

By the Committee on Finance and Taxation; and Senator Pruitt

314-1737A-02

1                                   A bill to be entitled  
2           An act relating to taxation; amending s.  
3           212.02, F.S.; defining terms applicable to the  
4           taxation of sales, use, and other transactions;  
5           amending s. 212.03, F.S.; prescribing the rates  
6           of taxation for transient rentals; amending s.  
7           212.031, F.S.; revising rates and exemptions  
8           applicable to the taxation of the lease or  
9           rental of or license in real property; amending  
10          s. 212.04, F.S.; revising provisions governing  
11          the admissions tax; amending s. 212.05, F.S.;  
12          revising rates and exemptions applicable to the  
13          tax on sales, storage, and use; creating s.  
14          212.0502, F.S.; providing for the taxation of  
15          construction services; amending s. 121.0506,  
16          F.S.; revising provisions governing the  
17          taxation of service warranties; reenacting s.  
18          212.051, F.S., which makes certain sales or use  
19          involving equipment, machinery, and other  
20          equipment for pollution control not subject to  
21          the sales or use tax; reenacting s. 212.052,  
22          F.S., which provides tax exemptions for  
23          research or development costs; reenacting s.  
24          212.0598, F.S., relating to special provisions  
25          for air carriers; amending s. 212.06, F.S.;  
26          revising rates and exemptions applicable to the  
27          tax on sales, storage, or use; reenacting s.  
28          212.0601, F.S., relating to use taxes of motor  
29          vehicle dealers; reenacting s. 212.0602, F.S.,  
30          which provides a limited exemption to  
31          facilitate investment in education and job

1 training; amending s. 212.07, F.S.; revising  
2 provisions governing the collection and  
3 administration of the tax on sales, use, and  
4 other transactions; amending s. 212.08, F.S.;  
5 revising or eliminating specified exemptions  
6 for the tax on sales, use, and other  
7 transactions; creating s. 212.0801, F.S.;  
8 prescribing exemptions with respect to the  
9 sales or use of services; reenacting s.  
10 212.0821, F.S., relating to the use of  
11 governmental entities' sales tax exemption  
12 certificates for purchases on behalf of  
13 specified groups; reenacting s. 212.09, F.S.,  
14 relating to deduction from the sales price of  
15 credit for articles taken in trade; reenacting  
16 s. 376.75(1), F.S., which prescribes the rate  
17 of taxation for specified transactions  
18 involving certain solvents used by drycleaning  
19 facilities; providing legislative intent;  
20 providing a contingent effective date.

21

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

23

24 Section 1. Effective July 1, 2004, section 212.02,  
25 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 (1) The term "admissions" means and includes the net  
31 sum of money after deduction of any federal taxes for

1 admitting a person or vehicle or persons to any place of  
2 amusement, sport, or recreation or for the privilege of  
3 entering or staying in any place of amusement, sport, or  
4 recreation, including, but not limited to, theaters, outdoor  
5 theaters, shows, exhibitions, games, races, or any place where  
6 charge is made by way of sale of tickets, gate charges, seat  
7 charges, box charges, season pass charges, cover charges,  
8 greens fees, participation fees, entrance fees, or other fees  
9 or receipts of anything of value measured on an admission or  
10 entrance or length of stay or seat box accommodations in any  
11 place where there is any exhibition, amusement, sport, or  
12 recreation, and all dues and fees paid to private clubs and  
13 membership clubs providing recreational or physical fitness  
14 facilities, including, but not limited to, golf, tennis,  
15 swimming, yachting, boating, athletic, exercise, and fitness  
16 facilities, ~~except physical fitness facilities owned or~~  
17 ~~operated by any hospital licensed under chapter 395.~~

18 (2) "Affiliated group" means: an affiliated group of  
19 corporations, as defined in s. 1504(a) of the Internal Revenue  
20 Code, whose members are includable under s. 1504(b), (c) or  
21 (d) of the Internal Revenue Code and are eligible to file a  
22 consolidated tax return for Federal corporate income tax  
23 purposes, or mutual insurance companies which are members of  
24 one insurance holding company system subject to s. 628.801;  
25 however, s. 1504(b)(2) does not apply to this definition.  
26 However, the taxpayer may elect, pursuant to rules of the  
27 department governing the procedure for making or amending such  
28 election, to define its affiliated group in a manner that  
29 excludes any member who has no tax nexus in this state and any  
30 member whose business activities are unrelated to the business  
31 activities of other members of the group. However, a parent

1 corporation of an included member may not be excluded from the  
2 affiliated group.

3 (3)~~(2)~~ "Business" means any activity engaged in by any  
4 person, or caused to be engaged in by him or her, with the  
5 object of private or public gain, benefit, or advantage,  
6 either direct or indirect. Except for the sales of any  
7 aircraft, boat, mobile home, or motor vehicle, the term  
8 "business" shall not be construed in this chapter to include  
9 occasional or isolated sales or transactions involving  
10 tangible personal property or services by a person who does  
11 not hold himself or herself out as engaged in business, but  
12 includes other charges for the sale or rental of tangible  
13 personal property, sales of services taxable under this  
14 chapter, sales of or charges of admission, communication  
15 services, all rentals and leases of living quarters, other  
16 than low-rent housing operated under chapter 421, sleeping or  
17 housekeeping accommodations in hotels, apartment houses,  
18 roominghouses, tourist or trailer camps, and all rentals of or  
19 licenses in real property, other than low-rent housing  
20 operated under chapter 421, all leases or rentals of or  
21 licenses in parking lots or garages for motor vehicles,  
22 docking or storage spaces for boats in boat docks or marinas  
23 as defined in this chapter and made subject to a tax imposed  
24 by this chapter. ~~The term "business" shall not be construed~~  
25 ~~in this chapter to include the leasing, subleasing, or~~  
26 ~~licensing of real property by one corporation to another if~~  
27 ~~all of the stock of both such corporations is owned, directly~~  
28 ~~or through one or more wholly owned subsidiaries, by a common~~  
29 ~~parent corporation; the property was in use prior to July 1,~~  
30 ~~1989, title to the property was transferred after July 1,~~  
31 ~~1988, and before July 1, 1989, between members of an~~

1 ~~affiliated group, as defined in s. 1504(a) of the Internal~~  
2 ~~Revenue Code of 1986, which group included both such~~  
3 ~~corporations and there is no substantial change in the use of~~  
4 ~~the property following the transfer of title; the leasing,~~  
5 ~~subleasing, or licensing of the property was required by an~~  
6 ~~unrelated lender as a condition of providing financing to one~~  
7 ~~or more members of the affiliated group; and the corporation~~  
8 ~~to which the property is leased, subleased, or licensed had~~  
9 ~~sales subject to the tax imposed by this chapter of not less~~  
10 ~~than \$667 million during the most recent 12-month period ended~~  
11 ~~June 30. Any tax on such sales, charges, rentals, admissions,~~  
12 ~~or other transactions made subject to the tax imposed by this~~  
13 ~~chapter shall be collected by the state, county, municipality,~~  
14 ~~any political subdivision, agency, bureau, or department, or~~  
15 ~~other state or local governmental instrumentality in the same~~  
16 ~~manner as other dealers, unless specifically exempted by this~~  
17 ~~chapter.~~

18       ~~(4)(3)~~ The terms "cigarettes," "tobacco," or "tobacco  
19 products" referred to in this chapter include all such  
20 products as are defined or may be hereafter defined by the  
21 laws of the state.

22       ~~(5)(4)~~ "Cost price" means the actual cost of articles  
23 of tangible personal property or services without any  
24 deductions therefrom on account of the cost of materials used,  
25 labor or service costs, transportation charges, or any  
26 expenses whatsoever.

27       ~~(6)(5)~~ The term "department" means the Department of  
28 Revenue.

29       ~~(7)(6)~~ "Enterprise zone" means an area of the state  
30 designated pursuant to s. 290.0065. This subsection shall  
31 expire and be void on December 31, 2005.

1           (8)~~(7)~~ "Factory-built building" means a structure  
2 manufactured in a manufacturing facility for installation or  
3 erection as a finished building; "factory-built building"  
4 includes, but is not limited to, residential, commercial,  
5 institutional, storage, and industrial structures.

6           (9)~~(8)~~ "In this state" or "in the state" means within  
7 the state boundaries of Florida as defined in s. 1, Art. II of  
8 the State Constitution and includes all territory within these  
9 limits owned by or ceded to the United States.

10           (10)~~(9)~~ The term "intoxicating beverages" or  
11 "alcoholic beverages" referred to in this chapter includes all  
12 such beverages as are so defined or may be hereafter defined  
13 by the laws of the state.

14           (11)~~(10)~~ "Lease," "let," or "rental" means leasing or  
15 renting of living quarters or sleeping or housekeeping  
16 accommodations in hotels, apartment houses, roominghouses,  
17 tourist or trailer camps and real property, the same being  
18 defined as follows:

19           (a) Every building or other structure kept, used,  
20 maintained, or advertised as, or held out to the public to be,  
21 a place where sleeping accommodations are supplied for pay to  
22 transient or permanent guests or tenants, in which 10 or more  
23 rooms are furnished for the accommodation of such guests, and  
24 having one or more dining rooms or cafes where meals or  
25 lunches are served to such transient or permanent guests; such  
26 sleeping accommodations and dining rooms or cafes being  
27 conducted in the same building or buildings in connection  
28 therewith, shall, for the purpose of this chapter, be deemed a  
29 hotel.

30           (b) Any building, or part thereof, where separate  
31 accommodations for two or more families living independently

1 of each other are supplied to transient or permanent guests or  
2 tenants shall for the purpose of this chapter be deemed an  
3 apartment house.

4 (c) Every house, boat, vehicle, motor court, trailer  
5 court, or other structure or any place or location kept, used,  
6 maintained, or advertised as, or held out to the public to be,  
7 a place where living quarters or sleeping or housekeeping  
8 accommodations are supplied for pay to transient or permanent  
9 guests or tenants, whether in one or adjoining buildings,  
10 shall for the purpose of this chapter be deemed a  
11 roominghouse.

12 (d) In all hotels, apartment houses, and roominghouses  
13 within the meaning of this chapter, the parlor, dining room,  
14 sleeping porches, kitchen, office, and sample rooms shall be  
15 construed to mean "rooms."

16 (e) A "tourist camp" is a place where two or more  
17 tents, tent houses, or camp cottages are located and offered  
18 by a person or municipality for sleeping or eating  
19 accommodations, most generally to the transient public for  
20 either a direct money consideration or an indirect benefit to  
21 the lessor or owner in connection with a related business.

22 (f) A "trailer camp," "mobile home park," or  
23 "recreational vehicle park" is a place where space is offered,  
24 with or without service facilities, by any persons or  
25 municipality to the public for the parking and accommodation  
26 of two or more automobile trailers, mobile homes, or  
27 recreational vehicles which are used for lodging, for either a  
28 direct money consideration or an indirect benefit to the  
29 lessor or owner in connection with a related business, such  
30 space being hereby defined as living quarters, and the rental  
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1 price thereof shall include all service charges paid to the  
2 lessor.

3 (g) "Lease," "let," or "rental" also means the leasing  
4 or rental of tangible personal property and the possession or  
5 use thereof by the lessee or rentee for a consideration,  
6 without transfer of the title of such property, except as  
7 expressly provided to the contrary herein. ~~The term "lease,"~~  
8 ~~"let," or "rental" does not mean hourly, daily, or mileage~~  
9 ~~charges, to the extent that such charges are subject to the~~  
10 ~~jurisdiction of the United States Interstate Commerce~~  
11 ~~Commission, when such charges are paid by reason of the~~  
12 ~~presence of railroad cars owned by another on the tracks of~~  
13 ~~the taxpayer, or charges made pursuant to car service~~  
14 ~~agreements.~~ However, where two taxpayers, in connection with  
15 the interchange of facilities, rent or lease property, each to  
16 the other, for use in providing or furnishing any of the  
17 services mentioned in s. 166.231, the term "lease or rental"  
18 means only the net amount of rental involved.

19 (h) "Real property" means the surface land,  
20 improvements thereto, and fixtures, and is synonymous with  
21 "realty" and "real estate."

22 (i) "License," as used in this chapter with reference  
23 to the use of real property, means the granting of a privilege  
24 to use or occupy a building or a parcel of real property for  
25 any purpose.

26 ~~(j) Privilege, franchise, or concession fees, or fees~~  
27 ~~for a license to do business, paid to an airport are not~~  
28 ~~payments for leasing, letting, renting, or granting a license~~  
29 ~~for the use of real property.~~

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1           (12)~~(11)~~ "Motor fuel" means and includes what is  
2 commonly known and sold as gasoline and fuels containing a  
3 mixture of gasoline and other products.

4           (13)~~(12)~~ "Person" includes any individual, firm,  
5 copartnership, joint adventure, association, corporation,  
6 estate, trust, business trust, receiver, syndicate, or other  
7 group or combination acting as a unit and also includes any  
8 political subdivision, municipality, state agency, bureau, or  
9 department and includes the plural as well as the singular  
10 number.

11           (14)~~(13)~~ "Retailer" means and includes every person  
12 engaged in the business of making sales at retail or for  
13 distribution, or use, or consumption, or storage to be used or  
14 consumed in this state.

15           (15)~~(14)~~(a) "Retail sale" or a "sale at retail" means  
16 a sale to a consumer or to any person for any purpose other  
17 than for resale in the form of tangible personal property or  
18 services taxable under this chapter, and includes all such  
19 transactions that may be made in lieu of retail sales or sales  
20 at retail. A sale for resale includes a sale of qualifying  
21 property. As used in this paragraph, the term "qualifying  
22 property" means tangible personal property, other than  
23 electricity, which is used or consumed by a government  
24 contractor in the performance of a qualifying contract as  
25 defined in s. 212.08(17)(c), to the extent that the cost of  
26 the property is allocated or charged as a direct item of cost  
27 to such contract, title to which property vests in or passes  
28 to the government under the contract. The term "government  
29 contractor" includes prime contractors and subcontractors. As  
30 used in this paragraph, a cost is a "direct item of cost" if  
31 it is a "direct cost" as defined in 48 C.F.R. s.

1 9904.418-30(a)(2), or similar successor provisions, including  
2 costs identified specifically with a particular contract.

3 (b) The terms "retail sales," "sales at retail,"  
4 "use," "storage," and "consumption" include the sale, use,  
5 storage, or consumption of all tangible advertising materials  
6 imported or caused to be imported into this state. Tangible  
7 advertising material includes displays, display containers,  
8 brochures, catalogs, price lists, point-of-sale advertising,  
9 and technical manuals or any tangible personal property which  
10 does not accompany the product to the ultimate consumer.

11 (c) "Retail sales," "sale at retail," "use,"  
12 "storage," and "consumption" do not include materials,  
13 containers, labels, sacks, bags, or similar items intended to  
14 accompany a product sold to a customer without which delivery  
15 of the product would be impracticable because of the character  
16 of the contents and be used one time only for packaging  
17 tangible personal property for sale or for the convenience of  
18 the customer or for packaging in the process of providing a  
19 service taxable under this chapter. When a separate charge for  
20 packaging materials is made, the charge shall be considered  
21 part of the sales price or rental charge for purposes of  
22 determining the applicability of tax. The terms do not include  
23 the sale, use, storage, or consumption of industrial  
24 materials, including chemicals and fuels except as provided  
25 herein, for future processing, manufacture, or conversion into  
26 articles of tangible personal property for resale when such  
27 industrial materials, including chemicals and fuels except as  
28 provided herein, become a component or ingredient of the  
29 finished product. However, the terms include the sale, use,  
30 storage, or consumption of tangible personal property,  
31 including machinery and equipment or parts thereof, purchased

1 electricity, and fuels used to power machinery, when such  
2 items are used and dissipated in fabricating, converting, or  
3 processing tangible personal property for sale, even though  
4 they may become ingredients or components of the tangible  
5 personal property for sale through accident, wear, tear,  
6 erosion, corrosion, or similar means. The terms do not  
7 include the sale of materials to a registered repair facility  
8 for use in repairing a motor vehicle, airplane, or boat, when  
9 such materials are incorporated into and sold as part of the  
10 repair. Such a sale shall be deemed a purchase for resale by  
11 the repair facility, even though every material is not  
12 separately stated or separately priced on the repair invoice.

13 (d) "Gross sales" means the sum total of all sales of  
14 tangible personal property or services as defined herein,  
15 without any deduction whatsoever of any kind or character,  
16 except as provided in this chapter.

17 (e) The term "retail sale" includes a mail order sale,  
18 as defined in s. 212.0596(1).

19 (16)~~(15)~~ "Sale" means and includes:

20 (a) Any transfer of title or possession, or both,  
21 exchange, barter, license, lease, or rental, conditional or  
22 otherwise, in any manner or by any means whatsoever, of  
23 tangible personal property for a consideration.

24 (b) The rental of living quarters or sleeping or  
25 housekeeping accommodations in hotels, apartment houses or  
26 roominghouses, or tourist or trailer camps, as hereinafter  
27 defined in this chapter.

28 (c) The producing, fabricating, processing, printing,  
29 or imprinting of tangible personal property for a  
30 consideration for consumers who furnish either directly or  
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1 indirectly the materials used in the producing, fabricating,  
2 processing, printing, or imprinting.

3 (d) The furnishing, preparing, or serving for a  
4 consideration of any tangible personal property for  
5 consumption on or off the premises of the person furnishing,  
6 preparing, or serving such tangible personal property which  
7 includes the sale of meals or prepared food by an employer to  
8 his or her employees.

9 (e) A transaction whereby the possession of property  
10 is transferred but the seller retains title as security for  
11 the payment of the price.

12 (f) Any transfer, provision, or rendering of services  
13 for a consideration.

14 (17)~~(16)~~ "Sales price" means the total amount paid for  
15 tangible personal property or services, including any services  
16 that are a part of the sale and any tangible personal property  
17 that is part of the service, valued in money, whether paid in  
18 money or otherwise, and includes any amount for which credit  
19 is given to the purchaser by the seller, without any deduction  
20 therefrom on account of the cost of the property sold, the  
21 cost of materials used, labor or service cost, interest  
22 charged, losses, or any other expense whatsoever. "Sales  
23 price" also includes the consideration for a transaction which  
24 requires both labor and material to alter, remodel, maintain,  
25 adjust, or repair tangible personal property. Trade-ins or  
26 discounts allowed and taken at the time of sale shall not be  
27 included within the purview of this subsection. "Sales price"  
28 also includes the full face value of any coupon used by a  
29 purchaser to reduce the price paid to a retailer for an item  
30 of tangible personal property; where the retailer will be  
31 reimbursed for such coupon, in whole or in part, by the

1 manufacturer of the item of tangible personal property; or  
2 whenever it is not practicable for the retailer to determine,  
3 at the time of sale, the extent to which reimbursement for the  
4 coupon will be made. The term "sales price" does not include  
5 federal excise taxes imposed upon the retailer on the sale of  
6 tangible personal property. The term "sales price" does  
7 include federal manufacturers' excise taxes, even if the  
8 federal tax is listed as a separate item on the invoice.

9 (18) "Service" or "services" means those activities  
10 usually provided for consideration by the following  
11 establishments listed in the SIC Manual:

12 (a) Agricultural Services (Major Group Number 07).  
13 (b) Forestry Services (Major Group Number 085).  
14 (c) Metal Mining Services (Group Number 108).  
15 (d) Oil and Gas Field Services (Group Number 138).  
16 (e) Nonmetallic (Nonfuel) Mineral Services (Group  
17 Number 148).

18 (f) Building Construction-General Contractors and  
19 Operative Builders (Major Group Number 15).

20 (g) Heavy Construction other than Building  
21 Construction-General Contractors (Major Group Number 16).

22 (h) Construction-Special Trade Contractors (Major  
23 Group Number 17).

24 (i) Printing, Publishing, and Allied Services (Major  
25 Group Number 27).

26 (j) Coating, Engraving, and Allied Services (Group  
27 Number 347).

28 (k) Railroad Transportation (Major Group Number 40).  
29 (l) Local and Suburban Transit and Interurban Highway  
30 Passenger Transportation (Major Group Number 41).  
31

- 1           (m) Motor Freight Transportation and Warehousing  
2 (Major Group Number 42).
- 3           (n) Water Transportation (Major Group Number 44).  
4           (o) Transportation by Air (Major Group Number 45).  
5           (p) Pipelines, except Natural Gas (Major Group Number  
6 46).
- 7           (q) Transportation Services (Major Group Number 47).  
8           (r) Communications (Major Group Number 48).  
9           (s) Electric, Gas, and Sanitary Services (Major Group  
10 Number 49).
- 11           (t) Food Brokers (Industry Number 5141).  
12           (u) Depository Institutions (Major Group Number 60).  
13           (v) Nondepository Credit Institutions (Major Group  
14 Number 61).
- 15           (w) Security and Commodity Brokers, Dealers,  
16 Exchanges, and Services (Major Group Number 62).
- 17           (x) Insurance (Major Group Number 63).  
18           (y) Insurance Agents, Brokers, and Service (Major  
19 Group Number 64).
- 20           (z) Real Estate (Major Group Number 65).  
21           (aa) Combinations of Real Estate, Insurance, Loans,  
22 Law Offices (Major Group Number 66).
- 23           (bb) Holding and other Investment Offices (Major Group  
24 Number 67).
- 25           (cc) Personal Services (Major Group Number 72).  
26           (dd) Business Services (Major Group Number 73).  
27           (ee) Automotive Repair, Services, and Parking (Major  
28 Group Number 75).
- 29           (ff) Miscellaneous Repair Services (Major Group Number  
30 76).
- 31           (gg) Motion Pictures (Major Group Number 78).

1           (hh) Amusement and Recreation Services (Major Group  
2 Number 79).

3           (ii) Health Services (Major Group Number 80).

4           (jj) Legal Services (Major Group Number 81).

5           (kk) Educational Services (Major Group Number 82).

6           (ll) Social Services (Major Group Number 83).

7           (mm) Museums, Art Galleries, Botanical and Zoological  
8 Gardens (Major Group Number 84).

9           (nn) Membership Organizations (Major Group Number 86).

10           (oo) Engineering, Accounting, Research, Management and  
11 Related Services (Major Group 87).

12           (pp) Miscellaneous Services (Major Group Number 89).

13  
14 In addition, the terms include the services of any independent  
15 broker.

16           (19) "SIC" means those classifications contained in  
17 the Standard Industrial Classification Manual, 1987, as  
18 published by the Office of Management and Budget, Executive  
19 Office of the President.

20           (20)(17) "Diesel fuel" means any liquid product, gas  
21 product, or combination thereof used in an internal combustion  
22 engine or motor to propel any form of vehicle, machine, or  
23 mechanical contrivance. This term includes, but is not  
24 limited to, all forms of fuel commonly or commercially known  
25 or sold as diesel fuel or kerosene. However, the term "diesel  
26 fuel" does not include butane gas, propane gas, or any other  
27 form of liquefied petroleum gas or compressed natural gas.

28           (21)(18) "Storage" means and includes any keeping or  
29 retention in this state of tangible personal property for use  
30 or consumption in this state or for any purpose other than  
31 sale at retail in the regular course of business.

1           ~~(22)(19)~~ "Tangible personal property" means and  
2 includes personal property which may be seen, weighed,  
3 measured, or touched or is in any manner perceptible to the  
4 senses, including electric power or energy, boats, motor  
5 vehicles and mobile homes as defined in s. 320.01(1) and (2),  
6 aircraft as defined in s. 330.27, and all other types of  
7 vehicles. The term "tangible personal property" does not  
8 include stocks, bonds, notes, insurance, or other obligations  
9 or securities; or intangibles as defined by the intangible tax  
10 law of the state; or pari-mutuel tickets sold or issued under  
11 the racing laws of the state.

12           ~~(23)(20)~~ "Use" means and includes the exercise of any  
13 right or power over tangible personal property incident to the  
14 ownership thereof, or interest therein, except that it does  
15 not include the sale at retail of that property in the regular  
16 course of business. "Use" also means the consumption or  
17 enjoyment of the benefit of services. The term "use" does not  
18 include the loan of an automobile by a motor vehicle dealer to  
19 a high school for use in its driver education and safety  
20 program. The term "use" does not include a contractor's use of  
21 "qualifying property" as defined by paragraph (14)(a).

22           ~~(24)(21)~~ The term "use tax" referred to in this  
23 chapter includes the use, the consumption, the distribution,  
24 and the storage as herein defined.

25           ~~(25)(22)~~ "Spaceport activities" means activities  
26 directed or sponsored by the Spaceport Florida Authority on  
27 spaceport territory pursuant to its powers and  
28 responsibilities under the Spaceport Florida Authority Act.

29           ~~(26)(23)~~ "Space flight" means any flight designed for  
30 suborbital, orbital, or interplanetary travel of a space  
31 vehicle, satellite, or station of any kind.



1           ~~(27)~~(24) "Coin-operated amusement machine" means any  
2 machine operated by coin, slug, token, coupon, or similar  
3 device for the purposes of entertainment or amusement. The  
4 term includes, but is not limited to, coin-operated pinball  
5 machines, music machines, juke boxes, mechanical games, video  
6 games, arcade games, billiard tables, moving picture viewers,  
7 shooting galleries, and all other similar amusement devices.

8           ~~(28)~~(25) "Sea trial" means a voyage for the purpose of  
9 testing repair or modification work, which is in length and  
10 scope reasonably necessary to test repairs or modifications,  
11 or a voyage for the purpose of ascertaining the seaworthiness  
12 of a vessel. If the sea trial is to test repair or  
13 modification work, the owner or repair facility shall certify,  
14 in a form required by the department, what repairs have been  
15 tested. The owner and the repair facility may also be  
16 required to certify that the length and scope of the voyage  
17 were reasonably necessary to test the repairs or  
18 modifications.

19           ~~(29)~~(26) "Solar energy system" means the equipment and  
20 requisite hardware that provide and are used for collecting,  
21 transferring, converting, storing, or using incident solar  
22 energy for water heating, space heating, cooling, or other  
23 applications that would otherwise require the use of a  
24 conventional source of energy such as petroleum products,  
25 natural gas, manufactured gas, or electricity.

26           ~~(30)~~(27) "Agricultural commodity" means horticultural,  
27 aquacultural, poultry and farm products, and livestock and  
28 livestock products.

29           ~~(31)~~(28) "Farmer" means a person who is directly  
30 engaged in the business of producing crops, livestock, or  
31 other agricultural commodities. The term includes, but is not

1 limited to, horse breeders, nurserymen, dairy farmers, poultry  
2 farmers, cattle ranchers, apiarists, and persons raising fish.

3 (32)~~(29)~~ "Livestock" includes all animals of the  
4 equine, bovine, or swine class, including goats, sheep, mules,  
5 horses, hogs, cattle, ostriches, and other grazing animals  
6 raised for commercial purposes. The term "livestock" shall  
7 also include fish raised for commercial purposes.

8 (33)~~(30)~~ "Self-propelled farm equipment" means  
9 equipment that contains within itself the means for its own  
10 propulsion, including, but not limited to, tractors.

11 (34)~~(31)~~ "Power-drawn farm equipment" means equipment  
12 that is pulled, dragged, or otherwise attached to  
13 self-propelled equipment, including, but not limited to,  
14 disks, harrows, hay balers, and mowers.

15 (35)~~(32)~~ "Power-driven farm equipment" means moving or  
16 stationary equipment that is dependent upon an external power  
17 source to perform its function, including, but not limited to,  
18 conveyors, augers, feeding systems, and pumps.

19 (36)~~(33)~~ "Forest" means the land stocked by trees of  
20 any size used in the production of forest products, or  
21 formerly having such tree cover, and not currently developed  
22 for nonforest use.

23 (37)~~(34)~~ "Agricultural production" means the  
24 production of plants and animals useful to humans, including  
25 the preparation, planting, cultivating, or harvesting of these  
26 products or any other practices necessary to accomplish  
27 production through the harvest phase, and includes  
28 aquaculture, horticulture, floriculture, viticulture,  
29 forestry, dairy, livestock, poultry, bees, and any and all  
30 forms of farm products and farm production.

31

1           Section 2. Effective July 1, 2004, section 212.03,  
2 Florida Statutes, is amended to read:

3           212.03 Transient rentals tax; rate, procedure,  
4 enforcement, exemptions.--

5           (1) ~~It is hereby declared to be the legislative intent~~  
6 ~~that~~ Every person is exercising a taxable privilege who  
7 engages in the business of renting, leasing, letting, or  
8 granting a license to use any living quarters or sleeping or  
9 housekeeping accommodations in, from, or a part of, or in  
10 connection with any hotel, apartment house, roominghouse, or  
11 tourist or trailer camp. However, any person who rents,  
12 leases, lets, or grants a license to others to use, occupy, or  
13 enter upon any living quarters or sleeping or housekeeping  
14 accommodations in apartment houses, roominghouses, tourist  
15 camps, or trailer camps, and who exclusively enters into a  
16 bona fide written agreement for continuous residence for  
17 longer than 6 months in duration at such property is not  
18 exercising a taxable privilege. For the exercise of such  
19 taxable privilege, a tax is ~~hereby~~ levied in an amount equal  
20 to 6 percent of and on the total rental charged for such  
21 living quarters or sleeping or housekeeping accommodations by  
22 the person charging or collecting the rental. Such tax shall  
23 apply to hotels, apartment houses, roominghouses, or tourist  
24 or trailer camps whether or not there is in connection with  
25 any of the same any dining rooms, cafes, or other places where  
26 meals or lunches are sold or served to guests.

27           (2) The tax provided for in this section ~~herein~~ shall  
28 be in addition to the total amount of the rental, shall be  
29 charged by the lessor or person receiving the rent in and by  
30 said rental arrangement to the lessee or person paying the  
31 rental, and shall be due and payable at the time of the

1 receipt of such rental payment by the lessor or person, as  
2 defined in this chapter, who receives the ~~said~~ rental or  
3 payment. The owner, lessor, or person receiving the rent  
4 shall remit the tax to the department at the times and in the  
5 manner hereinafter provided for dealers to remit taxes under  
6 this chapter. The same duties imposed by this chapter upon  
7 dealers in tangible personal property respecting the  
8 collection and remission of the tax; the making of returns;  
9 the keeping of books, records, and accounts; and the  
10 compliance with the rules and regulations of the department in  
11 the administration of this chapter shall apply to and be  
12 binding upon all persons who manage or operate hotels,  
13 apartment houses, roominghouses, tourist and trailer camps,  
14 and the rental of condominium units, and to all persons who  
15 collect or receive such rents on behalf of such owner or  
16 lessor taxable under this chapter.

17 (3) When rentals are received by way of property,  
18 goods, wares, merchandise, services, or other things of value,  
19 the tax shall be at the rate of 6 percent of the value of the  
20 property, goods, wares, merchandise, services, or other things  
21 of value.

22 (4) The tax levied by this section shall not apply to,  
23 be imposed upon, or collected from any person who shall have  
24 entered into a bona fide written lease for longer than 6  
25 months in duration for continuous residence at any one hotel,  
26 apartment house, roominghouse, tourist or trailer camp, or  
27 condominium, or to any person who shall reside continuously  
28 longer than 6 months at any one hotel, apartment house,  
29 roominghouse, tourist or trailer camp, or condominium and  
30 shall have paid the tax levied by this section for 6 months of  
31 residence in any one hotel, roominghouse, apartment house,

1 tourist or trailer camp, or condominium. Notwithstanding other  
2 provisions of this chapter, no tax shall be imposed upon rooms  
3 provided guests when there is no consideration involved  
4 between the guest and the public lodging establishment.  
5 Further, any person who, on the effective date of this act,  
6 has resided continuously for 6 months at any one hotel,  
7 apartment house, roominghouse, tourist or trailer camp, or  
8 condominium, or, if less than 6 months, has paid the tax  
9 imposed herein until he or she shall have resided continuously  
10 for 6 months, shall thereafter be exempt, so long as such  
11 person shall continuously reside at such location. The  
12 Department of Revenue shall have the power to reform the  
13 rental contract for the purposes of this chapter if the rental  
14 payments are collected in other than equal daily, weekly, or  
15 monthly amounts so as to reflect the actual consideration to  
16 be paid in the future for the right of occupancy during the  
17 first 6 months.

18 (5) The tax imposed by this section shall constitute a  
19 lien on the property of the lessee or rentee of any sleeping  
20 accommodations in the same manner as and shall be collectible  
21 as are liens authorized and imposed by ss. 713.68 and 713.69.

22 (6) ~~It is the legislative intent that~~ Every person is  
23 engaging in a taxable privilege who leases or rents parking or  
24 storage spaces for motor vehicles in parking lots or garages,  
25 who leases or rents docking or storage spaces for boats in  
26 boat docks or marinas, or who leases or rents tie-down or  
27 storage space for aircraft at airports. For the exercise of  
28 this privilege, a tax is ~~hereby~~ levied at the rate of 4.5 ~~6~~  
29 percent on the total rental charged.

30 (7)(a) Full-time students enrolled in an institution  
31 offering postsecondary education and military personnel

1 currently on active duty who reside in the facilities  
2 described in subsection (1) shall be exempt from the tax  
3 imposed by this section. The department shall be empowered to  
4 determine what shall be deemed acceptable proof of full-time  
5 enrollment. The exemption contained in this subsection shall  
6 apply irrespective of any other provisions of this section.  
7 The tax levied by this section shall not apply to or be  
8 imposed upon or collected on the basis of rentals to any  
9 person who resides in any building or group of buildings  
10 intended primarily for lease or rent to persons as their  
11 permanent or principal place of residence.

12 (b) It is the intent of the Legislature that this  
13 subsection provide tax relief for persons who rent living  
14 accommodations rather than own their homes, while still  
15 providing a tax on the rental of lodging facilities that  
16 primarily serve transient guests.

17 (c) The rental of facilities, as defined in s.  
18 212.02(10)(f), which are intended primarily for rental as a  
19 principal or permanent place of residence is exempt from the  
20 tax imposed by this chapter. The rental of such facilities  
21 that primarily serve transient guests is not exempt by this  
22 subsection. In the application of this law, or in making any  
23 determination against the exemption, the department shall  
24 consider the facility as primarily serving transient guests  
25 unless the facility owner makes a verified declaration on a  
26 form prescribed by the department that more than half of the  
27 total rental units available are occupied by tenants who have  
28 a continuous residence in excess of 3 months. The owner of a  
29 facility declared to be exempt by this paragraph must make a  
30 determination of the taxable status of the facility at the end  
31 of the owner's accounting year using any consecutive 3-month

1 period at least one month of which is in the accounting year.  
2 The owner must use a selected consecutive 3-month period  
3 during each annual redetermination. In the event that an  
4 exempt facility no longer qualifies for exemption by this  
5 paragraph, the owner must notify the department on a form  
6 prescribed by the department by the 20th day of the first  
7 month of the owner's next succeeding accounting year that the  
8 facility no longer qualifies for such exemption. The tax  
9 levied by this section shall apply to the rental of facilities  
10 that no longer qualify for exemption under this paragraph  
11 beginning the first day of the owner's next succeeding  
12 accounting year. The provisions of this paragraph do not apply  
13 to mobile home lots regulated under chapter 723.

14 (d) The rental of living accommodations in migrant  
15 labor camps is not taxable under this section. "Migrant labor  
16 camps" are defined as one or more buildings or structures,  
17 tents, trailers, or vehicles, or any portion thereof, together  
18 with the land appertaining thereto, established, operated, or  
19 used as living quarters for seasonal, temporary, or migrant  
20 workers.

21 Section 3. Effective July 1, 2004, section 212.031,  
22 Florida Statutes, is amended to read:

23 212.031 Lease or rental of or license in real  
24 property.--

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

- 30 1. Assessed as agricultural property under s. 193.461.
- 31 2. Used exclusively as dwelling units.

1           3. Property subject to tax on parking, docking, or  
2 storage spaces under s. 212.03(6).

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

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

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

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



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.~~

31

1           9.11. 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           10.12. Property used or occupied predominantly for  
12 space flight business purposes. As used in this subparagraph,  
13 "space flight business" means the manufacturing, processing,  
14 or assembly of a space facility, space propulsion system,  
15 space vehicle, satellite, or station of any kind possessing  
16 the 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           (b) When a lease involves multiple use of real  
2 property wherein a part of the real property is subject to the  
3 tax herein, and a part of the property would be excluded from  
4 the tax under subparagraph (a)1., subparagraph (a)2.,  
5 subparagraph (a)3., or subparagraph (a)5., the department  
6 shall determine, from the lease or license and such other  
7 information as may be available, that portion of the total  
8 rental charge which is exempt from the tax imposed by this  
9 section. The portion of the premises leased or rented by a  
10 for-profit entity providing a residential facility for the  
11 aged will be exempt on the basis of a pro rata portion  
12 calculated by combining the square footage of the areas used  
13 for residential units by the aged and for the care of such  
14 residents and dividing the resultant sum by the total square  
15 footage of the rented premises. For purposes of this section,  
16 the term "residential facility for the aged" means a facility  
17 that is licensed or certified in whole or in part under  
18 chapter 400 or chapter 651; or that provides residences to the  
19 elderly and is financed by a mortgage or loan made or insured  
20 by the United States Department of Housing and Urban  
21 Development under s. 202, s. 202 with a s. 8 subsidy, s.  
22 221(d)(3) or (4), s. 232, or s. 236 of the National Housing  
23 Act; or other such similar facility that provides residences  
24 primarily for the elderly.

25           (c) For the exercise of such privilege, a tax is  
26 levied in an amount equal to 4.5 ~~6~~ percent of and on the total  
27 rent or license fee charged for such real property by the  
28 person charging or collecting the rental or license fee. The  
29 total rent or license fee charged for such real property shall  
30 include payments for the granting of a privilege to use or  
31 occupy real property for any purpose and shall include base

1 rent, percentage rents, or similar charges. Such charges shall  
2 be included in the total rent or license fee subject to tax  
3 under this section whether or not they can be attributed to  
4 the ability of the lessor's or licensor's property as used or  
5 operated to attract customers. Payments for intrinsically  
6 valuable personal property such as franchises, trademarks,  
7 service marks, logos, or patents are not subject to tax under  
8 this section. In the case of a contractual arrangement that  
9 provides for both payments taxable as total rent or license  
10 fee and payments not subject to tax, the tax shall be based on  
11 a reasonable allocation of such payments and shall not apply  
12 to that portion which is for the nontaxable payments.

13 (d) When the rental or license fee of any such real  
14 property is paid by way of property, goods, wares,  
15 merchandise, services, or other thing of value, the tax shall  
16 be at the rate of 4.5 ~~6~~ percent of the value of the property,  
17 goods, wares, merchandise, services, or other thing of value.

18 (2)(a) The tenant or person actually occupying, using,  
19 or entitled to the use of any property from which the rental  
20 or license fee is subject to taxation under this section shall  
21 pay the tax to his or her immediate landlord or other person  
22 granting the right to such tenant or person to occupy or use  
23 such real property.

24 (b) It is the further intent of this Legislature that  
25 only one tax be collected on the rental or license fee payable  
26 for the occupancy or use of any such property, that the tax so  
27 collected shall not be pyramided by a progression of  
28 transactions, and that the amount of the tax due the state  
29 shall not be decreased by any such progression of  
30 transactions.

31

1           (3) The tax imposed by this section shall be in  
2 addition to the total amount of the rental or license fee,  
3 shall be charged by the lessor or person receiving the rent or  
4 payment in and by a rental or license fee arrangement with the  
5 lessee or person paying the rental or license fee, and shall  
6 be due and payable at the time of the receipt of such rental  
7 or license fee payment by the lessor or other person who  
8 receives the rental or payment. The owner, lessor, or person  
9 receiving the rent or license fee shall remit the tax to the  
10 department at the times and in the manner hereinafter provided  
11 for dealers to remit taxes under this chapter. The same  
12 duties imposed by this chapter upon dealers in tangible  
13 personal property respecting the collection and remission of  
14 the tax; the making of returns; the keeping of books, records,  
15 and accounts; and the compliance with the rules and  
16 regulations of the department in the administration of this  
17 chapter shall apply to and be binding upon all persons who  
18 manage any leases or operate real property, hotels, apartment  
19 houses, roominghouses, or tourist and trailer camps and all  
20 persons who collect or receive rents or license fees taxable  
21 under this chapter on behalf of owners or lessors.

22           (4) The tax imposed by this section shall constitute a  
23 lien on the property of the lessee or licensee of any real  
24 estate in the same manner as, and shall be collectible as are,  
25 liens authorized and imposed by ss. 713.68 and 713.69.

26           ~~(5) When space is subleased to a convention or~~  
27 ~~industry trade show in a convention hall, exhibition hall, or~~  
28 ~~auditorium, whether publicly or privately owned, the sponsor~~  
29 ~~who holds the prime lease is subject to tax on the prime lease~~  
30 ~~and the sublease is exempt.~~

31

1           (5)~~(6)~~ The lease or rental of land or a hall or other  
2 facilities by a fair association subject to the provisions of  
3 chapter 616 to a show promoter or prime operator of a carnival  
4 or midway attraction is exempt from the tax imposed by this  
5 section; however, the sublease of land or a hall or other  
6 facilities by the show promoter or prime operator is not  
7 exempt from the provisions of this section.

8           (6)~~(7)~~ Utility charges subject to sales tax which are  
9 paid by a tenant to the lessor and which are part of a payment  
10 for the privilege or right to use or occupy real property are  
11 exempt from tax if the lessor has paid sales tax on the  
12 purchase of such utilities and the charges billed by the  
13 lessor to the tenant are separately stated and at the same or  
14 a lower price than those paid by the lessor.

15           ~~(8) Charges by lessors to a lessee to cancel or~~  
16 ~~terminate a lease agreement are presumed taxable if the lessor~~  
17 ~~records such charges as rental income in its books and~~  
18 ~~records. This presumption can be overcome by the provision of~~  
19 ~~sufficient documentation by either the lessor or the lessee~~  
20 ~~that such charges were other than for the rental of real~~  
21 ~~property.~~

22           ~~(9) The rental, lease, sublease, or license for the~~  
23 ~~use of a skybox, luxury box, or other box seats for use during~~  
24 ~~a high school or college football game is exempt from the tax~~  
25 ~~imposed by this section when the charge for such rental,~~  
26 ~~lease, sublease, or license is imposed by a nonprofit~~  
27 ~~sponsoring organization which is qualified as nonprofit~~  
28 ~~pursuant to s. 501(c)(3) of the Internal Revenue Code.~~

29           ~~(10) Separately stated charges imposed by a convention~~  
30 ~~hall, exhibition hall, auditorium, stadium, theater, arena,~~  
31 ~~civic center, performing arts center, or publicly owned~~

1 ~~recreational facility upon a lessee or licensee for food,~~  
2 ~~drink, or services required or available in connection with a~~  
3 ~~lease or license to use real property, including charges for~~  
4 ~~laborers, stagehands, ticket takers, event staff, security~~  
5 ~~personnel, cleaning staff, and other event-related personnel,~~  
6 ~~advertising, and credit card processing, are exempt from the~~  
7 ~~tax imposed by this section.~~

8 Section 4. Effective July 1, 2004, section 212.04,  
9 Florida Statutes, is amended to read:

10 212.04 Admissions tax; rate, procedure, enforcement.--

11 ~~(1)(a) It is hereby declared to be the legislative~~  
12 ~~intent that~~ Every person is exercising a taxable privilege who  
13 sells or receives anything of value by way of admissions.

14 (b) For the exercise of such privilege, a tax is  
15 levied at the rate of 6 percent of sales price, or the actual  
16 value received from such admissions, which 6 percent shall be  
17 added to and collected with all such admissions from the  
18 purchaser thereof, and such tax shall be paid for the exercise  
19 of the privilege as defined in the preceding paragraph. Each  
20 ticket must show on its face the actual sales price of the  
21 admission, or each dealer selling the admission must  
22 prominently display at the box office or other place where the  
23 admission charge is made a notice disclosing the price of the  
24 admission, and the tax shall be computed and collected on the  
25 basis of the actual price of the admission charged by the  
26 dealer. The sale price or actual value of admission shall,  
27 for the purpose of this chapter, be that price remaining after  
28 deduction of federal taxes, if any, imposed upon such  
29 admission, and the rate of tax on each admission shall be  
30 according to the brackets established by s. 212.12(9).

31



1           (c) The provisions of this chapter that authorize a  
2 tax-exempt sale for resale do not apply to sales of  
3 admissions. However, if a purchaser of an admission  
4 subsequently resells the admission for more than the amount  
5 paid, the purchaser shall collect tax on the full sales price  
6 and may take credit for the amount of tax previously paid. If  
7 the purchaser of the admission subsequently resells it for an  
8 amount equal to or less than the amount paid, the purchaser  
9 shall not collect any additional tax, nor shall the purchaser  
10 be allowed to take credit for the amount of tax previously  
11 paid.

12           (d) No additional tax is due on components  
13 incorporated as part of a package sold by a travel agent if  
14 the package includes two or more components such as  
15 admissions, transient rentals, transportation, or meals; if  
16 all of the components were purchased by the travel agent from  
17 other parties and any sales tax due on such purchases was  
18 paid; and if there is no separate itemization of the  
19 admission, transient rental, transportation, meal, or other  
20 components in the sales price of the package. This paragraph  
21 does not apply if the actual price charged for a component by  
22 the dealer to a travel agent is less than the price charged to  
23 unrelated parties under normal industry practices and the  
24 dealer and the travel agent are members of the same controlled  
25 group of corporations for federal income tax purposes.

26           (2)(a)1. No tax shall be levied on admissions to  
27 athletic or other events sponsored by elementary schools,  
28 junior high schools, middle schools, high schools, community  
29 colleges, public or private colleges and universities, deaf  
30 and blind schools, facilities of the youth services programs  
31 of the Department of Children and Family Services, and state

1 correctional institutions when only student, faculty, or  
2 inmate talent is used. However, this exemption shall not apply  
3 to admission to athletic events sponsored by an institution  
4 within the State University System, and the proceeds of the  
5 tax collected on such admissions shall be retained and used by  
6 each institution to support women's athletics as provided in  
7 s. 240.533(3)(c).

8         2. No tax shall be levied on dues, membership fees,  
9 and admission charges imposed by not-for-profit sponsoring  
10 organizations. To receive this exemption, the sponsoring  
11 organization must qualify as a not-for-profit entity under the  
12 provisions of s. 501(c)(3) of the Internal Revenue Code of  
13 1954, as amended.

14         3. No tax shall be levied on an admission paid by a  
15 student, or on the student's behalf, to any required place of  
16 sport or recreation if the student's participation in the  
17 sport or recreational activity is required as a part of a  
18 program or activity sponsored by, and under the jurisdiction  
19 of, the student's educational institution, provided his or her  
20 attendance is as a participant and not as a spectator.

21         ~~4. No tax shall be levied on admissions to the~~  
22 ~~National Football League championship game, on admissions to~~  
23 ~~any semifinal game or championship game of a national~~  
24 ~~collegiate tournament, or on admissions to a Major League~~  
25 ~~Baseball all-star game.~~

26         4.5. A participation fee or sponsorship fee imposed by  
27 a governmental entity as described in s. 212.08(6) for an  
28 athletic or recreational program is exempt when the  
29 governmental entity by itself, or in conjunction with an  
30 organization exempt under s. 501(c)(3) of the Internal Revenue  
31 Code of 1954, as amended, sponsors, administers, plans,

1 supervises, directs, and controls the athletic or recreational  
2 program.

3 ~~6. Also exempt from the tax imposed by this section to~~  
4 ~~the extent provided in this subparagraph are admissions to~~  
5 ~~live theater, live opera, or live ballet productions in this~~  
6 ~~state which are sponsored by an organization that has received~~  
7 ~~a determination from the Internal Revenue Service that the~~  
8 ~~organization is exempt from federal income tax under s.~~  
9 ~~501(c)(3) of the Internal Revenue Code of 1954, as amended, if~~  
10 ~~the organization actively participates in planning and~~  
11 ~~conducting the event, is responsible for the safety and~~  
12 ~~success of the event, is organized for the purpose of~~  
13 ~~sponsoring live theater, live opera, or live ballet~~  
14 ~~productions in this state, has more than 10,000 subscribing~~  
15 ~~members and has among the stated purposes in its charter the~~  
16 ~~promotion of arts education in the communities which it~~  
17 ~~serves, and will receive at least 20 percent of the net~~  
18 ~~profits, if any, of the events which the organization sponsors~~  
19 ~~and will bear the risk of at least 20 percent of the losses,~~  
20 ~~if any, from the events which it sponsors if the organization~~  
21 ~~employs other persons as agents to provide services in~~  
22 ~~connection with a sponsored event. Prior to March 1 of each~~  
23 ~~year, such organization may apply to the department for a~~  
24 ~~certificate of exemption for admissions to such events~~  
25 ~~sponsored in this state by the organization during the~~  
26 ~~immediately following state fiscal year. The application shall~~  
27 ~~state the total dollar amount of admissions receipts collected~~  
28 ~~by the organization or its agents from such events in this~~  
29 ~~state sponsored by the organization or its agents in the year~~  
30 ~~immediately preceding the year in which the organization~~  
31 ~~applies for the exemption. Such organization shall receive the~~

1 ~~exemption only to the extent of \$1.5 million multiplied by the~~  
2 ~~ratio that such receipts bear to the total of such receipts of~~  
3 ~~all organizations applying for the exemption in such year;~~  
4 ~~however, in no event shall such exemption granted to any~~  
5 ~~organization exceed 6 percent of such admissions receipts~~  
6 ~~collected by the organization or its agents in the year~~  
7 ~~immediately preceding the year in which the organization~~  
8 ~~applies for the exemption. Each organization receiving the~~  
9 ~~exemption shall report each month to the department the total~~  
10 ~~admissions receipts collected from such events sponsored by~~  
11 ~~the organization during the preceding month and shall remit to~~  
12 ~~the department an amount equal to 6 percent of such receipts~~  
13 ~~reduced by any amount remaining under the exemption. Tickets~~  
14 ~~for such events sold by such organizations shall not reflect~~  
15 ~~the tax otherwise imposed under this section.~~

16 5.7. Also exempt from the tax imposed by this section  
17 are entry fees for participation in freshwater fishing  
18 tournaments.

19 6.8. Also exempt from the tax imposed by this section  
20 are participation or entry fees charged to participants in a  
21 game, race, or other sport or recreational event if spectators  
22 are charged a taxable admission to such event.

23 7.9. No tax shall be levied on admissions to any  
24 postseason collegiate football game sanctioned by the National  
25 Collegiate Athletic Association.

26 (b) No municipality of the state shall levy an excise  
27 tax on admissions.

28 (c) The taxes imposed by this section shall be  
29 collected in addition to the admission tax collected pursuant  
30 to s. 550.0951, but the amount collected under s. 550.0951  
31 shall not be subject to taxation under this chapter.

1           (3) Such taxes shall be paid and remitted at the same  
2 time and in the same manner as provided for remitting taxes on  
3 sales of tangible personal property, as hereinafter provided.

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

31

1           (5) All of the provisions of this chapter relating to  
2 collection, investigation, discovery, and aids to collection  
3 of taxes upon sales of tangible personal property shall  
4 likewise apply to all privileges described or referred to in  
5 this section, and the obligations imposed in this chapter upon  
6 retailers are hereby imposed upon the seller of such  
7 admissions. All penalties applicable to a dealer in tangible  
8 personal property for failure to meet any such obligation,  
9 including, but not limited to, any failure related to the  
10 filing of returns, the payment of taxes, or the maintenance  
11 and production of records, are applicable to the seller of  
12 admissions. When tickets or admissions are sold and not used  
13 but returned and credited by the seller, the seller may apply  
14 to the department for a credit allowance for such returned  
15 tickets or admissions if advance payments have been made by  
16 the buyer and have been returned by the seller, upon such form  
17 and in such manner as the department may from time to time  
18 prescribe. The department may, upon obtaining satisfactory  
19 proof of the refunds on the part of the seller, credit the  
20 seller for taxes paid upon admissions that have been returned  
21 unused to the purchaser of those admissions. The seller of  
22 admissions, upon the payment of the taxes before they become  
23 delinquent and the rendering of the returns in accordance with  
24 the requirement of the department and as provided in this law,  
25 shall be entitled to a discount of 2.5 percent of the amount  
26 of taxes upon the payment thereof before such taxes become  
27 delinquent, in the same manner as permitted the sellers of  
28 tangible personal property in this chapter. However, if the  
29 amount of the tax due and remitted to the department for the  
30 reporting period exceeds \$1,200, no discount shall be allowed  
31 for all amounts in excess of \$1,200.

1           (6) Admission taxes required to be paid by this  
2 chapter shall be paid to the department by the owner or the  
3 collector of such admission. When any place of business is  
4 sold or transferred by any owner, wherein such admission taxes  
5 have accrued or are accruing, such owner shall be obligated  
6 before such sale becomes effective to notify the department of  
7 such pending sale and secure from the department a certificate  
8 of registration as prescribed in this section, and the  
9 purchaser shall become obligated to withhold from the sales  
10 price such sum of money as will safely be required to  
11 discharge all accrued admission taxes upon such places of  
12 business. Upon the failure of any such purchaser to withhold,  
13 he or she shall become obligated to pay all accrued admission  
14 taxes, and the same shall become a lien upon all of the  
15 purchaser's assets until the same have been paid and fully  
16 discharged.

17           (7) The taxes under this section shall become a lien  
18 upon the assets of the owner of any business exercising the  
19 privilege of selling admissions, and the collection of such  
20 admissions, as defined hereunder, and shall remain a lien  
21 until fully paid and discharged. Such lien may be enforced in  
22 the manner provided hereinafter for the enforcement of the  
23 collection of taxes imposed upon the sales of tangible  
24 personal property.

25           (8) The word "owners" as used in this chapter shall be  
26 taken to include and mean all persons obligated to collect and  
27 pay over to the state the tax imposed under this section,  
28 inclusive of all holders of certificates of registration  
29 issued as herein provided. Wherever the word "owner" or  
30 "owners" is used herein, it shall be taken to mean and include  
31 all persons liable for such admission taxes unless it appears

1 from the context that the words are descriptive of property  
2 owners.

3 Section 5. Effective July 1, 2002, section 212.05,  
4 Florida Statutes, is amended to read:

5 212.05 Sales, storage, use tax.--~~it is hereby declared~~  
6 ~~to be the legislative intent that~~ Every person is exercising a  
7 taxable privilege who engages in the business of selling  
8 tangible personal property at retail in this state, including  
9 the business of making mail order sales, or who rents or  
10 furnishes any of the things or services taxable under this  
11 chapter, or who stores for use or consumption in this state  
12 any item or article of tangible personal property as defined  
13 herein and who leases or rents such property within the state.

14 (1) For the exercise of such privilege, a tax is  
15 levied on each taxable transaction or incident, which tax is  
16 due and payable as follows:

17 (a)1.a. At the rate of 4.5 ~~6~~ percent of the sales  
18 price of each item or article of tangible personal property  
19 when sold at retail in this state, computed on each taxable  
20 sale for the purpose of remitting the amount of tax due the  
21 state, and including each and every retail sale.

22 b. Each occasional or isolated sale of an aircraft,  
23 boat, mobile home, or motor vehicle of a class or type which  
24 is required to be registered, licensed, titled, or documented  
25 in this state or by the United States Government shall be  
26 subject to tax at the rate provided in this paragraph. The  
27 department shall by rule adopt any nationally recognized  
28 publication for valuation of used motor vehicles as the  
29 reference price list for any used motor vehicle which is  
30 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),  
31 (b), (c), or (e), or (9). If any party to an occasional or



1 isolated sale of such a vehicle reports to the tax collector a  
2 sales price which is less than 80 percent of the average loan  
3 price for the specified model and year of such vehicle as  
4 listed in the most recent reference price list, the tax levied  
5 under this paragraph shall be computed by the department on  
6 such average loan price unless the parties to the sale have  
7 provided to the tax collector an affidavit signed by each  
8 party, or other substantial proof, stating the actual sales  
9 price. Any party to such sale who reports a sales price less  
10 than the actual sales price is guilty of a misdemeanor of the  
11 first degree, punishable as provided in s. 775.082 or s.  
12 775.083. The department shall collect or attempt to collect  
13 from such party any delinquent sales taxes. In addition, such  
14 party shall pay any tax due and any penalty and interest  
15 assessed plus a penalty equal to twice the amount of the  
16 additional tax owed. Notwithstanding any other provision of  
17 law, the Department of Revenue may waive or compromise any  
18 penalty imposed pursuant to this subparagraph.

19           2. This paragraph does not apply to the sale of a boat  
20 or airplane by or through a registered dealer under this  
21 chapter to a purchaser who, at the time of taking delivery, is  
22 a nonresident of this state, does not make his or her  
23 permanent place of abode in this state, and is not engaged in  
24 carrying on in this state any employment, trade, business, or  
25 profession in which the boat will be used in this state, or is  
26 a corporation none of the officers or directors of which is a  
27 resident of, or makes his or her permanent place of abode in,  
28 this state, or is a noncorporate entity that has no individual  
29 vested with authority to participate in the management,  
30 direction, or control of the entity's affairs who is a  
31 resident of, or makes his or her permanent abode in, this

1 state. For purposes of this exemption, either a registered  
2 dealer acting on his or her own behalf as seller, a registered  
3 dealer acting as broker on behalf of a seller, or a registered  
4 dealer acting as broker on behalf of the purchaser may be  
5 deemed to be the selling dealer. This exemption shall not be  
6 allowed unless:

7 a. The purchaser removes a qualifying boat, as  
8 described in sub-subparagraph f., from the state within 90  
9 days after the date of purchase or the purchaser removes a  
10 nonqualifying boat or an airplane from this state within 10  
11 days after the date of purchase or, when the boat or airplane  
12 is repaired or altered, within 20 days after completion of the  
13 repairs or alterations;

14 b. The purchaser, within 30 days from the date of  
15 departure, shall provide the department with written proof  
16 that the purchaser licensed, registered, titled, or documented  
17 the boat or airplane outside the state. If such written proof  
18 is unavailable, within 30 days the purchaser shall provide  
19 proof that the purchaser applied for such license, title,  
20 registration, or documentation. The purchaser shall forward  
21 to the department proof of title, license, registration, or  
22 documentation upon receipt.

23 c. The purchaser, within 10 days of removing the boat  
24 or airplane from Florida, shall furnish the department with  
25 proof of removal in the form of receipts for fuel, dockage,  
26 slippage, tie-down, or hangaring from outside of Florida. The  
27 information so provided must clearly and specifically identify  
28 the boat or aircraft;

29 d. The selling dealer, within 5 days of the date of  
30 sale, shall provide to the department a copy of the sales  
31 invoice, closing statement, bills of sale, and the original

1 affidavit signed by the purchaser attesting that he or she has  
2 read the provisions of this section;

3 e. The seller makes a copy of the affidavit a part of  
4 his or her record for as long as required by s. 213.35; and

5 f. Unless the nonresident purchaser of a boat of 5 net  
6 tons of admeasurement or larger intends to remove the boat  
7 from this state within 10 days after the date of purchase or  
8 when the boat is repaired or altered, within 20 days after  
9 completion of the repairs or alterations, the nonresident  
10 purchaser shall apply to the selling dealer for a decal which  
11 authorizes 90 days after the date of purchase for removal of  
12 the boat. The department is authorized to issue decals in  
13 advance to dealers. The number of decals issued in advance to  
14 a dealer shall be consistent with the volume of the dealer's  
15 past sales of boats which qualify under this sub-subparagraph.  
16 The selling dealer or his or her agent shall mark and affix  
17 the decals to qualifying boats in the manner prescribed by the  
18 department, prior to delivery of the boat.

19 (I) The department is hereby authorized to charge  
20 dealers a fee sufficient to recover the costs of decals  
21 issued.

22 (II) The proceeds from the sale of decals will be  
23 deposited into the administrative trust fund.

24 (III) Decals shall display information to identify the  
25 boat as a qualifying boat under this sub-subparagraph,  
26 including, but not limited to, the decal's date of expiration.

27 (IV) The department is authorized to require dealers  
28 who purchase decals to file reports with the department and  
29 may prescribe all necessary records by rule. All such records  
30 are subject to inspection by the department.

31

1           (V) Any dealer or his or her agent who issues a decal  
2 falsely, fails to affix a decal, mismarks the expiration date  
3 of a decal, or fails to properly account for decals will be  
4 considered prima facie to have committed a fraudulent act to  
5 evade the tax and will be liable for payment of the tax plus a  
6 mandatory penalty of 200 percent of the tax, and shall be  
7 liable for fine and punishment as provided by law for a  
8 conviction of a misdemeanor of the first degree, as provided  
9 in s. 775.082 or s. 775.083.

10           (VI) Any nonresident purchaser of a boat who removes a  
11 decal prior to permanently removing the boat from the state,  
12 or defaces, changes, modifies, or alters a decal in a manner  
13 affecting its expiration date prior to its expiration, or who  
14 causes or allows the same to be done by another, will be  
15 considered prima facie to have committed a fraudulent act to  
16 evade the tax and will be liable for payment of the tax plus a  
17 mandatory penalty of 200 percent of the tax, and shall be  
18 liable for fine and punishment as provided by law for a  
19 conviction of a misdemeanor of the first degree, as provided  
20 in s. 775.082 or s. 775.083.

21           (VII) The department is authorized to adopt rules  
22 necessary to administer and enforce this subparagraph and to  
23 publish the necessary forms and instructions.

24           (VIII) The department is hereby authorized to adopt  
25 emergency rules pursuant to s. 120.54(4) to administer and  
26 enforce the provisions of this subparagraph.

27  
28 If the purchaser fails to remove the qualifying boat from this  
29 state within 90 days after purchase or a nonqualifying boat or  
30 an airplane from this state within 10 days after purchase or,  
31 when the boat or airplane is repaired or altered, within 20

1 days after completion of such repairs or alterations, or  
2 permits the boat or airplane to return to this state within 6  
3 months from the date of departure, or if the purchaser fails  
4 to furnish the department with any of the documentation  
5 required by this subparagraph within the prescribed time  
6 period, the purchaser shall be liable for use tax on the cost  
7 price of the boat or airplane and, in addition thereto,  
8 payment of a penalty to the Department of Revenue equal to the  
9 tax payable. This penalty shall be in lieu of the penalty  
10 imposed by s. 212.12(2) and is mandatory and shall not be  
11 waived by the department. The 90-day period following the  
12 sale of a qualifying boat tax exempt to a nonresident may not  
13 be tolled for any reason. Notwithstanding other provisions of  
14 this paragraph to the contrary, an aircraft purchased in this  
15 state under the provisions of this paragraph may be returned  
16 to this state for repairs within 6 months after the date of  
17 its departure without being in violation of the law and  
18 without incurring liability for the payment of tax or penalty  
19 on the purchase price of the aircraft if the aircraft is  
20 removed from this state within 20 days after the completion of  
21 the repairs and if such removal can be demonstrated by  
22 invoices for fuel, tie-down, hangar charges issued by  
23 out-of-state vendors or suppliers, or similar documentation.

24 (b) At the rate of 4.5 ~~6~~ percent of the cost price of  
25 each item or article of tangible personal property when the  
26 same is not sold but is used, consumed, distributed, or stored  
27 for use or consumption in this state; however, for tangible  
28 property originally purchased exempt from tax for use  
29 exclusively for lease and which is converted to the owner's  
30 own use, tax may be paid on the fair market value of the  
31 property at the time of conversion. If the fair market value

1 of the property cannot be determined, use tax at the time of  
2 conversion shall be based on the owner's acquisition cost.  
3 Under no circumstances may the aggregate amount of sales tax  
4 from leasing the property and use tax due at the time of  
5 conversion be less than the total sales tax that would have  
6 been due on the original acquisition cost paid by the owner.

7 (c) At the rate of 4.5 ~~6~~ percent of the gross proceeds  
8 derived from the lease or rental of tangible personal  
9 property, as defined herein; however, the following special  
10 provisions apply to the lease or rental of motor vehicles:

11 1. When a motor vehicle is leased or rented for a  
12 period of less than 12 months:

13 a. If the motor vehicle is rented in Florida, the  
14 entire amount of such rental is taxable at the rate of 6  
15 percent, even if the vehicle is dropped off in another state.

16 b. If the motor vehicle is rented in another state and  
17 dropped off in Florida, the rental is exempt from Florida tax.

18 2. ~~Except as provided in subparagraph 3.,~~ For the  
19 lease or rental of a motor vehicle for a period of not less  
20 than 12 months, sales tax at the rate of 4.5 percent is due on  
21 the lease or rental payments if the vehicle is registered in  
22 this state; provided, however, that no tax shall be due if the  
23 taxpayer documents use of the motor vehicle outside this state  
24 and tax is being paid on the lease or rental payments in  
25 another state.

26 3. ~~The tax imposed by this chapter does not apply to~~  
27 ~~the lease or rental of a commercial motor vehicle as defined~~  
28 ~~in s. 316.003(66)(a) to one lessee or rentee for a period of~~  
29 ~~not less than 12 months when tax was paid on the purchase~~  
30 ~~price of such vehicle by the lessor.~~ To the extent tax was  
31 paid with respect to the purchase of a such vehicle in another

1 state, territory of the United States, or the District of  
2 Columbia, the Florida tax payable shall be reduced in  
3 accordance with the provisions of s. 212.06(7). This  
4 subparagraph shall only be available when the lease or rental  
5 of such property is an established business or part of an  
6 established business or the same is incidental or germane to  
7 such business.

8 (d) At the rate of 4.5 ~~6~~ percent of the lease or  
9 rental price paid by a lessee or rentee, or contracted or  
10 agreed to be paid by a lessee or rentee, to the owner of the  
11 tangible personal property.

12 (e)1. At the rate of 4.5 ~~6~~ percent on charges for:

13 a. Prepaid calling arrangements. The tax on charges  
14 for prepaid calling arrangements shall be collected at the  
15 time of sale and remitted by the selling dealer.

16 (I) "Prepaid calling arrangement" means the separately  
17 stated retail sale by advance payment of communications  
18 services that consist exclusively of telephone calls  
19 originated by using an access number, authorization code, or  
20 other means that may be manually, electronically, or otherwise  
21 entered and that are sold in predetermined units or dollars  
22 whose number declines with use in a known amount.

23 (II) If the sale or recharge of the prepaid calling  
24 arrangement does not take place at the dealer's place of  
25 business, it shall be deemed to take place at the customer's  
26 shipping address or, if no item is shipped, at the customer's  
27 address or the location associated with the customer's mobile  
28 telephone number.

29 (III) The sale or recharge of a prepaid calling  
30 arrangement shall be treated as a sale of tangible personal  
31 property for purposes of this chapter, whether or not a

1 tangible item evidencing such arrangement is furnished to the  
2 purchaser, and such sale within this state subjects the  
3 selling dealer to the jurisdiction of this state for purposes  
4 of this subsection.

5         b. The installation of telecommunication and  
6 telegraphic equipment.

7         c. Electrical power or energy, ~~except that the tax~~  
8 ~~rate for charges for electrical power or energy is 7 percent.~~

9         2. The provisions of s. 212.17(3), regarding credit  
10 for tax paid on charges subsequently found to be worthless,  
11 shall be equally applicable to any tax paid under the  
12 provisions of this section on charges for prepaid calling  
13 arrangements, telecommunication or telegraph services, or  
14 electric power subsequently found to be uncollectible. The  
15 word "charges" in this paragraph does not include any excise  
16 or similar tax levied by the Federal Government, any political  
17 subdivision of the state, or any municipality upon the  
18 purchase, sale, or recharge of prepaid calling arrangements or  
19 upon the purchase or sale of telecommunication, television  
20 system program, or telegraph service or electric power, which  
21 tax is collected by the seller from the purchaser.

22         (f) At the rate of 4.5 ~~6~~ percent on the sale, rental,  
23 use, consumption, or storage for use in this state of machines  
24 and equipment, and parts and accessories therefor, used in  
25 manufacturing, processing, compounding, producing, mining, or  
26 quarrying personal property for sale or to be used in  
27 furnishing communications, transportation, or public utility  
28 services.

29         (g) Any person who purchases, installs, rents, or  
30 leases a telephone system or telecommunication system for his  
31 or her own use to provide himself or herself with telephone



1 service or telecommunication service which is a substitute for  
2 any telephone company switched service or a substitute for any  
3 dedicated facility by which a telephone company provides a  
4 communication path is exercising a taxable privilege and shall  
5 register with the Department of Revenue and pay into the State  
6 Treasury a yearly amount equal to 4.5 ~~6~~ percent of the actual  
7 cost of operating such system, notwithstanding the provisions  
8 of s. 212.081(2)(b). "Actual cost" includes, but is not  
9 limited to, depreciation, interest, maintenance, repair, and  
10 other expenses directly attributable to the operation of such  
11 system. For purposes of this paragraph, the depreciation  
12 expense to be included in actual cost shall be the  
13 depreciation expense claimed for federal income tax purposes.  
14 The total amount of any payment required by a lease or rental  
15 contract or agreement shall be included within the actual  
16 cost. The provisions of this paragraph do not apply to the  
17 use by any local telephone company or any telecommunication  
18 carrier of its own telephone system or telecommunication  
19 system to conduct a telecommunication service for hire. If a  
20 system described in this paragraph is located in more than one  
21 state, the actual cost of such system for purposes of this  
22 paragraph shall be the actual cost of the system's equipment  
23 located in Florida.

24 (h)1. At the rate of 4.5 ~~6~~ percent on the retail price  
25 of newspapers and magazines sold or used in Florida.

26 2. Notwithstanding other provisions of this chapter,  
27 inserts of printed materials which are distributed with a  
28 newspaper or magazine are a component part of the newspaper or  
29 magazine, and neither the sale nor use of such inserts is  
30 subject to tax when:

31

1           a. Printed by a newspaper or magazine publisher or  
2 commercial printer and distributed as a component part of a  
3 newspaper or magazine, which means that the items after being  
4 printed are delivered directly to a newspaper or magazine  
5 publisher by the printer for inclusion in editions of the  
6 distributed newspaper or magazine;

7           b. Such publications are labeled as part of the  
8 designated newspaper or magazine publication into which they  
9 are to be inserted; and

10          c. The purchaser of the insert presents a resale  
11 certificate to the vendor stating that the inserts are to be  
12 distributed as a component part of a newspaper or magazine.

13           (i)1. ~~Beginning January 1, 1995,~~A tax is imposed at  
14 the rate of 4 percent on the charges for the use of  
15 coin-operated amusement machines. The tax shall be calculated  
16 by dividing the gross receipts from such charges for the  
17 applicable reporting period by a divisor, determined as  
18 provided in this subparagraph, to compute gross taxable sales,  
19 and then subtracting gross taxable sales from gross receipts  
20 to arrive at the amount of tax due. The divisor is equal to  
21 1.04, except that for counties with a 5.0 ~~6.5~~ percent sales  
22 tax rate the divisor shall be equal to 1.045, and for counties  
23 with a 5.5 ~~7.0~~ percent sales tax rate the divisor shall be  
24 equal to 1.050. When a machine is activated by a slug, token,  
25 coupon, or any similar device which has been purchased, the  
26 tax is on the price paid by the user of the device for such  
27 device.

28           2. As used in this paragraph, the term "operator"  
29 means any person who possesses a coin-operated amusement  
30 machine for the purpose of generating sales through that  
31

1 machine and who is responsible for removing the receipts from  
2 the machine.

3 a. If the owner of the machine is also the operator of  
4 it, he or she shall be liable for payment of the tax without  
5 any deduction for rent or a license fee paid to a location  
6 owner for the use of any real property on which the machine is  
7 located.

8 b. If the owner or lessee of the machine is also its  
9 operator, he or she shall be liable for payment of the tax on  
10 the purchase or lease of the machine, as well as the tax on  
11 sales generated through the machine.

12 c. If the proprietor of the business where the machine  
13 is located does not own the machine, he or she shall be deemed  
14 to be the lessee and operator of the machine and is  
15 responsible for the payment of the tax on sales, unless such  
16 responsibility is otherwise provided for in a written  
17 agreement between him or her and the machine owner.

18 3.a. An operator of a coin-operated amusement machine  
19 may not operate or cause to be operated in this state any such  
20 machine until the operator has registered with the department  
21 and has conspicuously displayed an identifying certificate  
22 issued by the department. The identifying certificate shall  
23 be issued by the department upon application from the  
24 operator. The identifying certificate shall include a unique  
25 number, and the certificate shall be permanently marked with  
26 the operator's name, the operator's sales tax number, and the  
27 maximum number of machines to be operated under the  
28 certificate. An identifying certificate shall not be  
29 transferred from one operator to another. The identifying  
30 certificate must be conspicuously displayed on the premises  
31 where the coin-operated amusement machines are being operated.

1           b. The operator of the machine must obtain an  
2 identifying certificate before the machine is first operated  
3 in the state and by July 1 of each year thereafter. The annual  
4 fee for each certificate shall be based on the number of  
5 machines identified on the application times \$30 and is due  
6 and payable upon application for the identifying device. The  
7 application shall contain the operator's name, sales tax  
8 number, business address where the machines are being  
9 operated, and the number of machines in operation at that  
10 place of business by the operator. No operator may operate  
11 more machines than are listed on the certificate. A new  
12 certificate is required if more machines are being operated at  
13 that location than are listed on the certificate. The fee for  
14 the new certificate shall be based on the number of additional  
15 machines identified on the application form times \$30.

16           c. A penalty of \$250 per machine is imposed on the  
17 operator for failing to properly obtain and display the  
18 required identifying certificate. A penalty of \$250 is imposed  
19 on the lessee of any machine placed in a place of business  
20 without a proper current identifying certificate. Such  
21 penalties shall apply in addition to all other applicable  
22 taxes, interest, and penalties.

23           d. Operators of coin-operated amusement machines must  
24 obtain a separate sales and use tax certificate of  
25 registration for each county in which such machines are  
26 located. One sales and use tax certificate of registration is  
27 sufficient for all of the operator's machines within a single  
28 county.

29           4. The provisions of this paragraph do not apply to  
30 coin-operated amusement machines owned and operated by  
31 churches or synagogues.

1           5. In addition to any other penalties imposed by this  
2 chapter, a person who knowingly and willfully violates any  
3 provision of this paragraph commits a misdemeanor of the  
4 second degree, punishable as provided in s. 775.082 or s.  
5 775.083.

6           6. The department may adopt rules necessary to  
7 administer the provisions of this paragraph.

8           (j)1. At the rate of 4.5 ~~6~~ percent on charges for all:

9           a. Detective, burglar protection, and other protection  
10 services (SIC Industry Numbers 7381 and 7382). Any law  
11 enforcement officer, as defined in s. 943.10, who is  
12 performing approved duties as determined by his or her local  
13 law enforcement agency in his or her capacity as a law  
14 enforcement officer, and who is subject to the direct and  
15 immediate command of his or her law enforcement agency, and in  
16 the law enforcement officer's uniform as authorized by his or  
17 her law enforcement agency, is performing law enforcement and  
18 public safety services and is not performing detective,  
19 burglar protection, or other protective services, if the law  
20 enforcement officer is performing his or her approved duties  
21 in a geographical area in which the law enforcement officer  
22 has arrest jurisdiction. Such law enforcement and public  
23 safety services are not subject to tax irrespective of whether  
24 the duty is characterized as "extra duty," "off-duty," or  
25 "secondary employment," and irrespective of whether the  
26 officer is paid directly or through the officer's agency by an  
27 outside source. The term "law enforcement officer" includes  
28 full-time or part-time law enforcement officers, and any  
29 auxiliary law enforcement officer, when such auxiliary law  
30 enforcement officer is working under the direct supervision of  
31 a full-time or part-time law enforcement officer.

1           b. Nonresidential cleaning and nonresidential pest  
2 control services (SIC Industry Group Number 734).

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

7           3. Charges for detective, burglar protection, and  
8 other protection security services performed in this state but  
9 used outside this state are exempt from taxation. Charges for  
10 detective, burglar protection, and other protection security  
11 services performed outside this state and used in this state  
12 are subject to tax.

13           4. If a transaction involves both the sale or use of a  
14 service taxable under this paragraph and the sale or use of a  
15 service or any other item not taxable under this chapter, the  
16 consideration paid must be separately identified and stated  
17 with respect to the taxable and exempt portions of the  
18 transaction or the entire transaction shall be presumed  
19 taxable. The burden shall be on the seller of the service or  
20 the purchaser of the service, whichever applicable, to  
21 overcome this presumption by providing documentary evidence as  
22 to which portion of the transaction is exempt from tax. The  
23 department is authorized to adjust the amount of consideration  
24 identified as the taxable and exempt portions of the  
25 transaction; however, a determination that the taxable and  
26 exempt portions are inaccurately stated and that the  
27 adjustment is applicable must be supported by substantial  
28 competent evidence.

29           5. Each seller of services subject to sales tax  
30 pursuant to this paragraph shall maintain a monthly log  
31 showing each transaction for which sales tax was not collected

1 because the services meet the requirements of subparagraph 3.  
2 for out-of-state use. The log must identify the purchaser's  
3 name, location and mailing address, and federal employer  
4 identification number, if a business, or the social security  
5 number, if an individual, the service sold, the price of the  
6 service, the date of sale, the reason for the exemption, and  
7 the sales invoice number. The monthly log shall be maintained  
8 pursuant to the same requirements and subject to the same  
9 penalties imposed for the keeping of similar records pursuant  
10 to this chapter.

11 (k)1. Notwithstanding any other provision of this  
12 chapter, there is hereby levied a tax on the sale, use,  
13 consumption, or storage for use in this state of any coin or  
14 currency, whether in circulation or not, when such coin or  
15 currency:

16 a. Is not legal tender;

17 b. If legal tender, is sold, exchanged, or traded at a  
18 rate in excess of its face value; or

19 c. Is sold, exchanged, or traded at a rate based on  
20 its precious metal content.

21 2. Such tax shall be at a rate of 6 percent of the  
22 price at which the coin or currency is sold, exchanged, or  
23 traded, except that, with respect to a coin or currency which  
24 is legal tender of the United States and which is sold,  
25 exchanged, or traded, such tax shall not be levied.

26 3. There are exempt from this tax exchanges of coins  
27 or currency which are in general circulation in, and legal  
28 tender of, one nation for coins or currency which are in  
29 general circulation in, and legal tender of, another nation  
30 when exchanged solely for use as legal tender and at an  
31

1 exchange rate based on the relative value of each as a medium  
2 of exchange.

3 4. With respect to any transaction that involves the  
4 sale of coins or currency taxable under this paragraph in  
5 which the taxable amount represented by the sale of such coins  
6 or currency exceeds \$500, the entire amount represented by the  
7 sale of such coins or currency is exempt from the tax imposed  
8 under this paragraph. The dealer must maintain proper  
9 documentation, as prescribed by rule of the department, to  
10 identify that portion of a transaction which involves the sale  
11 of coins or currency and is exempt under this subparagraph.

12 (1) At the rate of 4.5 6 percent of the sales price of  
13 each gallon of diesel fuel not taxed under chapter 206  
14 purchased for use in a vessel.

15 (m) Florists located in this state are liable for  
16 sales tax on sales to retail customers regardless of where or  
17 by whom the items sold are to be delivered. Florists located  
18 in this state are not liable for sales tax on payments  
19 received from other florists for items delivered to customers  
20 in this state.

21 ~~(n) Operators of game concessions or other~~  
22 ~~concessionaires who customarily award tangible personal~~  
23 ~~property as prizes may, in lieu of paying tax on the cost~~  
24 ~~price of such property, pay tax on 25 percent of the gross~~  
25 ~~receipts from such concession activity.~~

26 (2) The tax shall be collected by the dealer, as  
27 defined herein, and remitted by the dealer to the state at the  
28 time and in the manner as hereinafter provided.

29 (3) The tax so levied is in addition to all other  
30 taxes, whether levied in the form of excise, license, or  
31



1 privilege taxes, and in addition to all other fees and taxes  
2 levied.

3 (4) The tax imposed pursuant to this chapter shall be  
4 due and payable according to the brackets set forth in s.  
5 212.12.

6 Section 6. Effective July 1, 2004, section 212.0502,  
7 Florida Statutes, is created to read:

8 212.0502 Sales tax on construction services; special  
9 provisions.--

10 (1) A tax of 1.5 percent is imposed on the sale of the  
11 following construction services:

12 (a) General contractors - residential, including  
13 repairs (SIC Industry Group Numbers 152 and 153)

14 (b) General contractors - nonresidential, including  
15 repairs (SIC Industry Group Number 154)

16 (c) General contractors - heavy construction (SIC  
17 Industry Number 1629)

18 (d) Construction - special trade contractors,  
19 including repairs (SIC Major Group Number 17)

20 (e) Heavy construction equipment rental with operator  
21 (SIC Industry Number 7353)

22 (2) As used in this section, the term "SIC" means  
23 those classifications contained in the Standard Industrial  
24 Classification Manual, 1987, as published by the Office of  
25 Management and Budget, Executive Office of the President.

26 Section 7. Effective July 1, 2004, section 212.0506,  
27 Florida Statutes, is amended to read:

28 212.0506 Taxation of service warranties.--

29 ~~(1) It is the intent of the Legislature that Every~~  
30 ~~person is exercising a taxable privilege who engages in this~~  
31

1 state in the business of soliciting, offering, providing,  
2 entering into, issuing, or delivering any service warranty.

3 (2) For exercising such privilege, a tax is levied on  
4 each taxable transaction or incident, which tax is due and  
5 payable at the rate of 4.5 ~~6~~ percent on the total  
6 consideration received or to be received by any person for  
7 issuing and delivering any service warranty.

8 (3) For purposes of this section, "service warranty"  
9 means any contract or agreement which indemnifies the holder  
10 of the contract or agreement for the cost of maintaining,  
11 repairing, or replacing tangible personal property. The term  
12 "service warranty" does not include contracts or agreements to  
13 repair, maintain, or replace tangible personal property if  
14 such property when sold at retail in this state would not be  
15 subject to the tax imposed by this chapter, nor does it  
16 include such contracts or agreements covering tangible  
17 personal property which becomes a part of real property.

18 (4) Such tax shall be in addition to the total amount  
19 of the consideration for the service warranty, shall be  
20 charged by the person receiving such consideration from the  
21 service warranty agreement holder, and shall be due and  
22 payable by such person at the time he or she receives such  
23 consideration. Such person shall remit the tax to the  
24 department at the times and in the manner provided for dealers  
25 to remit taxes on tangible personal property under this  
26 chapter.

27 (5) This tax is in addition to all other taxes,  
28 whether levied in the form of excise, license, or privilege  
29 taxes, and is in addition to all other fees and taxes levied.

30 (6) This tax shall be due and payable according to the  
31 brackets set forth in s. 212.12.

1           (7) This tax shall not apply to any portion of the  
2 consideration received by any person in connection with the  
3 issuance of any service warranty contract upon which such  
4 person is required to pay any premium tax imposed under the  
5 Florida Insurance Code or under s. 634.313(1).

6           (8) If a transaction involves both the issuance of a  
7 service warranty that is subject to such tax and the issuance  
8 of a warranty, guaranty, extended warranty or extended  
9 guaranty, contract, agreement, or other written promise that  
10 is not subject to such tax, the consideration shall be  
11 separately identified and stated with respect to the taxable  
12 and nontaxable portions of the transaction. If the  
13 consideration is separately apportioned and identified in good  
14 faith, such tax shall apply to the transaction to the extent  
15 that the consideration received or to be received in  
16 connection with the transaction is payment for a service  
17 warranty subject to such tax. If the consideration is not  
18 apportioned in good faith, the department may reform the  
19 contract; such reformation by the department is to be  
20 considered prima facie correct, and the burden to show the  
21 contrary rests upon the dealer. If the consideration for such  
22 a transaction is not separately identified and stated, the  
23 entire transaction is taxable.

24           (9) Any claim which arises under a service warranty  
25 taxable under this section, which claim is paid directly by  
26 the person issuing such warranty, is not subject to any tax  
27 imposed under this chapter.

28           (10) Materials and supplies used in the performance of  
29 a factory or manufacturer's warranty are exempt if the  
30 contract is furnished at no extra charge with the equipment  
31

1 guaranteed thereunder and such materials and supplies are paid  
2 for by the factory or manufacturer.

3 (11) Any duties imposed by this chapter upon dealers  
4 of tangible personal property with respect to collecting and  
5 remitting taxes; making returns; keeping books, records, and  
6 accounts; and complying with the rules and regulations of the  
7 department apply to all dealers as defined in s. 212.06(2)(1).

8 Section 8. Effective July 1, 2004, section 212.051,  
9 Florida Statutes, is reenacted to read:

10 212.051 Equipment, machinery, and other materials for  
11 pollution control; not subject to sales or use tax.--

12 (1) Notwithstanding any provision to the contrary,  
13 sales, use, or privilege taxes shall not be collected with  
14 respect to any facility, device, fixture, equipment,  
15 machinery, specialty chemical, or bioaugmentation product used  
16 primarily for the control or abatement of pollution or  
17 contaminants in manufacturing, processing, compounding, or  
18 producing for sale items of tangible personal property at a  
19 fixed location, or any structure, machinery, or equipment  
20 installed in the reconstruction or replacement of such  
21 facility, device, fixture, equipment, or machinery. To  
22 qualify, such facility, device, fixture, equipment, structure,  
23 specialty chemical, or bioaugmentation product must be used,  
24 installed, or constructed to meet a law implemented by, or a  
25 condition of a permit issued by, the Department of  
26 Environmental Protection; however, such exemption shall not be  
27 allowed unless the purchaser signs a certificate stating that  
28 the facility, device, fixture, equipment, structure, specialty  
29 chemical, or bioaugmentation product to be exempted is  
30 required to meet such law or condition.

31

1           (2) Equipment, machinery, or materials required to  
2 meet any law implemented by, or any condition of a permit  
3 issued by, the Department of Environmental Protection that are  
4 purchased for the monitoring, prevention, abatement, or  
5 control of pollution or contaminants at privately owned or  
6 operated landfills or construction and demolition debris  
7 disposal facilities shall be exempt from taxation as otherwise  
8 imposed by this chapter; however, such exemption shall not be  
9 allowed unless the purchaser signs a certificate stating that  
10 the equipment, machinery, or materials to be exempted are  
11 required to meet such law or condition. This exemption does  
12 not include solid waste collection vehicles, compactors,  
13 graders, or other earthmoving equipment.

14           (3) For the purposes of this section, "specialty  
15 chemicals" means those chemicals used to enhance or further  
16 treat wastewater, including, but not limited to, defoamers,  
17 nutrients, and polymers, and "bioaugmentation products" means  
18 the microorganisms used in waste treatment plants to break  
19 down solids and consume organic matter.

20           Section 9. Effective July 1, 2004, section 212.052,  
21 Florida Statutes, is reenacted to read:

22           212.052 Research or development costs; exemption.--

23           (1) For the purposes of the exemption provided in this  
24 section:

25           (a) The term "research or development" means research  
26 which has one of the following as its ultimate goal:

27           1. Basic research in a scientific field of endeavor.

28           2. Advancing knowledge or technology in a scientific  
29 or technical field of endeavor.

30           3. The development of a new product, whether or not  
31 the new product is offered for sale.

1           4. The improvement of an existing product, whether or  
2 not the improved product is offered for sale.

3           5. The development of new uses of an existing product,  
4 whether or not a new use is offered as a rationale to purchase  
5 the product.

6           6. The design and development of prototypes, whether  
7 or not a resulting product is offered for sale.

8  
9 The term "research or development" does not include ordinary  
10 testing or inspection of materials or products used for  
11 quality control, market research, efficiency surveys, consumer  
12 surveys, advertising and promotions, management studies, or  
13 research in connection with literary, historical, social  
14 science, psychological, or other similar nontechnical  
15 activities.

16           (b) The term "costs" means cost price as defined in s.  
17 212.02(4).

18           (c) The term "product" means any item, device,  
19 technique, prototype, invention, or process which is, was, or  
20 may be commercially exploitable.

21           (2) Notwithstanding any provision of this chapter to  
22 the contrary, any person, including an affiliated group as  
23 defined in s. 1504 of the Internal Revenue Code of 1954, as  
24 amended, who manufactures, produces, compounds, processes, or  
25 fabricates in any manner tangible personal property for such  
26 taxpayer's own use directly and solely in research or  
27 development shall not be subject to the tax imposed by this  
28 chapter upon the cost of the product so manufactured,  
29 produced, compounded, processed, or fabricated. However, the  
30 tax imposed by this chapter shall be due on the purchase,  
31 rental, or repair of real property or tangible personal

1 property employed in research or development which is subject  
2 to the tax imposed by this chapter at the time of purchase or  
3 rental.

4 (3) This section does not apply to any product of  
5 research or development which is used by a person, including  
6 an affiliated group as defined in s. 1504 of the Internal  
7 Revenue Code of 1954, as amended, in the ordinary course of  
8 business, other than for research or development, except and  
9 to the extent that the knowledge, technology, science, design,  
10 plan, patent, or understanding which is derived from the  
11 product of research or development is applied in the ordinary  
12 course of business. In addition, this section does not apply  
13 to any product of research or development that is tangible  
14 personal property which is offered for sale.

15 (4) Any person, including an affiliated group as  
16 defined in s. 1504 of the Internal Revenue Code of 1954, as  
17 amended, who makes a fraudulent claim under this section shall  
18 be liable for the payment of the tax due, together with the  
19 penalties set forth in s. 212.085, and as otherwise provided  
20 by law.

21 (5) The department shall promulgate rules governing  
22 the implementation and operation of this section.

23 Section 10. Effective July 1, 2004, section 212.0598,  
24 Florida Statutes, is reenacted to read:

25 212.0598 Special provisions; air carriers.--

26 (1) Notwithstanding other provisions of this chapter  
27 to the contrary, any air carrier utilizing mileage  
28 apportionment for corporate income tax purposes in this state  
29 pursuant to chapter 220 may elect, upon the conditions  
30 prescribed in subsection (4), to be subject to the tax imposed  
31

1 by this chapter on tangible personal property according to the  
2 provisions of this section.

3 (2) The basis of the tax shall be the ratio of Florida  
4 mileage to total mileage as determined pursuant to chapter 220  
5 and this section. The ratio shall be determined at the close  
6 of the carrier's preceding fiscal year. However, during the  
7 fiscal year in which the air carrier begins initial operations  
8 in this state, the carrier may determine its mileage  
9 apportionment factor based on an estimated ratio of  
10 anticipated revenue miles in this state to anticipated total  
11 revenue miles. In such cases, the air carrier shall pay  
12 additional tax or apply for a refund based on the actual ratio  
13 for that year. The applicable ratio shall be applied each  
14 month to the carrier's total systemwide gross purchases of  
15 tangible personal property and services otherwise taxable in  
16 Florida. Additionally, the ratio shall be applied each month  
17 to the carrier's total systemwide payments for the lease or  
18 rental of, or license in, real property used by the carrier  
19 substantially for aircraft maintenance if that carrier  
20 employed, on average, during the previous calendar quarter in  
21 excess of 3,000 full-time equivalent maintenance or repair  
22 employees at one maintenance base that it leases, rents, or  
23 has a license in, in this state. In all other instances, the  
24 tax on real property leased, rented, or licensed by the  
25 carrier shall be as provided in s. 212.031.

26 (3) It is the legislative intent that air carriers are  
27 hereby determined to be susceptible to a distinct and separate  
28 classification for taxation under the provisions of this  
29 chapter, if the provisions of this section are met.

30 (4) The election provided for in this section shall  
31 not be allowed unless the purchaser makes a written request,



1 in a manner prescribed by the Department of Revenue, to be  
2 taxed under the provisions of subsection (1), and such person  
3 registers with the Department of Revenue as a dealer and  
4 extends to his or her vendor at the time of purchase, if  
5 required to do so, a certificate stating that the item or  
6 items to be partially exempted are for the exclusive use  
7 designated herein.

8 (5) Notwithstanding other provisions of this chapter  
9 to the contrary, any air carrier eligible for the election  
10 provided in subsection (1) which does not so elect shall be  
11 subject to the tax imposed by this chapter on the purchase or  
12 use of tangible personal property purchased or used in this  
13 state, as well as other taxes imposed herein.

14 Section 11. Effective July 1, 2004, section 212.06,  
15 Florida Statutes, is amended to read:

16 212.06 Sales, storage, use tax; collectible from  
17 dealers; "dealer" defined; dealers to collect from purchasers;  
18 legislative intent as to scope of tax.--

19 (1)(a) The aforesaid tax at the rate of 4.5 ~~6~~ percent  
20 of the retail sales price as of the moment of sale, 4.5 ~~6~~  
21 percent of the cost price as of the moment of purchase, or 4.5  
22 ~~6~~ percent of the cost price as of the moment of commingling  
23 with the general mass of property in this state, as the case  
24 may be, shall be collectible from all dealers as herein  
25 defined on the sale at retail, the use, the consumption, the  
26 distribution, and the storage for use or consumption in this  
27 state of tangible personal property or services taxable under  
28 this chapter. The full amount of the tax on a credit sale,  
29 installment sale, or sale made on any kind of deferred payment  
30 plan shall be due at the moment of the transaction in the same  
31 manner as on a cash sale.

1           (b) Except as otherwise provided, any person who  
2 manufactures, produces, compounds, processes, or fabricates in  
3 any manner tangible personal property for his or her own use  
4 shall pay a tax upon the cost of the product manufactured,  
5 produced, compounded, processed, or fabricated without any  
6 deduction therefrom on account of the cost of material used,  
7 labor or service costs, or transportation charges,  
8 notwithstanding the provisions of s. 212.02 defining "cost  
9 price." However, the tax levied under this paragraph shall  
10 not be imposed upon any person who manufactures or produces  
11 electrical power or energy, steam energy, or other energy at a  
12 single location, when such power or energy is used directly  
13 and exclusively at such location, or at other locations if the  
14 energy is transferred through facilities of the owner in the  
15 operation of machinery or equipment that is used to  
16 manufacture, process, compound, produce, fabricate, or prepare  
17 for shipment tangible personal property for sale or to operate  
18 pollution control equipment, maintenance equipment, or  
19 monitoring or control equipment used in such operations. The  
20 manufacture or production of electrical power or energy that  
21 is used for space heating, lighting, office equipment, or  
22 air-conditioning or any other nonmanufacturing, nonprocessing,  
23 noncompounding, nonproducing, nonfabricating, or nonshipping  
24 activity is taxable. Electrical power or energy consumed or  
25 dissipated in the transmission or distribution of electrical  
26 power or energy for resale is also not taxable. Fabrication  
27 ~~labor shall not be taxable when a person is using his or her~~  
28 ~~own equipment and personnel, for his or her own account, as a~~  
29 ~~producer, subproducer, or coproducer of a qualified motion~~  
30 ~~picture. For purposes of this chapter, the term "qualified~~  
31 ~~motion picture" means all or any part of a series of related~~

1 ~~images, either on film, tape, or other embodiment, including,~~  
2 ~~but not limited to, all items comprising part of the original~~  
3 ~~work and film-related products derived therefrom as well as~~  
4 ~~duplicates and prints thereof and all sound recordings created~~  
5 ~~to accompany a motion picture, which is produced, adapted, or~~  
6 ~~altered for exploitation in, on, or through any medium or~~  
7 ~~device and at any location, primarily for entertainment,~~  
8 ~~commercial, industrial, or educational purposes. This~~  
9 ~~exemption for fabrication labor associated with production of~~  
10 ~~a qualified motion picture will inure to the taxpayer upon~~  
11 ~~presentation of the certificate of exemption issued to the~~  
12 ~~taxpayer under the provisions of s. 288.1258.~~ A person who  
13 manufactures factory-built buildings for his or her own use in  
14 the performance of contracts for the construction or  
15 improvement of real property shall pay a tax only upon the  
16 person's cost price of items used in the manufacture of such  
17 buildings.

18 (c)1. Notwithstanding the provisions of paragraph (b),  
19 the use tax on asphalt manufactured for one's own use shall be  
20 calculated with respect to paragraph (b) only upon the cost of  
21 materials which become a component part or which are an  
22 ingredient of the finished asphalt and upon the cost of the  
23 transportation of such components and ingredients. In  
24 addition, an indexed tax of 38 cents per ton of such  
25 manufactured asphalt shall be due at the same time and in the  
26 same manner as taxes due pursuant to paragraph (b). Beginning  
27 ~~July 1, 1989,~~ The indexed tax shall be adjusted each July 1 to  
28 an amount, rounded to the nearest cent, equal to the product  
29 of 38 cents multiplied by a fraction, the numerator of which  
30 is the annual average of the "materials and components for  
31 construction" series of the producer price index, as

1 calculated and published by the United States Department of  
2 Labor, Bureau of Statistics, for the previous calendar year,  
3 and the denominator of which is the annual average of said  
4 series for calendar year 1988.

5 ~~2.a. Beginning July 1, 1999, the indexed tax imposed~~  
6 ~~by this paragraph on manufactured asphalt which is used for~~  
7 ~~any federal, state, or local government public works project~~  
8 ~~shall be reduced by 20 percent.~~

9 ~~b. Beginning July 1, 2000,~~The indexed tax imposed by  
10 this paragraph on manufactured asphalt which is used for any  
11 federal, state, or local government public works project shall  
12 be reduced by 40 percent.

13 (d) For purposes of paragraph (b), the department may  
14 establish a cost price amount for industry groups that  
15 manufacture, produce, compound, process, or fabricate tangible  
16 personal property for their own use in the performance of  
17 contracts for improvements to real property. Such cost price  
18 amount must be established as a percentage, rounded to the  
19 nearest whole number, of the total contract price charged for  
20 the improvement. The cost price percentages established must  
21 be adopted by rule pursuant to the procedures provided in s.  
22 120.54, upon petition of a majority of the members of an  
23 industry group or by a statewide association that represents  
24 such industry group, and must be based on a reasonable  
25 estimate of average costs incurred by members of the  
26 petitioning industry group. The department is required to  
27 adopt a cost price percentage only if sufficient information  
28 is available to determine such percentage. The information  
29 considered by the department to establish the cost price  
30 percentage must be that set forth in the petition or that  
31 which is otherwise made available to the department. Any cost

1 price percentage so established must be available only by  
2 election of a member of the industry group for which the  
3 percentage was established and may apply only to such periods  
4 or contracts for which the election is made. The election must  
5 be made by the taxpayer by timely accruing and remitting tax  
6 on the contract using the established percentage figure. If  
7 the taxpayer does not timely accrue and remit the use tax due  
8 for a contract using the percentage figure, the taxpayer may  
9 not later use this method of calculating the use tax due for  
10 that contract. Taxpayers must maintain adequate records  
11 showing the accrual of tax using the percentage figure on  
12 total contract price. Any cost price so established must  
13 remain available for use for a period of at least 5 years from  
14 the date of its adoption and must be reviewed and be subject  
15 to adjustment by the department no more frequently than at  
16 5-year intervals. The provisions of this paragraph are not  
17 available to persons subject to paragraph (c).

18 (e)1. Notwithstanding any other provision of this  
19 chapter, tax shall not be imposed on any vessel registered  
20 pursuant to s. 328.52 by a vessel dealer or vessel  
21 manufacturer with respect to a vessel used solely for  
22 demonstration, sales promotional, or testing purposes. The  
23 term "promotional purposes" shall include, but not be limited  
24 to, participation in fishing tournaments. For the purposes of  
25 this paragraph, "promotional purposes" means the entry of the  
26 vessel in a marine-related event where prospective purchasers  
27 would be in attendance, where the vessel is entered in the  
28 name of the dealer or manufacturer, and where the vessel is  
29 clearly marked as for sale, on which vessel the name of the  
30 dealer or manufacturer is clearly displayed, and which vessel  
31 has never been transferred into the dealer's or manufacturer's

1 accounting books from an inventory item to a capital asset for  
2 depreciation purposes.

3           2. The provisions of this paragraph do not apply to  
4 any vessel when used for transporting persons or goods for  
5 compensation; when offered, let, or rented to another for  
6 consideration; when offered for rent or hire as a means of  
7 transportation for compensation; or when offered or used to  
8 provide transportation for persons solicited through personal  
9 contact or through advertisement on a "share expense" basis.

10           (2)(a) The term "dealer," as used in this chapter,  
11 includes every person who manufactures or produces tangible  
12 personal property for sale at retail; for use, consumption, or  
13 distribution; or for storage to be used or consumed in this  
14 state.

15           (b) The term "dealer" is further defined to mean every  
16 person, as used in this chapter, who imports, or causes to be  
17 imported, tangible personal property from any state or foreign  
18 country for sale at retail; for use, consumption, or  
19 distribution; or for storage to be used or consumed in this  
20 state.

21           (c) The term "dealer" is further defined to mean every  
22 person, as used in this chapter, who sells at retail or who  
23 offers for sale at retail, or who has in his or her possession  
24 for sale at retail; or for use, consumption, or distribution;  
25 or for storage to be used or consumed in this state, tangible  
26 personal property as defined herein, including a retailer who  
27 transacts a mail order sale.

28           (d) The term "dealer" is further defined to mean any  
29 person who has sold at retail; or used, or consumed, or  
30 distributed; or stored for use or consumption in this state,  
31 tangible personal property and who cannot prove that the tax

1 levied by this chapter has been paid on the sale at retail,  
2 the use, the consumption, the distribution, or the storage of  
3 such tangible personal property. However, the term "dealer"  
4 does not mean a person who is not a "dealer" under the  
5 definition of any other paragraph of this subsection and whose  
6 only owned or leased property (including property owned or  
7 leased by an affiliate) in this state is located at the  
8 premises of a printer with which it has contracted for  
9 printing, if such property consists of the final printed  
10 product, property which becomes a part of the final printed  
11 product, or property from which the printed product is  
12 produced.

13 (e) The term "dealer" is further defined to mean any  
14 person, as used in this chapter, who leases or rents tangible  
15 personal property, as defined in this chapter, for a  
16 consideration, permitting the use or possession of such  
17 property without transferring title thereto, except as  
18 expressly provided for to the contrary herein.

19 (f) The term "dealer" is further defined to mean any  
20 person, as used in this chapter, who maintains or has within  
21 this state, directly or by a subsidiary, an office,  
22 distributing house, salesroom, or house, warehouse, or other  
23 place of business.

24 (g) "Dealer" also means and includes every person who  
25 solicits business either by direct representatives, indirect  
26 representatives, or manufacturers' agents; by distribution of  
27 catalogs or other advertising matter; or by any other means  
28 whatsoever, and by reason thereof receives orders for tangible  
29 personal property or services from consumers for use,  
30 consumption, distribution, and storage for use or consumption  
31 in the state; such dealer shall collect the tax imposed by

1 this chapter from the purchaser, and no action, either in law  
2 or in equity, on a sale or transaction as provided by the  
3 terms of this chapter may be had in this state by any such  
4 dealer unless it is affirmatively shown that the provisions of  
5 this chapter have been fully complied with.

6 (h) "Dealer" also means and includes every person who,  
7 as a representative, agent, or solicitor of an out-of-state  
8 principal or principals, solicits, receives, and accepts  
9 orders from consumers in the state for future delivery and  
10 whose principal refuses to register as a dealer.

11 (i) "Dealer" also means and includes the state,  
12 county, municipality, any political subdivision, agency,  
13 bureau or department, or other state or local governmental  
14 instrumentality.

15 (j) The term "dealer" is further defined to mean any  
16 person who leases, or grants a license to use, occupy, or  
17 enter upon, living quarters, sleeping or housekeeping  
18 accommodations in hotels, apartment houses, roominghouses,  
19 tourist or trailer camps, real property, space or spaces in  
20 parking lots or garages for motor vehicles, docking or storage  
21 space or spaces for boats in boat docks or marinas, or  
22 tie-down or storage space or spaces for aircraft at airports.  
23 The term "dealer" also means any person who has leased,  
24 occupied, or used or was entitled to use any living quarters,  
25 sleeping or housekeeping accommodations in hotels, apartment  
26 houses, roominghouses, tourist or trailer camps, real  
27 property, space or spaces in parking lots or garages for motor  
28 vehicles or docking or storage space or spaces for boats in  
29 boat docks or marinas, or who has purchased communication  
30 services or electric power or energy, and who cannot prove  
31 that the tax levied by this chapter has been paid to the



1 vendor or lessor on any such transactions. The term "dealer"  
2 does not include any person who leases, lets, rents, or grants  
3 a license to use, occupy, or enter upon any living quarters,  
4 sleeping quarters, or housekeeping accommodations in apartment  
5 houses, roominghouses, tourist camps, or trailer camps, and  
6 who exclusively enters into a bona fide written agreement for  
7 continuous residence for longer than 6 months in duration with  
8 any person who leases, lets, rents, or is granted a license to  
9 use such property.

10 (k) "Dealer" also means any person who sells,  
11 provides, or performs a service taxable under this chapter.  
12 "Dealer" also means any person who purchases, uses, or  
13 consumes a service taxable under this chapter who cannot prove  
14 that the tax levied by this chapter has been paid to the  
15 seller of the taxable service.

16 (l) "Dealer" also means any person who solicits,  
17 offers, provides, enters into, issues, or delivers any service  
18 warranty taxable under this chapter, or who receives, on  
19 behalf of such a person, any consideration from a service  
20 warranty holder.

21 (3)(a) Except as provided in paragraph (b), every  
22 dealer making sales, whether within or outside the state, of  
23 tangible personal property for distribution, storage, or use  
24 or other consumption, in this state, shall, at the time of  
25 making sales, collect the tax imposed by this chapter from the  
26 purchaser.

27 (b)1. A purchaser of printed materials shall have sole  
28 responsibility for the taxes imposed by this chapter on those  
29 materials when the printer of the materials delivers them to  
30 the United States Postal Service for mailing to persons other  
31 than the purchaser located within and outside this state.

1 Printers of materials delivered by mail to persons other than  
2 the purchaser located within and outside this state shall have  
3 no obligation or responsibility for the payment or collection  
4 of any taxes imposed under this chapter on those materials.  
5 However, printers are obligated to collect the taxes imposed  
6 by this chapter on printed materials when all, or  
7 substantially all, of the materials will be mailed to persons  
8 located within this state. For purposes of the printer's tax  
9 collection obligation, there is a rebuttable presumption that  
10 all materials printed at a facility are mailed to persons  
11 located within the same state as that in which the facility is  
12 located. A certificate provided by the purchaser to the  
13 printer concerning the delivery of the printed materials for  
14 that purchase or all purchases shall be sufficient for  
15 purposes of rebutting the presumption created herein.

16 2. The Department of Revenue is authorized to adopt  
17 rules and forms to implement the provisions of this paragraph.

18 (4) On all tangible personal property imported or  
19 caused to be imported from other states, territories, the  
20 District of Columbia, or any foreign country, and used by him  
21 or her, and on all services purchased in other states,  
22 territories, the District of Columbia, or any foreign country,  
23 and used by him or her, the dealer, as herein defined, shall  
24 pay the tax imposed by this chapter on all articles of  
25 tangible personal property so imported and used, the same as  
26 if such articles had been sold at retail for use or  
27 consumption in this state. For the purposes of this chapter,  
28 the use, or consumption, or distribution, or storage to be  
29 used or consumed in this state of tangible personal property  
30 shall each be equivalent to a sale at retail, and the tax  
31 shall thereupon immediately levy and be collected in the

1 manner provided herein, provided there shall be no duplication  
2 of the tax in any event.

3 (5)(a)1. Except as provided in subparagraph 2., it is  
4 not the intention of this chapter to levy a tax upon tangible  
5 personal property imported, produced, or manufactured in this  
6 state for export, provided that tangible personal property may  
7 not be considered as being imported, produced, or manufactured  
8 for export unless the importer, producer, or manufacturer  
9 delivers the same to a licensed exporter for exporting or to a  
10 common carrier for shipment outside the state or mails the  
11 same by United States mail to a destination outside the state;  
12 or, in the case of aircraft being exported under their own  
13 power to a destination outside the continental limits of the  
14 United States, by submission to the department of a duly  
15 signed and validated United States customs declaration,  
16 showing the departure of the aircraft from the continental  
17 United States; and further with respect to aircraft, the  
18 canceled United States registry of said aircraft; or in the  
19 case of parts and equipment installed on aircraft of foreign  
20 registry, by submission to the department of documentation,  
21 the extent of which shall be provided by rule, showing the  
22 departure of the aircraft from the continental United States;  
23 nor is it the intention of this chapter to levy a tax on any  
24 sale which the state is prohibited from taxing under the  
25 Constitution or laws of the United States. Every retail sale  
26 made to a person physically present at the time of sale shall  
27 be presumed to have been delivered in this state.

28 2.a. Notwithstanding subparagraph 1., a tax is levied  
29 on each sale of tangible personal property to be transported  
30 to a cooperating state as defined in sub-subparagraph c., at  
31 the rate specified in sub-subparagraph d. However, a Florida

1 dealer will be relieved from the requirements of collecting  
2 taxes pursuant to this subparagraph if the Florida dealer  
3 obtains from the purchaser an affidavit setting forth the  
4 purchaser's name, address, state taxpayer identification  
5 number, and a statement that the purchaser is aware of his or  
6 her state's use tax laws, is a registered dealer in Florida or  
7 another state, or is purchasing the tangible personal property  
8 for resale or is otherwise not required to pay the tax on the  
9 transaction. The department may, by rule, provide a form to  
10 be used for the purposes set forth herein.

11 b. For purposes of this subparagraph, "a cooperating  
12 state" is one determined by the executive director of the  
13 department to cooperate satisfactorily with this state in  
14 collecting taxes on mail order sales. No state shall be so  
15 determined unless it meets all the following minimum  
16 requirements:

17 (I) It levies and collects taxes on mail order sales  
18 of property transported from that state to persons in this  
19 state, as described in s. 212.0596, upon request of the  
20 department.

21 (II) The tax so collected shall be at the rate  
22 specified in s. 212.05, not including any local option or  
23 tourist or convention development taxes collected pursuant to  
24 s. 125.0104 or this chapter.

25 (III) Such state agrees to remit to the department all  
26 taxes so collected no later than 30 days from the last day of  
27 the calendar quarter following their collection.

28 (IV) Such state authorizes the department to audit  
29 dealers within its jurisdiction who make mail order sales that  
30 are the subject of s. 212.0596, or makes arrangements deemed  
31

1 adequate by the department for auditing them with its own  
2 personnel.

3 (V) Such state agrees to provide to the department  
4 records obtained by it from retailers or dealers in such state  
5 showing delivery of tangible personal property into this state  
6 upon which no sales or use tax has been paid in a manner  
7 similar to that provided in sub-subparagraph g.

8 c. For purposes of this subparagraph, "sales of  
9 tangible personal property to be transported to a cooperating  
10 state" means mail order sales to a person who is in the  
11 cooperating state at the time the order is executed, from a  
12 dealer who receives that order in this state.

13 d. The tax levied by sub-subparagraph a. shall be at  
14 the rate at which such a sale would have been taxed pursuant  
15 to the cooperating state's tax laws if consummated in the  
16 cooperating state by a dealer and a purchaser, both of whom  
17 were physically present in that state at the time of the sale.

18 e. The tax levied by sub-subparagraph a., when  
19 collected, shall be held in the State Treasury in trust for  
20 the benefit of the cooperating state and shall be paid to it  
21 at a time agreed upon between the department, acting for this  
22 state, and the cooperating state or the department or agency  
23 designated by it to act for it; however, such payment shall in  
24 no event be made later than 30 days from the last day of the  
25 calendar quarter after the tax was collected. Funds held in  
26 trust for the benefit of a cooperating state shall not be  
27 subject to the service charges imposed by s. 215.20.

28 f. The department is authorized to perform such acts  
29 and to provide such cooperation to a cooperating state with  
30 reference to the tax levied by sub-subparagraph a. as is  
31 required of the cooperating state by sub-subparagraph b.

1           g. In furtherance of this act, dealers selling  
2 tangible personal property for delivery in another state shall  
3 make available to the department, upon request of the  
4 department, records of all tangible personal property so sold.  
5 Such records shall include a description of the property, the  
6 name and address of the purchaser, the name and address of the  
7 person to whom the property was sent, the purchase price of  
8 the property, information regarding whether sales tax was paid  
9 in this state on the purchase price, and such other  
10 information as the department may by rule prescribe.

11           (b)1. Notwithstanding the provisions of paragraph (a),  
12 it is not the intention of this chapter to levy a tax on the  
13 sale of tangible personal property to a nonresident dealer who  
14 does not hold a Florida sales tax registration, provided such  
15 nonresident dealer furnishes the seller a statement declaring  
16 that the tangible personal property will be transported  
17 outside this state by the nonresident dealer for resale and  
18 for no other purpose. The statement shall include, but not be  
19 limited to, the nonresident dealer's name, address, applicable  
20 passport or visa number, arrival-departure card number, and  
21 evidence of authority to do business in the nonresident  
22 dealer's home state or country, such as his or her business  
23 name and address, occupational license number, if applicable,  
24 or any other suitable requirement. The statement shall be  
25 signed by the nonresident dealer and shall include the  
26 following sentence: "Under penalties of perjury, I declare  
27 that I have read the foregoing, and the facts alleged are true  
28 to the best of my knowledge and belief."

29           2. The burden of proof of subparagraph 1. rests with  
30 the seller, who must retain the proper documentation to  
31

1 support the exempt sale. The exempt transaction is subject to  
2 verification by the department.

3 (c) Notwithstanding the provisions of paragraph (a),  
4 it is not the intention of this chapter to levy a tax on the  
5 sale by a printer to a nonresident print purchaser of material  
6 printed by that printer for that nonresident print purchaser  
7 when the print purchaser does not furnish the printer a resale  
8 certificate containing a sales tax registration number but  
9 does furnish to the printer a statement declaring that such  
10 material will be resold by the nonresident print purchaser.

11 (6) It is however, the intention of this chapter to  
12 levy a tax on the sale at retail, the use, the consumption,  
13 the distribution, and the storage to be used or consumed in  
14 this state of tangible personal property after it has come to  
15 rest in this state and has become a part of the mass property  
16 of this state.

17 (7) The provisions of this chapter do not apply in  
18 respect to the use or consumption of tangible personal  
19 property or services, or distribution or storage of tangible  
20 personal property for use or consumption in this state, upon  
21 which a like tax equal to or greater than the amount imposed  
22 by this chapter has been lawfully imposed and paid in another  
23 state, territory of the United States, or the District of  
24 Columbia. The proof of payment of such tax shall be made  
25 according to rules and regulations of the department. If the  
26 amount of tax paid in another state, territory of the United  
27 States, or the District of Columbia is not equal to or greater  
28 than the amount of tax imposed by this chapter, then the  
29 dealer shall pay to the department an amount sufficient to  
30 make the tax paid in the other state, territory of the United

31

1 States, or the District of Columbia and in this state equal to  
2 the amount imposed by this chapter.

3 (8)(a) Use tax will apply and be due on tangible  
4 personal property imported or caused to be imported into this  
5 state for use, consumption, distribution, or storage to be  
6 used or consumed in this state; provided, however, that,  
7 except as provided in paragraph (b), it shall be presumed that  
8 tangible personal property used in another state, territory of  
9 the United States, or the District of Columbia for 6 months or  
10 longer before being imported into this state was not purchased  
11 for use in this state. The rental or lease of tangible  
12 personal property which is used or stored in this state shall  
13 be taxable without regard to its prior use or tax paid on  
14 purchase outside this state.

15 (b) The presumption that tangible personal property  
16 used in another state, territory of the United States, or the  
17 District of Columbia for 6 months or longer before being  
18 imported into this state was not purchased for use in this  
19 state does not apply to any boat for which a saltwater fishing  
20 license fee is required to be paid pursuant to s.  
21 370.0605(2)(b)1., 2., or 3., either directly or indirectly,  
22 for the purpose of taking, attempting to take, or possessing  
23 any marine fish for noncommercial purposes. Use tax shall  
24 apply and be due on such a boat as provided in this paragraph,  
25 and proof of payment of such tax must be presented prior to  
26 the first such licensure of the boat, registration of the boat  
27 pursuant to chapter 328, and titling of the boat pursuant to  
28 chapter 328. A boat that is first licensed within 1 year after  
29 purchase shall be subject to use tax on the full amount of the  
30 purchase price; a boat that is first licensed in the second  
31 year after purchase shall be subject to use tax on 90 percent



1 of the purchase price; a boat that is first licensed in the  
2 third year after purchase shall be subject to use tax on 80  
3 percent of the purchase price; a boat that is first licensed  
4 in the fourth year after purchase shall be subject to use tax  
5 on 70 percent of the purchase price; a boat that is first  
6 licensed in the fifth year after purchase shall be subject to  
7 use tax on 60 percent of the purchase price; and a boat that  
8 is first licensed in the sixth year after purchase, or later,  
9 shall be subject to use tax on 50 percent of the purchase  
10 price. If the purchaser fails to provide the purchase invoice  
11 on such boat, the fair market value of the boat at the time of  
12 importation into this state shall be used to compute the tax.

13 (9) The taxes imposed by this chapter do not apply to  
14 the use, sale, or distribution of religious publications,  
15 bibles, hymn books, prayer books, vestments, altar  
16 paraphernalia, sacramental chalices, and like church service  
17 and ceremonial raiments and equipment.

18 (10) No title certificate may be issued on any boat,  
19 mobile home, motor vehicle, or other vehicle, or, if no title  
20 is required by law, no license or registration may be issued  
21 for any boat, mobile home, motor vehicle, or other vehicle,  
22 unless there is filed with such application for title  
23 certificate or license or registration certificate a receipt,  
24 issued by an authorized dealer or a designated agent of the  
25 Department of Revenue, evidencing the payment of the tax  
26 imposed by this chapter where the same is payable. A  
27 presumption of sales and use tax applicability is created if  
28 the motor vehicle is registered in this state. For the  
29 purpose of enforcing this provision, all county tax collectors  
30 and all persons or firms authorized to sell or issue boat,  
31 mobile home, and motor vehicle licenses are hereby designated

1 agents of the department and are required to perform such duty  
2 in the same manner and under the same conditions prescribed  
3 for their other duties by the constitution or any statute of  
4 this state. All transfers of title to boats, mobile homes,  
5 motor vehicles, and other vehicles are taxable transactions,  
6 unless expressly exempt under this chapter.

7 (11)(a) Notwithstanding any other provision of this  
8 chapter, the taxes imposed by this chapter shall not be  
9 imposed on promotional materials, which are imported,  
10 purchased, sold, used, manufactured, fabricated, processed,  
11 printed, imprinted, assembled, distributed, or stored in this  
12 state, if the promotional materials are subsequently exported  
13 outside this state, and regardless of whether the exportation  
14 process is continuous and unbroken, a separate consideration  
15 is charged for the material so exported, or the taxpayer  
16 keeps, retains, or exercises any right, power, dominion, or  
17 control over the promotional materials before or for the  
18 purpose of subsequently transporting them outside this state.

19 (b) As used in this subsection, the term promotional  
20 materials means tangible personal property that is given away  
21 or otherwise distributed to promote the sale of a subscription  
22 to a publication; written or printed advertising material,  
23 direct mail literature, correspondence, written solicitations,  
24 renewal notices, and billings for sales connected with or to  
25 promote the sale of a subscription to a publication; and the  
26 component parts of each of these types of promotional  
27 materials.

28 (c) ~~After July 1, 1992,~~ This exemption inures to the  
29 taxpayer only through refund of previously paid taxes or by  
30 self-accruing taxes as provided in s. 212.183 and applies only  
31

1 where the seller of subscriptions to publications sold in the  
2 state:

3 1. Is registered with the department pursuant to this  
4 chapter; and

5 2. Remits the taxes imposed by this chapter on such  
6 publications.

7 (d) This subsection applies retroactively to July 1,  
8 1987.

9 (12) In lieu of any other facts which may indicate  
10 commingling, any boat which remains in this state for more  
11 than an aggregate of 183 days in any 1-year period, except as  
12 provided in subsection (8) or s. 212.08(7)(t), shall be  
13 presumed to be commingled with the general mass of property of  
14 this state.

15 ~~(13) Registered aircraft dealers who purchase aircraft~~  
16 ~~exclusively for resale and do not pay sales tax on the~~  
17 ~~purchase price at the time of purchase shall pay a use tax~~  
18 ~~computed on 1 percent of the value of the aircraft each~~  
19 ~~calendar month that the aircraft is used by the dealer.~~  
20 ~~Payment of such tax shall commence in the month during which~~  
21 ~~the aircraft is first used for any purpose for which income is~~  
22 ~~received by the dealer. A dealer may pay the sales tax on the~~  
23 ~~purchase of the aircraft in lieu of the monthly use tax. The~~  
24 ~~value of the aircraft shall include its acquisition cost and~~  
25 ~~the cost of reconditioning that enhances the value of the~~  
26 ~~aircraft and shall generally be the value shown on the books~~  
27 ~~of the dealer in accordance with generally accepted accounting~~  
28 ~~principles. Notwithstanding the payment by the dealer of tax~~  
29 ~~computed on 1 percent of the value of any aircraft, if the~~  
30 ~~aircraft is leased or rented, the dealer shall collect from~~  
31 ~~the customer and remit the tax that is due on the lease or~~

1 ~~rental of the aircraft; such payments do not diminish or~~  
2 ~~offset any use tax due from the dealer.~~

3 (13)~~(14)~~ For the purpose of determining whether a  
4 person is improving real property, the term:

5 (a) "Real property" means the land and improvements  
6 thereto and fixtures and is synonymous with the terms "realty"  
7 and "real estate."

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

21 (c) "Improvements to real property" includes the  
22 activities of building, erecting, constructing, altering,  
23 improving, repairing, or maintaining real property.

24 (14)~~(15)~~(a) When a contractor secures rock, shell,  
25 fill dirt, or similar materials from a location that he or she  
26 owns or leases and uses such materials to fulfill a real  
27 property contract on the property of another person, the  
28 contractor is the ultimate consumer of such materials and is  
29 liable for use tax thereon. ~~This paragraph does not apply to a~~  
30 ~~person or a corporation or affiliated group as defined by s.~~  
31 ~~220.03(1)(b) or (e) that secures such materials from a~~

1 ~~location that he, she, or it owns for use on his, her, or its~~  
2 ~~own property.~~The basis upon which the contractor shall remit  
3 the tax is the fair retail market value determined by  
4 establishing either the price he or she would have to pay for  
5 it on the open market or the price he or she would regularly  
6 charge if he or she sold it to other contractors or users.

7 (b) When a contractor does not own or lease the land  
8 but has entered into an agreement to purchase fill dirt, rock,  
9 shell, or similar materials for his or her own use and wherein  
10 the contractor will excavate and remove the material, the  
11 taxable basis shall include the cost of the material plus all  
12 costs of clearing, excavating, and removing, including labor  
13 and all other costs incurred by the contractor.

14 (c) In lieu of the method described in paragraph (a)  
15 for determining the taxable basis on rock, shell, fill dirt,  
16 and similar materials a contractor uses in performing a  
17 contract for the improvement of real property, the taxable  
18 basis may be calculated as the land cost plus all costs of  
19 clearing, excavating, and loading, including labor, power,  
20 blasting, and similar costs.

21 (d) No tax is applicable when the Department of  
22 Transportation furnishes without charge the borrow materials  
23 or the pits where materials are to be extracted for use on a  
24 road contract.

25 (15)~~(16)~~(a) Notwithstanding other provisions of this  
26 chapter, the use by the publisher of a newspaper, magazine, or  
27 periodical of copies for his or her own consumption or to be  
28 given away is taxable at the usual retail price thereof, if  
29 any, or at the "cost price."

30 (b) For the purposes of this subsection, the term  
31 "cost price" means the actual cost of printing of newspapers,

1 magazines, and other publications, without any deductions  
2 therefrom on account of the cost of materials used, labor or  
3 services cost, transportation charges, or other direct or  
4 indirect overhead costs that are a part of printing costs of  
5 the property. However, the cost of labor to manufacture,  
6 produce, compound, process, or fabricate expendable items of  
7 tangible personal property which are directly used by such  
8 person in printing other tangible personal property for sale  
9 or for his or her own use is exempt. Authors' royalties, fees,  
10 or salaries, general overhead, and other costs not directly  
11 related to printing shall be deemed to be labor associated  
12 with manufacturing, producing, compounding, processing, or  
13 fabricating expendable items.

14 Section 12. Effective July 1, 2004, section 212.0601,  
15 Florida Statutes, is reenacted to read:

16 212.0601 Use taxes of vehicle dealers.--

17 (1) Each motor vehicle dealer who is required by s.  
18 320.08(12) to purchase one or more dealer license plates shall  
19 pay an annual use tax of \$27 for each dealer license plate  
20 purchased under that subsection, in addition to the license  
21 tax imposed by that subsection. The use tax shall be for the  
22 year for which the dealer license plate was purchased.

23 (2) There shall be no additional tax imposed by this  
24 chapter for the use of a dealer license plate for which, after  
25 July 1, 1987, a dealer use tax has been paid under this  
26 section. This exemption shall apply to the time period before  
27 the sale or any other disposition of the vehicle throughout  
28 the year for which the dealer license plate required by s.  
29 320.08(12) is purchased.

30 (3) Unless otherwise exempted by law, a motor vehicle  
31 dealer who loans a vehicle to any person at no charge shall

1 accrue use tax based on the annual lease value as determined  
2 by the United States Internal Revenue Service's Automobile  
3 Annual Lease Value Table.

4 (4) Notwithstanding the provisions of a motor vehicle  
5 rental agreement, no sales or use tax and no rental car  
6 surcharge pursuant to s. 212.0606 shall accrue to the use of a  
7 motor vehicle provided at no charge to a person whose motor  
8 vehicle is being repaired, adjusted, or serviced by the entity  
9 providing the replacement motor vehicle.

10 Section 13. Effective July 1, 2004, section 212.0602,  
11 Florida Statutes, is reenacted to read:

12 212.0602 Education; limited exemption.--To facilitate  
13 investment in education and job training, there is also exempt  
14 from the taxes levied under this chapter, subject to the  
15 provisions of this section, the purchase or lease of  
16 materials, equipment, and other items or the license in or  
17 lease of real property by any entity, institution, or  
18 organization that is primarily engaged in teaching students to  
19 perform any of the activities or services described in s.  
20 212.031(1)(a)9., that conducts classes at a fixed location  
21 located in this state, that is licensed under chapter 246, and  
22 that has at least 500 enrolled students. Any entity,  
23 institution, or organization meeting the requirements of this  
24 section shall be deemed to qualify for the exemptions in ss.  
25 212.031(1)(a)9. and 212.08(5)(f) and (12), and to qualify for  
26 an exemption for its purchase or lease of materials,  
27 equipment, and other items used for education or demonstration  
28 of the school's curriculum, including supporting operations.  
29 Nothing in this section shall preclude an entity described in  
30 this section from qualifying for any other exemption provided  
31 for in this chapter.

1           Section 14. Effective July 1, 2004, section 212.07,  
2 Florida Statutes, is amended to read:

3           212.07 Sales, storage, use tax; tax added to purchase  
4 price; dealer not to absorb; liability of purchasers who  
5 cannot prove payment of the tax; penalties; general  
6 exemptions.--

7           (1)(a) The privilege tax herein levied measured by  
8 retail sales shall be collected by the dealers from the  
9 purchaser or consumer.

10           (b) A resale must be in strict compliance with s.  
11 212.18 and the rules and regulations, and any dealer who makes  
12 a sale for resale which is not in strict compliance with s.  
13 212.18 and the rules and regulations shall himself or herself  
14 be liable for and pay the tax. Any dealer who makes a sale for  
15 resale shall document the exempt nature of the transaction, as  
16 established by rules promulgated by the department, by  
17 retaining a copy of the purchaser's resale certificate. In  
18 lieu of maintaining a copy of the certificate, a dealer may  
19 document, prior to the time of sale, an authorization number  
20 provided telephonically or electronically by the department,  
21 or by such other means established by rule of the department.  
22 The department shall adopt rules that provide that, for  
23 purchasers who purchase on account from a dealer on a  
24 continual basis, the dealer may rely on a resale certificate  
25 issued pursuant to s. 212.18(3)(c), valid at the time of  
26 receipt from the purchaser, without seeking annual  
27 verification of the resale certificate. A dealer may, through  
28 the informal protest provided for in s. 213.21 and the rules  
29 of the Department of Revenue, provide the department with  
30 evidence of the exempt status of a sale. Consumer certificates  
31 of exemption executed by those exempt entities that were



1 registered with the department at the time of sale, resale  
2 certificates provided by purchasers who were active dealers at  
3 the time of sale, and verification by the department of a  
4 purchaser's active dealer status at the time of sale in lieu  
5 of a resale certificate shall be accepted by the department  
6 when submitted during the protest period, but may not be  
7 accepted in any proceeding under chapter 120 or any circuit  
8 court action instituted under chapter 72.

9 (c) Unless the purchaser of tangible personal property  
10 that is incorporated into tangible personal property  
11 manufactured, produced, compounded, processed, or fabricated  
12 for one's own use and subject to the tax imposed under s.  
13 212.06(1)(b) or is purchased for export under s.  
14 212.06(5)(a)1. extends a certificate in compliance with the  
15 rules of the department, the dealer shall himself or herself  
16 be liable for and pay the tax.

17 (2) A dealer shall, as far as practicable, add the  
18 amount of the tax imposed under this chapter to the sale  
19 price, and the amount of the tax shall be separately stated as  
20 Florida tax on any charge ticket, sales slip, invoice, or  
21 other tangible evidence of sale. Such tax shall constitute a  
22 part of such price, charge, or proof of sale which shall be a  
23 debt from the purchaser or consumer to the dealer, until paid,  
24 and shall be recoverable at law in the same manner as other  
25 debts. Where it is impracticable, due to the nature of the  
26 business practices within an industry, to separately state  
27 Florida tax on any charge ticket, sales slip, invoice, or  
28 other tangible evidence of sale, the department may establish  
29 an effective tax rate for such industry. The department may  
30 also amend this effective tax rate as the industry's pricing  
31 or practices change. Except as otherwise specifically

1 provided, any dealer who neglects, fails, or refuses to  
2 collect the tax herein provided upon any, every, and all  
3 retail sales made by the dealer or the dealer's agents or  
4 employees of tangible personal property or services which are  
5 subject to the tax imposed by this chapter shall be liable for  
6 and pay the tax himself or herself.

7 (3) Any dealer who fails, neglects, or refuses to  
8 collect the tax herein provided, either by himself or herself  
9 or through the dealer's agents or employees, is, in addition  
10 to the penalty of being liable for and paying the tax himself  
11 or herself, guilty of a misdemeanor of the first degree,  
12 punishable as provided in s. 775.082 or s. 775.083.

13 (4) A dealer engaged in any business taxable under  
14 this chapter may not advertise or hold out to the public, in  
15 any manner, directly or indirectly, that he or she will absorb  
16 all or any part of the tax, or that he or she will relieve the  
17 purchaser of the payment of all or any part of the tax, or  
18 that the tax will not be added to the selling price of the  
19 property or services sold or released or, when added, that it  
20 or any part thereof will be refunded either directly or  
21 indirectly by any method whatsoever. A person who violates  
22 this provision with respect to advertising or refund is guilty  
23 of a misdemeanor of the second degree, punishable as provided  
24 in s. 775.082 or s. 775.083. A second or subsequent offense  
25 constitutes a misdemeanor of the first degree, punishable as  
26 provided in s. 775.082 or s. 775.083.

27 (5)(a) The gross proceeds derived from the sale in  
28 this state of livestock, poultry, and other farm products  
29 direct from the farm are exempted from the tax levied by this  
30 chapter provided such sales are made directly by the  
31 producers. The producers shall be entitled to such exemptions

1 although the livestock so sold in this state may have been  
2 registered with a breeders' or registry association prior to  
3 the sale and although the sale takes place at a livestock show  
4 or race meeting, so long as the sale is made by the original  
5 producer and within this state. When sales of livestock,  
6 poultry, or other farm products are made to consumers by any  
7 person, as defined herein, other than a producer, they are not  
8 exempt from the tax imposed by this chapter. The foregoing  
9 exemption does not apply to ornamental nursery stock offered  
10 for retail sale by the producer.

11 (b) Sales of race horses at claiming races are  
12 ~~taxable; however, if sufficient information is provided by~~  
13 ~~race track officials to properly administer the tax, sales tax~~  
14 ~~is due only on the maximum single amount for which a horse is~~  
15 ~~sold at all races at which it is claimed during an entire~~  
16 ~~racing season.~~

17 (6) It is specifically provided that the use tax as  
18 defined herein does not apply to livestock and livestock  
19 products, to poultry and poultry products, or to farm and  
20 agricultural products, when produced by the farmer and used by  
21 him or her and members of the farmer's family and his or her  
22 employees on the farm.

23 (7) Provided, however, that each and every  
24 agricultural commodity sold by any person, other than a  
25 producer, to any other person who purchases not for direct  
26 consumption but for the purpose of acquiring raw products for  
27 use or for sale in the process of preparing, finishing, or  
28 manufacturing such agricultural commodity for the ultimate  
29 retail consumer trade shall be and is exempted from any and  
30 all provisions of this chapter, including payment of the tax  
31 applicable to the sale, storage, use, or transfer, or any

1 other utilization or handling thereof, except when such  
2 agricultural commodity is actually sold as a marketable or  
3 finished product to the ultimate consumer; in no case shall  
4 more than one tax be exacted.

5 (8) Any person who has purchased at retail, used,  
6 consumed, distributed, or stored for use or consumption in  
7 this state tangible personal property, admissions,  
8 communication or other services taxable under this chapter, or  
9 leased tangible personal property, or who has leased,  
10 occupied, or used or was entitled to use any real property,  
11 space or spaces in parking lots or garages for motor vehicles,  
12 docking or storage space or spaces for boats in boat docks or  
13 marinas, and cannot prove that the tax levied by this chapter  
14 has been paid to his or her vendor, lessor, or other person is  
15 directly liable to the state for any tax, interest, or penalty  
16 due on any such taxable transactions.

17 Section 15. Effective July 1, 2004, section 212.08,  
18 Florida Statutes, is amended to read:

19 212.08 Sales, rental, use, consumption, distribution,  
20 and storage tax; specified exemptions.--The sale at retail,  
21 the rental, the use, the consumption, the distribution, and  
22 the storage to be used or consumed in this state of the  
23 following are hereby specifically exempt from the tax imposed  
24 by this chapter.

25 (1) EXEMPTIONS; GENERAL GROCERIES.--

26 (a) Food products for human consumption are exempt  
27 from the tax imposed by this chapter.

28 (b) For the purpose of this chapter, as used in this  
29 subsection, the term "food products" means edible commodities,  
30 whether processed, cooked, raw, canned, or in any other form,  
31

1 which are generally regarded as food. This includes, but is  
2 not limited to, all of the following:

3 1. Cereals and cereal products, baked goods,  
4 oleomargarine, meat and meat products, fish and seafood  
5 products, frozen foods and dinners, poultry, eggs and egg  
6 products, vegetables and vegetable products, fruit and fruit  
7 products, spices, salt, sugar and sugar products, milk and  
8 dairy products, and products intended to be mixed with milk.

9 2. Natural fruit or vegetable juices or their  
10 concentrates or reconstituted natural concentrated fruit or  
11 vegetable juices, whether frozen or unfrozen, dehydrated,  
12 powdered, granulated, sweetened or unsweetened, seasoned with  
13 salt or spice, or unseasoned; coffee, coffee substitutes, or  
14 cocoa; and tea, unless it is sold in a liquid form.

15 3. Bakery products sold by bakeries, pastry shops, or  
16 like establishments that do not have eating facilities.

17 (c) The exemption provided by this subsection does not  
18 apply:

19 1. When the food products are sold as meals for  
20 consumption on or off the premises of the dealer.

21 2. When the food products are furnished, prepared, or  
22 served for consumption at tables, chairs, or counters or from  
23 trays, glasses, dishes, or other tableware, whether provided  
24 by the dealer or by a person with whom the dealer contracts to  
25 furnish, prepare, or serve food products to others.

26 3. When the food products are ordinarily sold for  
27 immediate consumption on the seller's premises or near a  
28 location at which parking facilities are provided primarily  
29 for the use of patrons in consuming the products purchased at  
30 the location, even though such products are sold on a "take  
31

1 out" or "to go" order and are actually packaged or wrapped and  
2 taken from the premises of the dealer.

3 4. To sandwiches sold ready for immediate consumption  
4 on or off the seller's premises.

5 5. When the food products are sold ready for immediate  
6 consumption within a place, the entrance to which is subject  
7 to an admission charge.

8 6. When the food products are sold as hot prepared  
9 food products.

10 7. To soft drinks, which include, but are not limited  
11 to, any nonalcoholic beverage, any preparation or beverage  
12 commonly referred to as a "soft drink," or any noncarbonated  
13 drink made from milk derivatives or tea, when sold in cans or  
14 similar containers.

15 8. To ice cream, frozen yogurt, and similar frozen  
16 dairy or nondairy products in cones, small cups, or pints,  
17 popsicles, frozen fruit bars, or other novelty items, whether  
18 or not sold separately.

19 9. To food prepared, whether on or off the premises,  
20 and sold for immediate consumption. This does not apply to  
21 food prepared off the premises and sold in the original sealed  
22 container, or the slicing of products into smaller portions.

23 10. When the food products are sold through a vending  
24 machine, pushcart, motor vehicle, or any other form of  
25 vehicle.

26 11. To candy and any similar product regarded as candy  
27 or confection, based on its normal use, as indicated on the  
28 label or advertising thereof.

29 12. To bakery products sold by bakeries, pastry shops,  
30 or like establishments that have eating facilities, except  
31 when sold for consumption off the seller's premises.

1           13. When food products are served, prepared, or sold  
2 in or by restaurants, lunch counters, cafeterias, hotels,  
3 taverns, or other like places of business.

4           (d) As used in this subsection, the term:

5           1. "For consumption off the seller's premises" means  
6 that the food or drink is intended by the customer to be  
7 consumed at a place away from the dealer's premises.

8           2. "For consumption on the seller's premises" means  
9 that the food or drink sold may be immediately consumed on the  
10 premises where the dealer conducts his or her business. In  
11 determining whether an item of food is sold for immediate  
12 consumption, there shall be considered the customary  
13 consumption practices prevailing at the selling facility.

14           3. "Premises" shall be construed broadly, and means,  
15 but is not limited to, the lobby, aisle, or auditorium of a  
16 theater; the seating, aisle, or parking area of an arena,  
17 rink, or stadium; or the parking area of a drive-in or outdoor  
18 theater. The premises of a caterer with respect to catered  
19 meals or beverages shall be the place where such meals or  
20 beverages are served.

21           4. "Hot prepared food products" means those products,  
22 items, or components which have been prepared for sale in a  
23 heated condition and which are sold at any temperature that is  
24 higher than the air temperature of the room or place where  
25 they are sold. "Hot prepared food products," for the purposes  
26 of this subsection, includes a combination of hot and cold  
27 food items or components where a single price has been  
28 established for the combination and the food products are sold  
29 in such combination, such as a hot meal, a hot specialty dish  
30 or serving, or a hot sandwich or hot pizza, including cold  
31 components or side items.

1           (e)1. Food or drinks not exempt under paragraphs (a),  
2 (b), (c), and (d) shall be exempt, notwithstanding those  
3 paragraphs, when purchased with food coupons or Special  
4 Supplemental Food Program for Women, Infants, and Children  
5 vouchers issued under authority of federal law.

6           2. This paragraph is effective only while federal law  
7 prohibits a state's participation in the federal food coupon  
8 program or Special Supplemental Food Program for Women,  
9 Infants, and Children if there is an official determination  
10 that state or local sales taxes are collected within that  
11 state on purchases of food or drinks with such coupons.

12           3. This paragraph shall not apply to any food or  
13 drinks on which federal law shall permit sales taxes without  
14 penalty, such as termination of the state's participation.

15           (2) EXEMPTIONS; MEDICAL.--

16           (a) There shall be exempt from the tax imposed by this  
17 chapter any medical products and supplies or medicine  
18 dispensed according to an individual prescription or  
19 prescriptions written by a prescriber authorized by law to  
20 prescribe medicinal drugs; hypodermic needles; hypodermic  
21 syringes; chemical compounds and test kits used for the  
22 diagnosis or treatment of human disease, illness, or injury;  
23 and common household remedies recommended and generally sold  
24 for internal or external use in the cure, mitigation,  
25 treatment, or prevention of illness or disease in human  
26 beings, but not including cosmetics or toilet articles,  
27 notwithstanding the presence of medicinal ingredients therein,  
28 according to a list prescribed and approved by the Department  
29 of Health, which list shall be certified to the Department of  
30 Revenue from time to time and included in the rules  
31 promulgated by the Department of Revenue. There shall also be



1 exempt from the tax imposed by this chapter artificial eyes  
2 and limbs; orthopedic shoes; prescription eyeglasses and items  
3 incidental thereto or which become a part thereof; dentures;  
4 hearing aids; crutches; prosthetic and orthopedic appliances;  
5 and funerals. ~~In addition, any items intended for one-time use~~  
6 ~~which transfer essential optical characteristics to contact~~  
7 ~~lenses shall be exempt from the tax imposed by this chapter;~~  
8 ~~however, this exemption shall apply only after \$100,000 of the~~  
9 ~~tax imposed by this chapter on such items has been paid in any~~  
10 ~~calendar year by a taxpayer who claims the exemption in such~~  
11 ~~year.~~ Funeral directors shall pay tax on all tangible personal  
12 property used by them in their business.

13 (b) For the purposes of this subsection:

14 1. "Prosthetic and orthopedic appliances" means any  
15 apparatus, instrument, device, or equipment used to replace or  
16 substitute for any missing part of the body, to alleviate the  
17 malfunction of any part of the body, or to assist any disabled  
18 person in leading a normal life by facilitating such person's  
19 mobility. Such apparatus, instrument, device, or equipment  
20 shall be exempted according to an individual prescription or  
21 prescriptions written by a physician licensed under chapter  
22 458, chapter 459, chapter 460, chapter 461, or chapter 466, or  
23 according to a list prescribed and approved by the Department  
24 of Health, which list shall be certified to the Department of  
25 Revenue from time to time and included in the rules  
26 promulgated by the Department of Revenue.

27 2. "Cosmetics" means articles intended to be rubbed,  
28 poured, sprinkled, or sprayed on, introduced into, or  
29 otherwise applied to the human body for cleansing,  
30 beautifying, promoting attractiveness, or altering the  
31 appearance and also means articles intended for use as a

1 compound of any such articles, including, but not limited to,  
2 cold creams, suntan lotions, makeup, and body lotions.

3 3. "Toilet articles" means any article advertised or  
4 held out for sale for grooming purposes and those articles  
5 that are customarily used for grooming purposes, regardless of  
6 the name by which they may be known, including, but not  
7 limited to, soap, toothpaste, hair spray, shaving products,  
8 colognes, perfumes, shampoo, deodorant, and mouthwash.

9 4. "Prescription" includes any order for drugs or  
10 medicinal supplies written or transmitted by any means of  
11 communication by a duly licensed practitioner authorized by  
12 the laws of the state to prescribe such drugs or medicinal  
13 supplies and intended to be dispensed by a pharmacist. The  
14 term also includes an orally transmitted order by the lawfully  
15 designated agent of such practitioner. The term also includes  
16 an order written or transmitted by a practitioner licensed to  
17 practice in a jurisdiction other than this state, but only if  
18 the pharmacist called upon to dispense such order determines,  
19 in the exercise of his or her professional judgment, that the  
20 order is valid and necessary for the treatment of a chronic or  
21 recurrent illness. The term also includes a pharmacist's order  
22 for a product selected from the formulary created pursuant to  
23 s. 465.186. A prescription may be retained in written form, or  
24 the pharmacist may cause it to be recorded in a data  
25 processing system, provided that such order can be produced in  
26 printed form upon lawful request.

27 (c) Chlorine shall not be exempt from the tax imposed  
28 by this chapter when used for the treatment of water in  
29 swimming pools.

30 (d) Lithotripters are exempt.

31 (e) Human organs are exempt.

1           (f) Sales of drugs to or by physicians, dentists,  
2 veterinarians, and hospitals in connection with medical  
3 treatment are exempt.

4           (g) Medical products and supplies used in the cure,  
5 mitigation, alleviation, prevention, or treatment of injury,  
6 disease, or incapacity which are temporarily or permanently  
7 incorporated into a patient or client by a practitioner of the  
8 healing arts licensed in the state are exempt.

9           (h) The purchase by a veterinarian of commonly  
10 recognized substances possessing curative or remedial  
11 properties which are ordered and dispensed as treatment for a  
12 diagnosed health disorder by or on the prescription of a duly  
13 licensed veterinarian, and which are applied to or consumed by  
14 animals for alleviation of pain or the cure or prevention of  
15 sickness, disease, or suffering are exempt. Also exempt are  
16 the purchase by a veterinarian of antiseptics, absorbent  
17 cotton, gauze for bandages, lotions, vitamins, and worm  
18 remedies.

19           (i) X-ray opaques, also known as opaque drugs and  
20 radiopaque, such as the various opaque dyes and barium  
21 sulphate, when used in connection with medical X rays for  
22 treatment of bodies of humans and animals, are exempt.

23           (j) Parts, special attachments, special lettering, and  
24 other like items that are added to or attached to tangible  
25 personal property so that a handicapped person can use them  
26 are exempt when such items are purchased by a person pursuant  
27 to an individual prescription.

28           (k) This subsection shall be strictly construed and  
29 enforced.

30           (3) EXEMPTIONS, PARTIAL; CERTAIN FARM  
31 EQUIPMENT.--There shall be taxable at the rate of 2.5 percent

1 the sale, rental, lease, use, consumption, or storage for use  
2 in this state of self-propelled, power-drawn, or power-driven  
3 farm equipment used exclusively on a farm or in a forest in  
4 the agricultural production of crops or products as produced  
5 by those agricultural industries included in s. 570.02(1), or  
6 for fire prevention and suppression work with respect to such  
7 crops or products. Harvesting may not be construed to include  
8 processing activities. This exemption is not forfeited by  
9 moving farm equipment between farms or forests. However, this  
10 exemption shall not be allowed unless the purchaser, renter,  
11 or lessee signs a certificate stating that the farm equipment  
12 is to be used exclusively on a farm or in a forest for  
13 agricultural production or for fire prevention and  
14 suppression, as required by this subsection. Possession by a  
15 seller, lessor, or other dealer of a written certification by  
16 the purchaser, renter, or lessee certifying the purchaser's,  
17 renter's, or lessee's entitlement to an exemption permitted by  
18 this subsection relieves the seller from the responsibility of  
19 collecting the tax on the nontaxable amounts, and the  
20 department shall look solely to the purchaser for recovery of  
21 such tax if it determines that the purchaser was not entitled  
22 to the exemption.

23 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,  
24 ETC.--

25 (a) Also exempt are:

26 1. Water delivered to the purchaser through pipes or  
27 conduits or delivered for irrigation purposes. The sale of  
28 drinking water in bottles, cans, or other containers,  
29 including water that contains minerals or carbonation in its  
30 natural state or water to which minerals have been added at a  
31 water treatment facility regulated by the Department of

1 Environmental Protection or the Department of Health, is  
2 exempt. This exemption does not apply to the sale of drinking  
3 water in bottles, cans, or other containers if carbonation or  
4 flavorings, except those added at a water treatment facility,  
5 have been added. Water that has been enhanced by the addition  
6 of minerals and that does not contain any added carbonation or  
7 flavorings is also exempt.

8         2. All fuels used by a public or private utility,  
9 including any municipal corporation or rural electric  
10 cooperative association, in the generation of electric power  
11 or energy for sale. Fuel other than motor fuel and diesel  
12 fuel is taxable as provided in this chapter with the exception  
13 of fuel expressly exempt herein. Motor fuels and diesel fuels  
14 are taxable as provided in chapter 206., ~~with the exception of~~  
15 ~~those motor fuels and diesel fuels used by railroad~~  
16 ~~locomotives or vessels to transport persons or property in~~  
17 ~~interstate or foreign commerce, which are taxable under this~~  
18 ~~chapter only to the extent provided herein. The basis of the~~  
19 ~~tax shall be the ratio of intrastate mileage to interstate or~~  
20 ~~foreign mileage traveled by the carrier's railroad locomotives~~  
21 ~~or vessels that were used in interstate or foreign commerce~~  
22 ~~and that had at least some Florida mileage during the previous~~  
23 ~~fiscal year of the carrier, such ratio to be determined at the~~  
24 ~~close of the fiscal year of the carrier. This ratio shall be~~  
25 ~~applied each month to the total Florida purchases made in this~~  
26 ~~state of motor and diesel fuels to establish that portion of~~  
27 ~~the total used and consumed in intrastate movement and subject~~  
28 ~~to tax under this chapter. The basis for imposition of any~~  
29 ~~discretionary surtax shall be set forth in s. 212.054. Fuels~~  
30 ~~used exclusively in intrastate commerce do not qualify for the~~  
31 ~~proration of tax.~~

1           3. The transmission or wheeling of electricity.

2           (b) Alcoholic beverages and malt beverages are not  
3 exempt. The terms "alcoholic beverages" and "malt beverages"  
4 as used in this paragraph have the same meanings ascribed to  
5 them in ss. 561.01(4) and 563.01, respectively. It is  
6 determined by the Legislature that the classification of  
7 alcoholic beverages made in this paragraph for the purpose of  
8 extending the tax imposed by this chapter is reasonable and  
9 just, and it is intended that such tax be separate from, and  
10 in addition to, any other tax imposed on alcoholic beverages.

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

12           (a) Items in agricultural use and certain nets.--There  
13 are exempt from the tax imposed by this chapter nets designed  
14 and used exclusively by commercial fisheries; disinfectants,  
15 fertilizers, insecticides, pesticides, herbicides, fungicides,  
16 and weed killers used for application on crops or groves,  
17 including commercial nurseries and home vegetable gardens,  
18 used in dairy barns or on poultry farms for the purpose of  
19 protecting poultry or livestock, or used directly on poultry  
20 or livestock; portable containers or movable receptacles in  
21 which portable containers are placed, used for processing farm  
22 products; field and garden seeds, including flower seeds;  
23 nursery stock, seedlings, cuttings, or other propagative  
24 material purchased for growing stock; seeds, seedlings,  
25 cuttings, and plants used to produce food for human  
26 consumption; cloth, plastic, and other similar materials used  
27 for shade, mulch, or protection from frost or insects on a  
28 farm; generators used on poultry farms; and liquefied  
29 petroleum gas or other fuel used to heat a structure in which  
30 started pullets or broilers are raised; however, such  
31 exemption shall not be allowed unless the purchaser or lessee

1 signs a certificate stating that the item to be exempted is  
2 for the exclusive use designated herein. Also exempt are  
3 cellophane wrappers, glue for tin and glass (apiarists),  
4 mailing cases for honey, shipping cases, window cartons, and  
5 baling wire and twine used for baling hay, when used by a  
6 farmer to contain, produce, or process an agricultural  
7 commodity.

8 (b) Machinery and equipment used to increase  
9 productive output.--

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

21 2.a. Industrial machinery and equipment purchased for  
22 exclusive use by an expanding facility which is engaged in  
23 spaceport activities as defined by s. 212.02 or for use in  
24 expanding manufacturing facilities or plant units which  
25 manufacture, process, compound, or produce for sale items of  
26 tangible personal property at fixed locations in this state  
27 are exempt from any amount of tax imposed by this chapter in  
28 excess of \$50,000 per calendar year upon an affirmative  
29 showing by the taxpayer to the satisfaction of the department  
30 that such items are used to increase the productive output of  
31

1 such expanded facility or business by not less than 10  
2 percent.

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

13           3.a. To receive an exemption provided by subparagraph  
14 1. or subparagraph 2., a qualifying business entity shall  
15 apply to the department for a temporary tax exemption permit.  
16 The application shall state that a new business exemption or  
17 expanded business exemption is being sought. Upon a tentative  
18 affirmative determination by the department pursuant to  
19 subparagraph 1. or subparagraph 2., the department shall issue  
20 such permit.

21           b. The applicant shall be required to maintain all  
22 necessary books and records to support the exemption. Upon  
23 completion of purchases of qualified machinery and equipment  
24 pursuant to subparagraph 1. or subparagraph 2., the temporary  
25 tax permit shall be delivered to the department or returned to  
26 the department by certified or registered mail.

27           c. If, in a subsequent audit conducted by the  
28 department, it is determined that the machinery and equipment  
29 purchased as exempt under subparagraph 1. or subparagraph 2.  
30 did not meet the criteria mandated by this paragraph or if  
31 commencement of production did not occur, the amount of taxes



1 exempted at the time of purchase shall immediately be due and  
2 payable to the department by the business entity, together  
3 with the appropriate interest and penalty, computed from the  
4 date of purchase, in the manner prescribed by this chapter.

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

14         4. The department shall promulgate rules governing  
15 applications for, issuance of, and the form of temporary tax  
16 exemption permits; provisions for recapture of taxes; and the  
17 manner and form of refund applications and may establish  
18 guidelines as to the requisites for an affirmative showing of  
19 increased productive output, commencement of production, and  
20 qualification for exemption.

21         5. The exemptions provided in subparagraphs 1. and 2.  
22 do not apply to machinery or equipment purchased or used by  
23 electric utility companies, communications companies, oil or  
24 gas exploration or production operations, publishing firms  
25 that do not export at least 50 percent of their finished  
26 product out of the state, any firm subject to regulation by  
27 the Division of Hotels and Restaurants of the Department of  
28 Business and Professional Regulation, or any firm which does  
29 not manufacture, process, compound, or produce for sale items  
30 of tangible personal property or which does not use such  
31 machinery and equipment in spaceport activities as required by

1 this paragraph. The exemptions provided in subparagraphs 1.  
2 and 2. shall apply to machinery and equipment purchased for  
3 use in phosphate or other solid minerals severance, mining, or  
4 processing operations only by way of a prospective credit  
5 against taxes due under chapter 211 for taxes paid under this  
6 chapter on such machinery and equipment.

7           6. For the purposes of the exemptions provided in  
8 subparagraphs 1. and 2., these terms have the following  
9 meanings:

10           a. "Industrial machinery and equipment" means "section  
11 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the  
12 Internal Revenue Code, provided "industrial machinery and  
13 equipment" shall be construed by regulations adopted by the  
14 Department of Revenue to mean tangible property used as an  
15 integral part of spaceport activities or of the manufacturing,  
16 processing, compounding, or producing for sale of items of  
17 tangible personal property. Such term includes parts and  
18 accessories only to the extent that the exemption thereof is  
19 consistent with the provisions of this paragraph.

20           b. "Productive output" means the number of units  
21 actually produced by a single plant or operation in a single  
22 continuous 12-month period, irrespective of sales. Increases  
23 in productive output shall be measured by the output for 12  
24 continuous months immediately following the completion of  
25 installation of such machinery or equipment over the output  
26 for the 12 continuous months immediately preceding such  
27 installation. However, if a different 12-month continuous  
28 period of time would more accurately reflect the increase in  
29 productive output of machinery and equipment purchased to  
30 facilitate an expansion, the increase in productive output may  
31 be measured during that 12-month continuous period of time if

1 such time period is mutually agreed upon by the Department of  
2 Revenue and the expanding business prior to the commencement  
3 of production; provided, however, in no case may such time  
4 period begin later than 2 years following the completion of  
5 installation of the new machinery and equipment. The units  
6 used to measure productive output shall be physically  
7 comparable between the two periods, irrespective of sales.

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

10 1. The purchase of machinery and equipment for use at  
11 a fixed location which machinery and equipment are necessary  
12 in the production of electrical or steam energy resulting from  
13 the burning of boiler fuels other than residual oil is exempt  
14 from the tax imposed by this chapter. Such electrical or  
15 steam energy must be primarily for use in manufacturing,  
16 processing, compounding, or producing for sale items of  
17 tangible personal property in this state. Use of a de minimis  
18 amount of residual fuel to facilitate the burning of  
19 nonresidual fuel shall not reduce the exemption otherwise  
20 available under this paragraph.

21 2. In facilities where machinery and equipment are  
22 necessary to burn both residual and nonresidual fuels, the  
23 exemption shall be prorated. Such proration shall be based  
24 upon the production of electrical or steam energy from  
25 nonresidual fuels as a percentage of electrical or steam  
26 energy from all fuels. If it is determined that 15 percent or  
27 less of all electrical or steam energy generated was produced  
28 by burning residual fuel, the full exemption shall apply.  
29 Purchasers claiming a partial exemption shall obtain such  
30 exemption by refund of taxes paid, or as otherwise provided in  
31 the department's rules.

1           3. The department may adopt rules that provide for  
2 implementation of this exemption. Purchasers of machinery and  
3 equipment qualifying for the exemption provided in this  
4 paragraph shall furnish the department with an affidavit  
5 stating that the item or items to be exempted are for the use  
6 designated herein. Any person furnishing a false affidavit to  
7 the vendor for the purpose of evading payment of any tax  
8 imposed under this chapter shall be subject to the penalty set  
9 forth in s. 212.085 and as otherwise provided by law.  
10 Purchasers with self-accrual authority shall maintain all  
11 documentation necessary to prove the exempt status of  
12 purchases.

13           (d) Machinery and equipment used under federal  
14 procurement contract.--

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

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

8           3. The exemption provided by this paragraph shall  
9 inure to the taxpayer only through refund of previously paid  
10 taxes. Such refund shall be made within 30 days of formal  
11 approval by the department of the taxpayer's application,  
12 which application may be made on an annual basis following  
13 installation of the machinery or equipment.

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

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

17           b. "Deflated implicit productive output" means the  
18 product of implicit productive output times the quotient of  
19 the national defense implicit price deflator for the preceding  
20 calendar year divided by the deflator for the year of  
21 completion or commencement.

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

28           d. "Implicit productive output" means the annual  
29 eligible costs attributable to all contracts or subcontracts  
30 subject to federal procurement regulations of the single plant  
31 or operation at which the machinery or equipment is used.

1 e. "Industrial machinery and equipment" means "section  
2 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the  
3 Internal Revenue Code, provided such industrial machinery and  
4 equipment qualified as an eligible cost under federal  
5 procurement regulations and are used as an integral part of  
6 the tangible personal property production process. Such term  
7 includes parts and accessories only to the extent that the  
8 exemption of such parts and accessories is consistent with the  
9 provisions of this paragraph.

10 f. "National defense implicit price deflator" means  
11 the national defense implicit price deflator for the gross  
12 national product as determined by the Bureau of Economic  
13 Analysis of the United States Department of Commerce.

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

25 (e) Gas used for certain agricultural  
26 purposes.--Butane gas, propane gas, natural gas, and all other  
27 forms of liquefied petroleum gases are exempt from the tax  
28 imposed by this chapter if used in any tractor, vehicle, or  
29 other farm equipment which is used exclusively on a farm or  
30 for processing farm products on the farm and no part of which  
31 gas is used in any vehicle or equipment driven or operated on

1 the public highways of this state. This restriction does not  
2 apply to the movement of farm vehicles or farm equipment  
3 between farms. The transporting of bees by water and the  
4 operating of equipment used in the apiary of a beekeeper is  
5 also deemed an exempt use.

6 ~~(f) Motion picture or video equipment used in motion  
7 picture or television production activities and sound  
8 recording equipment used in the production of master tapes and  
9 master records.--~~

10 ~~1. Motion picture or video equipment and sound  
11 recording equipment purchased or leased for use in this state  
12 in production activities is exempt from the tax imposed by  
13 this chapter. The exemption provided by this paragraph shall  
14 inure to the taxpayer upon presentation of the certificate of  
15 exemption issued to the taxpayer under the provisions of s.  
16 288.1258.~~

17 ~~2. For the purpose of the exemption provided in  
18 subparagraph 1.:~~

19 ~~a. "Motion picture or video equipment" and "sound  
20 recording equipment" includes only equipment meeting the  
21 definition of "section 38 property" as defined in s.  
22 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is  
23 used by the lessee or purchaser exclusively as an integral  
24 part of production activities; however, motion picture or  
25 video equipment and sound recording equipment does not include  
26 supplies, tape, records, film, or video tape used in  
27 productions or other similar items; vehicles or vessels; or  
28 general office equipment not specifically suited to production  
29 activities. In addition, the term does not include equipment  
30 purchased or leased by television or radio broadcasting or  
31~~

1 ~~cable companies licensed by the Federal Communications~~  
2 ~~Commission.~~

3       ~~b. "Production activities" means activities directed~~  
4 ~~toward the preparation of a:~~

5           ~~(I) Master tape or master record embodying sound; or~~

6           ~~(II) Motion picture or television production which is~~  
7 ~~produced for theatrical, commercial, advertising, or~~  
8 ~~educational purposes and utilizes live or animated actions or~~  
9 ~~a combination of live and animated actions. The motion picture~~  
10 ~~or television production shall be commercially produced for~~  
11 ~~sale or for showing on screens or broadcasting on television~~  
12 ~~and may be on film or video tape.~~

13       (f)~~(g)~~ Building materials used in the rehabilitation  
14 of real property located in an enterprise zone.--

15       1. Building materials used in the rehabilitation of  
16 real property located in an enterprise zone shall be exempt  
17 from the tax imposed by this chapter upon an affirmative  
18 showing to the satisfaction of the department that the items  
19 have been used for the rehabilitation of real property located  
20 in an enterprise zone. Except as provided in subparagraph 2.,  
21 this exemption inures to the owner, lessee, or lessor of the  
22 rehabilitated real property located in an enterprise zone only  
23 through a refund of previously paid taxes. To receive a refund  
24 pursuant to this paragraph, the owner, lessee, or lessor of  
25 the rehabilitated real property located in an enterprise zone  
26 must file an application under oath with the governing body or  
27 enterprise zone development agency having jurisdiction over  
28 the enterprise zone where the business is located, as  
29 applicable, which includes:

30       a. The name and address of the person claiming the  
31 refund.



1           b. An address and assessment roll parcel number of the  
2 rehabilitated real property in an enterprise zone for which a  
3 refund of previously paid taxes is being sought.

4           c. A description of the improvements made to  
5 accomplish the rehabilitation of the real property.

6           d. A copy of the building permit issued for the  
7 rehabilitation of the real property.

8           e. A sworn statement, under the penalty of perjury,  
9 from the general contractor licensed in this state with whom  
10 the applicant contracted to make the improvements necessary to  
11 accomplish the rehabilitation of the real property, which  
12 statement lists the building materials used in the  
13 rehabilitation of the real property, the actual cost of the  
14 building materials, and the amount of sales tax paid in this  
15 state on the building materials. In the event that a general  
16 contractor has not been used, the applicant shall provide this  
17 information in a sworn statement, under the penalty of  
18 perjury. Copies of the invoices which evidence the purchase of  
19 the building materials used in such rehabilitation and the  
20 payment of sales tax on the building materials shall be  
21 attached to the sworn statement provided by the general  
22 contractor or by the applicant. Unless the actual cost of  
23 building materials used in the rehabilitation of real property  
24 and the payment of sales taxes due thereon is documented by a  
25 general contractor or by the applicant in this manner, the  
26 cost of such building materials shall be an amount equal to 40  
27 percent of the increase in assessed value for ad valorem tax  
28 purposes.

29           f. The identifying number assigned pursuant to s.  
30 290.0065 to the enterprise zone in which the rehabilitated  
31 real property is located.

1           g. A certification by the local building code  
2 inspector that the improvements necessary to accomplish the  
3 rehabilitation of the real property are substantially  
4 completed.

5           h. Whether the business is a small business as defined  
6 by s. 288.703(1).

7           i. If applicable, the name and address of each  
8 permanent employee of the business, including, for each  
9 employee who is a resident of an enterprise zone, the  
10 identifying number assigned pursuant to s. 290.0065 to the  
11 enterprise zone in which the employee resides.

12           2. This exemption inures to a city, county, other  
13 governmental agency, or nonprofit community-based organization  
14 through a refund of previously paid taxes if the building  
15 materials used in the rehabilitation of real property located  
16 in an enterprise zone are paid for from the funds of a  
17 community development block grant, State Housing Initiatives  
18 Partnership Program, or similar grant or loan program. To  
19 receive a refund pursuant to this paragraph, a city, county,  
20 other governmental agency, or nonprofit community-based  
21 organization must file an application which includes the same  
22 information required to be provided in subparagraph 1. by an  
23 owner, lessee, or lessor of rehabilitated real property. In  
24 addition, the application must include a sworn statement  
25 signed by the chief executive officer of the city, county,  
26 other governmental agency, or nonprofit community-based  
27 organization seeking a refund which states that the building  
28 materials for which a refund is sought were paid for from the  
29 funds of a community development block grant, State Housing  
30 Initiatives Partnership Program, or similar grant or loan  
31 program.

1           3. Within 10 working days after receipt of an  
2 application, the governing body or enterprise zone development  
3 agency shall review the application to determine if it  
4 contains all the information required pursuant to subparagraph  
5 1. or subparagraph 2. and meets the criteria set out in this  
6 paragraph. The governing body or agency shall certify all  
7 applications that contain the information required pursuant to  
8 subparagraph 1. or subparagraph 2. and meet the criteria set  
9 out in this paragraph as eligible to receive a refund. If  
10 applicable, the governing body or agency shall also certify if  
11 20 percent of the employees of the business are residents of  
12 an enterprise zone, excluding temporary and part-time  
13 employees. The certification shall be in writing, and a copy  
14 of the certification shall be transmitted to the executive  
15 director of the Department of Revenue. The applicant shall be  
16 responsible for forwarding a certified application to the  
17 department within the time specified in subparagraph 4.

18           4. An application for a refund pursuant to this  
19 paragraph must be submitted to the department within 6 months  
20 after the rehabilitation of the property is deemed to be  
21 substantially completed by the local building code inspector  
22 or within 90 days after the rehabilitated property is first  
23 subject to assessment.

24           5. The provisions of s. 212.095 do not apply to any  
25 refund application made pursuant to this paragraph. No more  
26 than one exemption through a refund of previously paid taxes  
27 for the rehabilitation of real property shall be permitted for  
28 any one parcel of real property. No refund shall be granted  
29 pursuant to this paragraph unless the amount to be refunded  
30 exceeds \$500. No refund granted pursuant to this paragraph  
31 shall exceed the lesser of 97 percent of the Florida sales or

1 use tax paid on the cost of the building materials used in the  
2 rehabilitation of the real property as determined pursuant to  
3 sub-subparagraph 1.e. or \$5,000, or, if no less than 20  
4 percent of the employees of the business are residents of an  
5 enterprise zone, excluding temporary and part-time employees,  
6 the amount of refund granted pursuant to this paragraph shall  
7 not exceed the lesser of 97 percent of the sales tax paid on  
8 the cost of such building materials or \$10,000. A refund  
9 approved pursuant to this paragraph shall be made within 30  
10 days of formal approval by the department of the application  
11 for the refund.

12           6. The department shall adopt rules governing the  
13 manner and form of refund applications and may establish  
14 guidelines as to the requisites for an affirmative showing of  
15 qualification for exemption under this paragraph.

16           7. The department shall deduct an amount equal to 10  
17 percent of each refund granted under the provisions of this  
18 paragraph from the amount transferred into the Local  
19 Government Half-cent Sales Tax Clearing Trust Fund pursuant to  
20 s. 212.20 for the county area in which the rehabilitated real  
21 property is located and shall transfer that amount to the  
22 General Revenue Fund.

23           8. For the purposes of the exemption provided in this  
24 paragraph:

25           a. "Building materials" means tangible personal  
26 property which becomes a component part of improvements to  
27 real property.

28           b. "Real property" has the same meaning as provided in  
29 s. 192.001(12).

30  
31

1           c. "Rehabilitation of real property" means the  
2 reconstruction, renovation, restoration, rehabilitation,  
3 construction, or expansion of improvements to real property.

4           d. "Substantially completed" has the same meaning as  
5 provided in s. 192.042(1).

6           9. The provisions of this paragraph shall expire and  
7 be void on December 31, 2005.

8           (g)~~(h)~~ Business property used in an enterprise zone.--

9           1. Business property purchased for use by businesses  
10 located in an enterprise zone which is subsequently used in an  
11 enterprise zone shall be exempt from the tax imposed by this  
12 chapter. This exemption inures to the business only through a  
13 refund of previously paid taxes. A refund shall be authorized  
14 upon an affirmative showing by the taxpayer to the  
15 satisfaction of the department that the requirements of this  
16 paragraph have been met.

17           2. To receive a refund, the business must file under  
18 oath with the governing body or enterprise zone development  
19 agency having jurisdiction over the enterprise zone where the  
20 business is located, as applicable, an application which  
21 includes:

22           a. The name and address of the business claiming the  
23 refund.

24           b. The identifying number assigned pursuant to s.  
25 290.0065 to the enterprise zone in which the business is  
26 located.

27           c. A specific description of the property for which a  
28 refund is sought, including its serial number or other  
29 permanent identification number.

30           d. The location of the property.

31

1 e. The sales invoice or other proof of purchase of the  
2 property, showing the amount of sales tax paid, the date of  
3 purchase, and the name and address of the sales tax dealer  
4 from whom the property was purchased.

5 f. Whether the business is a small business as defined  
6 by s. 288.703(1).

7 g. If applicable, the name and address of each  
8 permanent employee of the business, including, for each  
9 employee who is a resident of an enterprise zone, the  
10 identifying number assigned pursuant to s. 290.0065 to the  
11 enterprise zone in which the employee resides.

12 3. Within 10 working days after receipt of an  
13 application, the governing body or enterprise zone development  
14 agency shall review the application to determine if it  
15 contains all the information required pursuant to subparagraph  
16 2. and meets the criteria set out in this paragraph. The  
17 governing body or agency shall certify all applications that  
18 contain the information required pursuant to subparagraph 2.  
19 and meet the criteria set out in this paragraph as eligible to  
20 receive a refund. If applicable, the governing body or agency  
21 shall also certify if 20 percent of the employees of the  
22 business are residents of an enterprise zone, excluding  
23 temporary and part-time employees. The certification shall be  
24 in writing, and a copy of the certification shall be  
25 transmitted to the executive director of the Department of  
26 Revenue. The business shall be responsible for forwarding a  
27 certified application to the department within the time  
28 specified in subparagraph 4.

29 4. An application for a refund pursuant to this  
30 paragraph must be submitted to the department within 6 months  
31

1 after the tax is due on the business property that is  
2 purchased.

3           5. The provisions of s. 212.095 do not apply to any  
4 refund application made pursuant to this paragraph. The amount  
5 refunded on purchases of business property under this  
6 paragraph shall be the lesser of 97 percent of the sales tax  
7 paid on such business property or \$5,000, or, if no less than  
8 20 percent of the employees of the business are residents of  
9 an enterprise zone, excluding temporary and part-time  
10 employees, the amount refunded on purchases of business  
11 property under this paragraph shall be the lesser of 97  
12 percent of the sales tax paid on such business property or  
13 \$10,000. A refund approved pursuant to this paragraph shall be  
14 made within 30 days of formal approval by the department of  
15 the application for the refund. No refund shall be granted  
16 under this paragraph unless the amount to be refunded exceeds  
17 \$100 in sales tax paid on purchases made within a 60-day time  
18 period.

19           6. The department shall adopt rules governing the  
20 manner and form of refund applications and may establish  
21 guidelines as to the requisites for an affirmative showing of  
22 qualification for exemption under this paragraph.

23           7. If the department determines that the business  
24 property is used outside an enterprise zone within 3 years  
25 from the date of purchase, the amount of taxes refunded to the  
26 business purchasing such business property shall immediately  
27 be due and payable to the department by the business, together  
28 with the appropriate interest and penalty, computed from the  
29 date of purchase, in the manner provided by this chapter.  
30 Notwithstanding this subparagraph, business property used  
31 exclusively in:

- 1 a. Licensed commercial fishing vessels,
- 2 b. Fishing guide boats, or
- 3 c. Ecotourism guide boats

4  
5 that leave and return to a fixed location within an area  
6 designated under s. 370.28 are eligible for the exemption  
7 provided under this paragraph if all requirements of this  
8 paragraph are met. Such vessels and boats must be owned by a  
9 business that is eligible to receive the exemption provided  
10 under this paragraph. This exemption does not apply to the  
11 purchase of a vessel or boat.

12 8. The department shall deduct an amount equal to 10  
13 percent of each refund granted under the provisions of this  
14 paragraph from the amount transferred into the Local  
15 Government Half-cent Sales Tax Clearing Trust Fund pursuant to  
16 s. 212.20 for the county area in which the business property  
17 is located and shall transfer that amount to the General  
18 Revenue Fund.

19 9. For the purposes of this exemption, "business  
20 property" means new or used property defined as "recovery  
21 property" in s. 168(c) of the Internal Revenue Code of 1954,  
22 as amended, except:

23 a. Property classified as 3-year property under s.  
24 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

25 b. Industrial machinery and equipment as defined in  
26 sub-subparagraph (b)6.a. and eligible for exemption under  
27 paragraph (b);

28 c. Building materials as defined in sub-subparagraph  
29 (g)8.a.; and

30 d. Business property having a sales price of under  
31 \$5,000 per unit.



1           10. The provisions of this paragraph shall expire and  
2 be void on December 31, 2005.

3           (h)~~(i)~~ Aircraft modification services.--There shall be  
4 exempt from the tax imposed by this chapter all charges for  
5 aircraft modification services, including parts and equipment  
6 furnished or installed in connection therewith, performed  
7 under authority of a supplemental type certificate issued by  
8 the Federal Aviation Administration.

9           (i)~~(j)~~ Machinery and equipment used in semiconductor,  
10 defense, or space technology production and research and  
11 development.--

12           1.a. Industrial machinery and equipment used in  
13 semiconductor technology facilities certified under  
14 subparagraph 6. to manufacture, process, compound, or produce  
15 semiconductor technology products for sale or for use by these  
16 facilities are exempt from the tax imposed by this chapter.  
17 For purposes of this paragraph, industrial machinery and  
18 equipment includes molds, dies, machine tooling, other  
19 appurtenances or accessories to machinery and equipment,  
20 testing equipment, test beds, computers, and software, whether  
21 purchased or self-fabricated, and, if self-fabricated,  
22 includes materials and labor for design, fabrication, and  
23 assembly.

24           b. Industrial machinery and equipment used in defense  
25 or space technology facilities certified under subparagraph 6.  
26 to manufacture, process, compound, or produce defense  
27 technology products or space technology products for sale or  
28 for use by these facilities are exempt from 25 percent of the  
29 tax imposed by this chapter.

30           2.a. Machinery and equipment are exempt from the tax  
31 imposed by this chapter if used predominately in semiconductor

1 wafer research and development activities in a semiconductor  
2 technology research and development facility certified under  
3 subparagraph 6. For purposes of this paragraph, machinery and  
4 equipment includes molds, dies, machine tooling, other  
5 appurtenances or accessories to machinery and equipment,  
6 testing equipment, test beds, computers, and software, whether  
7 purchased or self-fabricated, and, if self-fabricated,  
8 includes materials and labor for design, fabrication, and  
9 assembly.

10           b. Machinery and equipment are exempt from 25 percent  
11 of the tax imposed by this chapter if used predominately in  
12 defense or space research and development activities in a  
13 defense or space technology research and development facility  
14 certified under subparagraph 6.

15           3. Building materials purchased for use in  
16 manufacturing or expanding clean rooms in  
17 semiconductor-manufacturing facilities are exempt from the tax  
18 imposed by this chapter.

19           4. In addition to meeting the criteria mandated by  
20 subparagraph 1., subparagraph 2., or subparagraph 3., a  
21 business must be certified by the Office of Tourism, Trade,  
22 and Economic Development as authorized in this paragraph in  
23 order to qualify for exemption under this paragraph.

24           5. For items purchased tax exempt pursuant to this  
25 paragraph, possession of a written certification from the  
26 purchaser, certifying the purchaser's entitlement to exemption  
27 pursuant to this paragraph, relieves the seller of the  
28 responsibility of collecting the tax on the sale of such  
29 items, and the department shall look solely to the purchaser  
30 for recovery of tax if it determines that the purchaser was  
31 not entitled to the exemption.

1           6.a. To be eligible to receive the exemption provided  
2 by subparagraph 1., subparagraph 2., or subparagraph 3., a  
3 qualifying business entity shall apply to Enterprise Florida,  
4 Inc. The application shall be developed by the Office of  
5 Tourism, Trade, and Economic Development in consultation with  
6 Enterprise Florida, Inc.

7           b. Enterprise Florida, Inc., shall review each  
8 submitted application and information and determine whether or  
9 not the application is complete within 5 working days. Once an  
10 application is complete, Enterprise Florida, Inc., shall,  
11 within 10 working days, evaluate the application and recommend  
12 approval or disapproval of the application to the Office of  
13 Tourism, Trade, and Economic Development.

14           c. Upon receipt of the application and recommendation  
15 from Enterprise Florida, Inc., the Office of Tourism, Trade,  
16 and Economic Development shall certify within 5 working days  
17 those applicants who are found to meet the requirements of  
18 this section and notify the applicant, Enterprise Florida,  
19 Inc., and the department of the certification. If the Office  
20 of Tourism, Trade, and Economic Development finds that the  
21 applicant does not meet the requirements of this section, it  
22 shall notify the applicant and Enterprise Florida, Inc.,  
23 within 10 working days that the application for certification  
24 has been denied and the reasons for denial. The Office of  
25 Tourism, Trade, and Economic Development has final approval  
26 authority for certification under this section.

27           7.a. A business may apply once each year for the  
28 exemption.

29           b. The application must indicate, for program  
30 evaluation purposes only, the average number of full-time  
31 equivalent employees at the facility over the preceding

1 calendar year, the average wage and benefits paid to those  
2 employees over the preceding calendar year, the total  
3 investment made in real and tangible personal property over  
4 the preceding calendar year, and the total value of tax-exempt  
5 purchases and taxes exempted during the previous year. The  
6 department shall assist the Office of Tourism, Trade, and  
7 Economic Development in evaluating and verifying information  
8 provided in the application for exemption.

9 c. The Office of Tourism, Trade, and Economic  
10 Development may use the information reported on the  
11 application for evaluation purposes only and shall prepare an  
12 annual report on the exemption program and its cost and  
13 impact. The annual report for the preceding fiscal year shall  
14 be submitted to the Governor, the President of the Senate, and  
15 the Speaker of the House of Representatives by September 30 of  
16 each fiscal year. This report may be submitted in conjunction  
17 with the annual report required in s. 288.095(3)(c).

18 8. A business certified to receive this exemption may  
19 elect to designate one or more state universities or community  
20 colleges as recipients of up to 100 percent of the amount of  
21 the exemption for which they may qualify. To receive these  
22 funds, the institution must agree to match the funds so earned  
23 with equivalent cash, programs, services, or other in-kind  
24 support on a one-to-one basis in the pursuit of research and  
25 development projects as requested by the certified business.  
26 The rights to any patents, royalties, or real or intellectual  
27 property must be vested in the business unless otherwise  
28 agreed to by the business and the university or community  
29 college.

30 9. As used in this paragraph, the term:  
31

1           a. "Predominately" means at least 50 percent of the  
2 time in qualifying research and development.

3           b. "Research and development" means basic and applied  
4 research in the science or engineering, as well as the design,  
5 development, and testing of prototypes or processes of new or  
6 improved products. Research and development does not include  
7 market research, routine consumer product testing, sales  
8 research, research in the social sciences or psychology,  
9 nontechnological activities, or technical services.

10           c. "Semiconductor technology products" means raw  
11 semiconductor wafers or semiconductor thin films that are  
12 transformed into semiconductor memory or logic wafers,  
13 including wafers containing mixed memory and logic circuits;  
14 related assembly and test operations; active-matrix flat panel  
15 displays; semiconductor chips; semiconductor lasers;  
16 optoelectronic elements; and related semiconductor technology  
17 products as determined by the Office of Tourism, Trade, and  
18 Economic Development.

19           d. "Clean rooms" means manufacturing facilities  
20 enclosed in a manner that meets the clean manufacturing  
21 requirements necessary for high-technology  
22 semiconductor-manufacturing environments.

23           e. "Defense technology products" means products that  
24 have a military application, including, but not limited to,  
25 weapons, weapons systems, guidance systems, surveillance  
26 systems, communications or information systems, munitions,  
27 aircraft, vessels, or boats, or components thereof, which are  
28 intended for military use and manufactured in performance of a  
29 contract with the United States Department of Defense or the  
30 military branch of a recognized foreign government or a  
31

1 subcontract thereunder which relates to matters of national  
2 defense.

3 f. "Space technology products" means products that are  
4 specifically designed or manufactured for application in space  
5 activities, including, but not limited to, space launch  
6 vehicles, missiles, satellites or research payloads, avionics,  
7 and associated control systems and processing systems. The  
8 term does not include products that are designed or  
9 manufactured for general commercial aviation or other uses  
10 even though those products may also serve an incidental use in  
11 space applications.

12 (j)~~(k)~~ Samples.--Paint color card samples, flooring  
13 and wall samples, fabric swatch samples, window covering  
14 samples, and similar samples, when such samples serve no  
15 useful purpose other than as a comparison of color, texture,  
16 or design; are provided by the manufacturer to a dealer or  
17 ultimate consumer for no charge; and are given away by the  
18 dealer to the ultimate consumer for no charge, are exempt.

19 (k)~~(l)~~ Growth enhancers or performance enhancers for  
20 cattle.--There is exempt from the tax imposed by this chapter  
21 the sale of performance-enhancing or growth-enhancing products  
22 for cattle.

23 (l)~~(m)~~ Educational materials purchased by certain  
24 child care facilities.--Educational materials, such as glue,  
25 paper, paints, crayons, unique craft items, scissors, books,  
26 and educational toys, purchased by a child care facility that  
27 meets the standards delineated in s. 402.305, is licensed  
28 under s. 402.308, holds a current Gold Seal Quality Care  
29 designation pursuant to s. 402.281, and provides basic health  
30 insurance to all employees are exempt from the taxes imposed  
31 by this chapter. For purposes of this paragraph, the term

1 "basic health insurance" shall be defined and promulgated in  
2 rules developed jointly by the Department of Children and  
3 Family Services, the Agency for Health Care Administration,  
4 and the Department of Insurance.

5 (m)~~(n)~~ Materials for construction of single-family  
6 homes in certain areas.--

7 1. As used in this paragraph, the term:

8 a. "Building materials" means tangible personal  
9 property that becomes a component part of a qualified home.

10 b. "Qualified home" means a single-family home having  
11 an appraised value of no more than \$160,000 which is located  
12 in an enterprise zone, empowerment zone, or Front Porch  
13 Florida Community and which is constructed and occupied by the  
14 owner thereof for residential purposes.

15 c. "Substantially completed" has the same meaning as  
16 provided in s. 192.042(1).

17 2. Building materials used in the construction of a  
18 qualified home and the costs of labor associated with the  
19 construction of a qualified home are exempt from the tax  
20 imposed by this chapter upon an affirmative showing to the  
21 satisfaction of the department that the requirements of this  
22 paragraph have been met. This exemption inures to the owner  
23 through a refund of previously paid taxes. To receive this  
24 refund, the owner must file an application under oath with the  
25 department which includes:

26 a. The name and address of the owner.

27 b. The address and assessment roll parcel number of  
28 the home for which a refund is sought.

29 c. A copy of the building permit issued for the home.

30 d. A certification by the local building code  
31 inspector that the home is substantially completed.

1 e. A sworn statement, under penalty of perjury, from  
2 the general contractor licensed in this state with whom the  
3 owner contracted to construct the home, which statement lists  
4 the building materials used in the construction of the home  
5 and the actual cost thereof, the labor costs associated with  
6 such construction, and the amount of sales tax paid on these  
7 materials and labor costs. If a general contractor was not  
8 used, the owner shall provide this information in a sworn  
9 statement, under penalty of perjury. Copies of invoices  
10 evidencing payment of sales tax must be attached to the sworn  
11 statement.

12 f. A sworn statement, under penalty of perjury, from  
13 the owner affirming that he or she is occupying the home for  
14 residential purposes.

15 3. An application for a refund under this paragraph  
16 must be submitted to the department within 6 months after the  
17 date the home is deemed to be substantially completed by the  
18 local building code inspector. Within 30 working days after  
19 receipt of the application, the department shall determine if  
20 it meets the requirements of this paragraph. A refund approved  
21 pursuant to this paragraph shall be made within 30 days after  
22 formal approval of the application by the department. The  
23 provisions of s. 212.095 do not apply to any refund  
24 application made under this paragraph.

25 4. The department shall establish by rule an  
26 application form and criteria for establishing eligibility for  
27 exemption under this paragraph.

28 5. The exemption shall apply to purchases of materials  
29 on or after July 1, 2000.

30 (n)~~(o)~~ Building materials in redevelopment projects.--

31 1. As used in this paragraph, the term:



1           a. "Building materials" means tangible personal  
2 property that becomes a component part of a housing project or  
3 a mixed-use project.

4           b. "Housing project" means the conversion of an  
5 existing manufacturing or industrial building to housing units  
6 in an urban high-crime area, enterprise zone, empowerment  
7 zone, Front Porch Community, designated brownfield area, or  
8 urban infill area and in which the developer agrees to set  
9 aside at least 20 percent of the housing units in the project  
10 for low-income and moderate-income persons.

11           c. "Mixed-use project" means the conversion of an  
12 existing manufacturing or industrial building to mixed-use  
13 units that include artists' studios, art and entertainment  
14 services, or other compatible uses. A mixed-use project must  
15 be located in an urban high-crime area, enterprise zone,  
16 empowerment zone, Front Porch Community, designated brownfield  
17 area, or urban infill area, and the developer must agree to  
18 set aside at least 20 percent of the square footage of the  
19 project for low-income and moderate-income housing.

20           d. "Substantially completed" has the same meaning as  
21 provided in s. 192.042(1).

22           2. Building materials used in the construction of a  
23 housing project or mixed-use project are exempt from the tax  
24 imposed by this chapter upon an affirmative showing to the  
25 satisfaction of the department that the requirements of this  
26 paragraph have been met. This exemption inures to the owner  
27 through a refund of previously paid taxes. To receive this  
28 refund, the owner must file an application under oath with the  
29 department which includes:

30           a. The name and address of the owner.

31

1           b. The address and assessment roll parcel number of  
2 the project for which a refund is sought.

3           c. A copy of the building permit issued for the  
4 project.

5           d. A certification by the local building code  
6 inspector that the project is substantially completed.

7           e. A sworn statement, under penalty of perjury, from  
8 the general contractor licensed in this state with whom the  
9 owner contracted to construct the project, which statement  
10 lists the building materials used in the construction of the  
11 project and the actual cost thereof, and the amount of sales  
12 tax paid on these materials. If a general contractor was not  
13 used, the owner shall provide this information in a sworn  
14 statement, under penalty of perjury. Copies of invoices  
15 evidencing payment of sales tax must be attached to the sworn  
16 statement.

17           3. An application for a refund under this paragraph  
18 must be submitted to the department within 6 months after the  
19 date the project is deemed to be substantially completed by  
20 the local building code inspector. Within 30 working days  
21 after receipt of the application, the department shall  
22 determine if it meets the requirements of this paragraph. A  
23 refund approved pursuant to this paragraph shall be made  
24 within 30 days after formal approval of the application by the  
25 department. The provisions of s. 212.095 do not apply to any  
26 refund application made under this paragraph.

27           4. The department shall establish by rule an  
28 application form and criteria for establishing eligibility for  
29 exemption under this paragraph.

30           5. The exemption shall apply to purchases of materials  
31 on or after July 1, 2000.

1           (o)~~(p)~~ Equipment used to deploy broadband  
2 technologies.--

3           1. Beginning July 1, 2000, equipment purchased by a  
4 communications service provider that is necessary for use in  
5 the deployment of broadband technologies in the state as part  
6 of the direct participation by the communications service  
7 provider in a network access point, which is defined as a  
8 carrier-neutral, public-private Internet traffic exchange  
9 point, in this state shall be exempt from the tax imposed by  
10 this chapter. This exemption inures to the communications  
11 service provider only through a refund of previously paid  
12 taxes. A refund shall be authorized upon an affirmative  
13 showing by the taxpayer to the satisfaction of the department  
14 that the requirements of this paragraph have been met.

15           2. To be entitled to a refund, an eligible  
16 communications service provider must file under oath with the  
17 department an application that includes:

18           a. The name and address of the communications service  
19 provider claiming to be entitled to the refund.

20           b. A specific description of the property for which  
21 the exemption is sought, including its serial number or other  
22 permanent identification number.

23           c. The location of the property.

24           d. The sales invoice or other proof of purchase of the  
25 property, showing the amount of sales tax paid, the date of  
26 purchase, and the name and address of the sales tax dealer  
27 from whom the property was purchased.

28           3. An application for a refund pursuant to this  
29 paragraph must be submitted to the department within 6 months  
30 after the eligible property is purchased.

31

1           4. The provisions of s. 212.095 do not apply to any  
2 refund application made pursuant to this paragraph. The  
3 department shall adopt rules governing the manner and form of  
4 refund applications and may establish guidelines as to the  
5 requisites for an affirmative showing of qualification for  
6 exemption under this paragraph.

7           5. For purposes of this paragraph:

8           a. "Broadband technology" means packaged technology  
9 that has the capability of supporting transmission speeds of  
10 at least 1.544 megabits per second in both directions.

11           b. "Communications service provider" means a company  
12 that supports or provides individuals and other companies with  
13 access to the Internet and other related services.

14           c. "Equipment" includes asynchronous transfer mode  
15 switches, digital subscriber line access multiplexers,  
16 routers, servers, multiplexers, fiber optic connector  
17 equipment, database equipment, and other network equipment  
18 used to provide broadband technology and information services.

19           6. Contingent upon annual appropriation, the  
20 department may approve refunds up to the amount appropriated  
21 for this refund program based on the filing of an application  
22 pursuant to this paragraph. No refund shall be made with  
23 respect to any application received by the department in any  
24 year after the funds appropriated for that year have been  
25 exhausted.

26           7. This paragraph is repealed June 30, 2005.

27           

(p)~~(q)~~ Community contribution tax credit for  
28 donations.--

29           1. Authorization.--Beginning July 1, 2001, persons who  
30 are registered with the department under s. 212.18 to collect  
31 or remit sales or use tax and who make donations to eligible

1 sponsors are eligible for tax credits against their state  
2 sales and use tax liabilities as provided in this paragraph:  
3       a. The credit shall be computed as 50 percent of the  
4 person's approved annual community contribution;  
5       b. The credit shall be granted as a refund against  
6 state sales and use taxes reported on returns and remitted in  
7 the 12 months preceding the date of application to the  
8 department for the credit as required in sub-subparagraph 3.c.  
9 If the annual credit is not fully used through such refund  
10 because of insufficient tax payments during the applicable  
11 12-month period, the unused amount may be included in an  
12 application for a refund made pursuant to sub-subparagraph  
13 3.c. in subsequent years against the total tax payments made  
14 for such year. Carryover credits may be applied for a 3-year  
15 period without regard to any time limitation that would  
16 otherwise apply under s. 215.26;  
17       c. No person shall receive more than \$200,000 in  
18 annual tax credits for all approved community contributions  
19 made in any one year;  
20       d. All proposals for the granting of the tax credit  
21 shall require the prior approval of the Office of Tourism,  
22 Trade, and Economic Development;  
23       e. The total amount of tax credits which may be  
24 granted for all programs approved under this paragraph, s.  
25 220.183, and s. 624.5105 is \$10 million annually; and  
26       f. A person who is eligible to receive the credit  
27 provided for in this paragraph, s. 220.183, or s. 624.5105 may  
28 receive the credit only under the one section of the person's  
29 choice.  
30       2. Eligibility requirements.--  
31

1           a. A community contribution by a person must be in the  
2 following form:

3           (I) Cash or other liquid assets;

4           (II) Real property;

5           (III) Goods or inventory; or

6           (IV) Other physical resources as identified by the  
7 Office of Tourism, Trade, and Economic Development.

8           b. All community contributions must be reserved  
9 exclusively for use in a project. As used in this  
10 sub-subparagraph, the term "project" means any activity  
11 undertaken by an eligible sponsor which is designed to  
12 construct, improve, or substantially rehabilitate housing that  
13 is affordable to low-income or very-low-income households as  
14 defined in s. 420.9071(19) and (28); designed to provide  
15 commercial, industrial, or public resources and facilities; or  
16 designed to improve entrepreneurial and job-development  
17 opportunities for low-income persons. A project may be the  
18 investment necessary to increase access to high-speed  
19 broadband capability in rural communities with enterprise  
20 zones, including projects that result in improvements to  
21 communications assets that are owned by a business. A project  
22 may include the provision of museum educational programs and  
23 materials that are directly related to any project approved  
24 between January 1, 1996, and December 31, 1999, and located in  
25 an enterprise zone as referenced in s. 290.00675. This  
26 paragraph does not preclude projects that propose to construct  
27 or rehabilitate housing for low-income or very-low-income  
28 households on scattered sites. The Office of Tourism, Trade,  
29 and Economic Development may reserve up to 50 percent of the  
30 available annual tax credits for housing for very-low-income  
31 households pursuant to s. 420.9071(28) for the first 6 months

1 of the fiscal year. With respect to housing, contributions may  
2 be used to pay the following eligible low-income and  
3 very-low-income housing-related activities:

4 (I) Project development impact and management fees for  
5 low-income or very-low-income housing projects;

6 (II) Down payment and closing costs for eligible  
7 persons, as defined in s. 420.9071(19) and (28);

8 (III) Administrative costs, including housing  
9 counseling and marketing fees, not to exceed 10 percent of the  
10 community contribution, directly related to low-income or  
11 very-low-income projects; and

12 (IV) Removal of liens recorded against residential  
13 property by municipal, county, or special district local  
14 governments when satisfaction of the lien is a necessary  
15 precedent to the transfer of the property to an eligible  
16 person, as defined in s. 420.9071(19) and (28), for the  
17 purpose of promoting home ownership. Contributions for lien  
18 removal must be received from a nonrelated third party.

19 c. The project must be undertaken by an "eligible  
20 sponsor," which includes:

21 (I) A community action program;

22 (II) A nonprofit community-based development  
23 organization whose mission is the provision of housing for  
24 low-income or very-low-income households or increasing  
25 entrepreneurial and job-development opportunities for  
26 low-income persons;

27 (III) A neighborhood housing services corporation;

28 (IV) A local housing authority created under chapter  
29 421;

30 (V) A community redevelopment agency created under s.  
31 163.356;

1 (VI) The Florida Industrial Development Corporation;

2 (VII) A historic preservation district agency or  
3 organization;

4 (VIII) A regional workforce board;

5 (IX) A direct-support organization as provided in s.  
6 240.551;

7 (X) An enterprise zone development agency created  
8 under s. 290.0056;

9 (XI) A community-based organization incorporated under  
10 chapter 617 which is recognized as educational, charitable, or  
11 scientific pursuant to s. 501(c)(3) of the Internal Revenue  
12 Code and whose bylaws and articles of incorporation include  
13 affordable housing, economic development, or community  
14 development as the primary mission of the corporation;

15 (XII) Units of local government;

16 (XIII) Units of state government; or

17 (XIV) Any other agency that the Office of Tourism,  
18 Trade, and Economic Development designates by rule.

19

20 In no event may a contributing person have a financial  
21 interest in the eligible sponsor.

22 d. The project must be located in an area designated  
23 an enterprise zone or a Front Porch Florida Community pursuant  
24 to s. 14.2015(9)(b), unless the project increases access to  
25 high-speed broadband capability for rural communities with  
26 enterprise zones but is physically located outside the  
27 designated rural zone boundaries. Any project designed to  
28 construct or rehabilitate housing for low-income or  
29 very-low-income households as defined in s. 420.0971(19) and  
30 (28) is exempt from the area requirement of this  
31 sub-subparagraph.



1           3. Application requirements.--

2           a. Any eligible sponsor seeking to participate in this  
3 program must submit a proposal to the Office of Tourism,  
4 Trade, and Economic Development which sets forth the name of  
5 the sponsor, a description of the project, and the area in  
6 which the project is located, together with such supporting  
7 information as is prescribed by rule. The proposal must also  
8 contain a resolution from the local governmental unit in which  
9 the project is located certifying that the project is  
10 consistent with local plans and regulations.

11           b. Any person seeking to participate in this program  
12 must submit an application for tax credit to the Office of  
13 Tourism, Trade, and Economic Development which sets forth the  
14 name of the sponsor, a description of the project, and the  
15 type, value, and purpose of the contribution. The sponsor  
16 shall verify the terms of the application and indicate its  
17 receipt of the contribution, which verification must be in  
18 writing and accompany the application for tax credit. The  
19 person must submit a separate tax credit application to the  
20 office for each individual contribution that it makes to each  
21 individual project.

22           c. Any person who has received notification from the  
23 Office of Tourism, Trade, and Economic Development that a tax  
24 credit has been approved must apply to the department to  
25 receive the refund. Application must be made on the form  
26 prescribed for claiming refunds of sales and use taxes and be  
27 accompanied by a copy of the notification. A person may submit  
28 only one application for refund to the department within any  
29 12-month period.

30           4. Administration.--

31

1           a. The Office of Tourism, Trade, and Economic  
2 Development may adopt rules pursuant to ss. 120.536(1) and  
3 120.54 necessary to administer this paragraph, including rules  
4 for the approval or disapproval of proposals by a person.

5           b. The decision of the Office of Tourism, Trade, and  
6 Economic Development must be in writing, and, if approved, the  
7 notification shall state the maximum credit allowable to the  
8 person. Upon approval, the office shall transmit a copy of the  
9 decision to the Department of Revenue.

10          c. The Office of Tourism, Trade, and Economic  
11 Development shall periodically monitor all projects in a  
12 manner consistent with available resources to ensure that  
13 resources are used in accordance with this paragraph; however,  
14 each project must be reviewed at least once every 2 years.

15          d. The Office of Tourism, Trade, and Economic  
16 Development shall, in consultation with the Department of  
17 Community Affairs, the Florida Housing Finance Corporation,  
18 and the statewide and regional housing and financial  
19 intermediaries, market the availability of the community  
20 contribution tax credit program to community-based  
21 organizations.

22          5. Expiration.--This paragraph expires June 30, 2005;  
23 however, any accrued credit carryover that is unused on that  
24 date may be used until the expiration of the 3-year carryover  
25 period for such credit.

26          (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are  
27 also exempt from the tax imposed by this chapter sales made to  
28 the United States Government, a state, or any county,  
29 municipality, or political subdivision of a state when payment  
30 is made directly to the dealer by the governmental entity.  
31 This exemption shall not inure to any transaction otherwise

1 taxable under this chapter when payment is made by a  
2 government employee by any means, including, but not limited  
3 to, cash, check, or credit card when that employee is  
4 subsequently reimbursed by the governmental entity. This  
5 exemption does not include sales of tangible personal property  
6 made to contractors employed either directly or as agents of  
7 any such government or political subdivision thereof when such  
8 tangible personal property goes into or becomes a part of  
9 public works owned by such government or political  
10 subdivision. A determination whether a particular transaction  
11 is properly characterized as an exempt sale to a government  
12 entity or a taxable sale to a contractor shall be based on the  
13 substance of the transaction rather than the form in which the  
14 transaction is cast. The department shall adopt rules that  
15 give special consideration to factors that govern the status  
16 of the tangible personal property before its affixation to  
17 real property. In developing these rules, assumption of the  
18 risk of damage or loss is of paramount consideration in the  
19 determination. This exemption does not include sales, rental,  
20 use, consumption, or storage for use in any political  
21 subdivision or municipality in this state of machines and  
22 equipment and parts and accessories therefor used in the  
23 generation, transmission, or distribution of electrical energy  
24 by systems owned and operated by a political subdivision in  
25 this state for transmission or distribution expansion.  
26 Likewise exempt are charges for services rendered by radio and  
27 television stations, including line charges, talent fees, or  
28 license fees and charges for films, videotapes, and  
29 transcriptions used in producing radio or television  
30 broadcasts. The exemption provided in this subsection does not  
31 include sales, rental, use, consumption, or storage for use in

1 any political subdivision or municipality in this state of  
2 machines and equipment and parts and accessories therefor used  
3 in providing two-way telecommunications services to the public  
4 for hire by the use of a telecommunications facility, as  
5 defined in s. 364.02(13), and for which a certificate is  
6 required under chapter 364, which facility is owned and  
7 operated by any county, municipality, or other political  
8 subdivision of the state. Any immunity of any political  
9 subdivision of the state or other entity of local government  
10 from taxation of the property used to provide  
11 telecommunication services that is taxed as a result of this  
12 section is hereby waived. However, the exemption provided in  
13 this subsection includes transactions taxable under this  
14 chapter which are for use by the operator of a public-use  
15 airport, as defined in s. 332.004, in providing such  
16 telecommunications services for the airport or its tenants,  
17 concessionaires, or licensees, or which are for use by a  
18 public hospital for the provision of such telecommunications  
19 services.

20 (7) MISCELLANEOUS EXEMPTIONS.--

21 (a) Artificial commemorative flowers.--Exempt from the  
22 tax imposed by this chapter is the sale of artificial  
23 commemorative flowers by bona fide nationally chartered  
24 veterans' organizations.

25 (b) Boiler fuels.--When purchased for use as a  
26 combustible fuel, purchases of natural gas, residual oil,  
27 recycled oil, waste oil, solid waste material, coal, sulfur,  
28 wood, wood residues or wood bark used in an industrial  
29 manufacturing, processing, compounding, or production process  
30 at a fixed location in this state are exempt from the taxes  
31 imposed by this chapter; however, such exemption shall not be

1 allowed unless the purchaser signs a certificate stating that  
2 the fuel to be exempted is for the exclusive use designated  
3 herein. This exemption does not apply to the use of boiler  
4 fuels that are not used in manufacturing, processing,  
5 compounding, or producing items of tangible personal property  
6 for sale, or to the use of boiler fuels used by any firm  
7 subject to regulation by the Division of Hotels and  
8 Restaurants of the Department of Business and Professional  
9 Regulation.

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

14 (d) Feeds.--Feeds for poultry, ~~ostriches~~, and  
15 livestock, including ~~racehorses~~ and dairy cows, are exempt.

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

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

22 (g) Florida Retired Educators Association and its  
23 local chapters.--Also exempt from payment of the tax imposed  
24 by this chapter are purchases of office supplies, equipment,  
25 and publications made by the Florida Retired Educators  
26 Association and its local chapters.

27 (h) Guide dogs for the blind.--Also exempt are the  
28 sale or rental of guide dogs for the blind, commonly referred  
29 to as "seeing-eye dogs," and the sale of food or other items  
30 for such guide dogs.

31

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

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

14           (i) Hospital meals and rooms.--Also exempt from  
15 payment of the tax imposed by this chapter on rentals and  
16 meals are patients and inmates of any hospital or other  
17 physical plant or facility designed and operated primarily for  
18 the care of persons who are ill, aged, infirm, mentally or  
19 physically incapacitated, or otherwise dependent on special  
20 care or attention. Residents of a home for the aged are exempt  
21 from payment of taxes on meals provided through the facility.  
22 A home for the aged is defined as a facility that is licensed  
23 or certified in part or in whole under chapter 400 or chapter  
24 651, or that is financed by a mortgage loan made or insured by  
25 the United States Department of Housing and Urban Development  
26 under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4),  
27 s. 232, or s. 236 of the National Housing Act, or other such  
28 similar facility designed and operated primarily for the care  
29 of the aged.

30           (j) Household fuels.--Also exempt from payment of the  
31 tax imposed by this chapter are sales of utilities to

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

16 (k) Meals provided by certain nonprofit  
17 organizations.--There is exempt from the tax imposed by this  
18 chapter the sale of prepared meals by a nonprofit volunteer  
19 organization to handicapped, elderly, or indigent persons when  
20 such meals are delivered as a charitable function by the  
21 organization to such persons at their places of residence.

22 (l) Organizations providing special educational,  
23 cultural, recreational, and social benefits to minors.--Also  
24 exempt from the tax imposed by this chapter are sales or  
25 leases to and sales of donated property by nonprofit  
26 organizations which are incorporated pursuant to chapter 617  
27 the primary purpose of which is providing activities that  
28 contribute to the development of good character or good  
29 sportsmanship, or to the educational or cultural development,  
30 of minors. This exemption is extended only to that level of  
31 the organization that has a salaried executive officer or an

1 | elected nonsalaried executive officer. For the purpose of this  
2 | paragraph, the term "donated property" means any property  
3 | transferred to such nonprofit organization for less than 50  
4 | percent of its fair market value.

5 |       (m) Religious institutions.--

6 |       1. There are exempt from the tax imposed by this  
7 | chapter transactions involving sales or leases directly to  
8 | religious institutions when used in carrying on their  
9 | customary nonprofit religious activities or sales or leases of  
10 | tangible personal property by religious institutions having an  
11 | established physical place for worship at which nonprofit  
12 | religious services and activities are regularly conducted and  
13 | carried on.

14 |       2. As used in this paragraph, the term "religious  
15 | institutions" means churches, synagogues, and established  
16 | physical places for worship at which nonprofit religious  
17 | services and activities are regularly conducted and carried  
18 | on. The term "religious institutions" includes nonprofit  
19 | corporations the sole purpose of which is to provide free  
20 | transportation services to church members, their families, and  
21 | other church attendees. The term "religious institutions" also  
22 | includes nonprofit state, nonprofit district, or other  
23 | nonprofit governing or administrative offices the function of  
24 | which is to assist or regulate the customary activities of  
25 | religious institutions. The term "religious institutions" also  
26 | includes any nonprofit corporation that is qualified as  
27 | nonprofit under s. 501(c)(3) of the Internal Revenue Code of  
28 | 1986, as amended, and that owns and operates a Florida  
29 | television station, at least 90 percent of the programming of  
30 | which station consists of programs of a religious nature and  
31 | the financial support for which, exclusive of receipts for



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

18 (n) Veterans' organizations.--

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

23 2. As used in this paragraph, the term "veterans'  
24 organizations" means nationally chartered or recognized  
25 veterans' organizations, including, but not limited to,  
26 Florida chapters of the Paralyzed Veterans of America,  
27 Catholic War Veterans of the U.S.A., Jewish War Veterans of  
28 the U.S.A., and the Disabled American Veterans, Department of  
29 Florida, Inc., which hold current exemptions from federal  
30 income tax under s. 501(c)(4) or (19) of the Internal Revenue  
31 Code of 1986, as amended.

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

4           (p) Section 501(c)(3) organizations.--Also exempt from  
5 the tax imposed by this chapter are sales or leases to  
6 organizations determined by the Internal Revenue Service to be  
7 currently exempt from federal income tax pursuant to s.  
8 501(c)(3) of the Internal Revenue Code of 1986, as amended,  
9 when such leases or purchases are used in carrying on their  
10 customary nonprofit activities.

11           (q) Resource recovery equipment.--Also exempt is  
12 resource recovery equipment which is owned and operated by or  
13 on behalf of any county or municipality, certified by the  
14 Department of Environmental Protection under the provisions of  
15 s. 403.715.

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

26           ~~(s) Tasting beverages.--Vinous and alcoholic beverages~~  
27 ~~provided by distributors or vendors for the purpose of "wine~~  
28 ~~tasting" and "spirituous beverage tasting" as contemplated~~  
29 ~~under the provisions of ss. 564.06 and 565.12, respectively,~~  
30 ~~are exempt from the tax imposed by this chapter.~~

31           (s)~~(t)~~ Boats temporarily docked in state.--

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

1 repair facility must, within 72 hours after the date of  
2 release, have in its possession a copy of the release form  
3 which shows the date of release and any other information the  
4 department requires. The repair facility shall maintain a log  
5 that documents all alterations, additions, repairs, and sea  
6 trials during the time the boat is under the care, custody,  
7 and control of the facility. The affidavit shall be  
8 maintained by the registered repair facility as part of its  
9 records for as long as required by s. 213.35. When, within 6  
10 months after the date of its purchase, a boat is brought into  
11 this state under this paragraph, the 6-month period provided  
12 in s. 212.05(1)(a)2. or s. 212.06(8) shall be tolled.

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

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

22         4. As used in this paragraph, "registered repair  
23 facility" means:

24             a. A full-service facility that:

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

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

29                 (III) Has adequate piers and storage facilities to  
30 provide safe berthing of vessels in its care, custody, and  
31 control; and

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

4 b. A marina that:

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

6 (II) Has adequate piers and storage facilities to  
7 provide safe berthing of vessels in its care, custody, and  
8 control; and

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

11 c. A shoreside facility that:

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

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

16 (III) Has necessary shops and equipment to provide  
17 repairs or warranty work.

18 (t)~~(u)~~ Volunteer fire departments.--Also exempt are  
19 firefighting and rescue service equipment and supplies  
20 purchased by volunteer fire departments, duly chartered under  
21 the Florida Statutes as corporations not for profit.

22 ~~(v) Professional services.--~~

23 ~~1. Also exempted are professional, insurance, or~~  
24 ~~personal service transactions that involve sales as~~  
25 ~~inconsequential elements for which no separate charges are~~  
26 ~~made.~~

27 ~~2. The personal service transactions exempted pursuant~~  
28 ~~to subparagraph 1. do not exempt the sale of information~~  
29 ~~services involving the furnishing of printed, mimeographed, or~~  
30 ~~multigraphed matter, or matter duplicating written or printed~~  
31 ~~matter in any other manner, other than professional services~~

1 ~~and services of employees, agents, or other persons acting in~~  
2 ~~a representative or fiduciary capacity or information services~~  
3 ~~furnished to newspapers and radio and television stations. As~~  
4 ~~used in this subparagraph, the term "information services"~~  
5 ~~includes the services of collecting, compiling, or analyzing~~  
6 ~~information of any kind or nature and furnishing reports~~  
7 ~~thereof to other persons.~~

8 ~~3. This exemption does not apply to any service~~  
9 ~~warranty transaction taxable under s. 212.0506.~~

10 ~~4. This exemption does not apply to any service~~  
11 ~~transaction taxable under s. 212.05(1)(j).~~

12 ~~(u)(w) Certain newspaper, magazine, and newsletter~~  
13 ~~subscriptions, shoppers, and community newspapers.--Likewise~~  
14 ~~exempt are newspaper, magazine, and newsletter subscriptions~~  
15 ~~in which the product is delivered to the customer by mail.~~  
16 ~~Also Exempt are free, circulated publications that are~~  
17 ~~published on a regular basis, the content of which is~~  
18 ~~primarily advertising, and that are distributed through the~~  
19 ~~mail, home delivery, or newsstands. The exemption for~~  
20 ~~newspaper, magazine, and newsletter subscriptions which is~~  
21 ~~provided in this paragraph applies only to subscriptions~~  
22 ~~entered into after March 1, 1997.~~

23 ~~(v)(x) Sporting equipment brought into the~~  
24 ~~state.--Sporting equipment brought into Florida, for a period~~  
25 ~~of not more than 4 months in any calendar year, used by an~~  
26 ~~athletic team or an individual athlete in a sporting event is~~  
27 ~~exempt from the use tax if such equipment is removed from the~~  
28 ~~state within 7 days after the completion of the event.~~

29 ~~(y) Charter fishing vessels.--The charge for~~  
30 ~~chartering any boat or vessel, with the crew furnished, solely~~  
31 ~~for the purpose of fishing is exempt from the tax imposed~~

1 ~~under s. 212.04 or s. 212.05. This exemption does not apply~~  
2 ~~to any charge to enter or stay upon any "head-boat," party~~  
3 ~~boat, or other boat or vessel. Nothing in this paragraph~~  
4 ~~shall be construed to exempt any boat from sales or use tax~~  
5 ~~upon the purchase thereof except as provided in paragraph (t)~~  
6 ~~and s. 212.05.~~

7 (w)~~(z)~~ Vending machines sponsored by nonprofit or  
8 charitable organizations.--Also exempt are food or drinks for  
9 human consumption sold for 25 cents or less through a  
10 coin-operated vending machine sponsored by a nonprofit  
11 corporation qualified as nonprofit pursuant to s. 501(c)(3) or  
12 (4) of the Internal Revenue Code of 1986, as amended.

13 (x)~~(aa)~~ Certain commercial vehicles.--Also exempt is  
14 the sale, lease, or rental of a commercial motor vehicle as  
15 defined in s. 207.002(2), when the following conditions are  
16 met:

- 17 1. The sale, lease, or rental occurs between two
- 18 commonly owned and controlled corporations;
- 19 2. Such vehicle was titled and registered in this
- 20 state at the time of the sale, lease, or rental; and
- 21 3. Florida sales tax was paid on the acquisition of
- 22 such vehicle by the seller, lessor, or renter.

23 (y)~~(bb)~~ Community cemeteries.--Also exempt are  
24 purchases by any nonprofit corporation that has qualified  
25 under s. 501(c)(13) of the Internal Revenue Code of 1986, as  
26 amended, and is operated for the purpose of maintaining a  
27 cemetery that was donated to the community by deed.

28 (z)~~(cc)~~ Works of art.--

- 29 1. Also exempt are works of art sold to or used by an
- 30 educational institution.

31

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

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

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

25           5. The exemptions provided by this paragraph are  
26 allowed only if the person who purchased the work of art gives  
27 to the vendor an affidavit meeting the requirements,  
28 established by rule, to document entitlement to the exemption.  
29 The person who purchased the work of art shall forward a copy  
30 of such affidavit to the Department of Revenue at the time it  
31 is issued to the vendor.



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

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

20           8. For purposes of the exemptions provided by this  
21 paragraph, the term:

22           a. "Educational institutions" includes state  
23 tax-supported, parochial, church, and nonprofit private  
24 schools, colleges, or universities that conduct regular  
25 classes and courses of study required for accreditation by or  
26 membership in the Southern Association of Colleges and  
27 Schools, the Florida Council of Independent Schools, or the  
28 Florida Association of Christian Colleges and Schools, Inc.;  
29 nonprofit private schools that conduct regular classes and  
30 courses of study accepted for continuing education credit by a  
31 board of the Division of Medical Quality Assurance of the

1 Department of Health; or nonprofit libraries, art galleries,  
2 performing arts centers that provide educational programs to  
3 school children, which programs involve performances or other  
4 educational activities at the performing arts center and serve  
5 a minimum of 50,000 school children a year, and museums open  
6 to the public.

7 b. "Work of art" includes pictorial representations,  
8 sculpture, jewelry, antiques, stamp collections and coin  
9 collections, and other tangible personal property, the value  
10 of which is attributable predominantly to its artistic,  
11 historical, political, cultural, or social importance.

12 (aa)~~(dd)~~ Taxicab leases.--The lease of or license to  
13 use a taxicab or taxicab-related equipment and services  
14 provided by a taxicab company to an independent taxicab  
15 operator are exempt, provided, however, the exemptions  
16 provided under this paragraph only apply if sales or use tax  
17 has been paid on the acquisition of the taxicab and its  
18 related equipment.

19 (bb)~~(ee)~~ Aircraft repair and maintenance labor  
20 charges.--There shall be exempt from the tax imposed by this  
21 chapter all labor charges for the repair and maintenance of  
22 aircraft of more than 15,000 pounds maximum certified takeoff  
23 weight and rotary wing aircraft of more than 10,000 pounds  
24 maximum certified takeoff weight. Except as otherwise provided  
25 in this chapter, charges for parts and equipment furnished in  
26 connection with such labor charges are taxable.

27 (cc)~~(ff)~~ Certain electricity or steam uses.--

28 1. Subject to the provisions of subparagraph 4.,  
29 charges for electricity or steam used to operate machinery and  
30 equipment at a fixed location in this state when such  
31 machinery and equipment is used to manufacture, process,

1 compound, produce, or prepare for shipment items of tangible  
2 personal property for sale, or to operate pollution control  
3 equipment, recycling equipment, maintenance equipment, or  
4 monitoring or control equipment used in such operations are  
5 exempt to the extent provided in this paragraph. If 75 percent  
6 or more of the electricity or steam used at the fixed location  
7 is used to operate qualifying machinery or equipment, 100  
8 percent of the charges for electricity or steam used at the  
9 fixed location are exempt. If less than 75 percent but 50  
10 percent or more of the electricity or steam used at the fixed  
11 location is used to operate qualifying machinery or equipment,  
12 50 percent of the charges for electricity or steam used at the  
13 fixed location are exempt. If less than 50 percent of the  
14 electricity or steam used at the fixed location is used to  
15 operate qualifying machinery or equipment, none of the charges  
16 for electricity or steam used at the fixed location are  
17 exempt.

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

26           3. Possession by a seller of a written certification  
27 by the purchaser, certifying the purchaser's entitlement to an  
28 exemption permitted by this subsection, relieves the seller  
29 from the responsibility of collecting the tax on the  
30 nontaxable amounts, and the department shall look solely to  
31

1 the purchaser for recovery of such tax if it determines that  
2 the purchaser was not entitled to the exemption.

3 4. Such exemption shall be applied as follows:  
4 beginning July 1, 2000, 100 percent of the charges for such  
5 electricity or steam shall be exempt.

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

14 ~~(gg) Fair associations. -- Also exempt from the tax~~  
15 ~~imposed by this chapter is the sale, use, lease, rental, or~~  
16 ~~grant of a license to use, made directly to or by a fair~~  
17 ~~association, of real or tangible personal property; any charge~~  
18 ~~made by a fair association, or its agents, for parking,~~  
19 ~~admissions, or for temporary parking of vehicles used for~~  
20 ~~sleeping quarters; rentals, subleases, and sublicenses of real~~  
21 ~~or tangible personal property between the owner of the central~~  
22 ~~amusement attraction and any owner of an amusement ride, as~~  
23 ~~those terms are used in ss. 616.15(1)(b) and 616.242(3)(a),~~  
24 ~~for the furnishing of amusement rides at a public fair or~~  
25 ~~exposition; and other transactions of a fair association which~~  
26 ~~are incurred directly by the fair association in the~~  
27 ~~financing, construction, and operation of a fair, exposition,~~  
28 ~~or other event or facility that is authorized by s. 616.08. As~~  
29 ~~used in this paragraph, the terms "fair association" and~~  
30 ~~"public fair or exposition" have the same meaning as those~~  
31 ~~terms are defined in s. 616.001. This exemption does not apply~~

1 ~~to the sale of tangible personal property made by a fair~~  
2 ~~association through an agent or independent contractor; sales~~  
3 ~~of admissions and tangible personal property by a~~  
4 ~~concessionaire, vendor, exhibitor, or licensee; or rentals and~~  
5 ~~subleases of tangible personal property or real property~~  
6 ~~between the owner of the central amusement attraction and a~~  
7 ~~concessionaire, vendor, exhibitor, or licensee, except for the~~  
8 ~~furnishing of amusement rides, which transactions are exempt.~~

9       ~~(dd)(hh)~~ (dd) Citizen support organizations.--Also exempt  
10 from the tax imposed by this chapter are sales or leases to  
11 nonprofit organizations that are incorporated under chapter  
12 617 and that have been designated citizen support  
13 organizations in support of state-funded environmental  
14 programs or the management of state-owned lands in accordance  
15 with s. 20.2551, or to support one or more state parks in  
16 accordance with s. 258.015.

17       ~~(ee)(ii)~~ (ee) Florida Folk Festival.--There shall be exempt  
18 from the tax imposed by this chapter income of a revenue  
19 nature received from admissions to the Florida Folk Festival  
20 held pursuant to s. 267.16 at the Stephen Foster State Folk  
21 Culture Center, a unit of the state park system.

22       ~~(ff)(jj)~~ (ff) Solar energy systems.--Also exempt are solar  
23 energy systems or any component thereof. The Florida Solar  
24 Energy Center shall from time to time certify to the  
25 department a list of equipment and requisite hardware  
26 considered to be a solar energy system or a component thereof.  
27 This exemption is repealed July 1, 2005.

28       ~~(gg)(kk)~~ (gg) Nonprofit cooperative hospital  
29 laundries.--Also exempt from the tax imposed by this chapter  
30 are sales or leases to nonprofit organizations that are  
31 incorporated under chapter 617 and which are treated, for

1 federal income tax purposes, as cooperatives under subchapter  
2 T of the Internal Revenue Code, whose sole purpose is to offer  
3 laundry supplies and services to their members, which members  
4 must all be exempt from federal income tax pursuant to s.  
5 501(c)(3) of the Internal Revenue Code.

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

19 ~~(mm) Nonprofit corporation conducting the correctional~~  
20 ~~work programs.--Products sold pursuant to s. 946.515 by the~~  
21 ~~corporation organized pursuant to part II of chapter 946 are~~  
22 ~~exempt from the tax imposed by this chapter. This exemption~~  
23 ~~applies retroactively to July 1, 1983.~~

24 (ii)~~(mm)~~ Parent-teacher organizations, parent-teacher  
25 associations, and schools having grades K through  
26 12.--Parent-teacher organizations and associations qualified  
27 as educational institutions as defined by sub-subparagraph  
28 (cc)8.a. associated with schools having grades K through 12,  
29 and schools having grades K through 12, may pay tax to their  
30 suppliers on the cost price of school materials and supplies  
31 purchased, rented, or leased for resale or rental to students

1 in grades K through 12, of items sold for fundraising  
2 purposes, and of items sold through vending machines located  
3 on the school premises, in lieu of collecting the tax imposed  
4 by this chapter from the purchaser. This paragraph also  
5 applies to food or beverages sold through vending machines  
6 located in the student lunchroom or dining room of a school  
7 having kindergarten through grade 12.

8 ~~(oo) Mobile home lot improvements.--Items purchased by~~  
9 ~~developers for use in making improvements to a mobile home lot~~  
10 ~~owned by the developer may be purchased tax exempt as a sale~~  
11 ~~for resale if made pursuant to a contract that requires the~~  
12 ~~developer to sell a mobile home to a purchaser, place the~~  
13 ~~mobile home on the lot, and make the improvements to the lot~~  
14 ~~for a single lump-sum price. The developer must collect and~~  
15 ~~remit sales tax on the entire lump-sum price.~~

16 (jj)~~(pp)~~ Veterans Administration.--When a veteran of  
17 the armed forces purchases an aircraft, boat, mobile home,  
18 motor vehicle, or other vehicle from a dealer pursuant to the  
19 provisions of 38 U.S.C. s. 3902(a), or any successor provision  
20 of the United States Code, the amount that is paid directly to  
21 the dealer by the Veterans Administration is not taxable.  
22 However, any portion of the purchase price which is paid  
23 directly to the dealer by the veteran is taxable.

24 (kk)~~(qq)~~ Complimentary items.--There is exempt from  
25 the tax imposed by this chapter:

- 26 1. Any food or drink, whether or not cooked or  
27 prepared on the premises, provided without charge as a sample  
28 or for the convenience of customers by a dealer that primarily  
29 sells food product items at retail.

30  
31

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

4  
5 The exemptions in this paragraph do not apply to businesses  
6 with the primary activity of serving prepared meals or  
7 alcoholic beverages for immediate consumption.

8           (ll)~~(rr)~~ Donated foods or beverages.--Any food or  
9 beverage donated by a dealer that sells food products at  
10 retail to a food bank or an organization that holds a current  
11 exemption from federal corporate income tax pursuant to s.  
12 501(c) of the Internal Revenue Code of 1986, as amended, is  
13 exempt from the tax imposed by this chapter.

14           ~~(ss) Racing dogs.--The sale of a racing dog by its~~  
15 ~~owner is exempt if the owner is also the breeder of the~~  
16 ~~animal.~~

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

25           (nn)~~(uu)~~ Aircraft sales or leases.--The sale or lease  
26 of an aircraft of more than 15,000 pounds maximum certified  
27 takeoff weight for use by a common carrier is exempt from the  
28 tax imposed by this chapter. As used in this paragraph,  
29 "common carrier" means an airline operating under Federal  
30 Aviation Administration regulations contained in Title 14,

31



1 chapter I, part 121 or part 129 of the Code of Federal  
2 Regulations.

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

10 (pp)~~(ww)~~ Library cooperatives.--Sales or leases to  
11 library cooperatives certified under s. 257.41(2) are exempt  
12 from the tax imposed by this chapter.

13 (qq)~~(xx)~~ Advertising agencies.--

14 1. As used in this paragraph, the term "advertising  
15 agency" means any firm that is primarily engaged in the  
16 business of providing advertising materials and services to  
17 its clients.

18 2. The sale of advertising services by an advertising  
19 agency to a client is exempt from the tax imposed by this  
20 chapter. Also exempt from the tax imposed by this chapter are  
21 items of tangible personal property such as photographic  
22 negatives and positives, videos, films, galleys, mechanicals,  
23 veloxes, illustrations, digital audiotapes, analog tapes,  
24 printed advertisement copies, compact discs for the purpose of  
25 recording, digital equipment, and artwork and the services  
26 used to produce those items if the items are:

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

30  
31

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

4           c. Sold by an advertising agency to its clients in the  
5 performance of advertising services for the clients, whether  
6 or not the charges for these items are marked up or separately  
7 stated.

8  
9 The exemption provided by this subparagraph does not apply  
10 when tangible personal property such as film, paper, and  
11 videotapes is purchased to create items such as photographic  
12 negatives and positives, videos, films, galleys, mechanicals,  
13 veloxes, illustrations, and artwork that are sold to an  
14 advertising agency or produced in-house by an advertising  
15 agency on behalf of its clients.

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

25           4. For items purchased by an advertising agency and  
26 exempt from tax under this paragraph, possession of an  
27 exemption certificate from the advertising agency certifying  
28 the agency's entitlement to exemption relieves the vendor of  
29 the responsibility of collecting the tax on the sale of such  
30 items to the advertising agency, and the department shall look  
31 solely to the advertising agency for recovery of tax if it

1 determines that the advertising agency was not entitled to the  
2 exemption.

3           5. The exemptions provided by this paragraph apply  
4 retroactively, except that all taxes that have been collected  
5 must be remitted, and taxes that have been remitted before  
6 July 1, 1999, on transactions that are subject to exemption  
7 under this paragraph are not subject to refund.

8           6. The department may adopt rules that interpret or  
9 define the provisions of these exemptions and provide examples  
10 regarding the application of these exemptions.

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

18           ~~(ss)(zz)~~ (ss) Certain repair and labor charges.--

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

27           2. This exemption applies only to industries  
28 classified under SIC Industry Major Group Numbers 10, 12, 13,  
29 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,  
30 35, 36, 37, 38, and 39 and Industry Group Number 212. As used  
31 in this subparagraph, "SIC" means those classifications

1 contained in the Standard Industrial Classification Manual,  
2 1987, as published by the Office of Management and Budget,  
3 Executive Office of the President.

4 3. This exemption shall be applied as follows:

5 a. Beginning July 1, 2000, 50 percent of such charges  
6 for repair parts and labor shall be exempt.

7 b. Beginning July 1, 2001, 75 percent of such charges  
8 for repair parts and labor shall be exempt.

9 c. Beginning July 1, 2002, 100 percent of such charges  
10 for repair parts and labor shall be exempt.

11 (tt)~~(aaa)~~ Film and other printing supplies.--Also  
12 exempt are the following materials purchased, produced, or  
13 created by businesses classified under SIC Industry Numbers  
14 275, 276, 277, 278, or 279 for use in producing graphic matter  
15 for sale: film, photographic paper, dyes used for embossing  
16 and engraving, artwork, typography, lithographic plates, and  
17 negatives. As used in this paragraph, "SIC" means those  
18 classifications contained in the Standard Industrial  
19 Classification Manual, 1987, as published by the Office of  
20 Management and Budget, Executive Office of the President.

21 (uu)~~(bbb)~~ People-mover systems.--People-mover systems,  
22 and parts thereof, which are purchased or manufactured by  
23 contractors employed either directly by or as agents for the  
24 United States Government, the state, a county, a municipality,  
25 a political subdivision of the state, or the public operator  
26 of a public-use airport as defined by s. 332.004(14) are  
27 exempt from the tax imposed by this chapter when the systems  
28 or parts go into or become part of publicly owned facilities.  
29 In the case of contractors who manufacture and install such  
30 systems and parts, this exemption extends to the purchase of  
31 component parts and all other manufacturing and fabrication

1 costs. The department may provide a form to be used by  
2 contractors to provide to suppliers of people-mover systems or  
3 parts to certify the contractors' eligibility for the  
4 exemption provided under this paragraph. As used in this  
5 paragraph, "people-mover systems" includes wheeled passenger  
6 vehicles and related control and power distribution systems  
7 that are part of a transportation system for use by the  
8 general public, regardless of whether such vehicles are  
9 operator-controlled or driverless, self-propelled or propelled  
10 by external power and control systems, or conducted on roads,  
11 rails, guidebeams, or other permanent structures that are an  
12 integral part of such transportation system. "Related control  
13 and power distribution systems" includes any electrical or  
14 electronic control or signaling equipment, but does not  
15 include the embedded wiring, conduits, or cabling used to  
16 transmit electrical or electronic signals among such control  
17 equipment, power distribution equipment, signaling equipment,  
18 and wheeled vehicles.

19 (vv)~~(ccc)~~ Organizations providing crime prevention,  
20 drunk driving prevention, or juvenile delinquency prevention  
21 services.--Sales or leases to any nonprofit organization that  
22 provides crime prevention services, drunk driving prevention  
23 services, or juvenile delinquency prevention services that  
24 benefit society as a whole are exempt from the tax imposed by  
25 this chapter, if the organization holds a current exemption  
26 from federal income tax under s. 501(c)(3) of the Internal  
27 Revenue Code and the organization has as its sole or primary  
28 purpose the provision of services that contribute to the  
29 prevention of hardships caused by crime, drunk driving, or  
30 juvenile delinquency.

31

1           (ww)~~(ddd)~~ Florida Fire and Emergency Services  
2 Foundation.--Sales or leases to the Florida Fire and Emergency  
3 Services Foundation are exempt from the tax imposed by this  
4 chapter.

5           ~~(eee) Railroad roadway materials.--Also exempt from~~  
6 ~~the tax imposed by this chapter are railroad roadway materials~~  
7 ~~used in the construction, repair, or maintenance of railways.~~  
8 ~~Railroad roadway materials shall include rails, ties,~~  
9 ~~ballasts, communication equipment, signal equipment, power~~  
10 ~~transmission equipment, and any other track materials.~~

11  
12 Exemptions provided to any entity by this subsection shall not  
13 inure to any transaction otherwise taxable under this chapter  
14 when payment is made by a representative or employee of such  
15 entity by any means, including, but not limited to, cash,  
16 check, or credit card even when that representative or  
17 employee is subsequently reimbursed by such entity.

18           ~~(8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE~~  
19 ~~OR FOREIGN COMMERCE.--~~

20           ~~(a) The sale or use of vessels and parts thereof used~~  
21 ~~to transport persons or property in interstate or foreign~~  
22 ~~commerce, including commercial fishing vessels, is subject to~~  
23 ~~the taxes imposed in this chapter only to the extent provided~~  
24 ~~herein. The basis of the tax shall be the ratio of intrastate~~  
25 ~~mileage to interstate or foreign mileage traveled by the~~  
26 ~~carrier's vessels which were used in interstate or foreign~~  
27 ~~commerce and which had at least some Florida mileage during~~  
28 ~~the previous fiscal year. The ratio would be determined at~~  
29 ~~the close of the carrier's fiscal year. This ratio shall be~~  
30 ~~applied each month to the total Florida purchases of such~~  
31 ~~vessels and parts thereof which are used in Florida to~~

1 ~~establish that portion of the total used and consumed in~~  
2 ~~intrastate movement and subject to the tax at the applicable~~  
3 ~~rate. The basis for imposition of any discretionary surtax~~  
4 ~~shall be as set forth in s. 212.054. Items, appropriate to~~  
5 ~~carry out the purposes for which a vessel is designed or~~  
6 ~~equipped and used, purchased by the owner, operator, or agent~~  
7 ~~of a vessel for use on board such vessel shall be deemed to be~~  
8 ~~parts of the vessel upon which the same are used or consumed.~~  
9 ~~Vessels and parts thereof used to transport persons or~~  
10 ~~property in interstate and foreign commerce are hereby~~  
11 ~~determined to be susceptible to a distinct and separate~~  
12 ~~classification for taxation under the provisions of this~~  
13 ~~chapter. Vessels and parts thereof used exclusively in~~  
14 ~~intrastate commerce do not qualify for the proration of tax.~~

15 ~~(b) The partial exemption provided for in this~~  
16 ~~subsection shall not be allowed unless the purchaser signs an~~  
17 ~~affidavit stating that the item or items to be partially~~  
18 ~~exempted are for the exclusive use designated herein and~~  
19 ~~setting forth the extent of such partial exemption. Any~~  
20 ~~person furnishing a false affidavit to such effect for the~~  
21 ~~purpose of evading payment of any tax imposed under this~~  
22 ~~chapter is subject to the penalties set forth in s. 212.12 and~~  
23 ~~as otherwise provided by law.~~

24 ~~(c) It is the intent of the Legislature that neither~~  
25 ~~subsection (4) nor this subsection shall be construed as~~  
26 ~~imposing the tax provided by this chapter on vessels used as~~  
27 ~~common carriers, contract carriers, or private carriers,~~  
28 ~~engaged in interstate or foreign commerce, except to the~~  
29 ~~extent provided by the pro rata formula provided in subsection~~  
30 ~~(4) and in paragraph (a).~~

31

1           ~~(9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES~~  
2 ~~ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.--~~

3           ~~(a) Railroads which are licensed as common carriers by~~  
4 ~~the Interstate Commerce Commission and parts thereof used to~~  
5 ~~transport persons or property in interstate or foreign~~  
6 ~~commerce are subject to tax imposed in this chapter only to~~  
7 ~~the extent provided herein. The basis of the tax shall be the~~  
8 ~~ratio of intrastate mileage to interstate or foreign mileage~~  
9 ~~traveled by the carrier during the previous fiscal year of the~~  
10 ~~carrier. Such ratio is to be determined at the close of the~~  
11 ~~carrier's fiscal year. This ratio shall be applied each month~~  
12 ~~to the total purchases of the railroad which are used in this~~  
13 ~~state to establish that portion of the total used and consumed~~  
14 ~~in intrastate movement and subject to tax under this chapter.~~  
15 ~~The basis for imposition of any discretionary surtax is set~~  
16 ~~forth in s. 212.054. Railroads which are licensed as common~~  
17 ~~carriers by the Interstate Commerce Commission and parts~~  
18 ~~thereof used to transport persons or property in interstate~~  
19 ~~and foreign commerce are hereby determined to be susceptible~~  
20 ~~to a distinct and separate classification for taxation under~~  
21 ~~the provisions of this chapter.~~

22           ~~(b) Motor vehicles which are engaged in interstate~~  
23 ~~commerce as common carriers, and parts thereof, used to~~  
24 ~~transport persons or property in interstate or foreign~~  
25 ~~commerce are subject to tax imposed in this chapter only to~~  
26 ~~the extent provided herein. The basis of the tax shall be the~~  
27 ~~ratio of intrastate mileage to interstate or foreign mileage~~  
28 ~~traveled by the carrier's motor vehicles which were used in~~  
29 ~~interstate or foreign commerce and which had at least some~~  
30 ~~Florida mileage during the previous fiscal year of the~~  
31 ~~carrier. Such ratio is to be determined at the close of the~~



1 ~~carrier's fiscal year. This ratio shall be applied each month~~  
2 ~~to the total purchases of such motor vehicles and parts~~  
3 ~~thereof which are used in this state to establish that portion~~  
4 ~~of the total used and consumed in intrastate movement and~~  
5 ~~subject to tax under this chapter. The basis for imposition of~~  
6 ~~any discretionary surtax is set forth in s. 212.054. Motor~~  
7 ~~vehicles which are engaged in interstate commerce, and parts~~  
8 ~~thereof, used to transport persons or property in interstate~~  
9 ~~and foreign commerce are hereby determined to be susceptible~~  
10 ~~to a distinct and separate classification for taxation under~~  
11 ~~the provisions of this chapter. Motor vehicles and parts~~  
12 ~~thereof used exclusively in intrastate commerce do not qualify~~  
13 ~~for the proration of tax. For purposes of this paragraph,~~  
14 ~~parts of a motor vehicle engaged in interstate commerce~~  
15 ~~include a separate tank not connected to the fuel supply~~  
16 ~~system of the motor vehicle into which diesel fuel is placed~~  
17 ~~to operate a refrigeration unit or other equipment.~~

18 (8)~~(10)~~ PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO  
19 RESIDENT OF ANOTHER STATE.--The tax collected on the sale of a  
20 new or used motor vehicle in this state to a resident of  
21 another state shall be an amount equal to the sales tax which  
22 would be imposed on such sale under the laws of the state of  
23 which the purchaser is a resident, except that such tax shall  
24 not exceed the tax that would otherwise be imposed under this  
25 chapter. At the time of the sale, the purchaser shall execute  
26 a notarized statement of his or her intent to license the  
27 vehicle in the state of which the purchaser is a resident  
28 within 45 days of the sale and of the fact of the payment to  
29 the State of Florida of a sales tax in an amount equivalent to  
30 the sales tax of his or her state of residence and shall  
31 submit the statement to the appropriate sales tax collection

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

14 (9)~~(11)~~ PARTIAL EXEMPTION; FLYABLE AIRCRAFT.--

15 (a) The tax imposed on the sale by a manufacturer of  
16 flyable aircraft, who designs such aircraft, which sale may  
17 include necessary equipment and modifications placed on such  
18 flyable aircraft prior to delivery by the manufacturer, shall  
19 be an amount equal to the sales tax which would be imposed on  
20 such sale under the laws of the state in which the aircraft  
21 will be domiciled.

22 (b) This partial exemption applies only if the  
23 purchaser is a resident of another state who will not use the  
24 aircraft in this state, or if the purchaser is a resident of  
25 another state and uses the aircraft in interstate or foreign  
26 commerce, or if the purchaser is a resident of a foreign  
27 country.

28 (c) The maximum tax collectible under this subsection  
29 may not exceed 6 percent of the sales price of such aircraft.  
30 No Florida tax may be imposed on the sale of such aircraft if  
31 the state in which the aircraft will be domiciled does not

1 allow Florida sales or use tax to be credited against its  
2 sales or use tax. Furthermore, no tax may be imposed on the  
3 sale of such aircraft if the state in which the aircraft will  
4 be domiciled has enacted a sales and use tax exemption for  
5 flyable aircraft or if the aircraft will be domiciled outside  
6 the United States.

7 (d) The purchaser shall execute a sworn affidavit  
8 attesting that he or she is not a resident of this state and  
9 stating where the aircraft will be domiciled. If the aircraft  
10 is subsequently used in this state within 6 months of the time  
11 of purchase, in violation of the intent of this subsection,  
12 the purchaser shall be liable for payment of the full use tax  
13 imposed by this chapter and shall be subject to the penalty  
14 imposed by s. 212.12(2), which penalty shall be mandatory.  
15 Notwithstanding the provisions of this paragraph, the owner of  
16 an aircraft purchased pursuant to this subsection may permit  
17 the aircraft to be returned to this state for repairs within 6  
18 months after the date of sale without the aircraft being in  
19 violation of the law and without incurring liability for  
20 payment of tax or penalty on the purchase price of the  
21 aircraft, so long as the aircraft is removed from this state  
22 within 20 days after the completion of the repairs and such  
23 removal can be proven by invoices for fuel, tie-down, or  
24 hangar charges issued by out-of-state vendors or suppliers or  
25 similar documentation.

26 (10)~~(12)~~ PARTIAL EXEMPTION; MASTER TAPES, RECORDS,  
27 FILMS, OR VIDEO TAPES.--

28 (a) There are exempt from the taxes imposed by this  
29 chapter the gross receipts from the sale or lease of, and the  
30 storage, use, or other consumption in this state of, master  
31 tapes or master records embodying sound, or master films or

1 master video tapes; except that amounts paid to recording  
2 studios or motion picture or television studios for the  
3 tangible elements of such master tapes, records, films, or  
4 video tapes are taxable as otherwise provided in this chapter.  
5 This exemption will inure to the taxpayer upon presentation of  
6 the certificate of exemption issued to the taxpayer under the  
7 provisions of s. 288.1258.

8 (b) For the purposes of this subsection, the term:

9 1. "Amounts paid for the tangible elements" does not  
10 include any amounts paid for the copyrightable, artistic, or  
11 other intangible elements of such master tapes, records,  
12 films, or video tapes, whether designated as royalties or  
13 otherwise, including, but not limited to, services rendered in  
14 producing, fabricating, processing, or imprinting tangible  
15 personal property or any other services or production expenses  
16 in connection therewith which may otherwise be construed as  
17 constituting a "sale" under s. 212.02.

18 2. "Master films or master video tapes" means films or  
19 video tapes utilized by the motion picture and television  
20 production industries in making visual images for  
21 reproduction.

22 3. "Master tapes or master records embodying sound"  
23 means tapes, records, and other devices utilized by the  
24 recording industry in making recordings embodying sound.

25 4. "Motion picture or television studio" means a  
26 facility in which film or video tape productions or parts of  
27 productions are made and which contains the necessary  
28 equipment and personnel for this purpose and includes a mobile  
29 unit or vehicle that is equipped in much the same manner as a  
30 stationary studio and used in the making of film or video tape  
31 productions.

1           5. "Recording studio" means a place where, by means of  
2 mechanical or electronic devices, voices, music, or other  
3 sounds are transmitted to tapes, records, or other devices  
4 capable of reproducing sound.

5           6. "Recording industry" means any person engaged in an  
6 occupation or business of making recordings embodying sound  
7 for a livelihood or for a profit.

8           7. "Motion picture or television production industry"  
9 means any person engaged in an occupation or business for a  
10 livelihood or for profit of making visual motion picture or  
11 television visual images for showing on screen or television  
12 for theatrical, commercial, advertising, or educational  
13 purposes.

14           (11)~~(13)~~ No transactions shall be exempt from the tax  
15 imposed by this chapter except those expressly exempted  
16 herein. All laws granting tax exemptions, to the extent they  
17 may be inconsistent or in conflict with this chapter,  
18 including, but not limited to, the following designated laws,  
19 shall yield to and be superseded by the provisions of this  
20 subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31,  
21 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 315.11,  
22 348.65, 348.762, 349.13, 403.1834, 616.07, and 623.09, and the  
23 following Laws of Florida, acts of the year indicated: s. 31,  
24 chapter 30843, 1955; s. 19, chapter 30845, 1955; s. 12,  
25 chapter 30927, 1955; s. 8, chapter 31179, 1955; s. 15, chapter  
26 31263, 1955; s. 13, chapter 31343, 1955; s. 16, chapter  
27 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-2261; s.  
28 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11, chapter  
29 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446; and  
30 s. 10, chapter 67-1681. This subsection does not supersede the  
31

1 authority of a local government to adopt financial and local  
2 government incentives pursuant to s. 163.2517.

3 (12)~~(14)~~ TECHNICAL ASSISTANCE ADVISORY COMMITTEE.--The  
4 department shall establish a technical assistance advisory  
5 committee with public and private sector members, including  
6 representatives of both manufacturers and retailers, to advise  
7 the Department of Revenue and the Department of Health in  
8 determining the taxability of specific products and product  
9 lines pursuant to subsection (1) and paragraph (2)(a). In  
10 determining taxability and in preparing a list of specific  
11 products and product lines that are or are not taxable, the  
12 committee shall not be subject to the provisions of chapter  
13 120. Private sector members shall not be compensated for  
14 serving on the committee.

15 (13)~~(15)~~ ELECTRICAL ENERGY USED IN AN ENTERPRISE  
16 ZONE.--

17 (a) Beginning July 1, 1995, charges for electrical  
18 energy used by a qualified business at a fixed location in an  
19 enterprise zone in a municipality which has enacted an  
20 ordinance pursuant to s. 166.231(8) which provides for  
21 exemption of municipal utility taxes on such businesses or in  
22 an enterprise zone jointly authorized by a county and a  
23 municipality which has enacted an ordinance pursuant to s.  
24 166.231(8) which provides for exemption of municipal utility  
25 taxes on such businesses shall receive an exemption equal to  
26 50 percent of the tax imposed by this chapter, or, if no less  
27 than 20 percent of the employees of the business are residents  
28 of an enterprise zone, excluding temporary and part-time  
29 employees, the exemption shall be equal to 100 percent of the  
30 tax imposed by this chapter. A qualified business may receive  
31 such exemption for a period of 5 years from the billing period

1 beginning not more than 30 days following notification to the  
2 applicable utility company by the department that an exemption  
3 has been authorized pursuant to this subsection and s.  
4 166.231(8).

5 (b) To receive this exemption, a business must file an  
6 application, with the enterprise zone development agency  
7 having jurisdiction over the enterprise zone where the  
8 business is located, on a form provided by the department for  
9 the purposes of this subsection and s. 166.231(8). The  
10 application shall be made under oath and shall include:

11 1. The name and location of the business.

12 2. The identifying number assigned pursuant to s.  
13 290.0065 to the enterprise zone in which the business is  
14 located.

15 3. The date on which electrical service is to be first  
16 initiated to the business.

17 4. The name and mailing address of the entity from  
18 which electrical energy is to be purchased.

19 5. The date of the application.

20 6. The name of the city in which the business is  
21 located.

22 7. If applicable, the name and address of each  
23 permanent employee of the business including, for each  
24 employee who is a resident of an enterprise zone, the  
25 identifying number assigned pursuant to s. 290.0065 to the  
26 enterprise zone in which the employee resides.

27 8. Whether the business is a small business as defined  
28 by s. 288.703(1).

29 (c) Within 10 working days after receipt of an  
30 application, the enterprise zone development agency shall  
31 review the application to determine if it contains all

1 information required pursuant to paragraph (b) and meets the  
2 criteria set out in this subsection. The agency shall certify  
3 all applications that contain the information required  
4 pursuant to paragraph (b) and meet the criteria set out in  
5 this subsection as eligible to receive an exemption. If  
6 applicable, the agency shall also certify if 20 percent of the  
7 employees of the business are residents of an enterprise zone,  
8 excluding temporary and part-time employees. The certification  
9 shall be in writing, and a copy of the certification shall be  
10 transmitted to the executive director of the Department of  
11 Revenue. The applicant shall be responsible for forwarding a  
12 certified application to the department within 6 months after  
13 the occurrence of the appropriate qualifying provision set out  
14 in paragraph (f).

15 (d) If, in a subsequent audit conducted by the  
16 department, it is determined that the business did not meet  
17 the criteria mandated in this subsection, the amount of taxes  
18 exempted shall immediately be due and payable to the  
19 department by the business, together with the appropriate  
20 interest and penalty, computed from the due date of each bill  
21 for the electrical energy purchased as exempt under this  
22 subsection, in the manner prescribed by this chapter.

23 (e) The department shall adopt rules governing  
24 applications for, issuance of, and the form of applications  
25 for the exemption authorized in this subsection and provisions  
26 for recapture of taxes exempted under this subsection, and the  
27 department may establish guidelines as to qualifications for  
28 exemption.

29 (f) For the purpose of the exemption provided in this  
30 subsection, the term "qualified business" means a business  
31 which is:



1           1. First occupying a new structure to which electrical  
2 service, other than that used for construction purposes, has  
3 not been previously provided or furnished;

4           2. Newly occupying an existing, remodeled, renovated,  
5 or rehabilitated structure to which electrical service, other  
6 than that used for remodeling, renovation, or rehabilitation  
7 of the structure, has not been provided or furnished in the  
8 three preceding billing periods; or

9           3. Occupying a new, remodeled, rebuilt, renovated, or  
10 rehabilitated structure for which a refund has been granted  
11 pursuant to paragraph (5)(g).

12           (g) This subsection shall expire and be void on  
13 December 31, 2005, except that:

14           1. Paragraph (d) shall not expire; and

15           2. Any qualified business which has been granted an  
16 exemption under this subsection prior to that date shall be  
17 allowed the full benefit of this exemption as if this  
18 subsection had not expired on that date.

19           (14)~~(16)~~ EXEMPTIONS; SPACE ACTIVITIES.--

20           (a) There shall be exempt from the tax imposed by this  
21 chapter:

22           1. The sale, lease, use, storage, consumption, or  
23 distribution in this state of any orbital space facility,  
24 space propulsion system, or space vehicle, satellite, or  
25 station of any kind possessing space flight capacity,  
26 including the components thereof.

27           2. The sale, lease, use, storage, consumption, or  
28 distribution in this state of tangible personal property  
29 placed on or used aboard any orbital space facility, space  
30 propulsion system, or space vehicle, satellite, or station of  
31 any kind, irrespective of whether such tangible personal

1 property is returned to this state for subsequent use,  
2 storage, or consumption in any manner. This exemption is not  
3 affected by the failure of a launch to occur, or the  
4 destruction of a launch vehicle or any components thereof.

5 (b) This subsection shall be strictly construed and  
6 enforced.

7 (15)~~(17)~~ EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.--

8 (a) Subject to paragraph (d), the tax imposed by this  
9 chapter does not apply to the sale to or use by a government  
10 contractor of overhead materials. The term "government  
11 contractor" includes prime contractors and subcontractors.

12 (b) As used in this subsection, the term "overhead  
13 materials" means all tangible personal property, other than  
14 qualifying property as defined in s. 212.02(14)(a) and  
15 electricity, which is used or consumed in the performance of a  
16 qualifying contract, title to which property vests in or  
17 passes to the government under the contract.

18 (c) As used in this subsection and in s.  
19 212.02(14)(a), the term "qualifying contract" means a contract  
20 with the United States Department of Defense or the National  
21 Aeronautics and Space Administration, or a subcontract  
22 thereunder, but does not include a contract or subcontract for  
23 the repair, alteration, improvement, or construction of real  
24 property, except to the extent that purchases under such a  
25 contract would otherwise be exempt from the tax imposed by  
26 this chapter.

27 (d) The exemption provided in this subsection applies  
28 as follows:

29 1. Beginning July 1, 2000, the tax imposed by this  
30 chapter shall be applicable to 60 percent of the sales price  
31 or cost price of such overhead materials.

1           2. Beginning July 1, 2001, the tax imposed by this  
2 chapter shall be applicable to 40 percent of the sales price  
3 or cost price of such overhead materials.

4           3. Beginning July 1, 2002, the tax imposed by this  
5 chapter shall be applicable to 20 percent of the sales price  
6 or cost price of such overhead materials.

7           4. Beginning July 1, 2003, the entire sales price or  
8 cost price of such overhead materials is exempt from the tax  
9 imposed by this chapter.

10  
11 The exemption provided in this subsection does not apply to  
12 any part of the cost of overhead materials allocated to a  
13 contract that is not a qualifying contract.

14           (e) Possession by a seller of a resale certificate or  
15 direct-pay permit relieves the seller from the responsibility  
16 of collecting the tax, and the department shall look solely to  
17 the contractor for recovery of such tax if it determines that  
18 the contractor was not entitled to the exemption. The  
19 contractor shall self-accrue and remit any applicable sales or  
20 use tax due with respect to overhead materials and with  
21 respect to costs allocable to contracts that are not  
22 qualifying contracts. The department may amend its rules to  
23 reflect the use of resale certificates and direct-pay permits  
24 with respect to the exemption provided for in this subsection.

25           (f) This subsection is not an expression of  
26 legislative intent as to the applicability of any tax to any  
27 sale or use of overhead materials prior to July 1, 1999. In  
28 addition, this subsection does not imply that transactions or  
29 costs that are not described in this subsection are taxable.

30           Section 16. Effective July 1, 2004, section 212.0801,  
31 Florida Statutes, is created to read:

1           212.0801 Sales and use tax on services; specified  
2 exemptions.--  
3           (1) There shall be exempt from the tax imposed by this  
4 chapter the following services:  
5           (a) Services by general physicians (SIC Industry Group  
6 Number 801)  
7           (b) Services by dentists (SIC Industry Group Number  
8 802)  
9           (c) Services by osteopathic physicians (SIC Industry  
10 Group Number 803)  
11           (d) Services by chiropractors, optometrists and other  
12 health practitioners (SIC Industry Group Number 804)  
13           (e) Nursing and personal care facilities services (SIC  
14 Industry Group Number 805)  
15           (f) Hospital services (SIC Industry Group Number 806)  
16           (g) Medical and dental laboratory services (SIC  
17 Industry Group Number 807)  
18           (h) Outpatient care facility services (SIC Industry  
19 Group Number 808)  
20           (i) Other health and allied services (SIC Industry  
21 Group Number 809)  
22           (j) Agricultural services (SIC Major Group Number 07)  
23           (k) Forestry services (SIC Industry Number 0851)  
24           (l) Services by real estate agents (SIC Industry Group  
25 Number 653)  
26           (m) Insurance agents and brokers services (SIC Major  
27 Group Number 64)  
28           (n) Services between members of an affiliated group of  
29 corporations as defined in s. 212.02.  
30           (o) Money lending by banks (SIC Major Group Number 60)  
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- 1           (p) Money lending by nonbank financial institutions  
2 (SIC Major Group Number 61)
- 3           (q) Security and commodity brokers services (SIC Major  
4 Group Number 62)
- 5           (r) Services by insurance carriers (SIC Major Group  
6 Number 63)
- 7           (s) Publishing and printing - newspaper, periodical  
8 and miscellaneous advertising (SIC Industry Group Numbers  
9 271-274)
- 10           (t) Radio and television broadcasting - advertising  
11 (SIC Industry Group Number 483)
- 12           (u) Satellite up-link, down-link, and miscellaneous  
13 communications services (SIC Industry Group Numbers 481-484)
- 14           (v) Newspaper delivery by independent carriers (SIC  
15 Industry Number 5963)
- 16           (w) Services by advertising agencies and advertising  
17 representatives (SIC Industry Numbers 7311 and 7313)
- 18           (x) News and feature syndicates (SIC Industry Number  
19 7383)
- 20           (y) Sewage and garbage collection services and utility  
21 hook-ups (SIC Major Group Number 49)
- 22           (z) Services by educational institutions (SIC Major  
23 Group Number 82)
- 24           (aa) Social services (SIC Major Group Number 83)
- 25           (bb) Government enterprise activity service fees (SIC  
26 Industry Group Number 919)
- 27           (cc) Local and suburban bus transportation services  
28 (SIC Industry Group Number 411)
- 29           (dd) Employee leasing services (SIC Industry Number  
30 7363)
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1           (ee) Legal services rendered by an attorney to a  
2 client to the extent that the right to counsel guaranteed  
3 pursuant to either the Sixth Amendment to the United States  
4 Constitution or s. 16 of Art. I of the State Constitution is  
5 applicable to such legal services. However, this exemption  
6 applies only if the criminal charges brought in the case are  
7 dismissed or the client is ultimately adjudicated not guilty  
8 by a court of competent jurisdiction. This exemption shall be  
9 granted only pursuant to a refund of taxes previously paid on  
10 such services.

11           (2) As used in this section, the term "SIC" means  
12 those classifications contained in the Standard Industrial  
13 Classification Manual, 1987, as published by the Office of  
14 Management and Budget, Executive Office of the President.

15           Section 17. Effective July 1, 2004, section 212.0821,  
16 Florida Statutes, is reenacted to read:

17           212.0821 Legislative intent that political  
18 subdivisions and public libraries use their sales tax  
19 exemption certificates for purchases on behalf of specified  
20 groups.--It is the intent of the Legislature that the  
21 political subdivisions of the state and the public libraries  
22 utilize their sales tax exemption certificates to purchase,  
23 with funds provided by the following groups, services,  
24 equipment, supplies, and items necessary for the operation of  
25 such groups, in addition to the normal exempt purchases that  
26 political subdivisions and libraries are empowered to make:

27           (1) School districts shall purchase necessary goods  
28 and services requested by parent-teacher organizations.

29           (2) Counties and municipalities shall purchase  
30 necessary goods and services requested by REACT groups,  
31 neighborhood crime watch groups, and state or locally

1 recognized organizations solely engaged in youth activities  
2 identical to those discussed in s. 212.08(7)(1).

3 (3) Public libraries shall purchase necessary goods  
4 and services requested by groups solely engaged in fundraising  
5 activities for such libraries.

6 Section 18. Effective July 1, 2004, section 212.09,  
7 Florida Statutes, is reenacted to read:

8 212.09 Trade-ins deducted.--

9 (1) Where used articles, accepted and intended for  
10 resale, are taken in trade, or a series of trades, as a credit  
11 or part payment on the sale of new articles, the tax levied by  
12 this chapter shall be paid on the sales price of the new  
13 article, less the credit for the used article taken in trade.

14 (2) Where used articles, accepted and intended for  
15 resale, are taken in trade, or a series of trades, as a credit  
16 or part payment on the sale of used articles, the tax levied  
17 by this chapter shall be paid on the sales price of the used  
18 article less the credit for the used article taken in trade.

19 (3) A person who is not registered with the department  
20 as a seller of aircraft, boats, mobile homes, or vehicles who  
21 is selling an aircraft, boat, mobile home, or vehicle and who  
22 takes in trade an item other than an aircraft, boat, mobile  
23 home, or vehicle may not use the item as a credit against  
24 sales price.

25 Section 19. Effective July 1, 2004, subsection (1) of  
26 section 376.75, Florida Statutes, is reenacted to read:

27 376.75 Tax on production or importation of  
28 perchloroethylene.--

29 (1) Beginning October 1, 1994, a tax of \$5 per gallon  
30 is levied on the sale of perchloroethylene  
31 (tetrachloroethylene) in this state to a drycleaning facility

1 located in this state or the import of perchloroethylene into  
2 this state by a drycleaning facility. This tax is not subject  
3 to sales and use tax pursuant to chapter 212.

4       Section 20. As an additional assurance to holders of  
5 bonds issued by local governments and secured by state-shared  
6 or local-option revenues currently outstanding or issued prior  
7 to the effective date of this act which may be impacted by  
8 Section 19 of Article VII of the State Constitution as created  
9 by Committee Substitute for Senate Joint Resolution 938, it is  
10 the intent of the Legislature, to the extent that Committee  
11 Substitute for Senate Joint Resolution 938 results in an  
12 inability of a local government to pay debt service on such  
13 bonds, to provide alternative funding sources in an amount  
14 sufficient to pay any deficit in the amount required for such  
15 debt service. It is further the intent of the Legislature to  
16 provide general-law authorization for local governments to use  
17 local-option taxes in a manner necessary to implement the  
18 revenue-neutrality provisions required in Committee Substitute  
19 for Senate Joint Resolution 938. It is also the intent of the  
20 Legislature to hold local governments harmless from impacts  
21 that could occur due to unequal county-by-county base  
22 expansion with respect to distributions of the Local  
23 Government Half-cent Program and the County Revenue Sharing  
24 Program as a result of the adoption of the constitutional  
25 amendment proposed by Committee Substitute for Senate Joint  
26 Resolution 938.

27       Section 21. Effective July 1, 2005, sections 395.701  
28 and 395.7015 are repealed.

29       Section 22. It is the intent of the Legislature that  
30 the purpose of this act is to prescribe the rates of and the  
31 exemptions from the general state sales and use tax which are



1 to be effective July 1, 2004, in conformity with the  
2 provisions of Committee Substitute for Senate Joint Resolution  
3 938. The exemptions prescribed in this act, whether created or  
4 reenacted, are to constitute the exemptions permissible under  
5 Section 19(a)(2)c. of Article VII of the State Constitution,  
6 as created by Committee Substitute for Senate Joint Resolution  
7 938.

8           Section 23. This act shall take effect July 1, 2004,  
9 but shall not take effect unless the amendment to the State  
10 Constitution proposed by Committee Substitute for Senate Joint  
11 Resolution 938 is approved by vote of the electors in the  
12 general election held in November of 2002.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 1106

4 The Committee Substitute for SB 1106 made the following  
5 changes to SB 1106:

- 6 1) If CS for SJR 938 is approved by vote of the electors in  
7 the general election held in November 2002, the bill  
8 will implement the tax reform provisions of the SJR.  
9 Effective July 1, 2004, the bill reinstates various  
10 existing sales and use tax exemptions on goods and  
11 services and subjects various services to the 4.5  
12 percent sales tax. In addition to maintaining the  
13 exemptions on groceries, health services, prescription  
14 drugs, and residential rent, as constitutionally  
15 required by CS for SJR 938, the bill maintains the  
16 following major statutory exemptions:  
17 a) Purchases of residential electricity and heating  
18 fuels  
19 b) Water  
20 c) Fuel purchased by public and private utilities  
21 d) Sewage and garbage collection services  
22 e) Tuition charges and charges for school lunches and  
23 school books  
24 f) Automobile trade-ins  
25 g) Sale of religious items and sales or leases to  
26 churches  
27 h) Non-profit homes for the aged  
28 i) Section 501(c)(3) charitable organizations  
29 j) Sale for resale of tangible personal property  
30 k) Items manufactured for export  
31 l) Agriculture and forestry services and purchases of  
agricultural items  
m) Electricity used for manufacturing  
n) Space and defense machinery and equipment  
o) Eye glasses, non-prescription drugs, medical  
supplies, charges for hospital meals and rooms,  
and health insurance premiums  
p) Money lending by banks  
q) Insurance premiums  
r) Real estate agent fees

- 1 s) Insurance agents and brokers services  
2 t) Publishing and printing advertising  
3 u) Radio and television broadcasting advertising  
4 v) Services by advertising agencies  
5 w) Services by educational institutions  
6 x) Social services  
7 y) Employee leasing services  
8 z) Legal services rendered by an attorney to a client  
9 in a criminal case if the criminal charges are  
dismissed or the client is adjudicated not guilty  
10 2) For statutory exemptions not reinstated, a sales tax  
11 rate of 4.5 percent is imposed effective July 1, 2004.  
12 3) The bill keeps the current sales tax rate of 6 percent  
13 on admissions, transient rentals, and charges for rental  
14 car leases.  
15 4) The bill provides for the taxation of certain  
16 construction services at the rate of 1.5 percent.  
17 5) The bill repeals, effective July 1, 2005, the health  
18 care assessments found in ss. 395.701 and 395.7015, F.S.  
19 6) The bill provides assurance to holders of bonds issued  
20 by local governments and secured by state-shared or  
21 local option revenues currently outstanding or issued  
22 prior to July 1, 2004, which may be impacted by the  
23 passage of CS for SJR 938, that if the passage of the  
24 constitutional amendment results in the inability of the  
25 local government to pay debt service on such bonds, that  
26 it is the intent of the legislature to provide  
27 alternative funding sources.  
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