

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

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

1 amending ss. 212.12 and 212.13, F.S.; revising  
2 penalties for failure to file returns and for  
3 false or fraudulent returns under ch. 212,  
4 F.S.; providing penalties for subsequent  
5 offenses involving destruction of records with  
6 an intent to evade payment of tax; amending s.  
7 212.11, F.S.; correcting a reference; creating  
8 s. 213.757, F.S.; providing penalties for  
9 willful failure to remit tax payments, and for  
10 intentional destruction of records to deprive  
11 the state of tax revenues, by a taxpayer's  
12 agent; amending s. 212.07, F.S.; providing  
13 requirements with respect to sales for resale  
14 and documentation thereof; amending s. 212.18,  
15 F.S.; providing for issuance of initial and  
16 annual resale certificates to active sales tax  
17 dealers; amending s. 213.053, F.S.; authorizing  
18 the Department of Revenue to disclose certain  
19 information regarding registration certificate  
20 numbers; directing the department to establish  
21 a toll-free number for verification of  
22 registration numbers and resale certificates,  
23 to establish a system to receive information  
24 from dealers regarding certificate numbers of  
25 purchasers for resale, and to expand its dealer  
26 education program regarding resale  
27 certificates; providing appropriations and  
28 authorizing positions; amending s. 212.08,  
29 F.S.; revising provisions relating to the sales  
30 tax exemption for charges for electricity or  
31 steam used to operate machinery and equipment

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

1 processing companies to elect to determine the  
2 apportionment of their adjusted federal income  
3 to this state solely by use of the sales  
4 factor; amending ss. 220.21, 220.221, and  
5 220.222, F.S.; authorizing filing of corporate  
6 income tax returns in a form initiated through  
7 a telephonic or electronic data interchange;  
8 providing duties of the department; amending  
9 ss. 193.052 and 199.052, F.S.; authorizing  
10 filing of tangible personal property and  
11 intangible personal property returns in a form  
12 initiated through electronic data interchange;  
13 providing duties of the department; creating s.  
14 443.163, F.S.; authorizing filing of required  
15 reports relating to unemployment compensation  
16 by employers in such form; providing duties of  
17 the Division of Unemployment Compensation;  
18 providing procedures for the alteration,  
19 amendment, or expansion of the boundaries of  
20 certain downtown development districts;  
21 providing for notice and public hearing;  
22 providing for severability; providing effective  
23 dates.

24

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

26

27 Section 1. (1) Section 166.235, Florida Statutes, is  
28 created to read:29 166.235 Procedure on purchaser's request for refund or  
30 credit--

31

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

7           (a) The request shall be signed by the purchaser and  
8 shall be deemed completed for purposes of this section and the  
9 limitation period if it states the purchaser's name, mailing  
10 address, account number, the tax amounts claimed, the specific  
11 months during which those amounts were collected, and the  
12 reason for the purchaser's claim that such amounts were not  
13 due to any municipality. Upon receipt of a completed request,  
14 the seller shall ascertain whether it collected the tax  
15 claimed from the purchaser and whether the request is timely.

16           (b) Within 30 days following receipt of a completed  
17 request, the seller shall determine whether lists available  
18 pursuant to s. 166.233(3) support the purchaser's claim and  
19 whether all or any portion of the tax timely claimed was not  
20 due to any municipality and was collected solely as a result  
21 of the seller's error. The seller shall refund or credit the  
22 purchaser's account for any such amount within 45 days  
23 following its determination thereof.

24           (c) With respect to all amounts timely claimed which  
25 the seller collected from the purchaser and which the seller  
26 has not determined to be subject to refund or credit pursuant  
27 to paragraph (b), the seller shall, within 30 days following  
28 receipt of the completed request, provide a copy thereof to  
29 each municipality to which the taxes claimed were remitted and  
30 to each municipality which has asserted in writing the right  
31 to impose the tax in a geographic area that includes the

1 purchaser's billing address or service address, as the case  
2 may be. Within 30 days following receipt of such information,  
3 each such municipality shall notify the seller in writing if  
4 it approves the issuance of a refund or credit for all or a  
5 specified portion of the purchaser's claim. A municipality  
6 shall approve the refund or credit except to the extent the  
7 tax was due to such municipality. Within 45 days following  
8 receipt of notifications establishing that all of the  
9 municipalities receiving the request have approved a refund or  
10 credit, the seller shall issue a refund or credit the  
11 purchaser's account for the amount approved by all such  
12 municipalities. The seller's obligation to issue a refund or  
13 credit the purchaser's account shall be limited to amounts  
14 approved in accordance with this section. The seller shall be  
15 entitled to a corresponding refund or credit from any  
16 municipality to which the tax was remitted.

17 (d) The seller shall issue a written response advising  
18 the purchaser of the disposition of his or her request. The  
19 response shall specify any portion of the tax claimed that is  
20 being refunded or credited to the purchaser's account, and the  
21 reason for denial of any portion of the request. Reasons for  
22 denial include untimely submission of the request, that the  
23 seller did not collect the tax claimed, the absence of  
24 municipal approval to issue a refund or credit, that the  
25 purchaser previously received a refund of or credit for the  
26 same tax, and failure to provide information required to  
27 complete the request. A copy of each notification received  
28 from a municipality pursuant to paragraph (c) shall accompany  
29 the response. If the seller submitted the request to a  
30 municipality but received no such notification, the response  
31 shall so state. With respect to any portion of the request

1 that is granted, the response shall be issued at the time of  
2 the refund or credit to the purchaser's account. With respect  
3 to any portion of the request which is denied, the response  
4 shall be issued within 90 days following receipt of a  
5 purchaser's completed request.

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

9 (2) This section provides the sole and exclusive  
10 procedure and remedy for a purchaser who claims that a seller  
11 has collected municipal public service taxes that were not  
12 due. No action arising as a result of the claimed collection  
13 of municipal public service taxes that were not due may be  
14 commenced or maintained by or on behalf of a purchaser against  
15 a seller or municipality unless the purchaser pleads and  
16 proves that he or she has exhausted the procedures in  
17 subsection (1) and that the defendant has failed to comply  
18 with said subsection; however, no determination of a seller  
19 under paragraph (1)(b) shall be deemed a failure to comply  
20 with subsection (1) if the seller has complied with paragraphs  
21 (1)(c) and (d). In any such action it shall be a complete  
22 defense that the seller or municipality has refunded the taxes  
23 claimed or credited the purchaser's account therewith;  
24 further, in such an action against a seller it shall be a  
25 complete defense that the seller collected the tax in reliance  
26 upon written information provided by a municipality pursuant  
27 to s. 166.233(3) or supplementing such information. Such  
28 action shall be commenced no later than 180 days following the  
29 purchaser's submission of a completed request, or shall be  
30 barred. The relief available to a purchaser as a result of  
31



1 collection of municipal public service taxes that were not due  
2 shall be limited to a refund of or credit for such taxes.

3 (2) This section is remedial in nature, and shall  
4 apply to all claims asserted by purchasers prior or subsequent  
5 to the effective date of this section based upon the alleged  
6 collection of municipal public service taxes that were not  
7 due, except for claims that have been finally resolved by  
8 judgment, settlement, or the issuance of refunds or credits  
9 prior to the effective date of this section. With respect to  
10 any claim which was properly asserted prior to the effective  
11 date of this section and which is the subject of pending  
12 litigation in a trial or appellate court on or after the  
13 effective date of this section, the court shall upon motion  
14 direct the parties to comply with the procedures prescribed in  
15 s. 166.235, Florida Statutes, and allow such amendments of the  
16 pleadings and enter such other orders as are appropriate to  
17 dispose of the cause in a manner consistent with said section.

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

20 196.1975 Exemption for property used by nonprofit  
21 homes for the aged.--Nonprofit homes for the aged are exempt  
22 to the extent that they meet the following criteria:

23 (1) The applicant must be a corporation not for profit  
24 or a Florida limited partnership, the sole general partner of  
25 which is a corporation not for profit, and the corporation not  
26 for profit must have ~~that has~~ been exempt as of January 1 of  
27 the year for which exemption from ad valorem property taxes is  
28 requested from federal income taxation by having qualified as  
29 an exempt charitable organization under the provisions of s.  
30 501(c)(3) of the Internal Revenue Code of 1954 or of the  
31 corresponding section of a subsequently enacted federal

1 ~~revenue act. A corporation will not be disqualified under this~~  
2 ~~subsection if, for purposes of allocating tax credits, under~~  
3 ~~s. 42(h)(5) of the Internal Revenue Code of 1986, by the~~  
4 ~~Florida Housing Finance Agency as defined by s. 420.0004(4),~~  
5 ~~the property is leased to a Florida limited partnership, the~~  
6 ~~sole general partner of which is the nonprofit corporation,~~  
7 ~~and the home for the aged was in existence or under~~  
8 ~~construction on or before April 1, 1995.~~

9           (2) Notwithstanding anything contained in this section  
10 to the contrary, any nonprofit home for the aged that was  
11 subject to ad valorem taxation for the year ending December  
12 31, 1998, because of a failure to qualify for exemption under  
13 the provisions of s. 196.1975(1), Florida Statutes, shall not  
14 become exempt from ad valorem taxation by virtue of the  
15 amendment to s. 196.1975(1), Florida Statutes, by this  
16 section.

17           Section 3. (1) Section 198.12, Florida Statutes, is  
18 repealed.

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

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

25           198.13 Tax return to be made in certain cases;  
26 certificate of nonliability.--

27           (2) Whenever it is made to appear to the department  
28 that an estate that has filed a return owes no taxes under  
29 this chapter, the department shall issue to the personal  
30 representative a certificate in writing to that effect, which  
31 certificate shall have the same force and effect as a receipt

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

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

8 Section 5. (1) Section 198.23, Florida Statutes, is  
9 amended to read:

10 198.23 Personal liability of personal  
11 representative.--If any personal representative shall make  
12 distribution either in whole or in part of any of the property  
13 of an estate to the heirs, next of kin, distributees,  
14 legatees, or devisees without having paid or secured the tax  
15 due the state under this chapter, or having obtained the  
16 release of such property from the lien of such tax either by  
17 the department or pursuant to s. 198.32(2), he or she shall  
18 become personally liable for the tax so due the state, or so  
19 much thereof as may remain due and unpaid, to the full extent  
20 of the full value of any property belonging to such person or  
21 estate which may come into the personal representative's  
22 hands, custody, or control.

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

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

28 198.26 No discharge of personal representative until  
29 tax is paid.--No final account of a personal representative of  
30 ~~the estate of a nonresident, nor of the estate of a resident~~  
31 ~~when the value of the gross estate wherever situate exceeds~~

1 ~~\$60,000~~ shall be allowed by any court unless and until such  
2 account shows, and the judge of said court finds, that the tax  
3 imposed by the provisions of this chapter upon the personal  
4 representative, which has become payable, has been paid. The  
5 certificate of the department of nonliability for the tax or  
6 its receipt for the amount of tax therein certified shall be  
7 conclusive in such proceedings as to the liability or the  
8 payment of the tax to the extent of said certificate. In the  
9 case of a nontaxable estate, the court may consider the  
10 affidavit prepared pursuant to s. 198.32(2) as evidence of the  
11 nonliability for tax.

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

15 Section 7. (1) Section 198.32, Florida Statutes, is  
16 amended to read:

17 198.32 Prima facie liability for tax.--

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

1 ~~devisees, or legatees of the decedent, a certificate in~~  
2 ~~writing to that effect, showing such nonliability to tax,~~  
3 ~~which certificate of nonliability shall have the same force~~  
4 ~~and effect as a receipt showing payment. The certificate of~~  
5 ~~nonliability shall be subject to record and admissible in~~  
6 ~~evidence in like manner as receipts showing payment of taxes.~~  
7 ~~A fee of \$5 shall be paid to the department for each~~  
8 ~~certificate so issued.~~

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

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

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

25       198.33 Discharge of estate, notice of lien, limitation  
26 on lien, etc.--

27       (1) Where no receipt for the payment of taxes, or no  
28 affidavit or certificate ~~receipt~~ of nonliability for taxes has  
29 been issued or recorded as provided for in this chapter, the  
30 property constituting the estate of the decedent in this state  
31 shall be deemed fully acquitted and discharged of all

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

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

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

3           198.39 False statement in return; penalty.--Whoever  
4 knowingly makes any false statement in any notice, affidavit,  
5 or return required to be filed or made under this chapter is  
6 guilty of a misdemeanor of the first degree, punishable as  
7 provided in s. 775.082 or s. 775.083.

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

11           Section 10. Subsections (2) and (3) of section  
12 199.106, Florida Statutes, are amended to read:

13           199.106 Credit for taxes imposed by other states.--

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

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

31 However, notwithstanding the retroactivity of these credit

1 provisions, this section does not reopen a closed period of  
2 nonclaim under s. 215.26 or any other statute or extend the  
3 period of nonclaim under s. 215.26 or any other statute.

4 Section 11. Section 201.165, Florida Statutes, is  
5 created to read:

6 201.165 Credit for tax paid to other states.--

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

20 (2) The credit provided by this section applies  
21 retroactively. Notwithstanding the retroactivity of this  
22 credit provision, this section does not reopen a closed period  
23 of nonclaim under s. 215.26 or any other statute or extend the  
24 period of nonclaim under s. 215.26 or any other statute.

25 Section 12. 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  
2 include the sale of materials to a registered repair facility  
3 for use in repairing a motor vehicle, airplane, or boat, when  
4 such materials are incorporated into and sold as part of the  
5 repair. Such a sale shall be deemed a purchase for resale by  
6 the repair facility, even though every material is not  
7 separately stated or separately priced on the repair invoice.

8 Section 13. 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 in 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 14. Effective January 1, 2000, subsections (2)  
22 and (13) of section 212.12, Florida Statutes, 1998 Supplement,  
23 are amended to read:

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

28 (2)(a) When any person, firm, or corporation required  
29 hereunder to make any return or to pay any tax or fee imposed  
30 by this chapter fails to timely file such return or fails to  
31 pay the tax or fee due within the time required hereunder, in

1 addition to all other penalties provided herein and by the  
2 laws of this state in respect to such taxes or fees, a  
3 specific penalty shall be added to the tax or fee in the  
4 amount of 10 percent of any unpaid tax or fee if the failure  
5 is for not more than 30 days, with an additional 10 percent of  
6 any unpaid tax or fee for each additional 30 days, or fraction  
7 thereof, during the time which the failure continues, not to  
8 exceed a total penalty of 50 percent, in the aggregate, of any  
9 unpaid tax or fee. In no event may the penalty be less than  
10 \$10 for failure to timely file a tax return required by s.  
11 212.11(1)(b) or \$5 for failure to timely file a tax return  
12 authorized by s. 212.11(1)(c) or (d). ~~In the case of a false  
13 or fraudulent return or a willful intent to evade payment of  
14 any tax or fee imposed under this chapter, in addition to the  
15 other penalties provided by law, the person making such false  
16 or fraudulent return or willfully attempting to evade the  
17 payment of such a tax or fee shall be liable for a specific  
18 penalty of 100 percent of the tax bill or fee and for fine and  
19 punishment as provided by law for a conviction of a  
20 misdemeanor of the first degree.~~

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 shall, in addition to the other  
29 penalties provided by law, be liable for a specific penalty of  
30 100 percent of the tax bill or fee and, upon conviction, for  
31

1 fine and punishment as provided in s. 775.082, s. 775.083, or  
2 s. 775.084.

3 1. If the total amount of unreported taxes or fees is  
4 less than \$300, the first offense resulting in conviction is a  
5 misdemeanor of the second degree, the second offense resulting  
6 in conviction is a misdemeanor of the first degree, and the  
7 third and all subsequent offenses resulting in conviction are  
8 felonies of the third degree.

9 2. If the total amount of unreported taxes or fees is  
10 \$300 or more but less than \$20,000, the offense is a felony of  
11 the third degree.

12 3. If the total amount of unreported taxes or fees is  
13 \$20,000 or more but less than \$100,000, the offense is a  
14 felony of the second degree.

15 4. If the total amount of unreported taxes or fees is  
16 \$100,000 or more, the offense is a felony of the first degree.

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

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

1 fails to pay the required estimated tax for his or her  
2 consolidated return as a whole, each filing location shall  
3 stand on its own with respect to calculating penalties  
4 pursuant to paragraph (d) ~~(b)~~.

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

1 provided in s. 775.082 or s. 775.083. If, however, any  
2 subsequent offense involves intentional destruction of such  
3 records with an intent to evade payment of or deprive the  
4 state of any tax revenues, such subsequent offense shall be a  
5 felony of the third degree, punishable as provided in s.  
6 775.082 or s. 775.083.

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

10 212.11 Tax returns and regulations.--

11 (4)

12 (e) The penalty provisions of this chapter, except s.  
13 212.12(2)(~~e~~)(~~c~~), apply to the provisions of this subsection.

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

17 212.13 Records required to be kept; power to inspect;  
18 audit procedure.--

19 (1) For the purpose of enforcing the collection of the  
20 tax levied by this chapter, the department is hereby  
21 specifically authorized and empowered to examine at all  
22 reasonable hours the books, records, and other documents of  
23 all transportation companies, agencies, or firms that conduct  
24 their business by truck, rail, water, aircraft, or otherwise,  
25 in order to determine what dealers, or other persons charged  
26 with the duty to report or pay a tax under this chapter, are  
27 importing or are otherwise shipping in articles or tangible  
28 personal property which are liable for said tax. In the event  
29 said transportation company, agency, or firm refuses to permit  
30 such examination of its books, records, or other documents by  
31 the department as aforesaid, it is guilty of a misdemeanor of



1 the first degree, punishable as provided in s. 775.082 or s.  
2 775.083. If, however, any subsequent offense involves  
3 intentional destruction of such records with an intent to  
4 evade payment of or deprive the state of any tax revenues,  
5 such subsequent offense shall be a felony of the third degree,  
6 punishable as provided in s. 775.082 or s. 775.083.The  
7 department shall have the right to proceed in any chancery  
8 court to seek a mandatory injunction or other appropriate  
9 remedy to enforce its right against the offender, as granted  
10 by this section, to require an examination of the books and  
11 records of such transportation company or carrier.

12 (2) Each dealer, as defined in this chapter, shall  
13 secure, maintain, and keep as long as required by s. 213.35 a  
14 complete record of tangible personal property or services  
15 received, used, sold at retail, distributed or stored, leased  
16 or rented by said dealer, together with invoices, bills of  
17 lading, gross receipts from such sales, and other pertinent  
18 records and papers as may be required by the department for  
19 the reasonable administration of this chapter; all such  
20 records which are located or maintained in this state shall be  
21 open for inspection by the department at all reasonable hours  
22 at such dealer's store, sales office, general office,  
23 warehouse, or place of business located in this state. Any  
24 dealer who maintains such books and records at a point outside  
25 this state must make such books and records available for  
26 inspection by the department where the general records are  
27 kept. Any dealer subject to the provisions of this chapter who  
28 violates these provisions is guilty of a misdemeanor of the  
29 first degree, punishable as provided in s. 775.082 or s.  
30 775.083. If, however, any subsequent offense involves  
31 intentional destruction of such records with an intent to

1 evade payment of or deprive the state of any tax revenues,  
2 such subsequent offense shall be a felony of the third degree,  
3 punishable as provided in s. 775.082 or s. 775.083.

4 Section 17. Effective January 1, 2000, section  
5 213.757, Florida Statutes, is created to read:

6 213.757 Willful failure to pay over funds or  
7 destruction of records by agent.--Any person who accepts money  
8 from a taxpayer that is due to the department, for the purpose  
9 of acting as the taxpayer's agent to make the payment to the  
10 department, but who willfully fails to remit such payment to  
11 the department when due, commits a felony of the third degree,  
12 punishable as provided in s. 775.082, s. 775.083, or s.  
13 775.084. Any person who has possession as a taxpayer's agent  
14 of the taxpayer's records that are required to be maintained  
15 under the revenue laws of this state and who intentionally  
16 destroys those records with the intent of depriving the state  
17 of tax revenues commits a felony of the third degree,  
18 punishable as provided in s. 775.082, s. 775.083, or s.  
19 775.084.

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

23 212.07 Sales, storage, use tax; tax added to purchase  
24 price; dealer not to absorb; liability of purchasers who  
25 cannot prove payment of the tax; penalties; general  
26 exemptions.--

27 (1)

28 (b) A resale must be in strict compliance with s.  
29 212.18 and the rules and regulations, and any dealer who makes  
30 a sale for resale which is not in strict compliance with s.  
31 212.18 and the rules and regulations shall himself or herself

1 be liable for and pay the tax. Any dealer who makes a sale for  
2 resale shall document the exempt nature of the transaction, as  
3 established by rules promulgated by the department, by  
4 retaining a copy of the purchaser's resale certificate. In  
5 lieu of maintaining a copy of the certificate, a dealer may  
6 document, prior to the time of sale, an authorization number  
7 provided telephonically or electronically by the department,  
8 or by such other means established by rule of the department.  
9 The department shall adopt rules that provide that, for  
10 purchasers who purchase on account from a dealer on a  
11 continual basis, the dealer may rely on a resale certificate  
12 issued pursuant to s. 212.18(3)(c), valid at the time of  
13 receipt from the purchaser, without seeking annual  
14 verification of the resale certificate. A dealer may, through  
15 the informal protest provided for in s. 213.21 and the rules  
16 of the Department of Revenue, provide the department with  
17 evidence of the exempt status of a sale. The Department of  
18 Revenue shall adopt rules which provide that valid ~~resale~~  
19 ~~certificates~~ and consumer certificates of exemption executed  
20 by those ~~dealers~~ or exempt entities which were registered with  
21 the department at the time of sale, resale certificates  
22 provided by purchasers who were active dealers at the time of  
23 sale, and verification by the department of a purchaser's  
24 active dealer status at the time of sale in lieu of a resale  
25 certificate shall be accepted by the department when submitted  
26 during the protest period but may not be accepted in any  
27 proceeding under chapter 120 or any circuit court action  
28 instituted under chapter 72.

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

1           212.18 Administration of law; registration of dealers;  
2 rules.--

3           (3)(a) Every person desiring to engage in or conduct  
4 business in this state as a dealer, as defined in this  
5 chapter, or to lease, rent, or let or grant licenses in living  
6 quarters or sleeping or housekeeping accommodations in hotels,  
7 apartment houses, roominghouses, or tourist or trailer camps  
8 that are subject to tax under s. 212.03, or to lease, rent, or  
9 let or grant licenses in real property, as defined in this  
10 chapter, and every person who sells or receives anything of  
11 value by way of admissions, must file with the department an  
12 application for a certificate of registration for each place  
13 of business, showing the names of the persons who have  
14 interests in such business and their residences, the address  
15 of the business, and such other data as the department may  
16 reasonably require. However, owners and operators of vending  
17 machines or newspaper rack machines are required to obtain  
18 only one certificate of registration for each county in which  
19 such machines are located. The department, by rule, may  
20 authorize a dealer that uses independent sellers to sell its  
21 merchandise to remit tax on the retail sales price charged to  
22 the ultimate consumer in lieu of having the independent seller  
23 register as a dealer and remit the tax. The department may  
24 appoint the county tax collector as the department's agent to  
25 accept applications for registrations. The application must be  
26 made to the department before the person, firm, copartnership,  
27 or corporation may engage in such business, and it must be  
28 accompanied by a registration fee of \$5. However, a  
29 registration fee is not required to accompany an application  
30 to engage in or conduct business to make mail order sales.  
31

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

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

13 (c) In addition to the certificate of registration,  
14 the department shall provide to each newly registered dealer  
15 an initial resale certificate that will be valid for the  
16 remainder of the period of issuance. The department shall  
17 provide each active dealer with an annual resale certificate.  
18 For purposes of this section, "active dealer" means a person  
19 who is currently registered with the department and who is  
20 required to file at least once during each applicable  
21 reporting period.

22 (d)~~(b)~~ The department may revoke any dealer's  
23 certificate of registration when the dealer fails to comply  
24 with this chapter. Prior to revocation of a dealer's  
25 certificate of registration, the department must schedule an  
26 informal conference at which the dealer may present evidence  
27 regarding the department's intended revocation or enter into a  
28 compliance agreement with the department. The department must  
29 notify the dealer of its intended action and the time, place,  
30 and date of the scheduled informal conference by written  
31 notification sent by United States mail to the dealer's last

1 known address of record furnished by the dealer on a form  
2 prescribed by the department. The dealer is required to attend  
3 the informal conference and present evidence refuting the  
4 department's intended revocation or enter into a compliance  
5 agreement with the department which resolves the dealer's  
6 failure to comply with this chapter. The department shall  
7 issue an administrative complaint under s. 120.60 if the  
8 dealer fails to attend the department's informal conference,  
9 fails to enter into a compliance agreement with the department  
10 resolving the dealer's noncompliance with this chapter, or  
11 fails to comply with the executed compliance agreement.

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

17 1. An exhibitor whose agreement prohibits the sale of  
18 tangible personal property or services subject to the tax  
19 imposed in this chapter is not required to register as a  
20 dealer.

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

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

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

1  
2 Any person who conducts a convention or a trade show must make  
3 their exhibitor's agreements available to the department for  
4 inspection and copying.

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

8 213.053 Confidentiality and information sharing.--

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

23 Section 21. Effective January 1, 2000, the Department  
24 of Revenue shall establish a toll-free number for verification  
25 of valid registration numbers and resale certificates. The  
26 system must be sufficient to guarantee a low busy rate and  
27 must respond to keypad inquiries, and data must be updated  
28 daily.

29 Section 22. Effective January 1, 2000, the Department  
30 of Revenue shall establish a system for receiving information  
31 from dealers regarding certificate numbers of those seeking to



1 make purchases for resale. The department must provide such  
2 dealers with verification of those numbers which are canceled  
3 or invalid. This information must be provided by the  
4 department free of charge.

5 Section 23. Effective July 1, 1999, the Department of  
6 Revenue shall expand its dealer education program regarding  
7 the proper use of resale certificates. The expansion shall  
8 include, but not be limited to, revision of the registration  
9 application for clarity, development of industry-specific  
10 brochures, development of a media campaign to heighten  
11 awareness of resale fraud and its consequences, outreach to  
12 business and professional organizations, and creation of  
13 seminars and continuing education programs for taxpayers and  
14 licensed professionals.

15 Section 24. (1) The sums of \$211,065 to be used for  
16 salaries, benefits, and expenses and \$23,455 to be used for  
17 operating capital outlay are appropriated from the General  
18 Revenue Fund to the Department of Revenue, and 1.5 FTEs are  
19 authorized, to implement the provisions of this act regarding  
20 resale certificates under chapter 212, Florida Statutes.

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

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

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

31 (7) MISCELLANEOUS EXEMPTIONS.--

1           (ii) Certain electricity or steam uses.--  
2           1. Subject to the provisions of subparagraph 4.,  
3 charges for electricity or steam used to operate machinery and  
4 equipment at a fixed location in this state when such  
5 machinery and equipment is used to manufacture, process,  
6 compound, produce, or prepare for shipment items of tangible  
7 personal property for sale, or to operate pollution control  
8 equipment, recycling equipment, maintenance equipment, or  
9 monitoring or control equipment used in such operations are  
10 exempt to the extent provided in this paragraph. ~~If in order~~  
11 ~~to qualify for this exemption,~~ 75 percent or more of the  
12 electricity or steam used at the fixed location ~~is~~ must be  
13 used to operate qualifying machinery or equipment, 100 percent  
14 of the charges for electricity or steam used at the fixed  
15 location are exempt. If less than 75 percent but 50 percent or  
16 more of the electricity or steam ~~is~~ used at ~~the a~~ fixed  
17 location is used to operate qualifying machinery or equipment,  
18 ~~then it is presumed that~~ 50 percent of the charges for  
19 electricity or steam used at the fixed location are exempt  
20 charge for electricity is for nonexempt purposes. If less than  
21 50 percent of the electricity or steam used at the fixed  
22 location is used to operate qualifying machinery or equipment,  
23 none of the charges for electricity or steam used at the fixed  
24 location are exempt.  
25           2. This exemption applies only to industries  
26 classified under SIC Industry Major Group Numbers 10, 12, 13,  
27 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,  
28 35, 36, 37, 38, and 39. As used in this paragraph, "SIC" means  
29 those classifications contained in the Standard Industrial  
30 Classification Manual, 1987, as published by the Office of  
31 Management and Budget, Executive Office of the President.

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

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

27           213.27 Contracts with debt collection agencies and  
28 certain vendors.--

29           (8)(a) The executive director of the department may  
30 enter into contracts with private vendors to develop and  
31 implement systems to enhance tax collections where

1 compensation to the vendors is funded through increased tax  
2 collections. The amount of compensation paid to a vendor  
3 shall be based on a percentage of increased tax collections  
4 attributable to the system after all administrative and  
5 judicial appeals are exhausted, and the total amount of  
6 compensation paid to a vendor shall not exceed the maximum  
7 amount stated in the contract.

8 (b) A person acting on behalf of the department under  
9 a contract authorized by this subsection does not exercise any  
10 of 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 to enhance tax collection.

13 (c) Disclosure of information under this subsection  
14 shall be pursuant to a written agreement between the executive  
15 director and the private vendors. The vendors shall be bound  
16 by the same requirements of confidentiality as the department.  
17 Breach of confidentiality is a misdemeanor of the first  
18 degree, punishable as provided in s. 775.082 or s. 775.083.

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

21 213.67 Garnishment.--

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

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

25 Section 28. (1) Paragraph (n) of subsection (1) and  
26 paragraph (c) of subsection (2) of section 220.03, Florida  
27 Statutes, 1998 Supplement, are amended, and paragraph (hh) is  
28 added to subsection (1) of said section, to read:

29 220.03 Definitions.--

30 (1) SPECIFIC TERMS.--When used in this code, and when  
31 not otherwise distinctly expressed or manifestly incompatible

1 with the intent thereof, the following terms shall have the  
2 following meanings:

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

6 (hh) "Citrus processing company" means a corporation  
7 which, during the 60-month period ending on December 31, 1997,  
8 had derived more than 50 percent of its total gross receipts  
9 from the processing of citrus products and the manufacture of  
10 juices.

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

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

21 (2) This section shall take effect upon this act  
22 becoming a law, and the amendments to s. 220.03(1)(n) and  
23 (2)(c), Florida Statutes, 1998 Supplement, shall operate  
24 retroactively to January 1, 1999.

25 Section 29. Effective January 1, 2000, paragraph (b)  
26 of subsection (1) of section 220.151, Florida Statutes, is  
27 amended, and, effective upon this act becoming a law,  
28 subsection (3) is added to said section, to read:

29 220.151 Apportionment; methods for special  
30 industries.--

31 (1)



1 (b) If the principal source of premiums written by an  
2 insurance company consists of premiums for reinsurance  
3 accepted by it, the tax base of such company shall be  
4 apportioned to this state by multiplying such base by a  
5 fraction the numerator of which is the sum of:

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

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

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

28 (3) For any taxable year beginning on or after January  
29 1, 1999, a citrus processing company may, if required to  
30 apportion its taxable net income pursuant to the three-factor  
31 apportionment method set forth in s. 220.15(1), elect to have

1 such apportionment determined for that taxable year solely by  
2 use of the sales factor, as set forth in s. 220.15(5). The  
3 election shall be made by the filing of a return for the  
4 taxable year utilizing this method.

5 Section 30. Section 220.21, Florida Statutes, is  
6 amended to read:

7 220.21 Returns and records; regulations.--

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

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

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

30 220.221 Returns; signing and verification.--

31

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

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

10           220.222 Returns; time and place for filing.--

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

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

28           Section 33. Subsection (7) is added to section  
29 193.052, Florida Statutes, to read:

30           193.052 Preparation and serving of returns.--

31

1           (7) A property appraiser may accept a tangible  
2 personal property tax return in a form initiated through an  
3 electronic data interchange. The department shall prescribe by  
4 rule the format and instructions necessary for such filing to  
5 ensure that all property is properly listed. The acceptable  
6 method of transfer, the method, form, and content of the  
7 electronic data interchange, the method by which the taxpayer  
8 will be provided with an acknowledgment, and the duties of the  
9 property appraiser with respect to such filing shall be  
10 prescribed by the department. The department's rules shall  
11 provide: a uniform format for all counties; that the format  
12 shall resemble form DR-405 as closely as possible; and that  
13 adequate safeguards for verification of taxpayers' identities  
14 are established to avoid filing by unauthorized persons.

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

17           199.052 Annual tax returns; payment of annual tax.--

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

31

1           (b) A taxpayer may choose to file an annual intangible  
2 personal property tax return in a form initiated through an  
3 electronic data interchange using an advanced encrypted  
4 transmission by means of the Internet or other suitable  
5 transmission. The department shall prescribe by rule the  
6 format and instructions necessary for such filing to ensure a  
7 full collection of taxes due. The acceptable method of  
8 transfer, the method, form, and content of the electronic data  
9 interchange, and the means, if any, by which the taxpayer will  
10 be provided with an acknowledgment shall be prescribed by the  
11 department.

12           Section 35. Section 443.163, Florida Statutes, is  
13 created to read:

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

25           Section 36. (1) Whenever the governing body of a  
26 municipality that has created a downtown development district  
27 pursuant to chapter 65-1090, Laws of Florida, determines that  
28 it is necessary to alter, amend, or expand the boundaries of  
29 the established district by the inclusion of additional  
30 territory or the exclusion of lands from the limits of the  
31 established district, in order to revitalize and preserve

1 property values or to prevent deterioration in the original  
2 district or its surrounding areas, it shall, by resolution,  
3 declare its intention to do so.

4 (2) In the resolution of intent, the governing body  
5 shall set a date for a public hearing on adoption of an  
6 ordinance altering, amending, or expanding the district and  
7 describing the new proposed district. Upon the adoption of  
8 the resolution, the governing body shall cause a notice of the  
9 public hearing to be published in a newspaper of general  
10 circulation published in the municipality, which notice shall  
11 be published one time not less than 30 nor more than 60 days  
12 prior to the date of the hearing. The notice shall set forth  
13 the date, time, and place of the hearing and shall describe  
14 the new proposed boundaries of the district. Any citizen,  
15 taxpayer, or property owner shall have the right to be heard  
16 in opposition to the proposed amendment or expansion of the  
17 district. After the public hearing, if the governing body  
18 intends to proceed with the amendment or expansion of the  
19 district, it shall, in the manner authorized by law, adopt an  
20 ordinance defining the new district. The governing body shall  
21 not incorporate land into the district not included in the  
22 description contained in the resolution and the notice of  
23 public hearing, but it may eliminate any lands from that  
24 description when it adopts the ordinance containing the final  
25 determination of the boundaries.

26 Section 37. If any provision of this act or the  
27 application thereof to any person or circumstance is held  
28 invalid, the invalidity shall not affect other provisions or  
29 applications of the act which can be given effect without the  
30 invalid provision or application, and to this end the  
31 provisions of this act are severable.

1           Section 38. Except as otherwise provided herein, this  
2 act shall take effect upon becoming a law.  
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