present within the state.

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

16 (3)~~(2)~~ Every person required to file a return
17 reporting a generation-skipping transfer under applicable
18 federal statutes and regulations shall file with the
19 Department of Revenue, on or before the last day prescribed
20 for filing the federal return, a return consisting of a
21 duplicate copy of the federal return.

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

24 198.23 Personal liability of personal
25 representative.--If any personal representative shall make
26 distribution either in whole or in part of any of the property
27 of an estate to the heirs, next of kin, distributees,
28 legatees, or devisees without having paid or secured the tax
29 due the state under this chapter, or having obtained the
30 release of such property from the lien of such tax, either by
31 the department or pursuant to s. 198.32(2), he or she shall

1 become personally liable for the tax so due the state, or so
2 much thereof as may remain due and unpaid, to the full extent
3 of the full value of any property belonging to such person or
4 estate which may come into the personal representative's
5 hands, custody, or control.

6 Section 4. Effective January 1, 2000, section 198.26,
7 Florida Statutes, is 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 Section 5. Effective January 1, 2000, section 198.32,
24 Florida Statutes, is amended to read:

25 198.32 Prima facie liability for tax.--

26 (1) The estate of each decedent whose property is
27 subject to the laws of the state shall be deemed prima facie
28 liable for estate taxes under this chapter and shall be
29 subject to a lien therefor in such amount as may be later
30 determined to be due and payable on the estate as provided in
31 this chapter. This presumption of liability shall begin on

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

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

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

30 198.33 Discharge of estate, notice of lien, limitation
31 on lien, etc.--

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

1 was recorded for an additional period of 5 years or until
2 payment is made.

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

5 198.39 False statement in return; penalty.--Whoever
6 knowingly makes any false statement in any notice, affidavit,
7 or return required to be filed or made under this chapter is
8 guilty of a misdemeanor of the first degree, punishable as
9 provided in s. 775.082 or s. 775.083.

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

12 199.106 Credit for taxes imposed by other states.--

13 (2) For intangible personal property that has a
14 taxable situs in this state under s. 199.175(1) or any similar
15 predecessor statute, a credit against the tax imposed by s.
16 199.032 is allowed to a taxpayer, ~~other than a natural person,~~
17 in an amount equal to a like tax lawfully imposed and paid by
18 that taxpayer on the same property in another state, territory
19 of the United States, or the District of Columbia when the
20 other taxing authority is also claiming situs under provisions
21 similar or identical to those in s. 199.175(1) or any similar
22 predecessor statute. For purposes of this subsection, "like
23 tax" means an ad valorem tax on intangible personal property
24 which is also subject to tax under s. 199.032. The credit may
25 not exceed the tax imposed on the property under s. 199.032.
26 Proof of entitlement to such a credit must be made pursuant to
27 rules and forms adopted by the department.

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

30 However, notwithstanding the retroactivity of these credit
31 provisions, this section does not reopen a closed period of

1 nonclaim under s. 215.26 or any other statute or extend the
2 period of nonclaim under s. 215.26 or any other statute.

3 Section 9. Section 201.165, Florida Statutes, is
4 created to read:

5 201.165 Credit for tax paid to other states.--

6 (1) With respect to each tax imposed by any section of
7 this chapter, a credit against the specific tax imposed by
8 that section is allowed in an amount equal to the amount of a
9 like tax lawfully imposed and paid on the same document or
10 instrument in another state or territory of the United States
11 or in the District of Columbia. As used in this subsection,
12 the term "like tax" means an excise tax on documents which is
13 in substance identical to the tax imposed by this chapter on
14 the same document. The credit may not exceed the amount of the
15 tax imposed on the document by this chapter. Proof of
16 entitlement to the credit must be provided to the department.
17 The department may adopt rules to implement this credit and
18 designate forms that establish what proof is required.

19 (2) The credit provided by this section applies
20 retroactively. Notwithstanding the retroactivity of this
21 credit provision, this section does not reopen a closed period
22 of nonclaim under s. 215.26 or any other statute, nor does
23 this section extend the period of nonclaim under s. 215.26 or
24 any other statute.

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

28 212.02 Definitions.--The following terms and phrases
29 when used in this chapter have the meanings ascribed to them
30 in this section, except where the context clearly indicates a
31 different meaning:

1 (14)
2 (c) "Retail sales," "sale at retail," "use,"
3 "storage," and "consumption" do not include materials,
4 containers, labels, sacks, bags, or similar items intended to
5 accompany a product sold to a customer without which delivery
6 of the product would be impracticable because of the character
7 of the contents and be used one time only for packaging
8 tangible personal property for sale or for the convenience of
9 the customer or for packaging in the process of providing a
10 service taxable under this chapter. When a separate charge for
11 packaging materials is made, the charge shall be considered
12 part of the sales price or rental charge for purposes of
13 determining the applicability of tax. The terms do ~~term also~~
14 ~~does~~ not include the sale, use, storage, or consumption of
15 industrial materials, including chemicals and fuels except as
16 provided herein, for future processing, manufacture, or
17 conversion into articles of tangible personal property for
18 resale when such industrial materials, including chemicals and
19 fuels except as provided herein, become a component or
20 ingredient of the finished product ~~and do not include the~~
21 ~~sale, use, storage, or consumption of materials for use in~~
22 ~~repairing a motor vehicle, airplane, or boat, when such~~
23 ~~materials are incorporated into the repaired vehicle,~~
24 ~~airplane, or boat.~~ However, the terms include the sale, use,
25 storage, or consumption of tangible personal property,
26 including machinery and equipment or parts thereof, purchased
27 electricity, and fuels used to power machinery, when such
28 items are used and dissipated in fabricating, converting, or
29 processing tangible personal property for sale, even though
30 they may become ingredients or components of the tangible
31 personal property for sale through accident, wear, tear,

1 erosion, corrosion, or similar means. The terms do not include
2 the sale of materials to a registered repair facility for use
3 in repairing a motor vehicle, airplane, or boat when such
4 materials are incorporated into and sold as part of the
5 repair. Such a sale is to be considered a purchase for resale
6 by the repair facility even though every material is not
7 separately stated or separately priced on the repair invoice.

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

11 212.04 Admissions tax; rate, procedure, enforcement.--

12 (4) Each person who exercises the privilege of
13 charging admission taxes, as herein defined, shall apply for,
14 and at that time shall furnish the information and comply with
15 the provisions of s. 212.18 not inconsistent herewith and
16 receive from the department, a certificate of right to
17 exercise such privilege, which certificate shall apply to each
18 place of business where such privilege is exercised and shall
19 be in the manner and form prescribed by the department. Such
20 certificate shall be issued upon payment to the department of
21 a registration fee of \$5 by the applicant. Each person
22 exercising the privilege of charging such admission taxes as
23 herein defined shall cause to be kept records and accounts
24 showing the admission which shall be in the form as the
25 department may from time to time prescribe, inclusive of
26 records of all tickets numbered and issued for a period of not
27 less than the time within which the department may, as
28 permitted by s. 95.091(3), make an assessment with respect to
29 any admission evidenced by such records and accounts, and
30 inclusive of all bills or checks of customers who are charged
31 any of the taxes defined herein, showing the charge made to

1 each for that period. The department is empowered to use each
2 and every one of the powers granted herein to the department
3 to discover the amount of tax to be paid by each such person
4 and to enforce the payment thereof as are hereby granted the
5 department for the discovery and enforcement of the payment of
6 taxes hereinafter levied on the sales of tangible personal
7 property. ~~The failure of any person to pay such taxes before~~
8 ~~the 21st day of the succeeding month after the taxes are~~
9 ~~collected shall render such person liable to the same~~
10 ~~penalties that are hereafter imposed upon such person for~~
11 ~~being delinquent in the payment of taxes imposed upon the~~
12 ~~sales of tangible personal property; the failure of any person~~
13 ~~to render returns and to pay taxes as prescribed herein shall~~
14 ~~render such person subject to the same penalties, by way of~~
15 ~~charges for delinquencies, at the rate of 10 percent per month~~
16 ~~for a total amount of tax delinquent up to a total of 50~~
17 ~~percent of such tax and at the rate of 100-percent penalty for~~
18 ~~attempted evasion of payment of any such tax or for any~~
19 ~~attempt to file false or misleading returns that are required~~
20 ~~to be filed by the department.~~

21 (5) All of the provisions of this chapter relating to
22 collection, investigation, discovery, and aids to collection
23 of taxes upon sales of tangible personal property shall
24 likewise apply to all privileges described or referred to in
25 this section, and the obligations imposed in this chapter upon
26 retailers are hereby imposed upon the seller of such
27 admissions. All penalties applicable to a dealer of tangible
28 personal property for failure to meet any such obligation,
29 including, but not limited to, any failure related to the
30 filing of returns, the payment of taxes, or the maintenance
31 and production of records, are applicable to the seller of

1 admissions.When tickets or admissions are sold and not used
2 but returned and credited by the seller, the seller may apply
3 to the department for a credit allowance for such returned
4 tickets or admissions if advance payments have been made by
5 the buyer and have been returned by the seller, upon such form
6 and in such manner as the department may from time to time
7 prescribe. The department may, upon obtaining satisfactory
8 proof of the refunds on the part of the seller, credit the
9 seller for taxes paid upon admissions that have been returned
10 unused to the purchaser of those admissions. The seller of
11 admissions, upon the payment of the taxes before they become
12 delinquent and the rendering of the returns in accordance with
13 the requirement of the department and as provided in this law,
14 shall be entitled to a discount of 2.5 percent of the amount
15 of taxes upon the payment thereof before such taxes become
16 delinquent, in the same manner as permitted the sellers of
17 tangible personal property in this chapter. However, if the
18 amount of the tax due and remitted to the department for the
19 reporting period exceeds \$1,200, no discount shall be allowed
20 for all amounts in excess of \$1,200.

21 Section 12. Paragraph (ii) of subsection (7) and
22 subsection (10) of section 212.08, Florida Statutes, 1998
23 Supplement, are amended to read:

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

30 (7) MISCELLANEOUS EXEMPTIONS.--

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

1 1. Subject to the phase-in provisions in subparagraph
2 4., charges for electricity or steam used to operate machinery
3 and equipment at a fixed location in this state when such
4 machinery and equipment is used to manufacture, process,
5 compound, produce, or prepare for shipment items of tangible
6 personal property for sale, or to operate pollution control
7 equipment, recycling equipment, maintenance equipment, or
8 monitoring or control equipment used in such operations are
9 exempt to the extent provided in this paragraph. ~~If in order~~
10 ~~to qualify for this exemption,~~ 75 percent or more of the
11 electricity or steam used at the fixed location ~~is must be~~
12 used to operate qualifying machinery or equipment, 100 percent
13 of the charges for electricity or steam used at the fixed
14 location is exempt. If less than 75 percent but 50 percent or
15 more of the electricity or steam ~~is~~ used at the a fixed
16 location is used to operate qualifying machinery or equipment,
17 ~~then it is presumed that~~ 50 percent of the charges for
18 electricity or steam used at the fixed location is exempt
19 ~~charge for electricity is for nonexempt purposes. If less than~~
20 50 percent of the electricity or steam used at the fixed
21 location is used to operate qualifying machinery and
22 equipment, none of the charges for electricity or steam used
23 at the fixed location is exempt.

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

1 3. Possession by a seller of a written certification
2 by the purchaser, certifying the purchaser's entitlement to an
3 exemption permitted by this subsection, relieves the seller
4 from the responsibility of collecting the tax on the
5 nontaxable amounts, and the department shall look solely to
6 the purchaser for recovery of such tax if it determines that
7 the purchaser was not entitled to the exemption.

8 4. Such exemption shall be applied as follows:

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

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

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

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

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

19 5. Notwithstanding any other provision in this
20 paragraph to the contrary, in order to receive the exemption
21 provided in this paragraph a taxpayer must first register with
22 the WAGES Program Business Registry established by the local
23 WAGES coalition for the area in which the taxpayer is located.
24 Such registration establishes a commitment on the part of the
25 taxpayer to hire WAGES program participants to the maximum
26 extent possible consistent with the nature of their business.

27 6.a. In order to determine whether the exemption
28 provided in this paragraph from the tax on charges for
29 electricity or steam has an effect on retaining or attracting
30 companies to this state, the Office of Program Policy Analysis
31

1 and Governmental Accountability shall periodically monitor and
2 report on the industries receiving the exemption.

3 b. The first report shall be submitted no later than
4 January 1, 1997, and must be conducted in such a manner as to
5 specifically determine the number of companies within each SIC
6 Industry Major Group receiving the exemption as of September
7 1, 1996, and the number of individuals employed by companies
8 within each SIC Industry Major Group receiving the exemption
9 as of September 1, 1996.

10 c. The second report shall be submitted no later than
11 January 1, 2001, and must be comprehensive in scope, but, at a
12 minimum, must be conducted in such a manner as to specifically
13 determine the number of companies within each SIC Industry
14 Major Group receiving the exemption as of September 1, 2000,
15 the number of individuals employed by companies within each
16 SIC Industry Major Group receiving the exemption as of
17 September 1, 2000, whether the change, if any, in such number
18 of companies or employees is attributable to the exemption
19 provided in this paragraph, whether it would be sound public
20 policy to continue or discontinue the exemption, and the
21 consequences of doing so.

22 d. Both reports shall be submitted to the President of
23 the Senate, the Speaker of the House of Representatives, the
24 Senate Minority Leader, and the House Minority Leader.

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

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

21 Section 13. Effective January 1, 2000, paragraph (e)
22 of subsection (4) of section 212.11, Florida Statutes, 1998
23 Supplement, is amended to read:

24 212.11 Tax returns and regulations.--

25 (4)

26 (e) The penalty provisions of this chapter, except s.
27 212.12(2)(e) ~~s. 212.12(2)(c)~~, apply to the provisions of this
28 subsection.

29 Section 14. Effective January 1, 2000, subsection (2)
30 of section 212.12, Florida Statutes, 1998 Supplement, is
31 amended to read:

1 212.12 Dealer's credit for collecting tax; penalties
2 for noncompliance; powers of Department of Revenue in dealing
3 with delinquents; brackets applicable to taxable transactions;
4 records required.--

5 (2)(a) When any person, firm, or corporation required
6 hereunder to make any return or to pay any tax or fee imposed
7 by this chapter fails to timely file such return or fails to
8 pay the tax or fee due within the time required hereunder, in
9 addition to all other penalties provided herein and by the
10 laws of this state in respect to such taxes or fees, a
11 specific penalty shall be added to the tax or fee in the
12 amount of 10 percent of any unpaid tax or fee if the failure
13 is for not more than 30 days, with an additional 10 percent of
14 any unpaid tax or fee for each additional 30 days, or fraction
15 thereof, during the time which the failure continues, not to
16 exceed a total penalty of 50 percent, in the aggregate, of any
17 unpaid tax or fee. In no event may the penalty be less than
18 \$10 for failure to timely file a tax return required by s.
19 212.11(1)(b) or \$5 for failure to timely file a tax return
20 authorized by s. 212.11(1)(c) or (d).

21 (b) Any person who knowingly and with a willful intent
22 to evade any tax imposed under this chapter fails to file six
23 consecutive returns as required by law commits a felony of the
24 third degree, punishable as provided in s. 775.082 or s.
25 775.083.

26 (c) Any person who makes a false or fraudulent return
27 with a willful intent to evade payment of any tax or fee
28 imposed under this chapter is, in addition to the other
29 penalties provided by law, liable for a specific penalty of
30 100 percent of the tax bill or fee and for fine and punishment
31 as provided in s. 775.082, s. 775.083, or s. 775.084.

1 1. If the total amount of unreported taxes or fees is
2 less than \$300, the first offense is a misdemeanor of the
3 second degree, the second offense is a misdemeanor of the
4 first degree, and the third and each subsequent offense is a
5 felony of the third degree.

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

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

12 4. If the total amount of unreported taxes or fees is
13 \$100,000 or more, the offense is a felony of the first degree.

14 ~~In the case of a false or fraudulent return or a willful~~
15 ~~intent to evade payment of any tax or fee imposed under this~~
16 ~~chapter, in addition to the other penalties provided by law,~~
17 ~~the person making such false or fraudulent return or willfully~~
18 ~~attempting to evade the payment of such a tax or fee shall be~~
19 ~~liable for a specific penalty of 100 percent of the tax bill~~
20 ~~or fee and for fine and punishment as provided by law for a~~
21 ~~conviction of a misdemeanor of the first degree.~~

22 (d)(b) When any person, firm, or corporation fails to
23 timely remit the proper estimated payment required under s.
24 212.11, a specific penalty shall be added in an amount equal
25 to 10 percent of any unpaid estimated tax. ~~Beginning with~~
26 ~~January 1, 1985, returns,~~The department, upon a showing of
27 reasonable cause, is authorized to waive or compromise
28 penalties imposed by this paragraph. However, other penalties
29 and interest shall be due and payable if the return on which
30 the estimated payment was due was not timely or properly
31 filed.

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

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

12 213.27 Contracts with debt collection agencies.--

13 (8)(a) The executive director of the department may
14 enter into contracts with private vendors to develop and
15 implement systems for enhancing tax collections. The vendor's
16 compensation under such a contract must be funded through
17 increased tax collections. The amount of the compensation paid
18 to a vendor must be a percentage of the increase in the amount
19 of tax collected which is attributable to the system, after
20 all administrative and judicial appeals are exhausted, and the
21 total amount of compensation paid to a vendor may not exceed
22 the maximum amount stated in the contract.

23 (b) A person acting on behalf of the department under
24 a contract authorized by this section does not exercise any of
25 the powers of the department, except that the person is an
26 agent of the department for the purposes of developing and
27 implementing a system for enhancing tax collections.

28 (c) Disclosure of information under this subsection
29 must be governed by a written agreement between the executive
30 director and the private vendor. The vendor is bound by the
31 confidentiality requirements that apply to the Department of

1 Revenue. Breach of confidentiality is a misdemeanor of the
2 first degree, punishable as provided in s. 775.082 or s.
3 775.083.

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

6 213.67 Garnishment.--

7 (1) If a person is delinquent in the payment of any
8 taxes, penalties, and interest owed to the department, the
9 executive director or his or her designee may give notice of
10 the amount of such delinquency by registered mail to all
11 persons having in their possession or under their control any
12 credits or personal property, exclusive of wages, belonging to
13 the delinquent taxpayer, or owing any debts to such delinquent
14 taxpayer at the time of receipt by them of such notice.
15 Thereafter, any person who has been notified may not transfer
16 or make any other disposition of such credits, other personal
17 property, or debts until the executive director or his or her
18 designee consents to a transfer or disposition or until 60
19 days after the receipt of such notice, except that the amount
20 by which the value of the credits, other personal property, or
21 debts, wherever held, exceeds the delinquent amount stipulated
22 in the notice is exempt from this section if the dealer does
23 not have a prior history of tax delinquencies. If during the
24 effective period of the notice to withhold, any person so
25 notified makes any transfer or disposition of the property or
26 debts required to be withheld hereunder, he or she is liable
27 to the state for any indebtedness owed to the department by
28 the person with respect to whose obligation the notice was
29 given to the extent of the value of the property or the amount
30 of the debts thus transferred or paid if, solely by reason of
31 such transfer or disposition, the state is unable to recover

1 the indebtedness of the person with respect to whose
2 obligation the notice was given. If the delinquent taxpayer
3 contests the intended levy in circuit court or under chapter
4 120, the notice under this section remains effective until
5 that final resolution of the contest. Any financial
6 institution receiving such notice will maintain a right of
7 setoff for any transaction involving a debit card occurring on
8 or before the date of receipt of such notice.

9 Section 17. Effective January 1, 2000, section
10 213.757, Florida Statutes, is created to read:

11 213.757 Willful failure to pay over funds or
12 destruction of records by agent.--Any person who accepts from
13 a taxpayer money that is due to the department, for the
14 purpose of acting as the taxpayer's agent to make the payment
15 to the department, but who willfully fails to remit the
16 payment to the department when due, commits a felony of the
17 third degree, punishable as provided in s. 775.082, s.
18 775.083, or s. 775.084. Any person who has possession as a
19 taxpayer's agent of the taxpayer's records that are required
20 to be maintained under the revenue laws of this state and who
21 intentionally destroys those records with the intent of
22 depriving the state of tax revenues commits a felony of the
23 third degree, punishable as provided in s. 775.082, s.
24 775.083, or s. 775.084.

25 Section 18. Paragraph (b) of subsection (1) of section
26 220.151, Florida Statutes, is amended to read:

27 220.151 Apportionment; methods for special
28 industries.--

29 (1)

30 (b) If the principal source of premiums written by an
31 insurance company consists of premiums for reinsurance

1 accepted by it, the tax base of such company shall be
2 apportioned to this state by multiplying such base by a
3 fraction the numerator of which is the sum of:

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

6 2. Premiums written for reinsurance, accepted in
7 respect to properties and risks in this state,
8

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

26 Section 19. Section 220.21, Florida Statutes, is
27 amended to read:

28 220.21 Returns and records; regulations.--Every
29 taxpayer liable for the tax imposed by this code shall keep
30 such records, render such statements, make such returns and
31 notices, and comply with such rules and regulations, as the

1 department may from time to time prescribe. The director may
2 require any taxpayer or class of taxpayers, by notice or by
3 regulation, to make such returns and notices, render such
4 statements, and keep such records as the director deems
5 necessary to determine whether such taxpayer or taxpayers are
6 liable for tax under this code. The department may prescribe
7 standards for acceptance of electronic or telephonic returns;
8 however, national standards for taxpayer authentication must
9 be used in lieu of signature.

10 Section 20. Subsection (3) of section 220.221, Florida
11 Statutes, is amended to read:

12 220.221 Returns; signing and verification.--

13 (3) Each return or notice required to be filed under
14 this code shall be verified by a ~~written~~ declaration that it
15 is made under the penalties of perjury, and if prepared by
16 someone other than the taxpayer the return shall also contain
17 a declaration by the preparer that it was prepared on the
18 basis of all information of which the preparer had knowledge.

19 Section 21. Paragraphs (a) and (b) of subsection (2)
20 of section 220.222, Florida Statutes, 1998 Supplement, are
21 amended to read:

22 220.222 Returns; time and place for filing.--

23 (2)(a) When a taxpayer has been granted an extension
24 or extensions of time within which to file its federal income
25 tax return for any taxable year, and if the requirements of s.
26 220.32 are met, the filing of a ~~written~~ request for such
27 extension or extensions with the department shall
28 automatically extend the due date of the return required under
29 this code until 15 days after the expiration of the federal
30 extension or until the expiration of 6 months from the
31 original due date, whichever first occurs.

1 (b) The department may grant an extension or
2 extensions of time for the filing of any return required under
3 this code upon receiving a prior ~~written~~ request therefor if
4 good cause for an extension is shown. However, the aggregate
5 extensions of time under paragraphs (a) and (b) shall not
6 exceed 6 months. No extension granted under this paragraph
7 shall be valid unless the taxpayer complies with the
8 requirements of s. 220.32.

9 Section 22. Section 166.235, Florida Statutes, is
10 created to read:

11 166.235 Procedure on purchaser's request for refund or
12 credit.--

13 (1) A purchaser seeking a refund of or credit for
14 public service taxes shall submit a written request therefor
15 to the seller within the time prescribed in s. 166.234(6) and
16 in accordance with this section. A request may not be granted
17 unless the amount claimed was collected from the purchaser and
18 was not due to any municipality.

19 (a) The request must be signed by the purchaser and is
20 considered completed for purposes of this section and the
21 limitations period if it states the purchaser's name, mailing
22 address, and account number; the tax amounts claimed; the
23 specific months during which those amounts were collected; and
24 the reason for the purchaser's claim that such amounts were
25 not due to any municipality. Upon receipt of a completed
26 request, the seller shall ascertain whether it collected the
27 tax claimed from the purchaser and whether the request is
28 timely.

29 (b) Within 30 days following receipt of a completed
30 request, the seller shall determine whether lists available
31 pursuant to s. 166.233(3) support the purchaser's claim and

1 whether all or any portion of the tax timely claimed was not
2 due to any municipality and was collected solely as a result
3 of the seller's error. The seller shall refund or credit the
4 purchaser's account for any such amount within 45 days
5 following its determination thereof.

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

30 (d) The seller shall issue a written response advising
31 the purchaser of the disposition of the purchaser's request.

1 The response shall specify any portion of the tax claimed that
2 is being refunded or credited to the purchaser's account and
3 the reason for denial of any portion of the request. Reasons
4 for denial include untimely submission of the request, the
5 failure of the seller to collect the tax claimed, the absence
6 of municipal approval to issue a refund or credit, the
7 previous receipt by the purchaser of a refund of or credit for
8 the same tax, and the failure to provide information required
9 to complete the request. A copy of each notification received
10 from a municipality pursuant to paragraph (c) must accompany
11 the response. If the seller submitted the request to a
12 municipality but received no such notification, the response
13 must so state. With respect to any portion of the request
14 that is granted, the response must be issued at the time of
15 refund or credit to the purchaser's account. With respect to
16 any portion of the request which is denied, the response must
17 be issued within 90 days following receipt of the purchaser's
18 completed request.

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

22 (2) This section provides the sole and exclusive
23 procedure and remedy for a purchaser who claims that a seller
24 has collected municipal public service taxes that were not
25 due. An action arising as a result of the claimed collection
26 of municipal public service taxes that were not due may not be
27 commenced or maintained by or on behalf of a purchaser against
28 a seller or a municipality unless the purchaser pleads and
29 proves that the purchaser has exhausted the procedures in
30 subsection (1) and that the defendant has failed to comply
31 with that subsection; however, no determination of a seller

1 under paragraph (1)(b) shall be deemed to be a failure to
2 comply with subsection (1) if the seller has complied with
3 paragraphs (1)(c) and (d). In any such action it is a
4 complete defense that the seller or municipality has refunded
5 the taxes claimed or has credited the purchaser's account
6 therewith; and in such an action against a seller it is a
7 complete defense that the seller collected the tax in reliance
8 upon written information provided by a municipality pursuant
9 to s. 166.233(3) or supplementing such information. Such an
10 action must be commenced within 180 days following the
11 purchaser's submission of a completed request, or it is
12 barred. The relief available to a purchaser as a result of
13 collection of municipal public service taxes that were not due
14 is limited to a refund of or credit for such taxes.

15 Section 23. Section 166.235, Florida Statutes, as
16 created by this act, is remedial in nature, and applies to all
17 claims asserted by purchasers before, on, or after the
18 effective date of this act based upon the alleged collection
19 of municipal public service taxes that were not due, except
20 for claims that have been finally resolved by judgment,
21 settlement, or the issuance of refunds or credits before the
22 effective date of this act. With respect to any claim that
23 was properly asserted before the effective date of this act
24 and that is the subject of pending litigation in a trial or
25 appellate court on or after the effective date of this act,
26 the court shall, upon motion, direct the parties to comply
27 with the procedures prescribed in section 166.235, Florida
28 Statutes, as created by this act, and allow such amendments of
29 the pleadings and enter such other orders as are appropriate
30 to dispose of the cause in a manner consistent with section
31 166.235, Florida Statutes, as created by this act.

1 Section 24. Except as otherwise expressly provided in
2 this act, this act shall take effect July 1, 1999, except that
3 the amendments made by this act to sections 198.12, 198.13,
4 198.23, 198.26, 198.32, 198.33, and 198.39, Florida Statutes,
5 apply to taxes with respect to estates of decedents who have
6 passed away after December 31, 1999, and the law in effect
7 before January 1, 2000, shall apply to estates of decedents
8 who have passed away before such date.

9
10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 CS/SB 888

13 The committee substitute for committee substitute for SB 888
14 adds language revising the statute governing sales tax on
15 motor vehicles sold to a resident of another state to allow
16 additional time to license the vehicle in the home state and
17 provides language clarifying conditions regarding removal of
18 such vehicles. The bill removes language from CS/SB 888 that
19 provided for felony charges for persons found guilty of
20 repeated and intentional destruction of tax records with an
21 intent to evade tax payments. The bill adds a new section
22 providing a standard procedure for purchasers, sellers, and
23 municipalities to follow regarding requested refunds or
24 credits of public service taxes paid in error. The bill
25 explains the specific information purchasers need to provide
26 when making a claim, provides a timetable for sellers and
27 municipalities to follow when responding to refund or credit
28 requests, and establishes defenses for sellers and
29 municipalities. The bill also adds new language to conform a
30 cross-reference regarding criminal tax penalties.
31