

By the Committee on Fiscal Resource and Senator Horne

314-2149-99

1                                   A bill to be entitled  
2           An act relating to tax on sales, use, and other  
3           transactions; amending s. 212.08, F.S.;  
4           providing an exemption for works of art  
5           purchased or imported for the purpose of  
6           donation to an educational institution;  
7           providing requirements with respect thereto;  
8           revising the industries to which the exemption  
9           for electricity or steam used in certain  
10          manufacturing and related operations applies;  
11          providing an exemption for labor charges for,  
12          and parts and materials used in, the repair of  
13          machinery and equipment used to produce  
14          tangible personal property at a fixed location  
15          by specified industries; providing a schedule  
16          for implementing the exemption; providing an  
17          effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21           Section 1. Paragraphs (dd) and (ii) of subsection (7)  
22          of section 212.08, Florida Statutes, 1998 Supplement, are  
23          amended, and paragraph (zz) is added to that subsection, to  
24          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 (dd) Works of art.--

2 1. Also exempt are works of art sold to or used by an  
3 educational institution, as defined in sub-subparagraph  
4 (o)2.d.

5 2. This exemption also applies to the sale to or use  
6 in this state of any work of art by any person if it was  
7 purchased or imported exclusively for the purpose of being  
8 donated to any educational institution or loaned to and made  
9 available for display by any educational institution, provided  
10 that the term of the loan agreement is for at least 10 years.

11 3. The exemption provided by this paragraph for  
12 donations is allowed only if the person who purchased the work  
13 of art transfers title to the donated work of art to an  
14 educational institution. Such transfer of title shall be  
15 evidenced by an affidavit meeting requirements established by  
16 rule to document entitlement to the exemption. Nothing in this  
17 paragraph shall preclude a work of art donated to an  
18 educational institution from remaining in the possession of  
19 the donor or purchaser, as long as title to the work of art  
20 lies with the educational institution.

21 ~~4.3.~~ A work of art is presumed to have been purchased  
22 in or imported into this state exclusively for loan as  
23 provided in subparagraph 2., if it is so loaned or placed in  
24 storage in preparation for such a loan within 90 days after  
25 purchase or importation, whichever is later; but a work of art  
26 is not deemed to be placed in storage in preparation for loan  
27 for purposes of this exemption if it is displayed at any place  
28 other than an educational institution.

29 ~~5.4.~~ The exemptions provided by this paragraph are  
30 allowed only if the person who purchased the work of art gives  
31 to the vendor an affidavit meeting the requirements,

1 established by rule, to document entitlement to the exemption.  
2 The person who purchased the work of art shall forward a copy  
3 of such affidavit to the Department of Revenue at the time it  
4 is issued to the vendor.

5 ~~6.5.~~ The exemption for loans provided by subparagraph  
6 2. applies only for the period during which a work of art is  
7 in the possession of the educational institution or is in  
8 storage before transfer of possession to that institution; and  
9 when it ceases to be so possessed or held, tax based upon the  
10 sales price paid by the owner is payable, and the statute of  
11 limitations provided in s. 95.091 shall begin to run at that  
12 time. However, tax shall not become due if the work of art is  
13 donated to an educational institution after the loan ceases.

14 7. Any educational institution to which a work of art  
15 has been donated pursuant to this paragraph shall make  
16 available to the department the title to the work of art and  
17 any other relevant information. Any educational institution  
18 which has received a work of art on loan pursuant to this  
19 paragraph shall make available to the department information  
20 relating to the work of art. Any educational institution that  
21 transfers from its possession a work of art as defined by this  
22 paragraph which has been loaned to it must notify the  
23 Department of Revenue within 60 days after the transfer.

24 ~~8.6.~~ For purposes of the exemptions provided by this  
25 paragraph, the term "work of art" includes pictorial  
26 representations, sculpture, jewelry, antiques, stamp  
27 collections and coin collections, and other tangible personal  
28 property, the value of which is attributable predominantly to  
29 its artistic, historical, political, cultural, or social  
30 importance.

31

1           ~~7. This paragraph is a remedial clarification of~~  
2 ~~legislative intent and applies to all taxes that remain open~~  
3 ~~to assessment or contest on July 1, 1992.~~

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

5           1. Charges for electricity or steam used to operate  
6 machinery and equipment at a fixed location in this state when  
7 such machinery and equipment is used to manufacture, process,  
8 compound, produce, or prepare for shipment items of tangible  
9 personal property for sale, or to operate pollution control  
10 equipment, recycling equipment, maintenance equipment, or  
11 monitoring or control equipment used in such operations are  
12 exempt to the extent provided in this paragraph. In order to  
13 qualify for this exemption, 75 percent or more of the  
14 electricity used at the fixed location must be used to operate  
15 qualifying machinery or equipment. If less than 75 percent but  
16 50 percent or more of the electricity is used at a fixed  
17 location to operate qualifying machinery or equipment, then it  
18 is presumed that 50 percent of the charge for electricity is  
19 for nonexempt purposes.

20           2. This exemption applies only to industries  
21 classified under SIC Industry Major Group Numbers 10, 12, 13,  
22 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,  
23 35, 36, 37, 38, and 39 and Industry Group Number 212. As used  
24 in this paragraph, "SIC" means those classifications contained  
25 in the Standard Industrial Classification Manual, 1987, as  
26 published by the Office of Management and Budget, Executive  
27 Office of the President.

28           3. Possession by a seller of a written certification  
29 by the purchaser, certifying the purchaser's entitlement to an  
30 exemption permitted by this subsection, relieves the seller  
31 from the responsibility of collecting the tax on the

1 nontaxable amounts, and the department shall look solely to  
2 the purchaser for recovery of such tax if it determines that  
3 the purchaser was not entitled to the exemption.

4 4. Such exemption shall be applied as follows:

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

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

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

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

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

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

23 6.a. In order to determine whether the exemption  
24 provided in this paragraph from the tax on charges for  
25 electricity or steam has an effect on retaining or attracting  
26 companies to this state, the Office of Program Policy Analysis  
27 and Governmental Accountability shall periodically monitor and  
28 report on the industries receiving the exemption.

29 b. The first report shall be submitted no later than  
30 January 1, 1997, and must be conducted in such a manner as to  
31 specifically determine the number of companies within each SIC

1 Industry Major Group receiving the exemption as of September  
2 1, 1996, and the number of individuals employed by companies  
3 within each SIC Industry Major Group receiving the exemption  
4 as of September 1, 1996.

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

17 d. Both reports shall be submitted to the President of  
18 the Senate, the Speaker of the House of Representatives, the  
19 Senate Minority Leader, and the House Minority Leader.

20 (zz) Certain repair and labor charges.--

21 1. Subject to the provisions of subparagraphs 2. and  
22 3., there is exempt from the tax imposed by this chapter all  
23 labor charges for the repair of, and parts and materials used  
24 in the repair of and incorporated into, industrial machinery  
25 and equipment which is used for the manufacture, processing,  
26 compounding, or production of items of tangible personal  
27 property at a fixed location within this state.

28 2. This exemption applies only to industries  
29 classified under SIC Industry Major Group Numbers 10, 12, 13,  
30 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,  
31 36, 37, 38, and 39 and Industry Group Number 212. As used in

1 this subparagraph, "SIC" means those classifications contained  
2 in the Standard Industrial Classification Manual, 1987, as  
3 published by the Office of Management and Budget, Executive  
4 Office of the President.

5 3. This exemption shall be applied as follows:

6 a. Beginning July 1, 1999, 25 percent of such charges  
7 for repair parts and labor shall be exempt.

8 b. Beginning July 1, 2000, 50 percent of such charges  
9 for repair parts and labor shall be exempt.

10 c. Beginning July 1, 2001, 75 percent of such charges  
11 for repair parts and labor shall be exempt.

12 d. Beginning July 1, 2002, 100 percent of such charges  
13 for repair parts and labor shall be exempt.

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

21 Section 2. This act shall take effect July 1, 1999.

22  
23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
24 COMMITTEE SUBSTITUTE FOR  
25 SB 992

26 The committee substitute makes the following changes to SB  
27 992:

28 Adds to the exemption on the sales tax for electricity and  
29 steam used to operate machinery and equipment pursuant to s.  
30 212.08(7)(ii), F.S., the cigar manufacturing industry.

31 Provides a sales tax exemption for donations of works of art  
to an educational institution where the title to the work of  
art is transferred to the educational institution.