

1 A bill to be entitled
2 An act relating to tax administration; amending
3 s. 45.031, F.S.; providing for notice of
4 disbursement of the proceeds of a judicial sale
5 to the Department of Revenue under certain
6 conditions when it was performing unemployment
7 compensation tax collection services pursuant
8 to a contract with the Agency for Workforce
9 Innovation; amending s. 69.041, F.S.;
10 authorizing the department to participate in
11 the distribution of surplus funds remaining
12 after such disbursement when it has an interest
13 in an unemployment compensation tax lien
14 pursuant to such a contract; amending s.
15 213.053, F.S.; providing application of
16 confidentiality and information sharing
17 provisions to ch. 443, F.S., while the
18 department is performing such tax collection
19 services; amending s. 11, ch. 2000-165, Laws of
20 Florida; specifying that the department is
21 administering a revenue law when it provides
22 such tax collection services and specifying the
23 provisions of ch. 213, F.S., that apply
24 thereto; amending s. 201.02, F.S.; providing
25 that the documentary stamp tax on deeds and
26 other instruments relating to real property or
27 interests in real property does not apply to a
28 contract to sell the residence of an employee
29 relocating at an employer's direction, or
30 related documents, under specified
31 circumstances; providing intent; exempting

1 deeds and other instruments whereby property is
2 conveyed from an electric utility to a regional
3 transmission organization from said tax under
4 certain circumstances; amending s. 212.02,
5 F.S.; excluding from the definition of "lease,"
6 "let," "rental," or "license" payments made by
7 such an organization to an electric utility
8 under certain conditions; amending s. 212.031,
9 F.S.; exempting property occupied or used by
10 certain regional transmission organizations
11 from the tax on the lease or rental of or
12 license in real property; amending s. 212.06,
13 F.S.; revising the definition of "fixtures" for
14 purposes of determining if a person is
15 improving real property under ch. 212, F.S.;
16 providing intent; amending s. 212.08, F.S.;
17 specifying conditions for receipt of sales tax
18 exemptions provided to an entity under ch. 212,
19 F.S., and subsection (7) of said section;
20 providing for retroactive application; deleting
21 obsolete provisions relating to registration
22 with the WAGES Program Business Registry;
23 providing for retroactive application;
24 reinstating retroactively the sales tax
25 exemption for parent-teacher organizations and
26 parent-teacher associations; eliminating the
27 specific sales tax exemption for organizations
28 providing crime prevention, drunk driving
29 prevention, and juvenile delinquency prevention
30 services; providing for determination of a
31 mileage apportionment factor for the first year

1 of operation in this state of vessels,
 2 railroads, or motor vehicles engaged in
 3 interstate or foreign commerce and entitled to
 4 a partial sales tax exemption; correcting
 5 references; requiring a purchaser to file an
 6 affidavit stating the exempt nature of a
 7 purchase with the vendor instead of the
 8 department for purposes of the sales tax
 9 exemption for machinery and equipment used to
 10 produce electrical or steam energy; providing
 11 for retroactive application; revising the
 12 application of the sales tax exemption for the
 13 sale of drinking water in bottles or other
 14 containers; replacing the definitions of
 15 "section 38 property" with express definitions
 16 of "industrial machinery and equipment" and
 17 "motion picture or video equipment" and "sound
 18 recording equipment" for purposes of the sales
 19 tax exemptions therefor; providing intent and
 20 purpose; providing that provisions authorizing
 21 a partial sales tax exemption for a motor
 22 vehicle sold to a resident of another state do
 23 not require payment of tax to this state for
 24 prior assessments under certain conditions;
 25 providing for retroactive application;
 26 providing that a vehicle purchased by a
 27 nonresident corporation or partnership is not
 28 eligible for the partial sales tax exemption
 29 under certain circumstances; repealing s.
 30 212.084(6), F.S.; eliminating provisions for
 31 temporary sales tax exemption certificates for

1 newly organized charitable organizations;
 2 repealing s. 4, ch. 96-395, Laws of Florida,
 3 which provides for the repeal of sales tax
 4 exemptions for certain citizen support
 5 organizations and the Florida Folk Festival;
 6 providing for retroactive application; amending
 7 s. 213.285, F.S.; delaying the future repeal of
 8 the certified audits project; amending ss.
 9 213.053 and 213.21, F.S., to conform; amending
 10 s. 213.30, F.S., relating to compensation for
 11 information relating to a violation of tax
 12 laws; specifying that said section is the only
 13 available means of obtaining compensation for
 14 information regarding another person's failure
 15 to comply with the state's tax laws; providing
 16 applicability; repealing s. 213.27(9), F.S.,
 17 which authorizes the department to contract
 18 with certain vendors to develop and implement a
 19 voluntary system for sales and use tax
 20 collection and administration; creating s.
 21 213.256, F.S., the Simplified Sales and Use Tax
 22 Administration Act; defining terms; authorizing
 23 the department's participation in the
 24 Streamlined Sales and Use Tax Agreement;
 25 providing that the agreement must require each
 26 state to abide by certain requirements in order
 27 for the department to enter into the agreement;
 28 authorizing the state to enter into multistate
 29 discussions and providing for appointment of
 30 delegates; specifying relationship of the
 31 agreement to state law; specifying the effect

1 of the agreement with respect to persons other
 2 than member states; providing that government
 3 actions or state laws cannot be challenged on
 4 the basis of inconsistency with the agreement;
 5 providing liabilities and responsibilities of
 6 sellers, certified service providers, and
 7 providers of certified automated systems;
 8 providing for maintenance of confidentiality of
 9 certain information; providing a penalty;
 10 requiring the department to make annual
 11 recommendations to the Legislature regarding
 12 compliance with the agreement; reviving and
 13 readopting s. 215.20(3), F.S., which provides
 14 for deduction of a service charge from certain
 15 trust funds; amending s. 220.22, F.S.;
 16 eliminating the initial year's corporate tax
 17 information return for subchapter S
 18 subsidiaries and directing the department to
 19 designate by rule entities that are not
 20 required to file a corporate tax return;
 21 amending s. 443.131, F.S.; reducing the
 22 Unemployment Compensation Trust Fund balance
 23 thresholds used in computing unemployment
 24 compensation contribution rate adjustment
 25 factors; creating s. 443.1315, F.S.; providing
 26 definitions; providing for treatment of Indian
 27 tribes under the Unemployment Compensation Law;
 28 providing that Indian tribes or tribal units
 29 may elect to make payments in lieu of
 30 contributions and providing requirements with
 31 respect thereto; providing that such Indian

1 tribe or tribal unit may be required to file a
2 bond or deposit security at the discretion of
3 the director of the Agency for Workforce
4 Innovation; providing effect of failure of such
5 tribe or unit to make required payments;
6 providing requirements for notices; providing
7 responsibility for certain extended benefits;
8 providing for rules; providing for retroactive
9 application; repealing s. 624.509(10), F.S.,
10 which provides an exemption from the insurance
11 premium tax for insurers who write monoline
12 flood insurance policies not subsidized by the
13 Federal Government; providing effective dates.

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

16
17 Section 1. Subsection (7) of section 45.031, Florida
18 Statutes, is amended to read:

19 45.031 Judicial sales procedure.--In any sale of real
20 or personal property under an order or judgment, the following
21 procedure may be followed as an alternative to any other sale
22 procedure if so ordered by the court:

23 (7) DISBURSEMENTS OF PROCEEDS.--On filing a
24 certificate of title the clerk shall disburse the proceeds of
25 the sale in accordance with the order or final judgment, and
26 shall file a report of such disbursements and serve a copy of
27 it on each party not in default, and on the Department of
28 Revenue, if it was named as a defendant in the action or if
29 the Agency for Workforce Innovation or the Department of Labor
30 and Employment Security was named as a defendant while the
31 Department of Revenue was performing unemployment compensation

1 tax collection services pursuant to a contract with the Agency
2 for Workforce Innovation, in substantially the following form:

3
4 (Caption of Action)

5
6 CERTIFICATE OF DISBURSEMENTS

7
8 The undersigned clerk of the court certifies that he or
9 she disbursed the proceeds received from the sale of the
10 property as provided in the order or final judgment to the
11 persons and in the amounts as follows:

12 Name	Amount
13	
14	Total
15	

16 WITNESS my hand and the seal of the court on,
17 ...(year)....

18 ... (Clerk)...

19 By ... (Deputy Clerk)...

20
21 If no objections to the report are served within 10 days after
22 it is filed, the disbursements by the clerk shall stand
23 approved as reported. If timely objections to the report are
24 served, they shall be heard by the court. Service of
25 objections to the report does not affect or cloud the title of
26 the purchaser of the property in any manner.

27 Section 2. Paragraph (a) of subsection (4) of section
28 69.041, Florida Statutes, is amended to read:

29 69.041 State named party; lien foreclosure, suit to
30 quiet title.--

1 (4)(a) The Department of Revenue has the right to
 2 participate in the disbursement of funds remaining in the
 3 registry of the court after distribution pursuant to s.
 4 45.031(7). The department shall participate in accordance with
 5 applicable procedures in any mortgage foreclosure action in
 6 which the department has a duly filed tax warrant, or
 7 interests under a lien arising from a judgment, order, or
 8 decree for child support, or interest in an unemployment
 9 compensation tax lien pursuant to a contract with the Agency
 10 for Workforce Innovation, against the subject property and
 11 with the same priority, regardless of whether a default
 12 against the department, the Agency for Workforce Innovation,
 13 or the Department of Labor and Employment Security has been
 14 entered for failure to file an answer or other responsive
 15 pleading.

16 Section 3. Subsection (1) of section 213.053, Florida
 17 Statutes, is amended to read:

18 213.053 Confidentiality and information sharing.--

19 (1) The provisions of this section apply to s.
 20 125.0104, county government; s. 125.0108, tourist impact tax;
 21 chapter 175, municipal firefighters' pension trust funds;
 22 chapter 185, municipal police officers' retirement trust
 23 funds; chapter 198, estate taxes; chapter 199, intangible
 24 personal property taxes; chapter 201, excise tax on documents;
 25 chapter 203, gross receipts taxes; chapter 211, tax on
 26 severance and production of minerals; chapter 212, tax on
 27 sales, use, and other transactions; chapter 220, income tax
 28 code; chapter 221, emergency excise tax; s. 252.372, emergency
 29 management, preparedness, and assistance surcharge; s.
 30 370.07(3), Apalachicola Bay oyster surcharge; chapter 376,
 31 pollutant spill prevention and control; s. 403.718, waste tire

1 fees; s. 403.7185, lead-acid battery fees; s. 538.09,
2 registration of secondhand dealers; s. 538.25, registration of
3 secondary metals recyclers; ss. 624.501 and 624.509-624.515,
4 insurance code; s. 681.117, motor vehicle warranty
5 enforcement; and s. 896.102, reports of financial transactions
6 in trade or business. The provisions of this section, except
7 paragraph (7)(f), also apply to chapter 443 while the
8 department is performing tax collection services for the
9 Agency for Workforce Innovation pursuant to chapter 2000-165,
10 Laws of Florida; however, the exceptions to confidentiality
11 contained in ss. 443.171(7) and 443.1715 remain in full force
12 and effect.

13 Section 4. Paragraph (f) of subsection (4) of section
14 11 of chapter 2000-165, Laws of Florida, is amended to read:

15 Section 11.

16 (4) Effective October 1, 2000, the following programs
17 and functions are transferred to the Agency for Workforce
18 Innovation:

19 (f) The Division of Unemployment Compensation is
20 transferred by a type two transfer, as defined in section
21 20.06(2), Florida Statutes, from the Department of Labor and
22 Employment Security to the Agency for Workforce Innovation.
23 The resources, data, records, property, and unexpended
24 balances of appropriations, allocations, and other funds
25 within the Office of the Secretary or any other division,
26 office, bureau, or unit within the Department of Labor and
27 Employment Security that support the Division of Unemployment
28 Compensation are transferred by a type two transfer, as
29 defined in section 20.06(2), Florida Statutes, from the
30 Department of Labor and Employment Security. By January 1,
31 2001, the Agency for Workforce Innovation shall enter into a

1 contract with the Department of Revenue which shall provide
2 for the Department of Revenue to provide unemployment tax
3 collection services. The Department of Revenue, in
4 consultation with the Department of Labor and Employment
5 Security, shall determine the number of positions needed to
6 provide unemployment tax collection services within the
7 Department of Revenue. The number of unemployment tax
8 collection service positions the Department of Revenue
9 determines are needed shall not exceed the number of positions
10 that, prior to the contract, were authorized to the Department
11 of Labor and Employment Security for this purpose. Upon
12 entering into the contract with the Agency for Workforce
13 Innovation to provide unemployment tax collection services,
14 the number of required positions, as determined by the
15 Department of Revenue, shall be authorized within the
16 Department of Revenue. Beginning January 1, 2002, the Office
17 of Program Policy Analysis and Government Accountability shall
18 conduct a feasibility study regarding privatization of
19 unemployment tax collection services. A report on the
20 conclusions of this study shall be submitted to the Governor,
21 the President of the Senate, and the Speaker of the House of
22 Representatives. The Department of Revenue is considered to be
23 administering a revenue law of this state when it provides
24 unemployment compensation tax collection services pursuant to
25 its contract with the Agency for Workforce Innovation. The
26 following provisions of chapter 213, Florida Statutes, apply
27 to the collection of unemployment contributions by the
28 Department of Revenue unless prohibited by federal law: ss.
29 213.018, 213.025, 213.051, 213.053, 213.055, 213.071, 213.10,
30 213.21(2), (3), (4), (5), (6), (7), and (8), 213.2201, 213.23,
31 213.24, 213.25, 213.26, 213.27, 213.28, 213.285, 213.30,

1 213.34, 213.37, 213.50, 213.67, 213.69, 213.73, 213.731,
2 213.732, 213.733, 213.74, 213.755, and 213.757.

3 Section 5. Subsections (8) and (9) are added to
4 section 201.02, Florida Statutes, to read:

5 201.02 Tax on deeds and other instruments relating to
6 real property or interests in real property.--

7 (8) Taxes imposed by this section do not apply to a
8 contract to sell the residence of an employee relocating at
9 his or her employer's direction or documents related to the
10 contract, which contract is between the employee and the
11 employer or between the employee and a person in the business
12 of providing employee relocation services. Taxes on such
13 transactions apply only to the transfer of the real property
14 comprising the residence by deed that names the grantee.

15 (9) Taxes imposed by this section shall not apply to
16 deeds, instruments, or writings whereby any lands, tenements,
17 or other real property, or any interest therein, is granted,
18 assigned, transferred, or otherwise conveyed from an electric
19 utility to a regional transmission organization under the
20 jurisdiction of the Federal Energy Regulatory Commission.

21 Section 6. It is the intent of the Legislature that s.
22 201.02(8), Florida Statutes, as created by this act, confirms
23 and clarifies existing law.

24 Section 7. Paragraph (g) of subsection (10) of section
25 212.02, Florida Statutes, is amended to read:

26 212.02 Definitions.--The following terms and phrases
27 when used in this chapter have the meanings ascribed to them
28 in this section, except where the context clearly indicates a
29 different meaning:

30 (10) "Lease," "let," or "rental" means leasing or
31 renting of living quarters or sleeping or housekeeping

1 accommodations in hotels, apartment houses, roominghouses,
2 tourist or trailer camps and real property, the same being
3 defined as follows:

4 (g) "Lease," "let," or "rental" also means the leasing
5 or rental of tangible personal property and the possession or
6 use thereof by the lessee or rentee for a consideration,
7 without transfer of the title of such property, except as
8 expressly provided to the contrary herein. The term "lease,"
9 "let," or "rental" does not mean hourly, daily, or mileage
10 charges, to the extent that such charges are subject to the
11 jurisdiction of the Surface Transportation Board ~~United States~~
12 ~~Interstate Commerce Commission~~, when such charges are paid by
13 reason of the presence of railroad cars owned by another on
14 the tracks of the taxpayer, or charges made pursuant to car
15 service agreements. "Lease," "let," "rental," or "license"
16 does not include payments by a regional transmission
17 organization operating under the jurisdiction of the Federal
18 Energy Regulatory Commission made to an electric utility in
19 connection with the regional transmission organization's use
20 or control of the utility's high-voltage bulk transmission
21 facilities. However, where two taxpayers, in connection with
22 the interchange of facilities, rent or lease property, each to
23 the other, for use in providing or furnishing any of the
24 services mentioned in s. 166.231, the term "lease or rental"
25 means only the net amount of rental involved.

26 Section 8. Paragraph (a) of subsection (1) of section
27 212.031, Florida Statutes, is amended to read:

28 212.031 Lease or rental of or license in real
29 property.--

30 (1)(a) It is declared to be the legislative intent
31 that every person is exercising a taxable privilege who

1 engages in the business of renting, leasing, letting, or
2 granting a license for the use of any real property unless
3 such property is:

- 4 1. Assessed as agricultural property under s. 193.461.
- 5 2. Used exclusively as dwelling units.
- 6 3. Property subject to tax on parking, docking, or
7 storage spaces under s. 212.03(6).
- 8 4. Recreational property or the common elements of a
9 condominium when subject to a lease between the developer or
10 owner thereof and the condominium association in its own right
11 or as agent for the owners of individual condominium units or
12 the owners of individual condominium units. However, only the
13 lease payments on such property shall be exempt from the tax
14 imposed by this chapter, and any other use made by the owner
15 or the condominium association shall be fully taxable under
16 this chapter.
- 17 5. A public or private street or right-of-way and
18 poles, conduits, fixtures, and similar improvements located on
19 such streets or rights-of-way, occupied or used by a utility
20 or franchised cable television company for utility or
21 communications or television purposes. For purposes of this
22 subparagraph, the term "utility" means any person providing
23 utility services as defined in s. 203.012 and includes a
24 regional transmission organization operating under the
25 jurisdiction of the Federal Energy Regulatory Commission. This
26 exception also applies to property, wherever located, on which
27 the following are placed: towers, antennas, cables, accessory
28 structures, or equipment, not including switching equipment,
29 used in the provision of mobile communications services as
30 defined in s. 202.11. For purposes of this chapter, towers
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1 used in the provision of mobile communications services, as
2 defined in s. 202.11, are considered to be fixtures.

3 6. A public street or road which is used for
4 transportation purposes.

5 7. Property used at an airport exclusively for the
6 purpose of aircraft landing or aircraft taxiing or property
7 used by an airline for the purpose of loading or unloading
8 passengers or property onto or from aircraft or for fueling
9 aircraft.

10 8.a. Property used at a port authority, as defined in
11 s. 315.02(2), exclusively for the purpose of oceangoing
12 vessels or tugs docking, or such vessels mooring on property
13 used by a port authority for the purpose of loading or
14 unloading passengers or cargo onto or from such a vessel, or
15 property used at a port authority for fueling such vessels, or
16 to the extent that the amount paid for the use of any property
17 at the port is based on the charge for the amount of tonnage
18 actually imported or exported through the port by a tenant.

19 b. The amount charged for the use of any property at
20 the port in excess of the amount charged for tonnage actually
21 imported or exported shall remain subject to tax except as
22 provided in sub-subparagraph a.

23 9. Property used as an integral part of the
24 performance of qualified production services. As used in this
25 subparagraph, the term "qualified production services" means
26 any activity or service performed directly in connection with
27 the production of a qualified motion picture, as defined in s.
28 212.06(1)(b), and includes:

29 a. Photography, sound and recording, casting, location
30 managing and scouting, shooting, creation of special and
31 optical effects, animation, adaptation (language, media,

1 | electronic, or otherwise), technological modifications,
2 | computer graphics, set and stage support (such as
3 | electricians, lighting designers and operators, greensmen,
4 | prop managers and assistants, and grips), wardrobe (design,
5 | preparation, and management), hair and makeup (design,
6 | production, and application), performing (such as acting,
7 | dancing, and playing), designing and executing stunts,
8 | coaching, consulting, writing, scoring, composing,
9 | choreographing, script supervising, directing, producing,
10 | transmitting dailies, dubbing, mixing, editing, cutting,
11 | looping, printing, processing, duplicating, storing, and
12 | distributing;

13 | b. The design, planning, engineering, construction,
14 | alteration, repair, and maintenance of real or personal
15 | property including stages, sets, props, models, paintings, and
16 | facilities principally required for the performance of those
17 | services listed in sub-subparagraph a.; and

18 | c. Property management services directly related to
19 | property used in connection with the services described in
20 | sub-subparagraphs a. and b.

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22 | This exemption will inure to the taxpayer upon presentation of
23 | the certificate of exemption issued to the taxpayer under the
24 | provisions of s. 288.1258.

25 | 10. Leased, subleased, licensed, or rented to a person
26 | providing food and drink concessionaire services within the
27 | premises of a convention hall, exhibition hall, auditorium,
28 | stadium, theater, arena, civic center, performing arts center,
29 | publicly owned recreational facility, or any business operated
30 | under a permit issued pursuant to chapter 550. A person
31 | providing retail concessionaire services involving the sale of

1 food and drink or other tangible personal property within the
2 premises of an airport shall be subject to tax on the rental
3 of real property used for that purpose, but shall not be
4 subject to the tax on any license to use the property. For
5 purposes of this subparagraph, the term "sale" shall not
6 include the leasing of tangible personal property.

7 11. Property occupied pursuant to an instrument
8 calling for payments which the department has declared, in a
9 Technical Assistance Advisement issued on or before March 15,
10 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
11 Florida Administrative Code; provided that this subparagraph
12 shall only apply to property occupied by the same person
13 before and after the execution of the subject instrument and
14 only to those payments made pursuant to such instrument,
15 exclusive of renewals and extensions thereof occurring after
16 March 15, 1993.

17 12. Rented, leased, subleased, or licensed to a
18 concessionaire by a convention hall, exhibition hall,
19 auditorium, stadium, theater, arena, civic center, performing
20 arts center, or publicly owned recreational facility, during
21 an event at the facility, to be used by the concessionaire to
22 sell souvenirs, novelties, or other event-related products.
23 This subparagraph applies only to that portion of the rental,
24 lease, or license payment which is based on a percentage of
25 sales and not based on a fixed price.

26 13. Property used or occupied predominantly for space
27 flight business purposes. As used in this subparagraph, "space
28 flight business" means the manufacturing, processing, or
29 assembly of a space facility, space propulsion system, space
30 vehicle, satellite, or station of any kind possessing the
31 capacity for space flight, as defined by s. 212.02(23), or

1 components thereof, and also means the following activities
2 supporting space flight: vehicle launch activities, flight
3 operations, ground control or ground support, and all
4 administrative activities directly related thereto. Property
5 shall be deemed to be used or occupied predominantly for space
6 flight business purposes if more than 50 percent of the
7 property, or improvements thereon, is used for one or more
8 space flight business purposes. Possession by a landlord,
9 lessor, or licensor of a signed written statement from the
10 tenant, lessee, or licensee claiming the exemption shall
11 relieve the landlord, lessor, or licensor from the
12 responsibility of collecting the tax, and the department shall
13 look solely to the tenant, lessee, or licensee for recovery of
14 such tax if it determines that the exemption was not
15 applicable.

16 Section 9. Effective July 1, 2003, paragraph (a) of
17 subsection (1) of section 212.031, Florida Statutes, as
18 amended by chapter 2000-345, Laws of Florida, is amended to
19 read:

20 212.031 Lease or rental of or license in real
21 property.--

22 (1)(a) It is declared to be the legislative intent
23 that every person is exercising a taxable privilege who
24 engages in the business of renting, leasing, letting, or
25 granting a license for the use of any real property unless
26 such property is:

- 27 1. Assessed as agricultural property under s. 193.461.
- 28 2. Used exclusively as dwelling units.
- 29 3. Property subject to tax on parking, docking, or
30 storage spaces under s. 212.03(6).

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1 4. Recreational property or the common elements of a
2 condominium when subject to a lease between the developer or
3 owner thereof and the condominium association in its own right
4 or as agent for the owners of individual condominium units or
5 the owners of individual condominium units. However, only the
6 lease payments on such property shall be exempt from the tax
7 imposed by this chapter, and any other use made by the owner
8 or the condominium association shall be fully taxable under
9 this chapter.

10 5. A public or private street or right-of-way and
11 poles, conduits, fixtures, and similar improvements located on
12 such streets or rights-of-way, occupied or used by a utility
13 or franchised cable television company for utility or
14 communications or television purposes. For purposes of this
15 subparagraph, the term "utility" means any person providing
16 utility services as defined in s. 203.012 and includes a
17 regional transmission organization operating under the
18 jurisdiction of the Federal Energy Regulatory Commission. This
19 exception also applies to property, wherever located, on which
20 the following are placed: towers, antennas, cables, accessory
21 structures, or equipment, not including switching equipment,
22 used in the provision of mobile communications services as
23 defined in s. 202.11. For purposes of this chapter, towers
24 used in the provision of mobile communications services, as
25 defined in s. 202.11, are considered to be fixtures.

26 6. A public street or road which is used for
27 transportation purposes.

28 7. Property used at an airport exclusively for the
29 purpose of aircraft landing or aircraft taxiing or property
30 used by an airline for the purpose of loading or unloading
31

1 passengers or property onto or from aircraft or for fueling
2 aircraft.

3 8.a. Property used at a port authority, as defined in
4 s. 315.02(2), exclusively for the purpose of oceangoing
5 vessels or tugs docking, or such vessels mooring on property
6 used by a port authority for the purpose of loading or
7 unloading passengers or cargo onto or from such a vessel, or
8 property used at a port authority for fueling such vessels, or
9 to the extent that the amount paid for the use of any property
10 at the port is based on the charge for the amount of tonnage
11 actually imported or exported through the port by a tenant.

12 b. The amount charged for the use of any property at
13 the port in excess of the amount charged for tonnage actually
14 imported or exported shall remain subject to tax except as
15 provided in sub-subparagraph a.

16 9. Property used as an integral part of the
17 performance of qualified production services. As used in this
18 subparagraph, the term "qualified production services" means
19 any activity or service performed directly in connection with
20 the production of a qualified motion picture, as defined in s.
21 212.06(1)(b), and includes:

22 a. Photography, sound and recording, casting, location
23 managing and scouting, shooting, creation of special and
24 optical effects, animation, adaptation (language, media,
25 electronic, or otherwise), technological modifications,
26 computer graphics, set and stage support (such as
27 electricians, lighting designers and operators, greensmen,
28 prop managers and assistants, and grips), wardrobe (design,
29 preparation, and management), hair and makeup (design,
30 production, and application), performing (such as acting,
31 dancing, and playing), designing and executing stunts,

1 coaching, consulting, writing, scoring, composing,
2 choreographing, script supervising, directing, producing,
3 transmitting dailies, dubbing, mixing, editing, cutting,
4 looping, printing, processing, duplicating, storing, and
5 distributing;

6 b. The design, planning, engineering, construction,
7 alteration, repair, and maintenance of real or personal
8 property including stages, sets, props, models, paintings, and
9 facilities principally required for the performance of those
10 services listed in sub-subparagraph a.; and

11 c. Property management services directly related to
12 property used in connection with the services described in
13 sub-subparagraphs a. and b.

14
15 This exemption will inure to the taxpayer upon presentation of
16 the certificate of exemption issued to the taxpayer under the
17 provisions of s. 288.1258.

18 10. Leased, subleased, licensed, or rented to a person
19 providing food and drink concessionaire services within the
20 premises of a convention hall, exhibition hall, auditorium,
21 stadium, theater, arena, civic center, performing arts center,
22 publicly owned recreational facility, or any business operated
23 under a permit issued pursuant to chapter 550. A person
24 providing retail concessionaire services involving the sale of
25 food and drink or other tangible personal property within the
26 premises of an airport shall be subject to tax on the rental
27 of real property used for that purpose, but shall not be
28 subject to the tax on any license to use the property. For
29 purposes of this subparagraph, the term "sale" shall not
30 include the leasing of tangible personal property.

1 11. Property occupied pursuant to an instrument
2 calling for payments which the department has declared, in a
3 Technical Assistance Advisement issued on or before March 15,
4 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
5 Florida Administrative Code; provided that this subparagraph
6 shall only apply to property occupied by the same person
7 before and after the execution of the subject instrument and
8 only to those payments made pursuant to such instrument,
9 exclusive of renewals and extensions thereof occurring after
10 March 15, 1993.

11 12. Property used or occupied predominantly for space
12 flight business purposes. As used in this subparagraph, "space
13 flight business" means the manufacturing, processing, or
14 assembly of a space facility, space propulsion system, space
15 vehicle, satellite, or station of any kind possessing the
16 capacity for space flight, as defined by s. 212.02(23), or
17 components thereof, and also means the following activities
18 supporting space flight: vehicle launch activities, flight
19 operations, ground control or ground support, and all
20 administrative activities directly related thereto. Property
21 shall be deemed to be used or occupied predominantly for space
22 flight business purposes if more than 50 percent of the
23 property, or improvements thereon, is used for one or more
24 space flight business purposes. Possession by a landlord,
25 lessor, or licensor of a signed written statement from the
26 tenant, lessee, or licensee claiming the exemption shall
27 relieve the landlord, lessor, or licensor from the
28 responsibility of collecting the tax, and the department shall
29 look solely to the tenant, lessee, or licensee for recovery of
30 such tax if it determines that the exemption was not
31 applicable.

1 Section 10. (1) Effective July 1, 2001, paragraph (b)
2 of subsection (14) of section 212.06, Florida Statutes, is
3 amended to read:

4 212.06 Sales, storage, use tax; collectible from
5 dealers; "dealer" defined; dealers to collect from purchasers;
6 legislative intent as to scope of tax.--

7 (14) For the purpose of determining whether a person
8 is improving real property, the term:

9 (b) "Fixtures" means items that are an accessory to a
10 building, other structure, or land and that do not lose their
11 identity as accessories when installed but that do become
12 permanently attached to realty. However, the term does not
13 include the following items, whether or not such items are
14 attached to real property in a permanent manner: ~~trade~~
15 ~~fixtures~~; property of a type that is required to be
16 registered, licensed, titled, or documented by this state or
17 by the United States Government, including, but not limited
18 to, mobile homes, except mobile homes assessed as real
19 property; or industrial machinery or equipment. For purposes
20 of this paragraph, industrial machinery or equipment is not
21 limited to machinery and equipment used to manufacture,
22 process, compound, or produce tangible personal property. For
23 an item to be considered a fixture, it is not necessary that
24 the owner of the item also own the real property to which it
25 is attached.

26 (2) It is the intent of the Legislature that the
27 amendment to s. 212.06(14)(b), Florida Statutes, relating to
28 industrial machinery or equipment, by this section is remedial
29 in nature and merely clarifies existing law.
30
31

1 Section 11. (1) Subsection (7), paragraph (a) of
2 subsection (8), and subsection (9) of section 212.08, Florida
3 Statutes, are amended to read:

4 212.08 Sales, rental, use, consumption, distribution,
5 and storage tax; specified exemptions.--The sale at retail,
6 the rental, the use, the consumption, the distribution, and
7 the storage to be used or consumed in this state of the
8 following are hereby specifically exempt from the tax imposed
9 by this chapter.

10 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to
11 any entity by this chapter do not inure to any transaction
12 that is otherwise taxable under this chapter when payment is
13 made by a representative or employee of the entity by any
14 means, including, but not limited to, cash, check, or credit
15 card, even when that representative or employee is
16 subsequently reimbursed by the entity. In addition, exemptions
17 provided to any entity by this subsection do not inure to any
18 transaction that is otherwise taxable under this chapter
19 unless the entity has obtained a sales tax exemption
20 certificate from the department or the entity obtains or
21 provides other documentation as required by the department.
22 Eligible purchases or leases made with such a certificate must
23 be in strict compliance with this subsection and departmental
24 rules, and any person who makes an exempt purchase with a
25 certificate that is not in strict compliance with this
26 subsection and the rules is liable for and must pay the tax.
27 The department may adopt rules to administer this subsection.

28 (a) Artificial commemorative flowers.--Exempt from the
29 tax imposed by this chapter is the sale of artificial
30 commemorative flowers by bona fide nationally chartered
31 veterans' organizations.

1 (b) Boiler fuels.--When purchased for use as a
2 combustible fuel, purchases of natural gas, residual oil,
3 recycled oil, waste oil, solid waste material, coal, sulfur,
4 wood, wood residues or wood bark used in an industrial
5 manufacturing, processing, compounding, or production process
6 at a fixed location in this state are exempt from the taxes
7 imposed by this chapter; however, such exemption shall not be
8 allowed unless the purchaser signs a certificate stating that
9 the fuel to be exempted is for the exclusive use designated
10 herein. This exemption does not apply to the use of boiler
11 fuels that are not used in manufacturing, processing,
12 compounding, or producing items of tangible personal property
13 for sale, or to the use of boiler fuels used by any firm
14 subject to regulation by the Division of Hotels and
15 Restaurants of the Department of Business and Professional
16 Regulation.

17 (c) Crustacea bait.--Also exempt from the tax imposed
18 by this chapter is the purchase by commercial fishers of bait
19 intended solely for use in the entrapment of *Callinectes*
20 *sapidus* and *Menippe mercenaria*.

21 (d) Feeds.--Feeds for poultry, ostriches, and
22 livestock, including racehorses and dairy cows, are exempt.

23 (e) Film rentals.--Film rentals are exempt when an
24 admission is charged for viewing such film, and license fees
25 and direct charges for films, videotapes, and transcriptions
26 used by television or radio stations or networks are exempt.

27 (f) Flags.--Also exempt are sales of the flag of the
28 United States and the official state flag of Florida.

29 (g) Florida Retired Educators Association and its
30 local chapters.--Also exempt from payment of the tax imposed
31 by this chapter are purchases of office supplies, equipment,

1 and publications made by the Florida Retired Educators
2 Association and its local chapters.

3 (h) Guide dogs for the blind.--Also exempt are the
4 sale or rental of guide dogs for the blind, commonly referred
5 to as "seeing-eye dogs," and the sale of food or other items
6 for such guide dogs.

7 1. The department shall issue a consumer's certificate
8 of exemption to any blind person who holds an identification
9 card as provided for in s. 413.091 and who either owns or
10 rents, or contemplates the ownership or rental of, a guide dog
11 for the blind. The consumer's certificate of exemption shall
12 be issued without charge and shall be of such size as to be
13 capable of being carried in a wallet or billfold.

14 2. The department shall make such rules concerning
15 items exempt from tax under the provisions of this paragraph
16 as may be necessary to provide that any person authorized to
17 have a consumer's certificate of exemption need only present
18 such a certificate at the time of paying for exempt goods and
19 shall not be required to pay any tax thereon.

20 (i) Hospital meals and rooms.--Also exempt from
21 payment of the tax imposed by this chapter on rentals and
22 meals are patients and inmates of any hospital or other
23 physical plant or facility designed and operated primarily for
24 the care of persons who are ill, aged, infirm, mentally or
25 physically incapacitated, or otherwise dependent on special
26 care or attention. Residents of a home for the aged are exempt
27 from payment of taxes on meals provided through the facility.
28 A home for the aged is defined as a facility that is licensed
29 or certified in part or in whole under chapter 400 or chapter
30 651, or that is financed by a mortgage loan made or insured by
31 the United States Department of Housing and Urban Development

1 under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4),
2 s. 232, or s. 236 of the National Housing Act, or other such
3 similar facility designed and operated primarily for the care
4 of the aged.

5 (j) Household fuels.--Also exempt from payment of the
6 tax imposed by this chapter are sales of utilities to
7 residential households or owners of residential models in this
8 state by utility companies who pay the gross receipts tax
9 imposed under s. 203.01, and sales of fuel to residential
10 households or owners of residential models, including oil,
11 kerosene, liquefied petroleum gas, coal, wood, and other fuel
12 products used in the household or residential model for the
13 purposes of heating, cooking, lighting, and refrigeration,
14 regardless of whether such sales of utilities and fuels are
15 separately metered and billed direct to the residents or are
16 metered and billed to the landlord. If any part of the utility
17 or fuel is used for a nonexempt purpose, the entire sale is
18 taxable. The landlord shall provide a separate meter for
19 nonexempt utility or fuel consumption. For the purposes of
20 this paragraph, licensed family day care homes shall also be
21 exempt.

22 (k) Meals provided by certain nonprofit
23 organizations.--There is exempt from the tax imposed by this
24 chapter the sale of prepared meals by a nonprofit volunteer
25 organization to handicapped, elderly, or indigent persons when
26 such meals are delivered as a charitable function by the
27 organization to such persons at their places of residence.

28 (l) Organizations providing special educational,
29 cultural, recreational, and social benefits to minors.--Also
30 exempt from the tax imposed by this chapter are sales or
31 leases to and sales of donated property by nonprofit

1 organizations which are incorporated pursuant to chapter 617
2 the primary purpose of which is providing activities that
3 contribute to the development of good character or good
4 sportsmanship, or to the educational or cultural development,
5 of minors. This exemption is extended only to that level of
6 the organization that has a salaried executive officer or an
7 elected nonsalaried executive officer. For the purpose of this
8 paragraph, the term "donated property" means any property
9 transferred to such nonprofit organization for less than 50
10 percent of its fair market value.

11 (m) Religious institutions.--

12 1. There are exempt from the tax imposed by this
13 chapter transactions involving sales or leases directly to
14 religious institutions when used in carrying on their
15 customary nonprofit religious activities or sales or leases of
16 tangible personal property by religious institutions having an
17 established physical place for worship at which nonprofit
18 religious services and activities are regularly conducted and
19 carried on.

20 2. As used in this paragraph, the term "religious
21 institutions" means churches, synagogues, and established
22 physical places for worship at which nonprofit religious
23 services and activities are regularly conducted and carried
24 on. The term "religious institutions" includes nonprofit
25 corporations the sole purpose of which is to provide free
26 transportation services to church members, their families, and
27 other church attendees. The term "religious institutions" also
28 includes nonprofit state, nonprofit district, or other
29 nonprofit governing or administrative offices the function of
30 which is to assist or regulate the customary activities of
31 religious institutions. The term "religious institutions" also

1 includes any nonprofit corporation that is qualified as
 2 nonprofit under s. 501(c)(3) of the Internal Revenue Code of
 3 1986, as amended, and that owns and operates a Florida
 4 television station, at least 90 percent of the programming of
 5 which station consists of programs of a religious nature and
 6 the financial support for which, exclusive of receipts for
 7 broadcasting from other nonprofit organizations, is
 8 predominantly from contributions from the general public. The
 9 term "religious institutions" also includes any nonprofit
 10 corporation that is qualified as nonprofit under s. 501(c)(3)
 11 of the Internal Revenue Code of 1986, as amended, the primary
 12 activity of which is making and distributing audio recordings
 13 of religious scriptures and teachings to blind or visually
 14 impaired persons at no charge. The term "religious
 15 institutions" also includes any nonprofit corporation that is
 16 qualified as nonprofit under s. 501(c)(3) of the Internal
 17 Revenue Code of 1986, as amended, the sole or primary function
 18 of which is to provide, upon invitation, nonprofit religious
 19 services, evangelistic services, religious education,
 20 administrative assistance, or missionary assistance for a
 21 church, synagogue, or established physical place of worship at
 22 which nonprofit religious services and activities are
 23 regularly conducted.

24 (n) Veterans' organizations.--

25 1. There are exempt from the tax imposed by this
 26 chapter transactions involving sales or leases to qualified
 27 veterans' organizations and their auxiliaries when used in
 28 carrying on their customary veterans' organization activities.

29 2. As used in this paragraph, the term "veterans'
 30 organizations" means nationally chartered or recognized
 31 veterans' organizations, including, but not limited to,

1 Florida chapters of the Paralyzed Veterans of America,
2 Catholic War Veterans of the U.S.A., Jewish War Veterans of
3 the U.S.A., and the Disabled American Veterans, Department of
4 Florida, Inc., which hold current exemptions from federal
5 income tax under s. 501(c)(4) or (19) of the Internal Revenue
6 Code of 1986, as amended.

7 (o) Schools, colleges, and universities.--Also exempt
8 from the tax imposed by this chapter are sales or leases to
9 state tax-supported schools, colleges, or universities.

10 (p) Section 501(c)(3) organizations.--Also exempt from
11 the tax imposed by this chapter are sales or leases to
12 organizations determined by the Internal Revenue Service to be
13 currently exempt from federal income tax pursuant to s.
14 501(c)(3) of the Internal Revenue Code of 1986, as amended,
15 when such leases or purchases are used in carrying on their
16 customary nonprofit activities.

17 (q) Resource recovery equipment.--Also exempt is
18 resource recovery equipment which is owned and operated by or
19 on behalf of any county or municipality, certified by the
20 Department of Environmental Protection under the provisions of
21 s. 403.715.

22 (r) School books and school lunches.--This exemption
23 applies to school books used in regularly prescribed courses
24 of study, and to school lunches served in public, parochial,
25 or nonprofit schools operated for and attended by pupils of
26 grades K through 12. Yearbooks, magazines, newspapers,
27 directories, bulletins, and similar publications distributed
28 by such educational institutions to their students are also
29 exempt. School books and food sold or served at community
30 colleges and other institutions of higher learning are
31 taxable.

1 (s) Tasting beverages.--Vinous and alcoholic beverages
2 provided by distributors or vendors for the purpose of "wine
3 tasting" and "spirituous beverage tasting" as contemplated
4 under the provisions of ss. 564.06 and 565.12, respectively,
5 are exempt from the tax imposed by this chapter.

6 (t) Boats temporarily docked in state.--

7 1. Notwithstanding the provisions of chapter 328,
8 pertaining to the registration of vessels, a boat upon which
9 the state sales or use tax has not been paid is exempt from
10 the use tax under this chapter if it enters and remains in
11 this state for a period not to exceed a total of 20 days in
12 any calendar year calculated from the date of first dockage or
13 slippage at a facility, registered with the department, that
14 rents dockage or slippage space in this state. If a boat
15 brought into this state for use under this paragraph is placed
16 in a facility, registered with the department, for repairs,
17 alterations, refitting, or modifications and such repairs,
18 alterations, refitting, or modifications are supported by
19 written documentation, the 20-day period shall be tolled
20 during the time the boat is physically in the care, custody,
21 and control of the repair facility, including the time spent
22 on sea trials conducted by the facility. The 20-day time
23 period may be tolled only once within a calendar year when a
24 boat is placed for the first time that year in the physical
25 care, custody, and control of a registered repair facility;
26 however, the owner may request and the department may grant an
27 additional tolling of the 20-day period for purposes of
28 repairs that arise from a written guarantee given by the
29 registered repair facility, which guarantee covers only those
30 repairs or modifications made during the first tolled period.
31 Within 72 hours after the date upon which the registered

1 repair facility took possession of the boat, the facility must
2 have in its possession, on forms prescribed by the department,
3 an affidavit which states that the boat is under its care,
4 custody, and control and that the owner does not use the boat
5 while in the facility. Upon completion of the repairs,
6 alterations, refitting, or modifications, the registered
7 repair facility must, within 72 hours after the date of
8 release, have in its possession a copy of the release form
9 which shows the date of release and any other information the
10 department requires. The repair facility shall maintain a log
11 that documents all alterations, additions, repairs, and sea
12 trials during the time the boat is under the care, custody,
13 and control of the facility. The affidavit shall be
14 maintained by the registered repair facility as part of its
15 records for as long as required by s. 213.35. When, within 6
16 months after the date of its purchase, a boat is brought into
17 this state under this paragraph, the 6-month period provided
18 in s. 212.05(1)(a)2. or s. 212.06(8) shall be tolled.

19 2. During the period of repairs, alterations,
20 refitting, or modifications and during the 20-day period
21 referred to in subparagraph 1., the boat may be listed for
22 sale, contracted for sale, or sold exclusively by a broker or
23 dealer registered with the department without incurring a use
24 tax under this chapter; however, the sales tax levied under
25 this chapter applies to such sale.

26 3. The mere storage of a boat at a registered repair
27 facility does not qualify as a tax-exempt use in this state.

28 4. As used in this paragraph, "registered repair
29 facility" means:

30 a. A full-service facility that:

31 (I) Is located on a navigable body of water;

1 (II) Has haulout capability such as a dry dock, travel
2 lift, railway, or similar equipment to service craft under the
3 care, custody, and control of the facility;

4 (III) Has adequate piers and storage facilities to
5 provide safe berthing of vessels in its care, custody, and
6 control; and

7 (IV) Has necessary shops and equipment to provide
8 repair or warranty work on vessels under the care, custody,
9 and control of the facility;

10 b. A marina that:

11 (I) Is located on a navigable body of water;

12 (II) Has adequate piers and storage facilities to
13 provide safe berthing of vessels in its care, custody, and
14 control; and

15 (III) Has necessary shops and equipment to provide
16 repairs or warranty work on vessels; or

17 c. A shoreside facility that:

18 (I) Is located on a navigable body of water;

19 (II) Has adequate piers and storage facilities to
20 provide safe berthing of vessels in its care, custody, and
21 control; and

22 (III) Has necessary shops and equipment to provide
23 repairs or warranty work.

24 (u) Volunteer fire departments.--Also exempt are
25 firefighting and rescue service equipment and supplies
26 purchased by volunteer fire departments, duly chartered under
27 the Florida Statutes as corporations not for profit.

28 (v) Professional services.--

29 1. Also exempted are professional, insurance, or
30 personal service transactions that involve sales as

31

1 inconsequential elements for which no separate charges are
2 made.

3 2. The personal service transactions exempted pursuant
4 to subparagraph 1. do not exempt the sale of information
5 services involving the furnishing of printed, mimeographed, or
6 multigraphed matter, or matter duplicating written or printed
7 matter in any other manner, other than professional services
8 and services of employees, agents, or other persons acting in
9 a representative or fiduciary capacity or information services
10 furnished to newspapers and radio and television stations. As
11 used in this subparagraph, the term "information services"
12 includes the services of collecting, compiling, or analyzing
13 information of any kind or nature and furnishing reports
14 thereof to other persons.

15 3. This exemption does not apply to any service
16 warranty transaction taxable under s. 212.0506.

17 4. This exemption does not apply to any service
18 transaction taxable under s. 212.05(1)(j).

19 (w) Certain newspaper, magazine, and newsletter
20 subscriptions, shoppers, and community newspapers.--Likewise
21 exempt are newspaper, magazine, and newsletter subscriptions
22 in which the product is delivered to the customer by mail.
23 Also exempt are free, circulated publications that are
24 published on a regular basis, the content of which is
25 primarily advertising, and that are distributed through the
26 mail, home delivery, or newsstands. The exemption for
27 newspaper, magazine, and newsletter subscriptions which is
28 provided in this paragraph applies only to subscriptions
29 entered into after March 1, 1997.

30 (x) Sporting equipment brought into the
31 state.--Sporting equipment brought into Florida, for a period

1 of not more than 4 months in any calendar year, used by an
2 athletic team or an individual athlete in a sporting event is
3 exempt from the use tax if such equipment is removed from the
4 state within 7 days after the completion of the event.

5 (y) Charter fishing vessels.--The charge for
6 chartering any boat or vessel, with the crew furnished, solely
7 for the purpose of fishing is exempt from the tax imposed
8 under s. 212.04 or s. 212.05. This exemption does not apply
9 to any charge to enter or stay upon any "head-boat," party
10 boat, or other boat or vessel. Nothing in this paragraph
11 shall be construed to exempt any boat from sales or use tax
12 upon the purchase thereof except as provided in paragraph (t)
13 and s. 212.05.

14 (z) Vending machines sponsored by nonprofit or
15 charitable organizations.--Also exempt are food or drinks for
16 human consumption sold for 25 cents or less through a
17 coin-operated vending machine sponsored by a nonprofit
18 corporation qualified as nonprofit pursuant to s. 501(c)(3) or
19 (4) of the Internal Revenue Code of 1986, as amended.

20 (aa) Certain commercial vehicles.--Also exempt is the
21 sale, lease, or rental of a commercial motor vehicle as
22 defined in s. 207.002(2), when the following conditions are
23 met:

- 24 1. The sale, lease, or rental occurs between two
25 commonly owned and controlled corporations;
- 26 2. Such vehicle was titled and registered in this
27 state at the time of the sale, lease, or rental; and
- 28 3. Florida sales tax was paid on the acquisition of
29 such vehicle by the seller, lessor, or renter.

30 (bb) Community cemeteries.--Also exempt are purchases
31 by any nonprofit corporation that has qualified under s.

1 501(c)(13) of the Internal Revenue Code of 1986, as amended,
2 and is operated for the purpose of maintaining a cemetery that
3 was donated to the community by deed.

4 (cc) Works of art.--

5 1. Also exempt are works of art sold to or used by an
6 educational institution.

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

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

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

31

1 5. The exemptions provided by this paragraph are
2 allowed only if the person who purchased the work of art gives
3 to the vendor an affidavit meeting the requirements,
4 established by rule, to document entitlement to the exemption.
5 The person who purchased the work of art shall forward a copy
6 of such affidavit to the Department of Revenue at the time it
7 is issued to the vendor.

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

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

27 8. For purposes of the exemptions provided by this
28 paragraph, the term:

29 a. "Educational institutions" includes state
30 tax-supported, parochial, church, and nonprofit private
31 schools, colleges, or universities that conduct regular

1 classes and courses of study required for accreditation by or
2 membership in the Southern Association of Colleges and
3 Schools, the Florida Council of Independent Schools, or the
4 Florida Association of Christian Colleges and Schools, Inc.;
5 nonprofit private schools that conduct regular classes and
6 courses of study accepted for continuing education credit by a
7 board of the Division of Medical Quality Assurance of the
8 Department of Health; or nonprofit libraries, art galleries,
9 performing arts centers that provide educational programs to
10 school children, which programs involve performances or other
11 educational activities at the performing arts center and serve
12 a minimum of 50,000 school children a year, and museums open
13 to the public.

14 b. "Work of art" includes pictorial representations,
15 sculpture, jewelry, antiques, stamp collections and coin
16 collections, and other tangible personal property, the value
17 of which is attributable predominantly to its artistic,
18 historical, political, cultural, or social importance.

19 (dd) Taxicab leases.--The lease of or license to use a
20 taxicab or taxicab-related equipment and services provided by
21 a taxicab company to an independent taxicab operator are
22 exempt, provided, however, the exemptions provided under this
23 paragraph only apply if sales or use tax has been paid on the
24 acquisition of the taxicab and its related equipment.

25 (ee) Aircraft repair and maintenance labor
26 charges.--There shall be exempt from the tax imposed by this
27 chapter all labor charges for the repair and maintenance of
28 aircraft of more than 15,000 pounds maximum certified takeoff
29 weight and rotary wing aircraft of more than 10,000 pounds
30 maximum certified takeoff weight. Except as otherwise provided

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1 in this chapter, charges for parts and equipment furnished in
2 connection with such labor charges are taxable.

3 (ff) Certain electricity or steam uses.--

4 1. Subject to the provisions of subparagraph 4.,
5 charges for electricity or steam used to operate machinery and
6 equipment at a fixed location in this state when such
7 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. If 75 percent
13 or more of the electricity or steam used at the fixed location
14 is used to operate qualifying machinery or equipment, 100
15 percent of the charges for electricity or steam used at the
16 fixed location are exempt. If less than 75 percent but 50
17 percent or more of the electricity or steam used at the fixed
18 location is used to operate qualifying machinery or equipment,
19 50 percent of the charges for electricity or steam used at the
20 fixed location are exempt. If less than 50 percent of the
21 electricity or steam used at the fixed location is used to
22 operate qualifying machinery or equipment, none of the charges
23 for electricity or steam used at the fixed location are
24 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 and Industry Group Number 212. As used
29 in this paragraph, "SIC" means those classifications contained
30 in the Standard Industrial Classification Manual, 1987, as
31

1 published by the Office of Management and Budget, Executive
2 Office of the President.

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

10 4. Such exemption shall be applied as follows:

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

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

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

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

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

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

29 5.6.a. In order to determine whether the exemption
30 provided in this paragraph from the tax on charges for
31 electricity or steam has an effect on retaining or attracting

1 companies to this state, the Office of Program Policy Analysis
2 and Government Accountability shall monitor and report on the
3 industries receiving the exemption.

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

16 c. The report shall be submitted to the President of
17 the Senate, the Speaker of the House of Representatives, the
18 Senate Minority Leader, and the House Minority Leader.

19 (gg) Fair associations.--Also exempt from the tax
20 imposed by this chapter is the sale, use, lease, rental, or
21 grant of a license to use, made directly to or by a fair
22 association, of real or tangible personal property; any charge
23 made by a fair association, or its agents, for parking,
24 admissions, or for temporary parking of vehicles used for
25 sleeping quarters; rentals, subleases, and sublicenses of real
26 or tangible personal property between the owner of the central
27 amusement attraction and any owner of an amusement ride, as
28 those terms are used in ss. 616.15(1)(b) and 616.242(3)(a),
29 for the furnishing of amusement rides at a public fair or
30 exposition; and other transactions of a fair association which
31 are incurred directly by the fair association in the

1 financing, construction, and operation of a fair, exposition,
 2 or other event or facility that is authorized by s. 616.08. As
 3 used in this paragraph, the terms "fair association" and
 4 "public fair or exposition" have the same meaning as those
 5 terms are defined in s. 616.001. This exemption does not apply
 6 to the sale of tangible personal property made by a fair
 7 association through an agent or independent contractor; sales
 8 of admissions and tangible personal property by a
 9 concessionaire, vendor, exhibitor, or licensee; or rentals and
 10 subleases of tangible personal property or real property
 11 between the owner of the central amusement attraction and a
 12 concessionaire, vendor, exhibitor, or licensee, except for the
 13 furnishing of amusement rides, which transactions are exempt.

14 (hh) Citizen support organizations.--Also exempt from
 15 the tax imposed by this chapter are sales or leases to
 16 nonprofit organizations that are incorporated under chapter
 17 617 and that have been designated citizen support
 18 organizations in support of state-funded environmental
 19 programs or the management of state-owned lands in accordance
 20 with s. 20.2551, or to support one or more state parks in
 21 accordance with s. 258.015.

22 (ii) Florida Folk Festival.--There shall be exempt
 23 from the tax imposed by this chapter income of a revenue
 24 nature received from admissions to the Florida Folk Festival
 25 held pursuant to s. 267.16 at the Stephen Foster State Folk
 26 Culture Center, a unit of the state park system.

27 (jj) Solar energy systems.--Also exempt are solar
 28 energy systems or any component thereof. The Florida Solar
 29 Energy Center shall from time to time certify to the
 30 department a list of equipment and requisite hardware
 31

1 considered to be a solar energy system or a component thereof.
2 This exemption is repealed July 1, 2005.

3 (kk) Nonprofit cooperative hospital laundries.--Also
4 exempt from the tax imposed by this chapter are sales or
5 leases to nonprofit organizations that are incorporated under
6 chapter 617 and which are treated, for federal income tax
7 purposes, as cooperatives under subchapter T of the Internal
8 Revenue Code, whose sole purpose is to offer laundry supplies
9 and services to their members, which members must all be
10 exempt from federal income tax pursuant to s. 501(c)(3) of the
11 Internal Revenue Code.

12 (ll) Complimentary meals.--Also exempt from the tax
13 imposed by this chapter are food or drinks that are furnished
14 as part of a packaged room rate by any person offering for
15 rent or lease any transient living accommodations as described
16 in s. 509.013(4)(a) which are licensed under part I of chapter
17 509 and which are subject to the tax under s. 212.03, if a
18 separate charge or specific amount for the food or drinks is
19 not shown. Such food or drinks are considered to be sold at
20 retail as part of the total charge for the transient living
21 accommodations. Moreover, the person offering the
22 accommodations is not considered to be the consumer of items
23 purchased in furnishing such food or drinks and may purchase
24 those items under conditions of a sale for resale.

25 (mm) Nonprofit corporation conducting the correctional
26 work programs.--Products sold pursuant to s. 946.515 by the
27 corporation organized pursuant to part II of chapter 946 are
28 exempt from the tax imposed by this chapter. This exemption
29 applies retroactively to July 1, 1983.

30 (nn) Parent-teacher organizations, parent-teacher
31 associations, and schools having grades K through

1 12.--Parent-teacher organizations and associations the purpose
 2 of which is to raise funds for schools teaching grades K
 3 through 12 and which are ~~qualified as educational institutions~~
 4 ~~as defined by sub-subparagraph (cc)8.a.~~ associated with
 5 schools having grades K through 12, and schools having grades
 6 K through 12, may pay tax to their suppliers on the cost price
 7 of school materials and supplies purchased, rented, or leased
 8 for resale or rental to students in grades K through 12, of
 9 items sold for fundraising purposes, and of items sold through
 10 vending machines located on the school premises, in lieu of
 11 collecting the tax imposed by this chapter from the purchaser.
 12 This paragraph also applies to food or beverages sold through
 13 vending machines located in the student lunchroom or dining
 14 room of a school having kindergarten through grade 12.

15 (oo) Mobile home lot improvements.--Items purchased by
 16 developers for use in making improvements to a mobile home lot
 17 owned by the developer may be purchased tax-exempt as a sale
 18 for resale if made pursuant to a contract that requires the
 19 developer to sell a mobile home to a purchaser, place the
 20 mobile home on the lot, and make the improvements to the lot
 21 for a single lump-sum price. The developer must collect and
 22 remit sales tax on the entire lump-sum price.

23 (pp) Veterans Administration.--When a veteran of the
 24 armed forces purchases an aircraft, boat, mobile home, motor
 25 vehicle, or other vehicle from a dealer pursuant to the
 26 provisions of 38 U.S.C. s. 3902(a), or any successor provision
 27 of the United States Code, the amount that is paid directly to
 28 the dealer by the Veterans Administration is not taxable.
 29 However, any portion of the purchase price which is paid
 30 directly to the dealer by the veteran is taxable.

31

1 (qq) Complimentary items.--There is exempt from the
2 tax imposed by this chapter:

3 1. Any food or drink, whether or not cooked or
4 prepared on the premises, provided without charge as a sample
5 or for the convenience of customers by a dealer that primarily
6 sells food product items at retail.

7 2. Any item given to a customer as part of a price
8 guarantee plan related to point-of-sale errors by a dealer
9 that primarily sells food products at retail.

10
11 The exemptions in this paragraph do not apply to businesses
12 with the primary activity of serving prepared meals or
13 alcoholic beverages for immediate consumption.

14 (rr) Donated foods or beverages.--Any food or beverage
15 donated by a dealer that sells food products at retail to a
16 food bank or an organization that holds a current exemption
17 from federal corporate income tax pursuant to s. 501(c) of the
18 Internal Revenue Code of 1986, as amended, is exempt from the
19 tax imposed by this chapter.

20 (ss) Racing dogs.--The sale of a racing dog by its
21 owner is exempt if the owner is also the breeder of the
22 animal.

23 (tt) Equipment used in aircraft repair and
24 maintenance.--There shall be exempt from the tax imposed by
25 this chapter replacement engines, parts, and equipment used in
26 the repair or maintenance of aircraft of more than 15,000
27 pounds maximum certified takeoff weight and rotary wing
28 aircraft of more than 10,300 pounds maximum certified takeoff
29 weight, when such parts or equipment are installed on such
30 aircraft that is being repaired or maintained in this state.

31

1 (uu) Aircraft sales or leases.--The sale or lease of
2 an aircraft of more than 15,000 pounds maximum certified
3 takeoff weight for use by a common carrier is exempt from the
4 tax imposed by this chapter. As used in this paragraph,
5 "common carrier" means an airline operating under Federal
6 Aviation Administration regulations contained in Title 14,
7 chapter I, part 121 or part 129 of the Code of Federal
8 Regulations.

9 (vv) Nonprofit water systems.--Sales or leases to a
10 not-for-profit corporation which holds a current exemption
11 from federal income tax under s. 501(c)(4) or (12) of the
12 Internal Revenue Code, as amended, are exempt from the tax
13 imposed by this chapter if the sole or primary function of the
14 corporation is to construct, maintain, or operate a water
15 system in this state.

16 (ww) Library cooperatives.--Sales or leases to library
17 cooperatives certified under s. 257.41(2) are exempt from the
18 tax imposed by this chapter.

19 (xx) Advertising agencies.--

20 1. As used in this paragraph, the term "advertising
21 agency" means any firm that is primarily engaged in the
22 business of providing advertising materials and services to
23 its clients.

24 2. The sale of advertising services by an advertising
25 agency to a client is exempt from the tax imposed by this
26 chapter. Also exempt from the tax imposed by this chapter are
27 items of tangible personal property such as photographic
28 negatives and positives, videos, films, galleys, mechanicals,
29 veloxes, illustrations, digital audiotapes, analog tapes,
30 printed advertisement copies, compact discs for the purpose of
31

1 recording, digital equipment, and artwork and the services
2 used to produce those items if the items are:

3 a. Sold to an advertising agency that is acting as an
4 agent for its clients pursuant to contract, and are created
5 for the performance of advertising services for the clients;

6 b. Produced, fabricated, manufactured, or otherwise
7 created by an advertising agency for its clients, and are used
8 in the performance of advertising services for the clients; or

9 c. Sold by an advertising agency to its clients in the
10 performance of advertising services for the clients, whether
11 or not the charges for these items are marked up or separately
12 stated.

13

14 The exemption provided by this subparagraph does not apply
15 when tangible personal property such as film, paper, and
16 videotapes is purchased to create items such as photographic
17 negatives and positives, videos, films, galleys, mechanicals,
18 veloxes, illustrations, and artwork that are sold to an
19 advertising agency or produced in-house by an advertising
20 agency on behalf of its clients.

21 3. The items exempted from tax under subparagraph 2.
22 and the creative services used by an advertising agency to
23 design the advertising for promotional goods such as displays,
24 display containers, exhibits, newspaper inserts, brochures,
25 catalogues, direct mail letters or flats, shirts, hats, pens,
26 pencils, key chains, or other printed goods or materials are
27 not subject to tax. However, when such promotional goods are
28 produced or reproduced for distribution, tax applies to the
29 sales price charged to the client for such promotional goods.

30 4. For items purchased by an advertising agency and
31 exempt from tax under this paragraph, possession of an

1 exemption certificate from the advertising agency certifying
2 the agency's entitlement to exemption relieves the vendor of
3 the responsibility of collecting the tax on the sale of such
4 items to the advertising agency, and the department shall look
5 solely to the advertising agency for recovery of tax if it
6 determines that the advertising agency was not entitled to the
7 exemption.

8 5. The exemptions provided by this paragraph apply
9 retroactively, except that all taxes that have been collected
10 must be remitted, and taxes that have been remitted before
11 July 1, 1999, on transactions that are subject to exemption
12 under this paragraph are not subject to refund.

13 6. The department may adopt rules that interpret or
14 define the provisions of these exemptions and provide examples
15 regarding the application of these exemptions.

16 (yy) Bullion.--The sale of gold, silver, or platinum
17 bullion, or any combination thereof, in a single transaction
18 is exempt if the sales price exceeds \$500. The dealer must
19 maintain proper documentation, as prescribed by rule of the
20 department, to identify that portion of a transaction which
21 involves the sale of gold, silver, or platinum bullion and is
22 exempt under this paragraph.

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

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

1 2. This exemption applies only to industries
2 classified under SIC Industry Major Group Numbers 10, 12, 13,
3 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,
4 35, 36, 37, 38, and 39 and Industry Group Number 212. As used
5 in this subparagraph, "SIC" means those classifications
6 contained in the Standard Industrial Classification Manual,
7 1987, as published by the Office of Management and Budget,
8 Executive Office of the President.

9 3. This exemption shall be applied as follows:

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

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

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

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

18 (aaa) Film and other printing supplies.--Also exempt
19 are the following materials purchased, produced, or created by
20 businesses classified under SIC Industry Numbers 275, 276,
21 277, 278, or 279 for use in producing graphic matter for sale:
22 film, photographic paper, dyes used for embossing and
23 engraving, artwork, typography, lithographic plates, and
24 negatives. As used in this paragraph, "SIC" means those
25 classifications contained in the Standard Industrial
26 Classification Manual, 1987, as published by the Office of
27 Management and Budget, Executive Office of the President.

28 (bbb) People-mover systems.--People-mover systems, and
29 parts thereof, which are purchased or manufactured by
30 contractors employed either directly by or as agents for the
31 United States Government, the state, a county, a municipality,

1 a political subdivision of the state, or the public operator
2 of a public-use airport as defined by s. 332.004(14) are
3 exempt from the tax imposed by this chapter when the systems
4 or parts go into or become part of publicly owned facilities.
5 In the case of contractors who manufacture and install such
6 systems and parts, this exemption extends to the purchase of
7 component parts and all other manufacturing and fabrication
8 costs. The department may provide a form to be used by
9 contractors to provide to suppliers of people-mover systems or
10 parts to certify the contractors' eligibility for the
11 exemption provided under this paragraph. As used in this
12 paragraph, "people-mover systems" includes wheeled passenger
13 vehicles and related control and power distribution systems
14 that are part of a transportation system for use by the
15 general public, regardless of whether such vehicles are
16 operator-controlled or driverless, self-propelled or propelled
17 by external power and control systems, or conducted on roads,
18 rails, guidebeams, or other permanent structures that are an
19 integral part of such transportation system. "Related control
20 and power distribution systems" includes any electrical or
21 electronic control or signaling equipment, but does not
22 include the embedded wiring, conduits, or cabling used to
23 transmit electrical or electronic signals among such control
24 equipment, power distribution equipment, signaling equipment,
25 and wheeled vehicles.

26 ~~(ccc) Organizations providing crime prevention, drunk~~
27 ~~driving prevention, or juvenile delinquency prevention~~
28 ~~services.--Sales or leases to any nonprofit organization that~~
29 ~~provides crime prevention services, drunk driving prevention~~
30 ~~services, or juvenile delinquency prevention services that~~
31 ~~benefit society as a whole are exempt from the tax imposed by~~

1 ~~this chapter, if the organization holds a current exemption~~
2 ~~from federal income tax under s. 501(c)(3) of the Internal~~
3 ~~Revenue Code and the organization has as its sole or primary~~
4 ~~purpose the provision of services that contribute to the~~
5 ~~prevention of hardships caused by crime, drunk driving, or~~
6 ~~juvenile delinquency.~~

7 (ccc)~~(ddd)~~ Florida Fire and Emergency Services
8 Foundation.--Sales or leases to the Florida Fire and Emergency
9 Services Foundation are exempt from the tax imposed by this
10 chapter.

11 (ddd)~~(eee)~~ Railroad roadway materials.--Also exempt
12 from the tax imposed by this chapter are railroad roadway
13 materials used in the construction, repair, or maintenance of
14 railways. Railroad roadway materials shall include rails,
15 ties, ballasts, communication equipment, signal equipment,
16 power transmission equipment, and any other track materials.

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

24 (8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE
25 OR FOREIGN COMMERCE.--

26 (a) The sale or use of vessels and parts thereof used
27 to transport persons or property in interstate or foreign
28 commerce, including commercial fishing vessels, is subject to
29 the taxes imposed in this chapter only to the extent provided
30 herein. The basis of the tax shall be the ratio of intrastate
31 mileage to interstate or foreign mileage traveled by the

1 carrier's vessels which were used in interstate or foreign
 2 commerce and which had at least some Florida mileage during
 3 the previous fiscal year. The ratio would be determined at the
 4 close of the carrier's fiscal year. However, during the fiscal
 5 year in which the vessel begins its initial operations in this
 6 state, the vessel's mileage apportionment factor may be
 7 determined on the basis of an estimated ratio of anticipated
 8 miles in this state to anticipated total miles for that year,
 9 and, subsequently, additional tax must be paid on the vessel,
 10 or a refund may be applied for, on the basis of the actual
 11 ratio of the vessel's miles in this state to its total miles
 12 for that year.This ratio shall be applied each month to the
 13 total Florida purchases of such vessels and parts thereof
 14 which are used in Florida to establish that portion of the
 15 total used and consumed in intrastate movement and subject to
 16 the tax at the applicable rate. The basis for imposition of
 17 any discretionary surtax shall be as set forth in s. 212.054.
 18 Items, appropriate to carry out the purposes for which a
 19 vessel is designed or equipped and used, purchased by the
 20 owner, operator, or agent of a vessel for use on board such
 21 vessel shall be deemed to be parts of the vessel upon which
 22 the same are used or consumed. Vessels and parts thereof used
 23 to transport persons or property in interstate and foreign
 24 commerce are hereby determined to be susceptible to a distinct
 25 and separate classification for taxation under the provisions
 26 of this chapter. Vessels and parts thereof used exclusively in
 27 intrastate commerce do not qualify for the proration of tax.

28 (9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES
 29 ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.--

30 (a) Railroads which are licensed as common carriers by
 31 the Surface Transportation Board ~~Interstate Commerce~~

1 ~~Commission~~ and parts thereof used to transport persons or
2 property in interstate or foreign commerce are subject to tax
3 imposed in this chapter only to the extent provided herein.
4 The basis of the tax shall be the ratio of intrastate mileage
5 to interstate or foreign mileage traveled by the carrier
6 during the previous fiscal year of the carrier. Such ratio is
7 to be determined at the close of the carrier's fiscal year.
8 However, during the fiscal year in which the railroad begins
9 its initial operations in this state, the railroad's mileage
10 apportionment factor may be determined on the basis of an
11 estimated ratio of anticipated miles in this state to
12 anticipated total miles for that year, and, subsequently,
13 additional tax must be paid on the railroad, or a refund may
14 be applied for, on the basis of the actual ratio of the
15 railroad's miles in this state to its total miles for that
16 year. This ratio shall be applied each month to the Florida
17 ~~total~~ purchases of the railroad which are used in this state
18 to establish that portion of the total used and consumed in
19 intrastate movement and subject to tax under this chapter. The
20 basis for imposition of any discretionary surtax is set forth
21 in s. 212.054. Railroads which are licensed as common carriers
22 by the Surface Transportation Board ~~Interstate Commerce~~
23 ~~Commission~~ and parts thereof used to transport persons or
24 property in interstate and foreign commerce are hereby
25 determined to be susceptible to a distinct and separate
26 classification for taxation under the provisions of this
27 chapter.

28 (b) Motor vehicles which are engaged in interstate
29 commerce as common carriers, and parts thereof, used to
30 transport persons or property in interstate or foreign
31 commerce are subject to tax imposed in this chapter only to

1 the extent provided herein. The basis of the tax shall be the
2 ratio of intrastate mileage to interstate or foreign mileage
3 traveled by the carrier's motor vehicles which were used in
4 interstate or foreign commerce and which had at least some
5 Florida mileage during the previous fiscal year of the
6 carrier. Such ratio is to be determined at the close of the
7 carrier's fiscal year. However, during the fiscal year in
8 which the carrier begins its initial operations in this state,
9 the carrier's mileage apportionment factor may be determined
10 on the basis of an estimated ratio of anticipated miles in
11 this state to anticipated total miles for that year, and,
12 subsequently, additional tax must be paid on the carrier, or a
13 refund may be applied for, on the basis of the actual ratio of
14 the carrier's miles in this state to its total miles for that
15 year. This ratio shall be applied each month to the Florida
16 ~~total~~ purchases of such motor vehicles and parts thereof which
17 are used in this state to establish that portion of the total
18 used and consumed in intrastate movement and subject to tax
19 under this chapter. The basis for imposition of any
20 discretionary surtax is set forth in s. 212.054. Motor
21 vehicles which are engaged in interstate commerce, and parts
22 thereof, used to transport persons or property in interstate
23 and foreign commerce are hereby determined to be susceptible
24 to a distinct and separate classification for taxation under
25 the provisions of this chapter. Motor vehicles and parts
26 thereof used exclusively in intrastate commerce do not qualify
27 for the proration of tax. For purposes of this paragraph,
28 parts of a motor vehicle engaged in interstate commerce
29 include a separate tank not connected to the fuel supply
30 system of the motor vehicle into which diesel fuel is placed
31 to operate a refrigeration unit or other equipment.

1 (2)(a) The amendments to paragraphs (ff) and (nn) of
2 subsection (7) of s. 212.08, Florida Statutes, by this section
3 apply retroactively to July 1, 2000.

4 (b) The amendments to the introductory paragraph and
5 to the final, flush-left passage of subsection (7) of s.
6 212.08, Florida Statutes, by this section are made to clarify
7 rather than change existing law, and these amendments apply
8 retroactively to January 1, 2001.

9 Section 12. Effective upon this act becoming a law and
10 applying retroactively to July 1, 1996, paragraph (c) of
11 subsection (5) of section 212.08, Florida Statutes, is amended
12 to read:

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

19 (5) EXEMPTIONS; ACCOUNT OF USE.--

20 (c) Machinery and equipment used in production of
21 electrical or steam energy.--

22 1. The purchase of machinery and equipment for use at
23 a fixed location which machinery and equipment are necessary
24 in the production of electrical or steam energy resulting from
25 the burning of boiler fuels other than residual oil is exempt
26 from the tax imposed by this chapter. Such electrical or
27 steam energy must be primarily for use in manufacturing,
28 processing, compounding, or producing for sale items of
29 tangible personal property in this state. Use of a de minimis
30 amount of residual fuel to facilitate the burning of
31

1 nonresidual fuel shall not reduce the exemption otherwise
2 available under this paragraph.

3 2. In facilities where machinery and equipment are
4 necessary to burn both residual and nonresidual fuels, the
5 exemption shall be prorated. Such proration shall be based
6 upon the production of electrical or steam energy from
7 nonresidual fuels as a percentage of electrical or steam
8 energy from all fuels. If it is determined that 15 percent or
9 less of all electrical or steam energy generated was produced
10 by burning residual fuel, the full exemption shall apply.
11 Purchasers claiming a partial exemption shall obtain such
12 exemption by refund of taxes paid, or as otherwise provided in
13 the department's rules.

14 3. The department may adopt rules that provide for
15 implementation of this exemption. Purchasers of machinery and
16 equipment qualifying for the exemption provided in this
17 paragraph shall furnish the vendor ~~department~~ with an
18 affidavit stating that the item or items to be exempted are
19 for the use designated herein. Any person furnishing a false
20 affidavit to the vendor for the purpose of evading payment of
21 any tax imposed under this chapter shall be subject to the
22 penalty set forth in s. 212.085 and as otherwise provided by
23 law. Purchasers with self-accrual authority shall maintain all
24 documentation necessary to prove the exempt status of
25 purchases.

26 Section 13. Effective July 1, 2001, paragraph (a) of
27 subsection (4), paragraphs (b), (d), and (f) of subsection
28 (5), and subsection (10) of section 212.08, Florida Statutes,
29 are amended to read:

30 212.08 Sales, rental, use, consumption, distribution,
31 and storage tax; specified exemptions.--The sale at retail,

1 the rental, the use, the consumption, the distribution, and
2 the storage to be used or consumed in this state of the
3 following are hereby specifically exempt from the tax imposed
4 by this chapter.

5 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,
6 ETC.--

7 (a) Also exempt are:

8 1. Water delivered to the purchaser through pipes or
9 conduits or delivered for irrigation purposes. The sale of
10 drinking water in bottles, cans, or other containers,
11 including water that contains minerals or carbonation in its
12 natural state or water to which minerals have been added at a
13 water treatment facility regulated by the Department of
14 Environmental Protection or the Department of Health, is
15 exempt. This exemption does not apply to the sale of drinking
16 water in bottles, cans, or other containers if carbonation,
17 ~~minerals~~, or flavorings, except those added at a water
18 treatment facility, have been added. Water that has been
19 enhanced by the addition of minerals, and that does not
20 contain any added carbonation or flavorings, is also exempt.

21 2. All fuels used by a public or private utility,
22 including any municipal corporation or rural electric
23 cooperative association, in the generation of electric power
24 or energy for sale. Fuel other than motor fuel and diesel
25 fuel is taxable as provided in this chapter with the exception
26 of fuel expressly exempt herein. Motor fuels and diesel fuels
27 are taxable as provided in chapter 206, with the exception of
28 those motor fuels and diesel fuels used by railroad
29 locomotives or vessels to transport persons or property in
30 interstate or foreign commerce, which are taxable under this
31 chapter only to the extent provided herein. The basis of the

1 tax shall be the ratio of intrastate mileage to interstate or
2 foreign mileage traveled by the carrier's railroad locomotives
3 or vessels that were used in interstate or foreign commerce
4 and that had at least some Florida mileage during the previous
5 fiscal year of the carrier, such ratio to be determined at the
6 close of the fiscal year of the carrier. This ratio shall be
7 applied each month to the total Florida purchases made in this
8 state of motor and diesel fuels to establish that portion of
9 the total used and consumed in intrastate movement and subject
10 to tax under this chapter. The basis for imposition of any
11 discretionary surtax shall be set forth in s. 212.054. Fuels
12 used exclusively in intrastate commerce do not qualify for the
13 proration of tax.

14 3. The transmission or wheeling of electricity.

15 (5) EXEMPTIONS; ACCOUNT OF USE.--

16 (b) Machinery and equipment used to increase
17 productive output.--

18 1. Industrial machinery and equipment purchased for
19 exclusive use by a new business in spaceport activities as
20 defined by s. 212.02 or for use in new businesses which
21 manufacture, process, compound, or produce for sale items of
22 tangible personal property at fixed locations are exempt from
23 the tax imposed by this chapter upon an affirmative showing by
24 the taxpayer to the satisfaction of the department that such
25 items are used in a new business in this state. Such purchases
26 must be made prior to the date the business first begins its
27 productive operations, and delivery of the purchased item must
28 be made within 12 months of that date.

29 2.a. Industrial machinery and equipment purchased for
30 exclusive use by an expanding facility which is engaged in
31 spaceport activities as defined by s. 212.02 or for use in

1 expanding manufacturing facilities or plant units which
2 manufacture, process, compound, or produce for sale items of
3 tangible personal property at fixed locations in this state
4 are exempt from any amount of tax imposed by this chapter in
5 excess of \$50,000 per calendar year upon an affirmative
6 showing by the taxpayer to the satisfaction of the department
7 that such items are used to increase the productive output of
8 such expanded facility or business by not less than 10
9 percent.

10 b. Notwithstanding any other provision of this
11 section, industrial machinery and equipment purchased for use
12 in expanding printing manufacturing facilities or plant units
13 that manufacture, process, compound, or produce for sale items
14 of tangible personal property at fixed locations in this state
15 are exempt from any amount of tax imposed by this chapter upon
16 an affirmative showing by the taxpayer to the satisfaction of
17 the department that such items are used to increase the
18 productive output of such an expanded business by not less
19 than 10 percent.

20 3.a. To receive an exemption provided by subparagraph
21 1. or subparagraph 2., a qualifying business entity shall
22 apply to the department for a temporary tax exemption permit.
23 The application shall state that a new business exemption or
24 expanded business exemption is being sought. Upon a tentative
25 affirmative determination by the department pursuant to
26 subparagraph 1. or subparagraph 2., the department shall issue
27 such permit.

28 b. The applicant shall be required to maintain all
29 necessary books and records to support the exemption. Upon
30 completion of purchases of qualified machinery and equipment
31 pursuant to subparagraph 1. or subparagraph 2., the temporary

1 tax permit shall be delivered to the department or returned to
2 the department by certified or registered mail.

3 c. If, in a subsequent audit conducted by the
4 department, it is determined that the machinery and equipment
5 purchased as exempt under subparagraph 1. or subparagraph 2.
6 did not meet the criteria mandated by this paragraph or if
7 commencement of production did not occur, the amount of taxes
8 exempted at the time of purchase shall immediately be due and
9 payable to the department by the business entity, together
10 with the appropriate interest and penalty, computed from the
11 date of purchase, in the manner prescribed by this chapter.

12 d. In the event a qualifying business entity fails to
13 apply for a temporary exemption permit or if the tentative
14 determination by the department required to obtain a temporary
15 exemption permit is negative, a qualifying business entity
16 shall receive the exemption provided in subparagraph 1. or
17 subparagraph 2. through a refund of previously paid taxes. No
18 refund may be made for such taxes unless the criteria mandated
19 by subparagraph 1. or subparagraph 2. have been met and
20 commencement of production has occurred.

21 4. The department shall promulgate rules governing
22 applications for, issuance of, and the form of temporary tax
23 exemption permits; provisions for recapture of taxes; and the
24 manner and form of refund applications and may establish
25 guidelines as to the requisites for an affirmative showing of
26 increased productive output, commencement of production, and
27 qualification for exemption.

28 5. The exemptions provided in subparagraphs 1. and 2.
29 do not apply to machinery or equipment purchased or used by
30 electric utility companies, communications companies, oil or
31 gas exploration or production operations, publishing firms

1 that do not export at least 50 percent of their finished
 2 product out of the state, any firm subject to regulation by
 3 the Division of Hotels and Restaurants of the Department of
 4 Business and Professional Regulation, or any firm which does
 5 not manufacture, process, compound, or produce for sale items
 6 of tangible personal property or which does not use such
 7 machinery and equipment in spaceport activities as required by
 8 this paragraph. The exemptions provided in subparagraphs 1.
 9 and 2. shall apply to machinery and equipment purchased for
 10 use in phosphate or other solid minerals severance, mining, or
 11 processing operations only by way of a prospective credit
 12 against taxes due under chapter 211 for taxes paid under this
 13 chapter on such machinery and equipment.

14 6. For the purposes of the exemptions provided in
 15 subparagraphs 1. and 2., these terms have the following
 16 meanings:

17 a. "Industrial machinery and equipment" means tangible
 18 personal property or other property that has a depreciable
 19 life of 3 years or more and that is used as an integral part
 20 in the manufacturing, processing, compounding, or production
 21 of tangible personal property for sale or is exclusively used
 22 in spaceport activities. A building and its structural
 23 components are not industrial machinery and equipment unless
 24 the building or structural component is so closely related to
 25 the industrial machinery and equipment that it houses or
 26 supports that the building or structural component can be
 27 expected to be replaced when the machinery and equipment
 28 itself is replaced. Heating and air conditioning systems are
 29 not industrial machinery and equipment, unless the sole
 30 justification for their installation is to meet the
 31 requirements of the production process, even though the system

1 may provide incidental comfort to employees or serves, to an
 2 insubstantial degree, nonproduction activities.~~section 38~~
 3 ~~property" as defined in s. 48(a)(1)(A) and (B)(i) of the~~
 4 ~~Internal Revenue Code, provided "industrial machinery and~~
 5 ~~equipment" shall be construed by regulations adopted by the~~
 6 ~~Department of Revenue to mean tangible property used as an~~
 7 ~~integral part of spaceport activities or of the manufacturing,~~
 8 ~~processing, compounding, or producing for sale of items of~~
 9 ~~tangible personal property.~~Such term includes parts and
 10 accessories only to the extent that the exemption thereof is
 11 consistent with the provisions of this paragraph.

12 b. "Productive output" means the number of units
 13 actually produced by a single plant or operation in a single
 14 continuous 12-month period, irrespective of sales. Increases
 15 in productive output shall be measured by the output for 12
 16 continuous months immediately following the completion of
 17 installation of such machinery or equipment over the output
 18 for the 12 continuous months immediately preceding such
 19 installation. However, if a different 12-month continuous
 20 period of time would more accurately reflect the increase in
 21 productive output of machinery and equipment purchased to
 22 facilitate an expansion, the increase in productive output may
 23 be measured during that 12-month continuous period of time if
 24 such time period is mutually agreed upon by the Department of
 25 Revenue and the expanding business prior to the commencement
 26 of production; provided, however, in no case may such time
 27 period begin later than 2 years following the completion of
 28 installation of the new machinery and equipment. The units
 29 used to measure productive output shall be physically
 30 comparable between the two periods, irrespective of sales.

31

1 (d) Machinery and equipment used under federal
2 procurement contract.--

3 1. Industrial machinery and equipment purchased by an
4 expanding business which manufactures tangible personal
5 property pursuant to federal procurement regulations at fixed
6 locations in this state are partially exempt from the tax
7 imposed in this chapter on that portion of the tax which is in
8 excess of \$100,000 per calendar year upon an affirmative
9 showing by the taxpayer to the satisfaction of the department
10 that such items are used to increase the implicit productive
11 output of the expanded business by not less than 10 percent.
12 The percentage of increase is measured as deflated implicit
13 productive output for the calendar year during which the
14 installation of the machinery or equipment is completed or
15 during which commencement of production utilizing such items
16 is begun divided by the implicit productive output for the
17 preceding calendar year. In no case may the commencement of
18 production begin later than 2 years following completion of
19 installation of the machinery or equipment.

20 2. The amount of the exemption allowed shall equal the
21 taxes otherwise imposed by this chapter in excess of \$100,000
22 per calendar year on qualifying industrial machinery or
23 equipment reduced by the percentage of gross receipts from
24 cost-reimbursement type contracts attributable to the plant or
25 operation to total gross receipts so attributable, accrued for
26 the year of completion or commencement.

27 3. The exemption provided by this paragraph shall
28 inure to the taxpayer only through refund of previously paid
29 taxes. Such refund shall be made within 30 days of formal
30 approval by the department of the taxpayer's application,
31

1 which application may be made on an annual basis following
2 installation of the machinery or equipment.

3 4. For the purposes of this paragraph, the term:

4 a. "Cost-reimbursement type contracts" has the same
5 meaning as in 32 C.F.R. s. 3-405.

6 b. "Deflated implicit productive output" means the
7 product of implicit productive output times the quotient of
8 the national defense implicit price deflator for the preceding
9 calendar year divided by the deflator for the year of
10 completion or commencement.

11 c. "Eligible costs" means the total direct and
12 indirect costs, as defined in 32 C.F.R. ss. 15-202 and 15-203,
13 excluding general and administrative costs, selling expenses,
14 and profit, defined by the uniform cost-accounting standards
15 adopted by the Cost-Accounting Standards Board created
16 pursuant to 50 U.S.C. s. 2168.

17 d. "Implicit productive output" means the annual
18 eligible costs attributable to all contracts or subcontracts
19 subject to federal procurement regulations of the single plant
20 or operation at which the machinery or equipment is used.

21 e. "Industrial machinery and equipment" means tangible
22 personal property, or other property, that has a depreciable
23 life of 3 years or more, that qualifies as an eligible cost
24 under federal procurement regulations, and that is used as an
25 integral part of the process of production of tangible
26 personal property. A building and its structural components
27 are not industrial machinery and equipment unless the building
28 or structural component is so closely related to the
29 industrial machinery and equipment that it houses or supports
30 that the building or structural component can be expected to
31 be replaced when the machinery and equipment itself is

1 replaced. Heating and air conditioning systems are not
 2 industrial machinery and equipment, unless the sole
 3 justification for their installation is to meet the
 4 requirements of the production process, even though the system
 5 may provide incidental comfort to employees or serves, to an
 6 insubstantial degree, nonproduction activities.~~section 38~~
 7 ~~property" as defined in s. 48(a)(1)(A) and (B)(i) of the~~
 8 ~~Internal Revenue Code, provided such industrial machinery and~~
 9 ~~equipment qualified as an eligible cost under federal~~
 10 ~~procurement regulations and are used as an integral part of~~
 11 ~~the tangible personal property production process. Such term~~
 12 ~~includes parts and accessories only to the extent that the~~
 13 ~~exemption of such parts and accessories is consistent with the~~
 14 ~~provisions of this paragraph.~~

15 f. "National defense implicit price deflator" means
 16 the national defense implicit price deflator for the gross
 17 national product as determined by the Bureau of Economic
 18 Analysis of the United States Department of Commerce.

19 5. The exclusions provided in subparagraph (b)5. apply
 20 to this exemption. This exemption applies only to machinery
 21 or equipment purchased pursuant to production contracts with
 22 the United States Department of Defense and Armed Forces, the
 23 National Aeronautics and Space Administration, and other
 24 federal agencies for which the contracts are classified for
 25 national security reasons. In no event shall the provisions
 26 of this paragraph apply to any expanding business the increase
 27 in productive output of which could be measured under the
 28 provisions of sub-subparagraph (b)6.b. as physically
 29 comparable between the two periods.

30 (f) Motion picture or video equipment used in motion
 31 picture or television production activities and sound

1 recording equipment used in the production of master tapes and
2 master records.--

3 1. Motion picture or video equipment and sound
4 recording equipment purchased or leased for use in this state
5 in production activities is exempt from the tax imposed by
6 this chapter. The exemption provided by this paragraph shall
7 inure to the taxpayer upon presentation of the certificate of
8 exemption issued to the taxpayer under the provisions of s.
9 288.1258.

10 2. For the purpose of the exemption provided in
11 subparagraph 1.:

12 a. "Motion picture or video equipment" and "sound
13 recording equipment" includes only tangible personal property,
14 or other property, that has a depreciable life of 3 years or
15 more and ~~equipment meeting the definition of "section 38~~
16 ~~property" as defined in s. 48(a)(1)(A) and (B)(i) of the~~
17 ~~Internal Revenue Code~~ that is used by the lessee or purchaser
18 exclusively as an integral part of production activities;
19 however, motion picture or video equipment and sound recording
20 equipment does not include supplies, tape, records, film, or
21 video tape used in productions or other similar items;
22 vehicles or vessels; or general office equipment not
23 specifically suited to production activities. In addition,
24 the term does not include equipment purchased or leased by
25 television or radio broadcasting or cable companies licensed
26 by the Federal Communications Commission. Furthermore, a
27 building and its structural components are not motion picture
28 or video equipment and sound recording equipment unless the
29 building or structural component is so closely related to the
30 motion picture or video equipment and sound recording
31 equipment that it houses or supports that the building or

1 structural component can be expected to be replaced when the
2 motion picture or video equipment and sound recording
3 equipment itself is replaced. Heating and air conditioning
4 systems are not motion picture or video equipment and sound
5 recording equipment, unless the sole justification for their
6 installation is to meet the requirements of the production
7 activities, even though the system may provide incidental
8 comfort to employees or serves, to an insubstantial degree,
9 nonproduction activities.

10 b. "Production activities" means activities directed
11 toward the preparation of a:

12 (I) Master tape or master record embodying sound; or

13 (II) Motion picture or television production which is
14 produced for theatrical, commercial, advertising, or
15 educational purposes and utilizes live or animated actions or
16 a combination of live and animated actions. The motion picture
17 or television production shall be commercially produced for
18 sale or for showing on screens or broadcasting on television
19 and may be on film or video tape.

20 (10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT
21 OF ANOTHER STATE.--

22 (a) The tax collected on the sale of a new or used
23 motor vehicle in this state to a resident of another state
24 shall be an amount equal to the sales tax which would be
25 imposed on such sale under the laws of the state of which the
26 purchaser is a resident, except that such tax shall not exceed
27 the tax that would otherwise be imposed under this chapter.
28 At the time of the sale, the purchaser shall execute a
29 notarized statement of his or her intent to license the
30 vehicle in the state of which the purchaser is a resident
31 within 45 days of the sale and of the fact of the payment to

1 the State of Florida of a sales tax in an amount equivalent to
 2 the sales tax of his or her state of residence and shall
 3 submit the statement to the appropriate sales tax collection
 4 agency in his or her state of residence. Nothing in this
 5 subsection shall be construed to require the removal of the
 6 vehicle from this state following the filing of an intent to
 7 license the vehicle in the purchaser's home state if the
 8 purchaser licenses the vehicle in his or her home state within
 9 45 days after the date of sale. Nothing in this paragraph
 10 shall require the payment of tax to this state for assessments
 11 made prior to July 1, 2001, if the tax imposed by this section
 12 has been paid to the state in which the vehicle was licensed
 13 and the department has assessed a like amount of tax on the
 14 same transaction. This applies retroactively to assessments
 15 which have been protested prior to August 1, 1999, and have
 16 not been paid on July 1, 2001.

17 (b) Notwithstanding the partial exemption allowed
 18 under paragraph (a), a vehicle is subject to this state's
 19 sales tax at the applicable state sales tax rate plus
 20 authorized surtaxes when the vehicle is purchased by a
 21 nonresident corporation or partnership and:

22 1. An officer of the corporation is a resident of this
 23 state;

24 2. A stockholder of the corporation who owns at least
 25 10 percent of the corporation is a resident of this state; or

26 3. A partner in the partnership who has at least 10
 27 percent ownership is a resident of this state.

28
 29 However, if the vehicle is removed from this state within 45
 30 days after purchase and remains outside the state for a
 31 minimum of 180 days, the vehicle may qualify for the partial

1 exemption allowed under paragraph (a) despite the residency of
2 owners or stockholders of the purchasing entity.

3 Section 14. (1) It is the intent of the Legislature
4 to provide guidance in tax matters that is current and useful.
5 Accordingly, the continued reference to a federal regulation
6 that no longer exists causes confusion and an undue burden on
7 persons affected by s. 212.08, Florida Statutes.

8 (2) It is the purpose of the amendment to s.
9 212.08(5)(b), (d), and (f), Florida Statutes, by this act to
10 replace specific references therein to "section 38 property"
11 as defined in s. 48(a)(1)(A) and (B)(i) of the Internal
12 Revenue Code with a general description of such property, and
13 such new description shall have the same meaning as the former
14 federal Internal Revenue Code regulation without limitation.

15 Section 15. Subsection (6) of section 212.084, Florida
16 Statutes, is repealed.

17 Section 16. Effective upon this act becoming a law,
18 and applying retroactively to June 1, 2001, if this act does
19 not become a law by that date, section 4 of chapter 96-395,
20 Laws of Florida, is repealed.

21 Section 17. Subsection (2) of section 213.285, Florida
22 Statutes, is amended to read:

23 213.285 Certified audits.--

24 (2)(a) The department is authorized to initiate a
25 certified audits project to further enhance tax compliance
26 reviews performed by qualified practitioners and to encourage
27 taxpayers to hire qualified practitioners at their own expense
28 to review and report on their tax compliance. The nature of
29 certified audit work performed by qualified practitioners
30 shall be agreed-upon procedures in which the department is the
31 specified user of the resulting report.

1 (b) As an incentive for taxpayers to incur the costs
2 of a certified audit, the department shall compromise
3 penalties and abate interest due on any tax liabilities
4 revealed by a certified audit as provided in s. 213.21. This
5 authority to compromise penalties or abate interest shall not
6 apply to any liability for taxes that were collected by the
7 participating taxpayer but that were not remitted to the
8 department.

9 (c) The certified audits project is repealed on July
10 1, 2006 ~~2002~~, or upon completion of the project as determined
11 by the department, whichever occurs first.

12 Section 18. Paragraph (n) of subsection (7) of section
13 213.053, Florida Statutes, is amended to read:

14 213.053 Confidentiality and information sharing.--

15 (7) Notwithstanding any other provision of this
16 section, the department may provide:

17 (n) Information contained in returns, reports,
18 accounts, or declarations to the Board of Accountancy in
19 connection with a disciplinary proceeding conducted pursuant
20 to chapter 473 when related to a certified public accountant
21 participating in the certified audits project, or to the court
22 in connection with a civil proceeding brought by the
23 department relating to a claim for recovery of taxes due to
24 negligence on the part of a certified public accountant
25 participating in the certified audits project. In any
26 judicial proceeding brought by the department, upon motion for
27 protective order, the court shall limit disclosure of tax
28 information when necessary to effectuate the purposes of this
29 section. This paragraph is repealed on July 1, 2006 ~~2002~~.

30
31

1 Disclosure of information under this subsection shall be
2 pursuant to a written agreement between the executive director
3 and the agency. Such agencies, governmental or
4 nongovernmental, shall be bound by the same requirements of
5 confidentiality as the Department of Revenue. Breach of
6 confidentiality is a misdemeanor of the first degree,
7 punishable as provided by s. 775.082 or s. 775.083.

8 Section 19. Subsection (8) of section 213.21, Florida
9 Statutes, is amended to read:

10 213.21 Informal conferences; compromises.--

11 (8) In order to determine whether certified audits are
12 an effective tool in the overall state tax collection effort,
13 the executive director of the department or the executive
14 director's designee shall settle or compromise penalty
15 liabilities of taxpayers who participate in the certified
16 audits project. As further incentive for participating in the
17 program, the department shall abate the first \$25,000 of any
18 interest liability and 25 percent of any interest due in
19 excess of the first \$25,000. A settlement or compromise of
20 penalties or interest pursuant to this subsection shall not be
21 subject to the provisions of paragraph (3)(a), except for the
22 requirement relating to confidentiality of records. The
23 department may consider an additional compromise of tax or
24 interest pursuant to the provisions of paragraph (3)(a). This
25 subsection does not apply to any liability related to taxes
26 collected but not remitted to the department. This subsection
27 is repealed on July 1, 2006 ~~2002~~.

28 Section 20. (1) Subsection (3) is added to section
29 213.30, Florida Statutes, to read:

30 213.30 Compensation for information relating to a
31 violation of the tax laws.--

1 (1) The executive director of the department, pursuant
2 to rules adopted by the department, is authorized to
3 compensate persons providing information to the department
4 leading to:

5 (a) The punishment of, or collection of taxes,
6 penalties, or interest from, any person with respect to the
7 taxes enumerated in s. 213.05. The amount of any payment made
8 under this paragraph may not exceed 10 percent of any tax,
9 penalties, or interest collected as a result of such
10 information.

11 (b) The identification and registration of a taxpayer
12 who is not in compliance with the registration requirements of
13 any tax statute that is listed in s. 213.05. The amount of
14 the payment made to any person who provides information to the
15 department which results in the registration of a noncompliant
16 taxpayer shall be \$100. The reward authorized in this
17 paragraph shall be paid only if the noncompliant taxpayer:

- 18 1. Conducts business from a permanent, fixed location;
- 19 2. Is engaged in a bona fide taxable activity; and
- 20 3. Is found by the department to have an unpaid tax
21 liability.

22 (2) Any employee of the department or of any other
23 state or federal agency who comes into possession of
24 information relating to a violation of a revenue law while an
25 employee of such agency may provide information to the
26 department of the type described in subsection (1), but the
27 employee may not be compensated under this section. Any
28 former employee of the department or any other state or
29 federal agency who came into possession of information
30 relating to a violation of a revenue law while an employee of
31 such agency may provide information to the department of the

1 type described in subsection (1), but the former employee may
2 not receive compensation under this section.

3 (3) Notwithstanding the provisions of any other law,
4 this section is the sole means by which any person may seek or
5 obtain any moneys as the result of, in relation to, or founded
6 upon the failure by another person to comply with tax laws of
7 this state, and a person's use of any other law to seek or
8 obtain moneys for such failure is in derogation of this
9 statute and conflicts with the state's duty to administer the
10 tax laws.

11 Section 21. The amendment to Section 213.30, Florida
12 Statutes, made by this act applies to any case in litigation
13 or under seal on the effective date of this act.

14 Section 22. Subsection (9) of section 213.27, Florida
15 Statutes, is repealed.

16 Section 23. Section 213.256, Florida Statutes, is
17 created to read:

18 213.256 Simplified Sales and Use Tax Administration
19 Act.--

20 (1) As used in this section:

21 (a) "Department" means the Department of Revenue.

22 (b) "Agreement" means the Streamlined Sales and Use
23 Tax Agreement as amended and adopted on January 27, 2001, by
24 the Executive Committee of the National Conference of State
25 Legislatures.

26 (c) "Certified automated system" means software
27 certified jointly by the states that are signatories to the
28 agreement to calculate the tax imposed by each jurisdiction on
29 a transaction, determine the amount of tax to remit to the
30 appropriate state, and maintain a record of the transaction.

31

1 (d) "Certified service provider" means an agent
2 certified jointly by the states that are signatories to the
3 agreement to perform all of the seller's sales tax functions.

4 (e) "Person" means an individual, trust, estate,
5 fiduciary, partnership, limited liability company, limited
6 liability partnership, corporation, or any other legal entity.

7 (f) "Sales tax" means the tax levied under chapter
8 212.

9 (g) "Seller" means any person making sales, leases, or
10 rentals of personal property or services.

11 (h) "State" means any state of the United States and
12 the District of Columbia.

13 (i) "Use tax" means the tax levied under chapter 212.

14 (2)(a) The executive director of the department shall
15 enter into the Streamlined Sales and Use Tax Agreement with
16 one or more states to simplify and modernize sales and use tax
17 administration in order to substantially reduce the burden of
18 tax compliance for all sellers and for all types of commerce.
19 In furtherance of the agreement, the executive director of the
20 department or his or her designee shall act jointly with other
21 states that are members of the agreement to establish
22 standards for certification of a certified service provider
23 and certified automated system and establish performance
24 standards for multistate sellers.

25 (b) The executive director of the department or his or
26 her designee shall take other actions reasonably required to
27 administer this section. Other actions authorized by this
28 section include, but are not limited to, the adoption of rules
29 and the joint procurement, with other member states, of goods
30 and services in furtherance of the cooperative agreement.

31

1 (c) The executive director of the department or his or
2 her designee may represent this state before the other states
3 that are signatories to the agreement.

4 (3) The executive director of the department shall not
5 enter into the Streamlined Sales and Use Tax Agreement unless
6 the agreement requires each state to abide by the following
7 requirements:

8 (a) The agreement must set restrictions to limit, over
9 time, the number of state tax rates.

10 (b) The agreement must establish uniform standards
11 for:

12 1. The sourcing of transactions to taxing
13 jurisdictions.

14 2. The administration of exempt sales.

15 3. Sales and use tax returns and remittances.

16 (c) The agreement must provide a central electronic
17 registration system that allows a seller to register to
18 collect and remit sales and use taxes for all signatory
19 states.

20 (d) The agreement must provide that registration with
21 the central registration system and the collection of sales
22 and use taxes in the signatory state will not be used as a
23 factor in determining whether the seller has nexus with a
24 state for any tax.

25 (e) The agreement must provide for reduction of the
26 burdens of complying with local sales and use taxes through:

27 1. Restricting variances between the state and local
28 tax bases.

29 2. Requiring states to administer any sales and use
30 taxes levied by local jurisdictions within the state so that
31 sellers who collect and remit these taxes will not have to

1 register or file returns with, remit funds to, or be subject
2 to independent audits from local taxing jurisdictions.

3 3. Restricting the frequency of changes in the local
4 sales and use tax rates and setting effective dates for the
5 application of local jurisdictional boundary changes to local
6 sales and use taxes.

7 4. Providing notice of changes in local sales and use
8 tax rates and of local changes in the boundaries of local
9 taxing jurisdictions.

10 (f) The agreement must outline any monetary allowances
11 that are to be provided by the states to sellers or certified
12 service providers. The agreement must allow for a joint study
13 by the public and private sectors, which must be completed by
14 July 1, 2002, of the compliance cost to sellers and certified
15 service providers of collecting sales and use taxes for state
16 and local governments under various levels of complexity.

17 (g) The agreement must require each state to certify
18 compliance with the terms of the agreement before joining and
19 to maintain compliance, under the laws of the member state,
20 with all provisions of the agreement while a member.

21 (h) The agreement must require each state to adopt a
22 uniform policy for certified service providers which protects
23 the privacy of consumers and maintains the confidentiality of
24 tax information.

25 (i) The agreement must provide for the appointment of
26 an advisory council of private sector representatives and an
27 advisory council of nonmember state representatives to consult
28 within the administration of the agreement.

29 (4) For the purposes of reviewing or amending the
30 agreement to embody the simplification requirements as set
31 forth in subsection (3), this state shall enter into

1 multistate discussions. For purposes of such discussions, this
2 state shall be represented by three delegates, one appointed
3 by the President of the Senate, one appointed by the Speaker
4 of the House of Representatives, and the executive director of
5 the department or his or her designee.

6 (5) No provision of the agreement authorized by this
7 section in whole or in part invalidates or amends any
8 provision of the laws of this state. Adoption of the agreement
9 by this state does not amend or modify any law of the state.
10 Implementation of any condition of the agreement in this
11 state, whether adopted before, at, or after membership of this
12 state in the agreement, must be by the action of the state.

13 (6) The agreement authorized by this section is an
14 accord among individual cooperating sovereigns in furtherance
15 of their governmental functions. The agreement provides a
16 mechanism among the member states to establish and maintain a
17 cooperative, simplified system for the application and
18 administration of sales and use taxes under the duly adopted
19 law of each member state.

20 (7)(a) The agreement authorized by this act binds and
21 inures only to the benefit of this state and the other member
22 states. No person, other than a member state, is an intended
23 beneficiary of the agreement. Any benefit to a person other
24 than a state is established by the laws of this state and of
25 other member states and not by the terms of the agreement.

26 (b) Consistent with paragraph (a), no person has any
27 cause of action or defense under the agreement or by virtue of
28 this state's approval of the agreement. No person may
29 challenge, in any action brought under any provision of law,
30 any action or inaction by any department, agency, or other
31 instrumentality of this state, or of any political subdivision

1 of this state, on the ground that the action or inaction is
2 inconsistent with the agreement.

3 (c) No law of this state, or the application thereof,
4 may be declared invalid as to any person or circumstance on
5 the ground that the provision or application is inconsistent
6 with the agreement.

7 (8)(a) A certified service provider is the agent of a
8 seller with whom the certified service provider has contracted
9 for the collection and remittance of sales and use taxes. As
10 the seller's agent, the certified service provider is liable
11 for sales and use tax due each member state on all sales
12 transactions it processes for the seller except as set out in
13 this subsection.

14 (b) A seller that contracts with a certified service
15 provider is not liable to the state for sales or use tax due
16 on transactions processed by the certified service provider
17 unless the seller has misrepresented the type of items it
18 sells or has committed fraud. In the absence of probable cause
19 to believe that the seller has committed fraud or made a
20 material misrepresentation, the seller is not subject to audit
21 on the transactions processed by the certified service
22 provider. A seller is subject to audit for transactions that
23 have not been processed by the certified service provider. The
24 member states acting jointly may perform a system check of the
25 seller and review the seller's procedures to determine if the
26 certified service provider's system is functioning properly
27 and to determine the extent to which the seller's transactions
28 are being processed by the certified service provider.

29 (c) A person that provides a certified automated
30 system is responsible for the proper functioning of that
31 system and is liable to the state for underpayments of tax

1 attributable to errors in the functioning of the certified
2 automated system. A seller that uses a certified automated
3 system remains responsible and is liable to the state for
4 reporting and remitting tax.

5 (d) A seller that has a proprietary system for
6 determining the amount of tax due on transactions and has
7 signed an agreement establishing a performance standard for
8 that system is liable for the failure of the system to meet
9 the performance standard.

10 (9) Disclosure of information necessary under this
11 section must be pursuant to a written agreement between the
12 executive director of the department or his or her designee
13 and the certified service provider. The certified service
14 provider is bound by the same requirements of confidentiality
15 as the department. Breach of confidentiality is a misdemeanor
16 of the first degree, punishable as provided in s. 775.082 or
17 s. 775.083.

18 (10) On or before January 1 annually, the department
19 shall provide recommendations to the President of the Senate,
20 the Senate Minority Leader, the Speaker of the House of
21 Representatives, and the Minority Leader of the House of
22 Representatives for provisions to be adopted for inclusion
23 within the system which are necessary to bring it into
24 compliance with the Streamlined Sales and Use Tax Agreement.

25 Section 24. Notwithstanding section 10 of chapter
26 90-110, Laws of Florida, subsection (3) of s. 215.20, Florida
27 Statutes, shall not expire on October 1, 2001, as scheduled by
28 that section, but subsection (3) of s. 215.20, Florida
29 Statutes, is revived and readopted.

30 Section 25. Effective July 1, 2001, subsection (4) of
31 section 220.22, Florida Statutes, is amended to read:

1 220.22 Returns; filing requirement.--

2 (4) The department shall designate by rule certain
3 not-for-profit entities and others that are not required to
4 file a return, including an initial information return, under
5 this code unless the entities have taxable income as defined
6 in s. 220.13(2). These entities shall include subchapter S
7 corporations, tax-exempt entities, and others that do not
8 usually owe federal income tax.~~For the year in which an~~
9 ~~election is made pursuant to s. 1361(b)(3) of the Internal~~
10 ~~Revenue Code, the qualified subchapter S subsidiary shall file~~
11 ~~an informational return with the department, which return~~
12 ~~shall be restricted to information identifying the subsidiary,~~
13 ~~the electing S corporation parent, and the effective date of~~
14 ~~the election.~~

15 Section 26. Paragraph (e) of subsection (3) of section
16 443.131, Florida Statutes, is amended to read:

17 443.131 Contributions.--

18 (3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.--

19 (e)1. Variations from the standard rate of
20 contributions shall be assigned with respect to each calendar
21 year to employers eligible therefor. In determining the
22 contribution rate, varying from the standard rate to be
23 assigned each employer, adjustment factors provided for in
24 sub-subparagraphs a.-c. will be added to the benefit ratio.
25 This addition will be accomplished in two steps by adding a
26 variable adjustment factor and a final adjustment factor as
27 defined below. The sum of these adjustment factors provided
28 for in sub-subparagraphs a.-c. will first be algebraically
29 summed. The sum of these adjustment factors will then be
30 divided by a gross benefit ratio to be determined as follows:
31 Total benefit payments for the previous 3 years, as defined in

1 subparagraph (b)1., charged to employers eligible to be
2 assigned a contribution rate different from the standard rate
3 minus excess payments for the same period divided by taxable
4 payroll entering into the computation of individual benefit
5 ratios for the calendar year for which the contribution rate
6 is being computed. The ratio of the sum of the adjustment
7 factors provided for in sub-subparagraphs a.-c. to the gross
8 benefit ratio will be multiplied by each individual benefit
9 ratio below the maximum tax rate to obtain variable adjustment
10 factors; except that in any instance in which the sum of an
11 employer's individual benefit ratio and variable adjustment
12 factor exceeds the maximum tax rate, the variable adjustment
13 factor will be reduced so that the sum equals the maximum tax
14 rate. The variable adjustment factor of each such employer
15 will be multiplied by his or her taxable payroll entering into
16 the computation of his or her benefit ratio. The sum of these
17 products will be divided by the taxable payroll of such
18 employers that entered into the computation of their benefit
19 ratios. The resulting ratio will be subtracted from the sum of
20 the adjustment factors provided for in sub-subparagraphs a.-c.
21 to obtain the final adjustment factor. The variable adjustment
22 factors and the final adjustment factor will be computed to
23 five decimal places and rounded to the fourth decimal place.
24 This final adjustment factor will be added to the variable
25 adjustment factor and benefit ratio of each employer to obtain
26 each employer's contribution rate; however, at no time shall
27 an employer's contribution rate be rounded to less than 0.1
28 percent.

29 a. An adjustment factor for noncharge benefits will be
30 computed to the fifth decimal place, and rounded to the fourth
31 decimal place, by dividing the amount of benefit payments

1 noncharged in the 3 preceding years as defined in subparagraph
2 (b)1. by the taxable payroll of employers eligible to be
3 considered for assignment of a contribution rate different
4 from the standard rate that have a benefit ratio for the
5 current year less than the maximum contribution rate. The
6 taxable payroll of such employers will be the taxable payrolls
7 for the 3 years ending June 30 of the current calendar year
8 that had been reported to the division by September 30 of the
9 same calendar year. Noncharge benefits for the purpose of this
10 section shall be defined as benefit payments to an individual
11 which were paid from the Unemployment Compensation Trust Fund
12 but which were not charged to the unemployment record of any
13 employer.

14 b. An excess payments adjustment factor will be
15 computed to the fifth decimal place, and rounded to the fourth
16 decimal place, by dividing the total excess payments during
17 the 3 preceding years as defined in subparagraph (b)1. by the
18 taxable payroll of employers eligible to be considered for
19 assignment of a contribution rate different from the standard
20 rate that have a benefit ratio for the current year less than
21 the maximum contribution rate. The taxable payroll of such
22 employers will be the same as used in computing the noncharge
23 adjustment factor as described in sub-subparagraph a. The term
24 "excess payments" for the purpose of this section is defined
25 as the amount of benefit payments charged to the employment
26 record of an employer during the 3 preceding years, as defined
27 in subparagraph (b)1., less the product of the maximum
28 contribution rate and his or her taxable payroll for the 3
29 years ending June 30 of the current calendar year that had
30 been reported to the division by September 30 of the same
31 calendar year. The term "total excess payments" is defined as

1 the sum of the individual employer excess payments for those
2 employers that were eligible to be considered for assignment
3 of a contribution rate different from the standard rate.

4 c. If the balance in the Unemployment Compensation
5 Trust Fund as of June 30 of the calendar year immediately
6 preceding the calendar year for which the contribution rate is
7 being computed is less than 3.7 ~~4~~ percent of the taxable
8 payrolls for the year ending June 30 as reported to the
9 division by September 30 of that calendar year, a positive
10 adjustment factor will be computed. Such adjustment factor
11 shall be computed annually to the fifth decimal place, and
12 rounded to the fourth decimal place, by dividing the sum of
13 the total taxable payrolls for the year ending June 30 of the
14 current calendar year as reported to the division by September
15 30 of such calendar year into a sum equal to one-fourth of the
16 difference between the amount in the fund as of June 30 of
17 such calendar year and the sum of 4.7 ~~5~~ percent of the total
18 taxable payrolls for that year. Such adjustment factor will
19 remain in effect in subsequent years until a balance in the
20 Unemployment Compensation Trust Fund as of June 30 of the year
21 immediately preceding the effective date of such contribution
22 rate equals or exceeds 3.7 ~~4~~ percent of the taxable payrolls
23 for the year ending June 30 of the current calendar year as
24 reported to the division by September 30 of that calendar
25 year. If the balance in the Unemployment Compensation Trust
26 Fund as of June 30 of the year immediately preceding the
27 calendar year for which the contribution rate is being
28 computed exceeds 4.7 ~~5~~ percent of the taxable payrolls for the
29 year ending June 30 of the current calendar year as reported
30 to the division by September 30 of that calendar year, a
31 negative adjustment factor will be computed. Such adjustment

1 factor shall be computed annually to the fifth decimal place,
 2 and rounded to the fourth decimal place, by dividing the sum
 3 of the total taxable payrolls for the year ending June 30 of
 4 the current calendar year as reported to the division by
 5 September 30 of such calendar year into a sum equal to
 6 one-fourth of the difference between the amount in the fund as
 7 of June 30 of the current calendar year and 4.7 5 percent of
 8 the total taxable payrolls of such year. Such adjustment
 9 factor will remain in effect in subsequent years until the
 10 balance in the Unemployment Compensation Trust Fund as of June
 11 30 of the year immediately preceding the effective date of
 12 such contribution rate is less than 4.7 5 percent but more
 13 than 3.7 4 percent of the taxable payrolls for the year ending
 14 June 30 of the current calendar year as reported to the
 15 division by September 30 of that calendar year.

16 d. The maximum contribution rate that can be assigned
 17 to any employer shall be 5.4 percent, except those employers
 18 participating in an approved short-time compensation plan in
 19 which case the maximum shall be 1 percent above the current
 20 maximum contribution rate, with respect to any calendar year
 21 in which short-time compensation benefits are in the
 22 employer's employment record.

23 2. In the event of the transfer of employment records
 24 to an employing unit pursuant to paragraph (g) which, prior to
 25 such transfer, was an employer, the division shall recompute a
 26 benefit ratio for the successor employer on the basis of the
 27 combined employment records and reassign an appropriate
 28 contribution rate to such successor employer as of the
 29 beginning of the calendar quarter immediately following the
 30 effective date of such transfer of employment records.

31

1 Section 27. (1) Section 443.1315, Florida Statutes,
2 is created to read:

3 443.1315 Treatment of Indian tribes.--

4 (1) As used in this section:

5 (a) "Employer" includes any Indian tribe for which
6 service in employment as defined by this chapter is performed.

7 (b) "Employment" includes service performed in the
8 employ of an Indian tribe, as defined by s. 3306(u) of the
9 Federal Unemployment Tax Act, provided such service is
10 excluded from "employment," as defined by said act, solely by
11 reason of s. 3306(c)(7) of said act and is not otherwise
12 excluded from "employment" under this chapter. For purposes of
13 this section, the exclusions from employment under s.
14 443.036(21)(d) shall be applicable to services performed in
15 the employ of an Indian tribe.

16 (2) Benefits based on service in employment, as
17 defined by this section, shall be payable in the same amount,
18 on the same terms, and subject to the same conditions as
19 benefits payable on the basis of other service subject to this
20 chapter.

21 (3)(a) Indian tribes or tribal units, including
22 subdivisions, subsidiaries, or business enterprises wholly
23 owned by such Indian tribes, subject to this chapter shall pay
24 contributions under the same terms and conditions as all other
25 subject employers, unless they elect to pay into the
26 Unemployment Compensation Trust Fund amounts equal to the
27 amount of benefits attributable to service in the employ of
28 the Indian tribe.

29 (b) Indian tribes electing to make payments in lieu of
30 contributions must make such election in the same manner and
31 under the same conditions as provided by s. 443.131 for state

1 and local governments and nonprofit organizations subject to
2 this chapter. Indian tribes shall determine if reimbursement
3 for benefits paid will be elected by the tribe as a whole, by
4 individual tribal units, or by combinations of individual
5 tribal units.

6 (c) Indian tribes or tribal units shall be billed for
7 the full amount of benefits attributable to service in the
8 employ of the Indian tribe or tribal unit on the same schedule
9 as other employing units that have elected to make payments in
10 lieu of contributions.

11 (d) At the discretion of the director of the Agency
12 for Workforce Innovation or his or her designee, any Indian
13 tribe or tribal unit that elects to become liable for payments
14 in lieu of contributions shall be required, within 90 days
15 after the effective date of its election, to:

16 1. Execute and file with the director or his or her
17 designee a surety bond approved by the director or his or her
18 designee; or

19 2. Deposit with the director or his or her designee
20 money or securities on the same basis as other employers with
21 the same election option.

22 (4)(a)1. Failure of the Indian tribe or tribal unit to
23 make required payments, including assessments of interest and
24 penalty, within 90 days after receipt of the bill, will cause
25 the Indian tribe to lose the option to make payments in lieu
26 of contributions, as described in subsection (3), for the
27 following tax year, unless payment in full is received before
28 contribution rates for the next tax year are computed.

29 2. Any Indian tribe that loses the option to make
30 payments in lieu of contributions due to late payment or
31 nonpayment, as described in subparagraph 1., shall have such

1 option reinstated if, after a period of 1 year, all
2 contributions have been made timely, provided no
3 contributions, payments in lieu of contributions for benefits
4 paid, penalties, or interest remain outstanding.

5 (b)1. Failure of the Indian tribe or any tribal unit
6 thereof to make required payments, including assessments of
7 interest and penalty, after all collection activities deemed
8 necessary by the director of the Agency for Workforce
9 Innovation or his or her designee have been exhausted, will
10 cause services performed for such tribe to not be treated as
11 "employment" for purposes of paragraph (1)(b).

12 2. The director or his or her designee may determine
13 that any Indian tribe that loses coverage under subparagraph
14 1. may have services performed for such tribe again included
15 as "employment" for purposes of paragraph (1)(b) if all
16 contributions, payments in lieu of contributions, penalties,
17 and interest have been paid.

18 (c) If an Indian tribe fails to make payments required
19 under this section, including assessments of interest and
20 penalty, within 90 days after a final notice of delinquency,
21 the director of the Agency for Workforce Innovation shall
22 immediately notify the United States Internal Revenue Service
23 and the United States Department of Labor.

24 (5) Notices of payment and reporting delinquency to
25 Indian tribes or their tribal units shall include information
26 that failure to make full payment within the prescribed
27 timeframe:

28 (a) Will cause the Indian tribe to be liable for taxes
29 under the Federal Unemployment Tax Act.

30 (b) Will cause the Indian tribe to lose the option to
31 make payments in lieu of contributions.

1 (c) Could cause the Indian tribe to be excepted from
2 the definition of "employer," as provided in paragraph (1)(a),
3 and services in the employ of the Indian tribe, as provided in
4 paragraph (1)(b), to be excepted from "employment."

5 (6) Extended benefits paid that are attributable to
6 service in the employ of an Indian tribe and not reimbursed by
7 the Federal Government shall be financed in their entirety by
8 such Indian tribe.

9 (7) The Agency for Workforce Innovation is authorized
10 to adopt any rules it deems necessary to implement this
11 section.

12 (2) This section shall take effect upon this act
13 becoming a law and shall apply retroactively to December 21,
14 2000.

15 Section 28. Effective July 1, 2001, subsection (10) of
16 section 624.509, Florida Statutes, is repealed.

17 Section 29. Except as otherwise provided herein, this
18 act shall take effect upon becoming a law.

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