

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. 212.0506,
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; amending s. 212.0602, F.S.,
30 relating to a limited exemption to facilitate
31 investment in education and job training;

1 specifying those activities or services that
2 qualify for the exemption; amending s. 212.07,
3 F.S.; revising provisions governing the
4 collection and administration of the tax on
5 sales, use, and other transactions; amending s.
6 212.08, F.S.; revising or eliminating specified
7 exemptions for the tax on sales, use, and other
8 transactions; creating s. 212.0801, F.S.;
9 prescribing exemptions with respect to the
10 sales or use of services; reenacting s.
11 212.0821, F.S., relating to the use of
12 governmental entities' sales tax exemption
13 certificates for purchases on behalf of
14 specified groups; reenacting s. 212.09, F.S.,
15 relating to deduction from the sales price of
16 credit for articles taken in trade; amending s.
17 212.11, F.S.; authorizing certain dealers to
18 elect to pay sales tax on services on a cash
19 basis; providing for registration of such
20 dealers by the Department of Revenue;
21 reenacting s. 376.75(1), F.S., which prescribes
22 the rate of taxation for specified transactions
23 involving certain solvents used by drycleaning
24 facilities; repealing ss. 395.701 and 395.7015,
25 F.S., which impose annual assessments on
26 specified health care entities; providing
27 legislative intent; providing a contingent
28 effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Effective July 1, 2004, section 212.02,
2 Florida Statutes, is amended to read:

3 212.02 Definitions.--The following terms and phrases
4 when used in this chapter have the meanings ascribed to them
5 in this section, except where the context clearly indicates a
6 different meaning:

7 (1) The term "admissions" means and includes the net
8 sum of money after deduction of any federal taxes for
9 admitting a person or vehicle or persons to any place of
10 amusement, sport, or recreation or for the privilege of
11 entering or staying in any place of amusement, sport, or
12 recreation, including, but not limited to, theaters, outdoor
13 theaters, shows, exhibitions, games, races, or any place where
14 charge is made by way of sale of tickets, gate charges, seat
15 charges, box charges, season pass charges, cover charges,
16 greens fees, participation fees, entrance fees, or other fees
17 or receipts of anything of value measured on an admission or
18 entrance or length of stay or seat box accommodations in any
19 place where there is any exhibition, amusement, sport, or
20 recreation, and all dues and fees paid to private clubs and
21 membership clubs providing recreational or physical fitness
22 facilities, including, but not limited to, golf, tennis,
23 swimming, yachting, boating, athletic, exercise, and fitness
24 facilities, ~~except physical fitness facilities owned or~~
25 ~~operated by any hospital licensed under chapter 395.~~

26 (2) "Affiliated group" means: an affiliated group of
27 corporations, as defined in s. 1504(a) of the Internal Revenue
28 Code, whose members are includable under s. 1504(b), (c) or
29 (d) of the Internal Revenue Code and are eligible to file a
30 consolidated tax return for Federal corporate income tax
31 purposes, or mutual insurance companies which are members of

1 one insurance holding company system subject to s. 628.801;
2 however, s. 1504(b)(2) does not apply to this definition.
3 However, the taxpayer may elect, pursuant to rules of the
4 department governing the procedure for making or amending such
5 election, to define its affiliated group in a manner that
6 excludes any member who has no tax nexus in this state and any
7 member whose business activities are unrelated to the business
8 activities of other members of the group. However, a parent
9 corporation of an included member may not be excluded from the
10 affiliated group.

11 (3)(2) "Business" means any activity engaged in by any
12 person, or caused to be engaged in by him or her, with the
13 object of private or public gain, benefit, or advantage,
14 either direct or indirect. Except for the sales of any
15 aircraft, boat, mobile home, or motor vehicle, the term
16 "business" shall not be construed in this chapter to include
17 occasional or isolated sales or transactions involving
18 tangible personal property or services by a person who does
19 not hold himself or herself out as engaged in business, but
20 includes other charges for the sale or rental of tangible
21 personal property, sales of services taxable under this
22 chapter, sales of or charges of admission, communication
23 services, all rentals and leases of living quarters, other
24 than low-rent housing operated under chapter 421, sleeping or
25 housekeeping accommodations in hotels, apartment houses,
26 roominghouses, tourist or trailer camps, and all rentals of or
27 licenses in real property, other than low-rent housing
28 operated under chapter 421, all leases or rentals of or
29 licenses in parking lots or garages for motor vehicles,
30 docking or storage spaces for boats in boat docks or marinas
31 as defined in this chapter and made subject to a tax imposed

1 by this chapter. ~~The term "business" shall not be construed~~
2 ~~in this chapter to include the leasing, subleasing, or~~
3 ~~licensing of real property by one corporation to another if~~
4 ~~all of the stock of both such corporations is owned, directly~~
5 ~~or through one or more wholly owned subsidiaries, by a common~~
6 ~~parent corporation; the property was in use prior to July 1,~~
7 ~~1989, title to the property was transferred after July 1,~~
8 ~~1988, and before July 1, 1989, between members of an~~
9 ~~affiliated group, as defined in s. 1504(a) of the Internal~~
10 ~~Revenue Code of 1986, which group included both such~~
11 ~~corporations and there is no substantial change in the use of~~
12 ~~the property following the transfer of title; the leasing,~~
13 ~~subleasing, or licensing of the property was required by an~~
14 ~~unrelated lender as a condition of providing financing to one~~
15 ~~or more members of the affiliated group; and the corporation~~
16 ~~to which the property is leased, subleased, or licensed had~~
17 ~~sales subject to the tax imposed by this chapter of not less~~
18 ~~than \$667 million during the most recent 12-month period ended~~
19 ~~June 30.~~ Any tax on such sales, charges, rentals, admissions,
20 or other transactions made subject to the tax imposed by this
21 chapter shall be collected by the state, county, municipality,
22 any political subdivision, agency, bureau, or department, or
23 other state or local governmental instrumentality in the same
24 manner as other dealers, unless specifically exempted by this
25 chapter.

26 (4)~~(3)~~ The terms "cigarettes," "tobacco," or "tobacco
27 products" referred to in this chapter include all such
28 products as are defined or may be hereafter defined by the
29 laws of the state.

30 (5)~~(4)~~ "Cost price" means the actual cost of articles
31 of tangible personal property or services without any

1 deductions therefrom on account of the cost of materials used,
2 labor or service costs, transportation charges, or any
3 expenses whatsoever.

4 (6)~~(5)~~ The term "department" means the Department of
5 Revenue.

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

9 (8)~~(7)~~ "Factory-built building" means a structure
10 manufactured in a manufacturing facility for installation or
11 erection as a finished building; "factory-built building"
12 includes, but is not limited to, residential, commercial,
13 institutional, storage, and industrial structures.

14 (9)~~(8)~~ "In this state" or "in the state" means within
15 the state boundaries of Florida as defined in s. 1, Art. II of
16 the State Constitution and includes all territory within these
17 limits owned by or ceded to the United States.

18 (10)~~(9)~~ The term "intoxicating beverages" or
19 "alcoholic beverages" referred to in this chapter includes all
20 such beverages as are so defined or may be hereafter defined
21 by the laws of the state.

22 (11)~~(10)~~ "Lease," "let," or "rental" means leasing or
23 renting of living quarters or sleeping or housekeeping
24 accommodations in hotels, apartment houses, roominghouses,
25 tourist or trailer camps and real property, the same being
26 defined as follows:

27 (a) Every building or other structure kept, used,
28 maintained, or advertised as, or held out to the public to be,
29 a place where sleeping accommodations are supplied for pay to
30 transient or permanent guests or tenants, in which 10 or more
31 rooms are furnished for the accommodation of such guests, and

1 having one or more dining rooms or cafes where meals or
2 lunches are served to such transient or permanent guests; such
3 sleeping accommodations and dining rooms or cafes being
4 conducted in the same building or buildings in connection
5 therewith, shall, for the purpose of this chapter, be deemed a
6 hotel.

7 (b) Any building, or part thereof, where separate
8 accommodations for two or more families living independently
9 of each other are supplied to transient or permanent guests or
10 tenants shall for the purpose of this chapter be deemed an
11 apartment house.

12 (c) Every house, boat, vehicle, motor court, trailer
13 court, or other structure or any place or location kept, used,
14 maintained, or advertised as, or held out to the public to be,
15 a place where living quarters or sleeping or housekeeping
16 accommodations are supplied for pay to transient or permanent
17 guests or tenants, whether in one or adjoining buildings,
18 shall for the purpose of this chapter be deemed a
19 roominghouse.

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

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

30 (f) A "trailer camp," "mobile home park," or
31 "recreational vehicle park" is a place where space is offered,

1 with or without service facilities, by any persons or
2 municipality to the public for the parking and accommodation
3 of two or more automobile trailers, mobile homes, or
4 recreational vehicles which are used for lodging, for either a
5 direct money consideration or an indirect benefit to the
6 lessor or owner in connection with a related business, such
7 space being hereby defined as living quarters, and the rental
8 price thereof shall include all service charges paid to the
9 lessor.

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

26 (h) "Real property" means the surface land,
27 improvements thereto, and fixtures, and is synonymous with
28 "realty" and "real estate."

29 (i) "License," as used in this chapter with reference
30 to the use of real property, means the granting of a privilege
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1 to use or occupy a building or a parcel of real property for
2 any purpose.

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

7 (12)~~(11)~~ "Motor fuel" means and includes what is
8 commonly known and sold as gasoline and fuels containing a
9 mixture of gasoline and other products.

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

17 (14)~~(13)~~ "Retailer" means and includes every person
18 engaged in the business of making sales at retail or for
19 distribution, or use, or consumption, or storage to be used or
20 consumed in this state.

21 (15)~~(14)~~(a) "Retail sale" or a "sale at retail" means
22 a sale to a consumer or to any person for any purpose other
23 than for resale in the form of tangible personal property or
24 services taxable under this chapter, and includes all such
25 transactions that may be made in lieu of retail sales or sales
26 at retail. A sale for resale includes a sale of qualifying
27 property. As used in this paragraph, the term "qualifying
28 property" means tangible personal property, other than
29 electricity, which is used or consumed by a government
30 contractor in the performance of a qualifying contract as
31 defined in s. 212.08(17)(c), to the extent that the cost of

1 the property is allocated or charged as a direct item of cost
2 to such contract, title to which property vests in or passes
3 to the government under the contract. The term "government
4 contractor" includes prime contractors and subcontractors. As
5 used in this paragraph, a cost is a "direct item of cost" if
6 it is a "direct cost" as defined in 48 C.F.R. s.

7 9904.418-30(a)(2), or similar successor provisions, including
8 costs identified specifically with a particular contract.

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

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

1 articles of tangible personal property for resale when such
2 industrial materials, including chemicals and fuels except as
3 provided herein, become a component or ingredient of the
4 finished product. However, the terms include the sale, use,
5 storage, or consumption of tangible personal property,
6 including machinery and equipment or parts thereof, purchased
7 electricity, and fuels used to power machinery, when such
8 items are used and dissipated in fabricating, converting, or
9 processing tangible personal property for sale, even though
10 they may become ingredients or components of the tangible
11 personal property for sale through accident, wear, tear,
12 erosion, corrosion, or similar means. The terms do not
13 include the sale of materials to a registered repair facility
14 for use in repairing a motor vehicle, airplane, or boat, when
15 such materials are incorporated into and sold as part of the
16 repair. Such a sale shall be deemed a purchase for resale by
17 the repair facility, even though every material is not
18 separately stated or separately priced on the repair invoice.

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

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

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

26 (a) Any transfer of title or possession, or both,
27 exchange, barter, license, lease, or rental, conditional or
28 otherwise, in any manner or by any means whatsoever, of
29 tangible personal property for a consideration.

30 (b) The rental of living quarters or sleeping or
31 housekeeping accommodations in hotels, apartment houses or

1 roominghouses, or tourist or trailer camps, as hereinafter
2 defined in this chapter.

3 (c) The producing, fabricating, processing, printing,
4 or imprinting of tangible personal property for a
5 consideration for consumers who furnish either directly or
6 indirectly the materials used in the producing, fabricating,
7 processing, printing, or imprinting.

8 (d) The furnishing, preparing, or serving for a
9 consideration of any tangible personal property for
10 consumption on or off the premises of the person furnishing,
11 preparing, or serving such tangible personal property which
12 includes the sale of meals or prepared food by an employer to
13 his or her employees.

14 (e) A transaction whereby the possession of property
15 is transferred but the seller retains title as security for
16 the payment of the price.

17 (f) Any transfer, provision, or rendering of services
18 for a consideration.

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

1 included within the purview of this subsection. "Sales price"
2 also includes the full face value of any coupon used by a
3 purchaser to reduce the price paid to a retailer for an item
4 of tangible personal property; where the retailer will be
5 reimbursed for such coupon, in whole or in part, by the
6 manufacturer of the item of tangible personal property; or
7 whenever it is not practicable for the retailer to determine,
8 at the time of sale, the extent to which reimbursement for the
9 coupon will be made. The term "sales price" does not include
10 federal excise taxes imposed upon the retailer on the sale of
11 tangible personal property. The term "sales price" does
12 include federal manufacturers' excise taxes, even if the
13 federal tax is listed as a separate item on the invoice.

14 (18) "Service" or "services" means those activities
15 usually provided for consideration by the following
16 establishments listed in the SIC Manual:

17 (a) Agricultural Services (Major Group Number 07).

18 (b) Forestry Services (Major Group Number 085).

19 (c) Metal Mining Services (Group Number 108).

20 (d) Oil and Gas Field Services (Group Number 138).

21 (e) Nonmetallic (Nonfuel) Mineral Services (Group
22 Number 148).

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

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

27 (h) Construction-Special Trade Contractors (Major
28 Group Number 17).

29 (i) Printing, Publishing, and Allied Services (Major
30 Group Number 27).

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- 1 (j) Coating, Engraving, and Allied Services (Group
2 Number 347).
- 3 (k) Railroad Transportation (Major Group Number 40).
- 4 (l) Local and Suburban Transit and Interurban Highway
5 Passenger Transportation (Major Group Number 41).
- 6 (m) Motor Freight Transportation and Warehousing
7 (Major Group Number 42).
- 8 (n) Water Transportation (Major Group Number 44).
- 9 (o) Transportation by Air (Major Group Number 45).
- 10 (p) Pipelines, except Natural Gas (Major Group Number
11 46).
- 12 (q) Transportation Services (Major Group Number 47).
- 13 (r) Communications (Major Group Number 48).
- 14 (s) Electric, Gas, and Sanitary Services (Major Group
15 Number 49).
- 16 (t) Food Brokers (Industry Number 5141).
- 17 (u) Depository Institutions (Major Group Number 60).
- 18 (v) Nondepository Credit Institutions (Major Group
19 Number 61).
- 20 (w) Security and Commodity Brokers, Dealers,
21 Exchanges, and Services (Major Group Number 62).
- 22 (x) Insurance (Major Group Number 63).
- 23 (y) Insurance Agents, Brokers, and Service (Major
24 Group Number 64).
- 25 (z) Real Estate (Major Group Number 65).
- 26 (aa) Holding and other Investment Offices (Major Group
27 Number 67).
- 28 (bb) Personal Services (Major Group Number 72).
- 29 (cc) Business Services (Major Group Number 73).
- 30 (dd) Automotive Repair, Services, and Parking (Major
31 Group Number 75).

- 1 (ee) Miscellaneous Repair Services (Major Group Number
2 76).
- 3 (ff) Motion Pictures (Major Group Number 78).
- 4 (gg) Amusement and Recreation Services (Major Group
5 Number 79).
- 6 (hh) Health Services (Major Group Number 80).
- 7 (ii) Legal Services (Major Group Number 81).
- 8 (jj) Educational Services (Major Group Number 82).
- 9 (kk) Social Services (Major Group Number 83).
- 10 (ll) Museums, Art Galleries, Botanical and Zoological
11 Gardens (Major Group Number 84).
- 12 (mm) Membership Organizations (Major Group Number 86).
- 13 (nn) Engineering, Accounting, Research, Management and
14 Related Services (Major Group 87).
- 15 (oo) Miscellaneous Services (Major Group Number 89).
- 16
- 17 In addition, the terms include the services of any independent
18 broker.
- 19 (19) "SIC" means those classifications contained in
20 the Standard Industrial Classification Manual, 1987, as
21 published by the Office of Management and Budget, Executive
22 Office of the President.
- 23 (20)~~(17)~~ "Diesel fuel" means any liquid product, gas
24 product, or combination thereof used in an internal combustion
25 engine or motor to propel any form of vehicle, machine, or
26 mechanical contrivance. This term includes, but is not
27 limited to, all forms of fuel commonly or commercially known
28 or sold as diesel fuel or kerosene. However, the term "diesel
29 fuel" does not include butane gas, propane gas, or any other
30 form of liquefied petroleum gas or compressed natural gas.
31

1 ~~(21)(18)~~ "Storage" means and includes any keeping or
2 retention in this state of tangible personal property for use
3 or consumption in this state or for any purpose other than
4 sale at retail in the regular course of business.

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

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

26 ~~(24)(21)~~ The term "use tax" referred to in this
27 chapter includes the use, the consumption, the distribution,
28 and the storage as herein defined.

29 ~~(25)(22)~~ "Spaceport activities" means activities
30 directed or sponsored by the Spaceport Florida Authority on
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1 spaceport territory pursuant to its powers and
2 responsibilities under the Spaceport Florida Authority Act.

3 (26)~~(23)~~ "Space flight" means any flight designed for
4 suborbital, orbital, or interplanetary travel of a space
5 vehicle, satellite, or station of any kind.

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

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

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

31

1 ~~(30)~~(27) "Agricultural commodity" means horticultural,
2 aquacultural, poultry and farm products, and livestock and
3 livestock products.

4 ~~(31)~~(28) "Farmer" means a person who is directly
5 engaged in the business of producing crops, livestock, or
6 other agricultural commodities. The term includes, but is not
7 limited to, horse breeders, nurserymen, dairy farmers, poultry
8 farmers, cattle ranchers, apiarists, and persons raising fish.

9 ~~(32)~~(29) "Livestock" includes all animals of the
10 equine, bovine, or swine class, including goats, sheep, mules,
11 horses, hogs, cattle, ostriches, and other grazing animals
12 raised for commercial purposes. The term "livestock" shall
13 also include fish raised for commercial purposes.

14 ~~(33)~~(30) "Self-propelled farm equipment" means
15 equipment that contains within itself the means for its own
16 propulsion, including, but not limited to, tractors.

17 ~~(34)~~(31) "Power-drawn farm equipment" means equipment
18 that is pulled, dragged, or otherwise attached to
19 self-propelled equipment, including, but not limited to,
20 disks, harrows, hay balers, and mowers.

21 ~~(35)~~(32) "Power-driven farm equipment" means moving or
22 stationary equipment that is dependent upon an external power
23 source to perform its function, including, but not limited to,
24 conveyors, augers, feeding systems, and pumps.

25 ~~(36)~~(33) "Forest" means the land stocked by trees of
26 any size used in the production of forest products, or
27 formerly having such tree cover, and not currently developed
28 for nonforest use.

29 ~~(37)~~(34) "Agricultural production" means the
30 production of plants and animals useful to humans, including
31 the preparation, planting, cultivating, or harvesting of these

1 products or any other practices necessary to accomplish
2 production through the harvest phase, and includes
3 aquaculture, horticulture, floriculture, viticulture,
4 forestry, dairy, livestock, poultry, bees, and any and all
5 forms of farm products and farm production.

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

8 212.03 Transient rentals tax; rate, procedure,
9 enforcement, exemptions.--

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

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

22 (3) When rentals are received by way of property,
23 goods, wares, merchandise, services, or other things of value,
24 the tax shall be at the rate of 6 percent of the value of the
25 property, goods, wares, merchandise, services, or other things
26 of value.

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

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

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

27 ~~It is the legislative intent that~~ Every person is
28 engaging in a taxable privilege who leases or rents parking or
29 storage spaces for motor vehicles in parking lots or garages,
30 who leases or rents docking or storage spaces for boats in
31 boat docks or marinas, or who leases or rents tie-down or

1 storage space for aircraft at airports. For the exercise of
2 this privilege, a tax is ~~hereby~~ levied at the rate of 4.5 ~~6~~
3 percent on the total rental charged.

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

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

22 (c) The rental of facilities, as defined in s.
23 212.02(10)(f), which are intended primarily for rental as a
24 principal or permanent place of residence is exempt from the
25 tax imposed by this chapter. The rental of such facilities
26 that primarily serve transient guests is not exempt by this
27 subsection. In the application of this law, or in making any
28 determination against the exemption, the department shall
29 consider the facility as primarily serving transient guests
30 unless the facility owner makes a verified declaration on a
31 form prescribed by the department that more than half of the

1 total rental units available are occupied by tenants who have
2 a continuous residence in excess of 3 months. The owner of a
3 facility declared to be exempt by this paragraph must make a
4 determination of the taxable status of the facility at the end
5 of the owner's accounting year using any consecutive 3-month
6 period at least one month of which is in the accounting year.
7 The owner must use a selected consecutive 3-month period
8 during each annual redetermination. In the event that an
9 exempt facility no longer qualifies for exemption by this
10 paragraph, the owner must notify the department on a form
11 prescribed by the department by the 20th day of the first
12 month of the owner's next succeeding accounting year that the
13 facility no longer qualifies for such exemption. The tax
14 levied by this section shall apply to the rental of facilities
15 that no longer qualify for exemption under this paragraph
16 beginning the first day of the owner's next succeeding
17 accounting year. The provisions of this paragraph do not apply
18 to mobile home lots regulated under chapter 723.

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

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

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

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

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

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

1 6. A public street or road which is used for
2 transportation purposes.

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

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

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

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

27 ~~a. Photography, sound and recording, casting, location~~
28 ~~managing and scouting, shooting, creation of special and~~
29 ~~optical effects, animation, adaptation (language, media,~~
30 ~~electronic, or otherwise), technological modifications,~~
31 ~~computer graphics, set and stage support (such as~~

1 ~~electricians, lighting designers and operators, greensmen,~~
2 ~~prop managers and assistants, and grips), wardrobe (design,~~
3 ~~preparation, and management), hair and makeup (design,~~
4 ~~production, and application), performing (such as acting,~~
5 ~~dancing, and playing), designing and executing stunts,~~
6 ~~coaching, consulting, writing, scoring, composing,~~
7 ~~choreographing, script supervising, directing, producing,~~
8 ~~transmitting dailies, dubbing, mixing, editing, cutting,~~
9 ~~looping, printing, processing, duplicating, storing, and~~
10 ~~distributing.~~

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

16 ~~c. Property management services directly related to~~
17 ~~property used in connection with the services described in~~
18 ~~sub-subparagraphs a. and b.~~

19
20 ~~This exemption will inure to the taxpayer upon presentation of~~
21 ~~the certificate of exemption issued to the taxpayer under the~~
22 ~~provisions of s. 288.1258.~~

23 ~~10. Leased, subleased, licensed, or rented to a person~~
24 ~~providing food and drink concessionaire services within the~~
25 ~~premises of a convention hall, exhibition hall, auditorium,~~
26 ~~stadium, theater, arena, civic center, performing arts center,~~
27 ~~publicly owned recreational facility, or any business operated~~
28 ~~under a permit issued pursuant to chapter 550. A person~~
29 ~~providing retail concessionaire services involving the sale of~~
30 ~~food and drink or other tangible personal property within the~~
31 ~~premises of an airport shall be subject to tax on the rental~~

1 ~~of real property used for that purpose, but shall not be~~
2 ~~subject to the tax on any license to use the property. For~~
3 ~~purposes of this subparagraph, the term "sale" shall not~~
4 ~~include the leasing of tangible personal property.~~

5 9.11. Property occupied pursuant to an instrument
6 calling for payments which the department has declared, in a
7 Technical Assistance Advisement issued on or before March 15,
8 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
9 Florida Administrative Code; provided that this subparagraph
10 shall only apply to property occupied by the same person
11 before and after the execution of the subject instrument and
12 only to those payments made pursuant to such instrument,
13 exclusive of renewals and extensions thereof occurring after
14 March 15, 1993.

15 10.12. Property used or occupied predominantly for
16 space flight business purposes. As used in this subparagraph,
17 "space flight business" means the manufacturing, processing,
18 or assembly of a space facility, space propulsion system,
19 space vehicle, satellite, or station of any kind possessing
20 the capacity for space flight, as defined by s. 212.02(23), or
21 components thereof, and also means the following activities
22 supporting space flight: vehicle launch activities, flight
23 operations, ground control or ground support, and all
24 administrative activities directly related thereto. Property
25 shall be deemed to be used or occupied predominantly for space
26 flight business purposes if more than 50 percent of the
27 property, or improvements thereon, is used for one or more
28 space flight business purposes. Possession by a landlord,
29 lessor, or licensor of a signed written statement from the
30 tenant, lessee, or licensee claiming the exemption shall
31 relieve the landlord, lessor, or licensor from the

1 responsibility of collecting the tax, and the department shall
2 look solely to the tenant, lessee, or licensee for recovery of
3 such tax if it determines that the exemption was not
4 applicable.

5 (b) When a lease involves multiple use of real
6 property wherein a part of the real property is subject to the
7 tax herein, and a part of the property would be excluded from
8 the tax under subparagraph (a)1., subparagraph (a)2.,
9 subparagraph (a)3., or subparagraph (a)5., the department
10 shall determine, from the lease or license and such other
11 information as may be available, that portion of the total
12 rental charge which is exempt from the tax imposed by this
13 section. The portion of the premises leased or rented by a
14 for-profit entity providing a residential facility for the
15 aged will be exempt on the basis of a pro rata portion
16 calculated by combining the square footage of the areas used
17 for residential units by the aged and for the care of such
18 residents and dividing the resultant sum by the total square
19 footage of the rented premises. For purposes of this section,
20 the term "residential facility for the aged" means a facility
21 that is licensed or certified in whole or in part under
22 chapter 400 or chapter 651; or that provides residences to the
23 elderly and is financed by a mortgage or loan made or insured
24 by the United States Department of Housing and Urban
25 Development under s. 202, s. 202 with a s. 8 subsidy, s.
26 221(d)(3) or (4), s. 232, or s. 236 of the National Housing
27 Act; or other such similar facility that provides residences
28 primarily for the elderly.

29 (c) For the exercise of such privilege, a tax is
30 levied in an amount equal to 4.5 ~~6~~ percent of and on the total
31 rent or license fee charged for such real property by the

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

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

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

28 (b) It is the further intent of this Legislature that
29 only one tax be collected on the rental or license fee payable
30 for the occupancy or use of any such property, that the tax so
31 collected shall not be pyramided by a progression of

1 transactions, and that the amount of the tax due the state
2 shall not be decreased by any such progression of
3 transactions.

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

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

29 ~~(5) When space is subleased to a convention or~~
30 ~~industry trade show in a convention hall, exhibition hall, or~~
31 ~~auditorium, whether publicly or privately owned, the sponsor~~

1 ~~who holds the prime lease is subject to tax on the prime lease~~
2 ~~and the sublease is exempt.~~

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

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

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

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

31

1 ~~(10) Separately stated charges imposed by a convention~~
2 ~~hall, exhibition hall, auditorium, stadium, theater, arena,~~
3 ~~civic center, performing arts center, or publicly owned~~
4 ~~recreational facility upon a lessee or licensee for food,~~
5 ~~drink, or services required or available in connection with a~~
6 ~~lease or license to use real property, including charges for~~
7 ~~laborers, stagehands, ticket takers, event staff, security~~
8 ~~personnel, cleaning staff, and other event-related personnel,~~
9 ~~advertising, and credit card processing, are exempt from the~~
10 ~~tax imposed by this section.~~

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

13 212.04 Admissions tax; rate, procedure, enforcement.--

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

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

1 admission, and the rate of tax on each admission shall be
2 according to the brackets established by s. 212.12(9).

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

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

28 (2)(a)1. No tax shall be levied on admissions to
29 athletic or other events sponsored by elementary schools,
30 junior high schools, middle schools, high schools, community
31 colleges, public or private colleges and universities, deaf

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

10 2. No tax shall be levied on dues, membership fees,
11 and admission charges imposed by not-for-profit sponsoring
12 organizations. To receive this exemption, the sponsoring
13 organization must qualify as a not-for-profit entity under the
14 provisions of s. 501(c)(3) of the Internal Revenue Code of
15 1954, as amended.

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

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

28 4.5. A participation fee or sponsorship fee imposed by
29 a governmental entity as described in s. 212.08(6) for an
30 athletic or recreational program is exempt when the
31 governmental entity by itself, or in conjunction with an

1 organization exempt under s. 501(c)(3) of the Internal Revenue
2 Code of 1954, as amended, sponsors, administers, plans,
3 supervises, directs, and controls the athletic or recreational
4 program.

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

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

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

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

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

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

30 (c) The taxes imposed by this section shall be
31 collected in addition to the admission tax collected pursuant

1 to s. 550.0951, but the amount collected under s. 550.0951
2 shall not be subject to taxation under this chapter.

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

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

1 taxes hereinafter levied on the sales of tangible personal
2 property.

3 (5) All of the provisions of this chapter relating to
4 collection, investigation, discovery, and aids to collection
5 of taxes upon sales of tangible personal property shall
6 likewise apply to all privileges described or referred to in
7 this section, and the obligations imposed in this chapter upon
8 retailers are hereby imposed upon the seller of such
9 admissions. All penalties applicable to a dealer in tangible
10 personal property for failure to meet any such obligation,
11 including, but not limited to, any failure related to the
12 filing of returns, the payment of taxes, or the maintenance
13 and production of records, are applicable to the seller of
14 admissions. When tickets or admissions are sold and not used
15 but returned and credited by the seller, the seller may apply
16 to the department for a credit allowance for such returned
17 tickets or admissions if advance payments have been made by
18 the buyer and have been returned by the seller, upon such form
19 and in such manner as the department may from time to time
20 prescribe. The department may, upon obtaining satisfactory
21 proof of the refunds on the part of the seller, credit the
22 seller for taxes paid upon admissions that have been returned
23 unused to the purchaser of those admissions. The seller of
24 admissions, upon the payment of the taxes before they become
25 delinquent and the rendering of the returns in accordance with
26 the requirement of the department and as provided in this law,
27 shall be entitled to a discount of 2.5 percent of the amount
28 of taxes upon the payment thereof before such taxes become
29 delinquent, in the same manner as permitted the sellers of
30 tangible personal property in this chapter. However, if the
31 amount of the tax due and remitted to the department for the

1 reporting period exceeds \$1,200, no discount shall be allowed
2 for all amounts in excess of \$1,200.

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

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

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

1 "owners" is used herein, it shall be taken to mean and include
2 all persons liable for such admission taxes unless it appears
3 from the context that the words are descriptive of property
4 owners.

5 Section 5. Effective July 1, 2004, section 212.05,
6 Florida Statutes, is amended to read:

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

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

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

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

1 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),
2 (b), (c), or (e), or (9). If any party to an occasional or
3 isolated sale of such a vehicle reports to the tax collector a
4 sales price which is less than 80 percent of the average loan
5 price for the specified model and year of such vehicle as
6 listed in the most recent reference price list, the tax levied
7 under this paragraph shall be computed by the department on
8 such average loan price unless the parties to the sale have
9 provided to the tax collector an affidavit signed by each
10 party, or other substantial proof, stating the actual sales
11 price. Any party to such sale who reports a sales price less
12 than the actual sales price is guilty of a misdemeanor of the
13 first degree, punishable as provided in s. 775.082 or s.
14 775.083. The department shall collect or attempt to collect
15 from such party any delinquent sales taxes. In addition, such
16 party shall pay any tax due and any penalty and interest
17 assessed plus a penalty equal to twice the amount of the
18 additional tax owed. Notwithstanding any other provision of
19 law, the Department of Revenue may waive or compromise any
20 penalty imposed pursuant to this subparagraph.

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

1 direction, or control of the entity's affairs who is a
2 resident of, or makes his or her permanent abode in, this
3 state. For purposes of this exemption, either a registered
4 dealer acting on his or her own behalf as seller, a registered
5 dealer acting as broker on behalf of a seller, or a registered
6 dealer acting as broker on behalf of the purchaser may be
7 deemed to be the selling dealer. This exemption shall not be
8 allowed unless:

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

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

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

31

1 d. The selling dealer, within 5 days of the date of
2 sale, shall provide to the department a copy of the sales
3 invoice, closing statement, bills of sale, and the original
4 affidavit signed by the purchaser attesting that he or she has
5 read the provisions of this section;

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

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

22 (I) The department is hereby authorized to charge
23 dealers a fee sufficient to recover the costs of decals
24 issued.

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

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

30 (IV) The department is authorized to require dealers
31 who purchase decals to file reports with the department and

1 may prescribe all necessary records by rule. All such records
2 are subject to inspection by the department.

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

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

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

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

29
30 If the purchaser fails to remove the qualifying boat from this
31 state within 90 days after purchase or a nonqualifying boat or

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

26 (b) At the rate of 4.5 ~~6~~ percent of the cost price of
27 each item or article of tangible personal property when the
28 same is not sold but is used, consumed, distributed, or stored
29 for use or consumption in this state; however, for tangible
30 property originally purchased exempt from tax for use
31 exclusively for lease and which is converted to the owner's

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

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

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

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

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

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

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

1 ~~price of such vehicle by the lessor. To the extent tax was~~
2 ~~paid with respect to the purchase of such vehicle in another~~
3 ~~state, territory of the United States, or the District of~~
4 ~~Columbia, the Florida tax payable shall be reduced in~~
5 ~~accordance with the provisions of s. 212.06(7). This~~
6 ~~subparagraph shall only be available when the lease or rental~~
7 ~~of such property is an established business or part of an~~
8 ~~established business or the same is incidental or germane to~~
9 ~~such business.~~

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

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

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

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

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

31

1 (III) The sale or recharge of a prepaid calling
2 arrangement shall be treated as a sale of tangible personal
3 property for purposes of this chapter, whether or not a
4 tangible item evidencing such arrangement is furnished to the
5 purchaser, and such sale within this state subjects the
6 selling dealer to the jurisdiction of this state for purposes
7 of this subsection.

8 b. The installation of telecommunication and
9 telegraphic equipment.

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

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

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

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

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

29 2. Notwithstanding other provisions of this chapter,
30 inserts of printed materials which are distributed with a
31 newspaper or magazine are a component part of the newspaper or

1 magazine, and neither the sale nor use of such inserts is
2 subject to tax when:

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

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

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

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

30 2. As used in this paragraph, the term "operator"
31 means any person who possesses a coin-operated amusement

1 machine for the purpose of generating sales through that
2 machine and who is responsible for removing the receipts from
3 the machine.

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

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

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

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

1 certificate must be conspicuously displayed on the premises
2 where the coin-operated amusement machines are being operated.

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

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

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

31

1 4. The provisions of this paragraph do not apply to
2 coin-operated amusement machines owned and operated by
3 churches or synagogues.

4 5. In addition to any other penalties imposed by this
5 chapter, a person who knowingly and willfully violates any
6 provision of this paragraph commits a misdemeanor of the
7 second degree, punishable as provided in s. 775.082 or s.
8 775.083.

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

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

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

1 auxiliary law enforcement officer, when such auxiliary law
2 enforcement officer is working under the direct supervision of
3 a full-time or part-time law enforcement officer.

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

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

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

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

1 5. Each seller of services subject to sales tax
2 pursuant to this paragraph shall maintain a monthly log
3 showing each transaction for which sales tax was not collected
4 because the services meet the requirements of subparagraph 3.
5 for out-of-state use. The log must identify the purchaser's
6 name, location and mailing address, and federal employer
7 identification number, if a business, or the social security
8 number, if an individual, the service sold, the price of the
9 service, the date of sale, the reason for the exemption, and
10 the sales invoice number. The monthly log shall be maintained
11 pursuant to the same requirements and subject to the same
12 penalties imposed for the keeping of similar records pursuant
13 to this chapter.

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

19 a. Is not legal tender;

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

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

24 2. Such tax shall be at a rate of 4.5 ~~6~~ percent of the
25 price at which the coin or currency is sold, exchanged, or
26 traded, except that, with respect to a coin or currency which
27 is legal tender of the United States and which is sold,
28 exchanged, or traded, such tax shall not be levied.

29 3. There are exempt from this tax exchanges of coins
30 or currency which are in general circulation in, and legal
31 tender of, one nation for coins or currency which are in

1 general circulation in, and legal tender of, another nation
2 when exchanged solely for use as legal tender and at an
3 exchange rate based on the relative value of each as a medium
4 of exchange.

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

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

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

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

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

31

1 (3) The tax so levied is in addition to all other
2 taxes, whether levied in the form of excise, license, or
3 privilege taxes, and in addition to all other fees and taxes
4 levied.

5 (4) The tax imposed pursuant to this chapter shall be
6 due and payable according to the brackets set forth in s.
7 212.12.

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

10 212.0502 Sales tax on construction services; special
11 provisions.--

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

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

16 (b) General contractors - nonresidential, including
17 repairs (SIC Industry Group Number 154)

18 (c) General contractors - heavy construction (SIC
19 Industry Number 1629)

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

22 (e) Heavy construction equipment rental with operator
23 (SIC Industry Number 7353)

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

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

30 212.0506 Taxation of service warranties.--

31

1 (1) ~~It is the intent of the Legislature that~~ Every
2 person is exercising a taxable privilege who engages in this
3 state in the business of soliciting, offering, providing,
4 entering into, issuing, or delivering any service warranty.

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

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

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

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

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

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

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

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

30 (10) Materials and supplies used in the performance of
31 a factory or manufacturer's warranty are exempt if the

1 contract is furnished at no extra charge with the equipment
2 guaranteed thereunder and such materials and supplies are paid
3 for by the factory or manufacturer.

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

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

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

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

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 amended 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 relating to the
20 production of film, video, photography, sound and audio
21 recordings, and other entertainment media, including, but not
22 limited to, special effects, optical effects, animation,
23 adaptations (language, media, electronic, or otherwise),
24 technological modifications, computer graphics, and audio
25 engineering ~~described in s. 212.031(1)(a)9.~~, that conducts
26 classes at a fixed location located in this state, that is
27 licensed under chapter 246, and that has at least 500 enrolled
28 students. Any entity, institution, or organization meeting
29 the requirements of this section shall be deemed to qualify
30 for the exemptions in ~~ss. 212.031(1)(a)9. and 212.08(5)(f) and~~
31 ~~(12), and to qualify~~ for an exemption for its purchase or

1 lease of materials, equipment, and other items used for
2 education or demonstration of the school's curriculum,
3 including supporting operations. Nothing in this section
4 shall preclude an entity described in this section from
5 qualifying for any other exemption provided for in this
6 chapter.

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

9 212.07 Sales, storage, use tax; tax added to purchase
10 price; dealer not to absorb; liability of purchasers who
11 cannot prove payment of the tax; penalties; general
12 exemptions.--

13 (1)(a) The privilege tax herein levied measured by
14 retail sales shall be collected by the dealers from the
15 purchaser or consumer.

16 (b) A resale must be in strict compliance with s.
17 212.18 and the rules and regulations, and any dealer who makes
18 a sale for resale which is not in strict compliance with s.
19 212.18 and the rules and regulations shall himself or herself
20 be liable for and pay the tax. Any dealer who makes a sale for
21 resale shall document the exempt nature of the transaction, as
22 established by rules promulgated by the department, by
23 retaining a copy of the purchaser's resale certificate. In
24 lieu of maintaining a copy of the certificate, a dealer may
25 document, prior to the time of sale, an authorization number
26 provided telephonically or electronically by the department,
27 or by such other means established by rule of the department.
28 The department shall adopt rules that provide that, for
29 purchasers who purchase on account from a dealer on a
30 continual basis, the dealer may rely on a resale certificate
31 issued pursuant to s. 212.18(3)(c), valid at the time of

1 receipt from the purchaser, without seeking annual
2 verification of the resale certificate. A dealer may, through
3 the informal protest provided for in s. 213.21 and the rules
4 of the Department of Revenue, provide the department with
5 evidence of the exempt status of a sale. Consumer certificates
6 of exemption executed by those exempt entities that were
7 registered with the department at the time of sale, resale
8 certificates provided by purchasers who were active dealers at
9 the time of sale, and verification by the department of a
10 purchaser's active dealer status at the time of sale in lieu
11 of a resale certificate shall be accepted by the department
12 when submitted during the protest period, but may not be
13 accepted in any proceeding under chapter 120 or any circuit
14 court action instituted under chapter 72.

15 (c) Unless the purchaser of tangible personal property
16 that is incorporated into tangible personal property
17 manufactured, produced, compounded, processed, or fabricated
18 for one's own use and subject to the tax imposed under s.
19 212.06(1)(b) or is purchased for export under s.
20 212.06(5)(a)1. extends a certificate in compliance with the
21 rules of the department, the dealer shall himself or herself
22 be liable for and pay the tax.

23 (2) A dealer shall, as far as practicable, add the
24 amount of the tax imposed under this chapter to the sale
25 price, and the amount of the tax shall be separately stated as
26 Florida tax on any charge ticket, sales slip, invoice, or
27 other tangible evidence of sale. Such tax shall constitute a
28 part of such price, charge, or proof of sale which shall be a
29 debt from the purchaser or consumer to the dealer, until paid,
30 and shall be recoverable at law in the same manner as other
31 debts. Where it is impracticable, due to the nature of the

1 business practices within an industry, to separately state
2 Florida tax on any charge ticket, sales slip, invoice, or
3 other tangible evidence of sale, the department may establish
4 an effective tax rate for such industry. The department may
5 also amend this effective tax rate as the industry's pricing
6 or practices change. Except as otherwise specifically
7 provided, any dealer who neglects, fails, or refuses to
8 collect the tax herein provided upon any, every, and all
9 retail sales made by the dealer or the dealer's agents or
10 employees of tangible personal property or services which are
11 subject to the tax imposed by this chapter shall be liable for
12 and pay the tax himself or herself.

13 (3) Any dealer who fails, neglects, or refuses to
14 collect the tax herein provided, either by himself or herself
15 or through the dealer's agents or employees, is, in addition
16 to the penalty of being liable for and paying the tax himself
17 or herself, guilty of a misdemeanor of the first degree,
18 punishable as provided in s. 775.082 or s. 775.083.

19 (4) A dealer engaged in any business taxable under
20 this chapter may not advertise or hold out to the public, in
21 any manner, directly or indirectly, that he or she will absorb
22 all or any part of the tax, or that he or she will relieve the
23 purchaser of the payment of all or any part of the tax, or
24 that the tax will not be added to the selling price of the
25 property or services sold or released or, when added, that it
26 or any part thereof will be refunded either directly or
27 indirectly by any method whatsoever. A person who violates
28 this provision with respect to advertising or refund is guilty
29 of a misdemeanor of the second degree, punishable as provided
30 in s. 775.082 or s. 775.083. A second or subsequent offense
31

1 constitutes a misdemeanor of the first degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 (5)(a) The gross proceeds derived from the sale in
4 this state of livestock, poultry, and other farm products
5 direct from the farm are exempted from the tax levied by this
6 chapter provided such sales are made directly by the
7 producers. The producers shall be entitled to such exemptions
8 although the livestock so sold in this state may have been
9 registered with a breeders' or registry association prior to
10 the sale and although the sale takes place at a livestock show
11 or race meeting, so long as the sale is made by the original
12 producer and within this state. When sales of livestock,
13 poultry, or other farm products are made to consumers by any
14 person, as defined herein, other than a producer, they are not
15 exempt from the tax imposed by this chapter. The foregoing
16 exemption does not apply to ornamental nursery stock offered
17 for retail sale by the producer.

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

24 (6) It is specifically provided that the use tax as
25 defined herein does not apply to livestock and livestock
26 products, to poultry and poultry products, or to farm and
27 agricultural products, when produced by the farmer and used by
28 him or her and members of the farmer's family and his or her
29 employees on the farm.

30 (7) Provided, however, that each and every
31 agricultural commodity sold by any person, other than a

1 producer, to any other person who purchases not for direct
2 consumption but for the purpose of acquiring raw products for
3 use or for sale in the process of preparing, finishing, or
4 manufacturing such agricultural commodity for the ultimate
5 retail consumer trade shall be and is exempted from any and
6 all provisions of this chapter, including payment of the tax
7 applicable to the sale, storage, use, or transfer, or any
8 other utilization or handling thereof, except when such
9 agricultural commodity is actually sold as a marketable or
10 finished product to the ultimate consumer; in no case shall
11 more than one tax be exacted.

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

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

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

1 (1) EXEMPTIONS; GENERAL GROCERIES.--

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

4 (b) For the purpose of this chapter, as used in this
5 subsection, the term "food products" means edible commodities,
6 whether processed, cooked, raw, canned, or in any other form,
7 which are generally regarded as food. This includes, but is
8 not limited to, all of the following:

9 1. Cereals and cereal products, baked goods,
10 oleomargarine, meat and meat products, fish and seafood
11 products, frozen foods and dinners, poultry, eggs and egg
12 products, vegetables and vegetable products, fruit and fruit
13 products, spices, salt, sugar and sugar products, milk and
14 dairy products, and products intended to be mixed with milk.

15 2. Natural fruit or vegetable juices or their
16 concentrates or reconstituted natural concentrated fruit or
17 vegetable juices, whether frozen or unfrozen, dehydrated,
18 powdered, granulated, sweetened or unsweetened, seasoned with
19 salt or spice, or unseasoned; coffee, coffee substitutes, or
20 cocoa; and tea, unless it is sold in a liquid form.

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

23 (c) The exemption provided by this subsection does not
24 apply:

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

27 2. When the food products are furnished, prepared, or
28 served for consumption at tables, chairs, or counters or from
29 trays, glasses, dishes, or other tableware, whether provided
30 by the dealer or by a person with whom the dealer contracts to
31 furnish, prepare, or serve food products to others.

1 3. When the food products are ordinarily sold for
2 immediate consumption on the seller's premises or near a
3 location at which parking facilities are provided primarily
4 for the use of patrons in consuming the products purchased at
5 the location, even though such products are sold on a "take
6 out" or "to go" order and are actually packaged or wrapped and
7 taken from the premises of the dealer.

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

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

13 6. When the food products are sold as hot prepared
14 food products.

15 7. To soft drinks, which include, but are not limited
16 to, any nonalcoholic beverage, any preparation or beverage
17 commonly referred to as a "soft drink," or any noncarbonated
18 drink made from milk derivatives or tea, when sold in cans or
19 similar containers.

20 8. To ice cream, frozen yogurt, and similar frozen
21 dairy or nondairy products in cones, small cups, or pints,
22 popsicles, frozen fruit bars, or other novelty items, whether
23 or not sold separately.

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

28 10. When the food products are sold through a vending
29 machine, pushcart, motor vehicle, or any other form of
30 vehicle.

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1 11. To candy and any similar product regarded as candy
2 or confection, based on its normal use, as indicated on the
3 label or advertising thereof.

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

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

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

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

14 2. "For consumption on the seller's premises" means
15 that the food or drink sold may be immediately consumed on the
16 premises where the dealer conducts his or her business. In
17 determining whether an item of food is sold for immediate
18 consumption, there shall be considered the customary
19 consumption practices prevailing at the selling facility.

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

27 4. "Hot prepared food products" means those products,
28 items, or components which have been prepared for sale in a
29 heated condition and which are sold at any temperature that is
30 higher than the air temperature of the room or place where
31 they are sold. "Hot prepared food products," for the purposes

1 of this subsection, includes a combination of hot and cold
2 food items or components where a single price has been
3 established for the combination and the food products are sold
4 in such combination, such as a hot meal, a hot specialty dish
5 or serving, or a hot sandwich or hot pizza, including cold
6 components or side items.

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

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

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

21 (2) EXEMPTIONS; MEDICAL.--

22 (a) There shall be exempt from the tax imposed by this
23 chapter any medical products and supplies or medicine
24 dispensed according to an individual prescription or
25 prescriptions written by a prescriber authorized by law to
26 prescribe medicinal drugs; hypodermic needles; hypodermic
27 syringes; chemical compounds and test kits used for the
28 diagnosis or treatment of human disease, illness, or injury;
29 and common household remedies recommended and generally sold
30 for internal or external use in the cure, mitigation,
31 treatment, or prevention of illness or disease in human

1 beings, but not including cosmetics or toilet articles,
2 notwithstanding the presence of medicinal ingredients therein,
3 according to a list prescribed and approved by the Department
4 of Health, which list shall be certified to the Department of
5 Revenue from time to time and included in the rules
6 promulgated by the Department of Revenue. There shall also be
7 exempt from the tax imposed by this chapter artificial eyes
8 and limbs; orthopedic shoes; prescription eyeglasses and items
9 incidental thereto or which become a part thereof; dentures;
10 hearing aids; crutches; prosthetic and orthopedic appliances;
11 and funerals. ~~In addition, any items intended for one-time use~~
12 ~~which transfer essential optical characteristics to contact~~
13 ~~lenses shall be exempt from the tax imposed by this chapter;~~
14 ~~however, this exemption shall apply only after \$100,000 of the~~
15 ~~tax imposed by this chapter on such items has been paid in any~~
16 ~~calendar year by a taxpayer who claims the exemption in such~~
17 ~~year.~~ Funeral directors shall pay tax on all tangible personal
18 property used by them in their business.

19 (b) For the purposes of this subsection:

20 1. "Prosthetic and orthopedic appliances" means any
21 apparatus, instrument, device, or equipment used to replace or
22 substitute for any missing part of the body, to alleviate the
23 malfunction of any part of the body, or to assist any disabled
24 person in leading a normal life by facilitating such person's
25 mobility. Such apparatus, instrument, device, or equipment
26 shall be exempted according to an individual prescription or
27 prescriptions written by a physician licensed under chapter
28 458, chapter 459, chapter 460, chapter 461, or chapter 466, or
29 according to a list prescribed and approved by the Department
30 of Health, which list shall be certified to the Department of
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1 Revenue from time to time and included in the rules
2 promulgated by the Department of Revenue.

3 2. "Cosmetics" means articles intended to be rubbed,
4 poured, sprinkled, or sprayed on, introduced into, or
5 otherwise applied to the human body for cleansing,
6 beautifying, promoting attractiveness, or altering the
7 appearance and also means articles intended for use as a
8 compound of any such articles, including, but not limited to,
9 cold creams, suntan lotions, makeup, and body lotions.

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

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

1 processing system, provided that such order can be produced in
2 printed form upon lawful request.

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

6 (d) Lithotripters are exempt.

7 (e) Human organs are exempt.

8 (f) Sales of drugs to or by physicians, dentists,
9 veterinarians, and hospitals in connection with medical
10 treatment are exempt.

11 (g) Medical products and supplies used in the cure,
12 mitigation, alleviation, prevention, or treatment of injury,
13 disease, or incapacity which are temporarily or permanently
14 incorporated into a patient or client by a practitioner of the
15 healing arts licensed in the state are exempt.

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

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

30 (j) Parts, special attachments, special lettering, and
31 other like items that are added to or attached to tangible

1 personal property so that a handicapped person can use them
2 are exempt when such items are purchased by a person pursuant
3 to an individual prescription.

4 (k) This subsection shall be strictly construed and
5 enforced.

6 (3) EXEMPTIONS, PARTIAL; CERTAIN FARM
7 EQUIPMENT.--There shall be taxable at the rate of 2.5 percent
8 the sale, rental, lease, use, consumption, or storage for use
9 in this state of self-propelled, power-drawn, or power-driven
10 farm equipment used exclusively on a farm or in a forest in
11 the agricultural production of crops or products as produced
12 by those agricultural industries included in s. 570.02(1), or
13 for fire prevention and suppression work with respect to such
14 crops or products. Harvesting may not be construed to include
15 processing activities. This exemption is not forfeited by
16 moving farm equipment between farms or forests. However, this
17 exemption shall not be allowed unless the purchaser, renter,
18 or lessee signs a certificate stating that the farm equipment
19 is to be used exclusively on a farm or in a forest for
20 agricultural production or for fire prevention and
21 suppression, as required by this subsection. Possession by a
22 seller, lessor, or other dealer of a written certification by
23 the purchaser, renter, or lessee certifying the purchaser's,
24 renter's, or lessee's entitlement to an exemption permitted by
25 this subsection relieves the seller from the responsibility of
26 collecting the tax on the nontaxable amounts, and the
27 department shall look solely to the purchaser for recovery of
28 such tax if it determines that the purchaser was not entitled
29 to the exemption.

30 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,
31 ETC.--

1 (a) Also exempt are:

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

15 2. All fuels used by a public or private utility,
16 including any municipal corporation or rural electric
17 cooperative association, in the generation of electric power
18 or energy for sale. Fuel other than motor fuel and diesel
19 fuel is taxable as provided in this chapter with the exception
20 of fuel expressly exempt herein. Motor fuels and diesel fuels
21 are taxable as provided in chapter 206, ~~with the exception of~~
22 ~~those motor fuels and diesel fuels used by railroad~~
23 ~~locomotives or vessels to transport persons or property in~~
24 ~~interstate or foreign commerce, which are taxable under this~~
25 ~~chapter only to the extent provided herein. The basis of the~~
26 ~~tax shall be the ratio of intrastate mileage to interstate or~~
27 ~~foreign mileage traveled by the carrier's railroad locomotives~~
28 ~~or vessels that were used in interstate or foreign commerce~~
29 ~~and that had at least some Florida mileage during the previous~~
30 ~~fiscal year of the carrier, such ratio to be determined at the~~
31 ~~close of the fiscal year of the carrier. This ratio shall be~~

1 ~~applied each month to the total Florida purchases made in this~~
2 ~~state of motor and diesel fuels to establish that portion of~~
3 ~~the total used and consumed in intrastate movement and subject~~
4 ~~to tax under this chapter. The basis for imposition of any~~
5 ~~discretionary surtax shall be set forth in s. 212.054. Fuels~~
6 ~~used exclusively in intrastate commerce do not qualify for the~~
7 ~~proration of tax.~~

8 3. The transmission or wheeling of electricity.

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

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

19 (a) Items in agricultural use and certain nets.--There
20 are exempt from the tax imposed by this chapter nets designed
21 and used exclusively by commercial fisheries; disinfectants,
22 fertilizers, insecticides, pesticides, herbicides, fungicides,
23 and weed killers used for application on crops or groves,
24 including commercial nurseries and home vegetable gardens,
25 used in dairy barns or on poultry farms for the purpose of
26 protecting poultry or livestock, or used directly on poultry
27 or livestock; portable containers or movable receptacles in
28 which portable containers are placed, used for processing farm
29 products; field and garden seeds, including flower seeds;
30 nursery stock, seedlings, cuttings, or other propagative
31 material purchased for growing stock; seeds, seedlings,

1 cuttings, and plants used to produce food for human
2 consumption; cloth, plastic, and other similar materials used
3 for shade, mulch, or protection from frost or insects on a
4 farm; generators used on poultry farms; and liquefied
5 petroleum gas or other fuel used to heat a structure in which
6 started pullets or broilers are raised; however, such
7 exemption shall not be allowed unless the purchaser or lessee
8 signs a certificate stating that the item to be exempted is
9 for the exclusive use designated herein. Also exempt are
10 cellophane wrappers, glue for tin and glass (apiarists),
11 mailing cases for honey, shipping cases, window cartons, and
12 baling wire and twine used for baling hay, when used by a
13 farmer to contain, produce, or process an agricultural
14 commodity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 b. "Productive output" means the number of units
28 actually produced by a single plant or operation in a single
29 continuous 12-month period, irrespective of sales. Increases
30 in productive output shall be measured by the output for 12
31 continuous months immediately following the completion of

1 installation of such machinery or equipment over the output
2 for the 12 continuous months immediately preceding such
3 installation. However, if a different 12-month continuous
4 period of time would more accurately reflect the increase in
5 productive output of machinery and equipment purchased to
6 facilitate an expansion, the increase in productive output may
7 be measured during that 12-month continuous period of time if
8 such time period is mutually agreed upon by the Department of
9 Revenue and the expanding business prior to the commencement
10 of production; provided, however, in no case may such time
11 period begin later than 2 years following the completion of
12 installation of the new machinery and equipment. The units
13 used to measure productive output shall be physically
14 comparable between the two periods, irrespective of sales.

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

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

28 2. In facilities where machinery and equipment are
29 necessary to burn both residual and nonresidual fuels, the
30 exemption shall be prorated. Such proration shall be based
31 upon the production of electrical or steam energy from

1 nonresidual fuels as a percentage of electrical or steam
2 energy from all fuels. If it is determined that 15 percent or
3 less of all electrical or steam energy generated was produced
4 by burning residual fuel, the full exemption shall apply.
5 Purchasers claiming a partial exemption shall obtain such
6 exemption by refund of taxes paid, or as otherwise provided in
7 the department's rules.

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

20 (d) Machinery and equipment used under federal
21 procurement contract.--

22 1. Industrial machinery and equipment purchased by an
23 expanding business which manufactures tangible personal
24 property pursuant to federal procurement regulations at fixed
25 locations in this state are partially exempt from the tax
26 imposed in this chapter on that portion of the tax which is in
27 excess of \$100,000 per calendar year upon an affirmative
28 showing by the taxpayer to the satisfaction of the department
29 that such items are used to increase the implicit productive
30 output of the expanded business by not less than 10 percent.
31 The percentage of increase is measured as deflated implicit

1 productive output for the calendar year during which the
2 installation of the machinery or equipment is completed or
3 during which commencement of production utilizing such items
4 is begun divided by the implicit productive output for the
5 preceding calendar year. In no case may the commencement of
6 production begin later than 2 years following completion of
7 installation of the machinery or equipment.

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

15 3. The exemption provided by this paragraph shall
16 inure to the taxpayer only through refund of previously paid
17 taxes. Such refund shall be made within 30 days of formal
18 approval by the department of the taxpayer's application,
19 which application may be made on an annual basis following
20 installation of the machinery or equipment.

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

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

24 b. "Deflated implicit productive output" means the
25 product of implicit productive output times the quotient of
26 the national defense implicit price deflator for the preceding
27 calendar year divided by the deflator for the year of
28 completion or commencement.

29 c. "Eligible costs" means the total direct and
30 indirect costs, as defined in 32 C.F.R. ss. 15-202 and 15-203,
31 excluding general and administrative costs, selling expenses,

1 and profit, defined by the uniform cost-accounting standards
2 adopted by the Cost-Accounting Standards Board created
3 pursuant to 50 U.S.C. s. 2168.

4 d. "Implicit productive output" means the annual
5 eligible costs attributable to all contracts or subcontracts
6 subject to federal procurement regulations of the single plant
7 or operation at which the machinery or equipment is used.

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

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

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

1 (e) Gas used for certain agricultural
2 purposes.--Butane gas, propane gas, natural gas, and all other
3 forms of liquefied petroleum gases are exempt from the tax
4 imposed by this chapter if used in any tractor, vehicle, or
5 other farm equipment which is used exclusively on a farm or
6 for processing farm products on the farm and no part of which
7 gas is used in any vehicle or equipment driven or operated on
8 the public highways of this state. This restriction does not
9 apply to the movement of farm vehicles or farm equipment
10 between farms. The transporting of bees by water and the
11 operating of equipment used in the apiary of a beekeeper is
12 also deemed an exempt use.

13 ~~(f) Motion picture or video equipment used in motion
14 picture or television production activities and sound
15 recording equipment used in the production of master tapes and
16 master records.--~~

17 ~~1. Motion picture or video equipment and sound
18 recording equipment purchased or leased for use in this state
19 in production activities is exempt from the tax imposed by
20 this chapter. The exemption provided by this paragraph shall
21 inure to the taxpayer upon presentation of the certificate of
22 exemption issued to the taxpayer under the provisions of s.
23 288.1258.~~

24 ~~2. For the purpose of the exemption provided in
25 subparagraph 1.:~~

26 ~~a. "Motion picture or video equipment" and "sound
27 recording equipment" includes only equipment meeting the
28 definition of "section 38 property" as defined in s.
29 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is
30 used by the lessee or purchaser exclusively as an integral
31 part of production activities; however, motion picture or~~

1 ~~video equipment and sound recording equipment does not include~~
2 ~~supplies, tape, records, film, or video tape used in~~
3 ~~productions or other similar items; vehicles or vessels; or~~
4 ~~general office equipment not specifically suited to production~~
5 ~~activities. In addition, the term does not include equipment~~
6 ~~purchased or leased by television or radio broadcasting or~~
7 ~~cable companies licensed by the Federal Communications~~
8 ~~Commission.~~

9 ~~b. "Production activities" means activities directed~~
10 ~~toward the preparation of a+~~

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

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

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

21 1. Building materials used in the rehabilitation of
22 real property located in an enterprise zone shall be exempt
23 from the tax imposed by this chapter upon an affirmative
24 showing to the satisfaction of the department that the items
25 have been used for the rehabilitation of real property located
26 in an enterprise zone. Except as provided in subparagraph 2.,
27 this exemption inures to the owner, lessee, or lessor of the
28 rehabilitated real property located in an enterprise zone only
29 through a refund of previously paid taxes. To receive a refund
30 pursuant to this paragraph, the owner, lessee, or lessor of
31 the rehabilitated real property located in an enterprise zone

1 must file an application under oath with the governing body or
2 enterprise zone development agency having jurisdiction over
3 the enterprise zone where the business is located, as
4 applicable, which includes:

5 a. The name and address of the person claiming the
6 refund.

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

10 c. A description of the improvements made to
11 accomplish the rehabilitation of the real property.

12 d. A copy of the building permit issued for the
13 rehabilitation of the real property.

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

1 cost of such building materials shall be an amount equal to 40
2 percent of the increase in assessed value for ad valorem tax
3 purposes.

4 f. The identifying number assigned pursuant to s.
5 290.0065 to the enterprise zone in which the rehabilitated
6 real property is located.

7 g. A certification by the local building code
8 inspector that the improvements necessary to accomplish the
9 rehabilitation of the real property are substantially
10 completed.

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

13 i. If applicable, the name and address of each
14 permanent employee of the business, including, for each
15 employee who is a resident of an enterprise zone, the
16 identifying number assigned pursuant to s. 290.0065 to the
17 enterprise zone in which the employee resides.

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

1 other governmental agency, or nonprofit community-based
2 organization seeking a refund which states that the building
3 materials for which a refund is sought were paid for from the
4 funds of a community development block grant, State Housing
5 Initiatives Partnership Program, or similar grant or loan
6 program.

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

24 4. An application for a refund pursuant to this
25 paragraph must be submitted to the department within 6 months
26 after the rehabilitation of the property is deemed to be
27 substantially completed by the local building code inspector
28 or within 90 days after the rehabilitated property is first
29 subject to assessment.

30 5. The provisions of s. 212.095 do not apply to any
31 refund application made pursuant to this paragraph. No more

1 than one exemption through a refund of previously paid taxes
2 for the rehabilitation of real property shall be permitted for
3 any one parcel of real property. No refund shall be granted
4 pursuant to this paragraph unless the amount to be refunded
5 exceeds \$500. No refund granted pursuant to this paragraph
6 shall exceed the lesser of 97 percent of the Florida sales or
7 use tax paid on the cost of the building materials used in the
8 rehabilitation of the real property as determined pursuant to
9 sub-subparagraph 1.e. or \$5,000, or, if no less than 20
10 percent of the employees of the business are residents of an
11 enterprise zone, excluding temporary and part-time employees,
12 the amount of refund granted pursuant to this paragraph shall
13 not exceed the lesser of 97 percent of the sales tax paid on
14 the cost of such building materials or \$10,000. A refund
15 approved pursuant to this paragraph shall be made within 30
16 days of formal approval by the department of the application
17 for the refund.

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

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

29 8. For the purposes of the exemption provided in this
30 paragraph:

31

1 a. "Building materials" means tangible personal
2 property which becomes a component part of improvements to
3 real property.

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

6 c. "Rehabilitation of real property" means the
7 reconstruction, renovation, restoration, rehabilitation,
8 construction, or expansion of improvements to real property.

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

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

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

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

22 2. To receive a refund, the business must file under
23 oath with the governing body or enterprise zone development
24 agency having jurisdiction over the enterprise zone where the
25 business is located, as applicable, an application which
26 includes:

27 a. The name and address of the business claiming the
28 refund.

29 b. The identifying number assigned pursuant to s.
30 290.0065 to the enterprise zone in which the business is
31 located.

1 c. A specific description of the property for which a
2 refund is sought, including its serial number or other
3 permanent identification number.

4 d. The location of the property.

5 e. The sales invoice or other proof of purchase of the
6 property, showing the amount of sales tax paid, the date of
7 purchase, and the name and address of the sales tax dealer
8 from whom the property was purchased.

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

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

16 3. Within 10 working days after receipt of an
17 application, the governing body or enterprise zone development
18 agency shall review the application to determine if it
19 contains all the information required pursuant to subparagraph
20 2. and meets the criteria set out in this paragraph. The
21 governing body or agency shall certify all applications that
22 contain the information required pursuant to subparagraph 2.
23 and meet the criteria set out in this paragraph as eligible to
24 receive a refund. If applicable, the governing body or agency
25 shall also certify if 20 percent of the employees of the
26 business are residents of an enterprise zone, excluding
27 temporary and part-time employees. The certification shall be
28 in writing, and a copy of the certification shall be
29 transmitted to the executive director of the Department of
30 Revenue. The business shall be responsible for forwarding a
31

1 certified application to the department within the time
2 specified in subparagraph 4.

3 4. An application for a refund pursuant to this
4 paragraph must be submitted to the department within 6 months
5 after the tax is due on the business property that is
6 purchased.

7 5. The provisions of s. 212.095 do not apply to any
8 refund application made pursuant to this paragraph. The amount
9 refunded on purchases of business property under this
10 paragraph shall be the lesser of 97 percent of the sales tax
11 paid on such business property or \$5,000, or, if no less than
12 20 percent of the employees of the business are residents of
13 an enterprise zone, excluding temporary and part-time
14 employees, the amount refunded on purchases of business
15 property under this paragraph shall be the lesser of 97
16 percent of the sales tax paid on such business property or
17 \$10,000. A refund approved pursuant to this paragraph shall be
18 made within 30 days of formal approval by the department of
19 the application for the refund. No refund shall be granted
20 under this paragraph unless the amount to be refunded exceeds
21 \$100 in sales tax paid on purchases made within a 60-day time
22 period.

23 6. The department shall adopt rules governing the
24 manner and form of refund applications and may establish
25 guidelines as to the requisites for an affirmative showing of
26 qualification for exemption under this paragraph.

27 7. If the department determines that the business
28 property is used outside an enterprise zone within 3 years
29 from the date of purchase, the amount of taxes refunded to the
30 business purchasing such business property shall immediately
31 be due and payable to the department by the business, together

1 with the appropriate interest and penalty, computed from the
2 date of purchase, in the manner provided by this chapter.
3 Notwithstanding this subparagraph, business property used
4 exclusively in:

- 5 a. Licensed commercial fishing vessels,
- 6 b. Fishing guide boats, or
- 7 c. Ecotourism guide boats

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

16 8. 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 business property
21 is located and shall transfer that amount to the General
22 Revenue Fund.

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

- 27 a. Property classified as 3-year property under s.
28 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;
- 29 b. Industrial machinery and equipment as defined in
30 sub-subparagraph (b)6.a. and eligible for exemption under
31 paragraph (b);

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

3 d. Business property having a sales price of under
4 \$5,000 per unit.

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

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

13 (i)~~(j)~~ Machinery and equipment used in semiconductor,
14 defense, or space technology production and research and
15 development.--

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

28 b. Industrial machinery and equipment used in defense
29 or space technology facilities certified under subparagraph 6.
30 to manufacture, process, compound, or produce defense
31 technology products or space technology products for sale or

1 for use by these facilities are exempt from 25 percent of the
2 tax imposed by this chapter.

3 2.a. Machinery and equipment are exempt from the tax
4 imposed by this chapter if used predominately in semiconductor
5 wafer research and development activities in a semiconductor
6 technology research and development facility certified under
7 subparagraph 6. For purposes of this paragraph, machinery and
8 equipment includes molds, dies, machine tooling, other
9 appurtenances or accessories to machinery and equipment,
10 testing equipment, test beds, computers, and software, whether
11 purchased or self-fabricated, and, if self-fabricated,
12 includes materials and labor for design, fabrication, and
13 assembly.

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

19 3. Building materials purchased for use in
20 manufacturing or expanding clean rooms in
21 semiconductor-manufacturing facilities are exempt from the tax
22 imposed by this chapter.

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

28 5. For items purchased tax exempt pursuant to this
29 paragraph, possession of a written certification from the
30 purchaser, certifying the purchaser's entitlement to exemption
31 pursuant to this paragraph, relieves the seller of the

1 responsibility of collecting the tax on the sale of such
2 items, and the department shall look solely to the purchaser
3 for recovery of tax if it determines that the purchaser was
4 not entitled to the exemption.

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

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

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

31

1 7.a. A business may apply once each year for the
2 exemption.

3 b. The application must indicate, for program
4 evaluation purposes only, the average number of full-time
5 equivalent employees at the facility over the preceding
6 calendar year, the average wage and benefits paid to those
7 employees over the preceding calendar year, the total
8 investment made in real and tangible personal property over
9 the preceding calendar year, and the total value of tax-exempt
10 purchases and taxes exempted during the previous year. The
11 department shall assist the Office of Tourism, Trade, and
12 Economic Development in evaluating and verifying information
13 provided in the application for exemption.

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

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

1 property must be vested in the business unless otherwise
2 agreed to by the business and the university or community
3 college.

4 9. As used in this paragraph, the term:

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

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

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

23 d. "Clean rooms" means manufacturing facilities
24 enclosed in a manner that meets the clean manufacturing
25 requirements necessary for high-technology
26 semiconductor-manufacturing environments.

27 e. "Defense technology products" means products that
28 have a military application, including, but not limited to,
29 weapons, weapons systems, guidance systems, surveillance
30 systems, communications or information systems, munitions,
31 aircraft, vessels, or boats, or components thereof, which are

1 intended for military use and manufactured in performance of a
2 contract with the United States Department of Defense or the
3 military branch of a recognized foreign government or a
4 subcontract thereunder which relates to matters of national
5 defense.

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

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

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

26 (l)~~(m)~~ Educational materials purchased by certain
27 child care facilities.--Educational materials, such as glue,
28 paper, paints, crayons, unique craft items, scissors, books,
29 and educational toys, purchased by a child care facility that
30 meets the standards delineated in s. 402.305, is licensed
31 under s. 402.308, holds a current Gold Seal Quality Care

1 designation pursuant to s. 402.281, and provides basic health
2 insurance to all employees are exempt from the taxes imposed
3 by this chapter. For purposes of this paragraph, the term
4 "basic health insurance" shall be defined and promulgated in
5 rules developed jointly by the Department of Children and
6 Family Services, the Agency for Health Care Administration,
7 and the Department of Insurance.

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

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

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

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

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

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

29 a. The name and address of the owner.

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

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

2 d. A certification by the local building code
3 inspector that the home is substantially completed.

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

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

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

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

31

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

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

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

5 a. "Building materials" means tangible personal
6 property that becomes a component part of a housing project or
7 a mixed-use project.

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

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

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

26 2. Building materials used in the construction of a
27 housing project or mixed-use project are exempt from the tax
28 imposed by this chapter upon an affirmative showing to the
29 satisfaction of the department that the requirements of this
30 paragraph have been met. This exemption inures to the owner
31 through a refund of previously paid taxes. To receive this

1 refund, the owner must file an application under oath with the
2 department which includes:

3 a. The name and address of the owner.
4 b. The address and assessment roll parcel number of
5 the project for which a refund is sought.
6 c. A copy of the building permit issued for the
7 project.
8 d. A certification by the local building code
9 inspector that the project is substantially completed.
10 e. A sworn statement, under penalty of perjury, from
11 the general contractor licensed in this state with whom the
12 owner contracted to construct the project, which statement
13 lists the building materials used in the construction of the
14 project and the actual cost thereof, and the amount of sales
15 tax paid on these materials. If a general contractor was not
16 used, the owner shall provide this information in a sworn
17 statement, under penalty of perjury. Copies of invoices
18 evidencing payment of sales tax must be attached to the sworn
19 statement.

20 3. An application for a refund under this paragraph
21 must be submitted to the department within 6 months after the
22 date the project is deemed to be substantially completed by
23 the local building code inspector. Within 30 working days
24 after receipt of the application, the department shall
25 determine if it meets the requirements of this paragraph. A
26 refund approved pursuant to this paragraph shall be made
27 within 30 days after formal approval of the application by the
28 department. The provisions of s. 212.095 do not apply to any
29 refund application made under this paragraph.
30
31

1 4. The department shall establish by rule an
2 application form and criteria for establishing eligibility for
3 exemption under this paragraph.

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

6 (o)~~(p)~~ Equipment used to deploy broadband
7 technologies.--

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

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

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

25 b. A specific description of the property for which
26 the exemption is sought, including its serial number or other
27 permanent identification number.

28 c. The location of the property.

29 d. The sales invoice or other proof of purchase of the
30 property, showing the amount of sales tax paid, the date of
31

1 purchase, and the name and address of the sales tax dealer
2 from whom the property was purchased.

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

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

12 5. For purposes of this paragraph:

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

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

19 c. "Equipment" includes asynchronous transfer mode
20 switches, digital subscriber line access multiplexers,
21 routers, servers, multiplexers, fiber optic connector
22 equipment, database equipment, and other network equipment
23 used to provide broadband technology and information services.

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

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

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

3 1. Authorization.--Beginning July 1, 2001, persons who
4 are registered with the department under s. 212.18 to collect
5 or remit sales or use tax and who make donations to eligible
6 sponsors are eligible for tax credits against their state
7 sales and use tax liabilities as provided in this paragraph:

8 a. The credit shall be computed as 50 percent of the
9 person's approved annual community contribution;

10 b. The credit shall be granted as a refund against
11 state sales and use taxes reported on returns and remitted in
12 the 12 months preceding the date of application to the
13 department for the credit as required in sub-subparagraph 3.c.
14 If the annual credit is not fully used through such refund
15 because of insufficient tax payments during the applicable
16 12-month period, the unused amount may be included in an
17 application for a refund made pursuant to sub-subparagraph
18 3.c. in subsequent years against the total tax payments made
19 for such year. Carryover credits may be applied for a 3-year
20 period without regard to any time limitation that would
21 otherwise apply under s. 215.26;

22 c. No person shall receive more than \$200,000 in
23 annual tax credits for all approved community contributions
24 made in any one year;

25 d. All proposals for the granting of the tax credit
26 shall require the prior approval of the Office of Tourism,
27 Trade, and Economic Development;

28 e. The total amount of tax credits which may be
29 granted for all programs approved under this paragraph, s.
30 220.183, and s. 624.5105 is \$10 million annually; and
31

1 f. A person who is eligible to receive the credit
2 provided for in this paragraph, s. 220.183, or s. 624.5105 may
3 receive the credit only under the one section of the person's
4 choice.

5 2. Eligibility requirements.--

6 a. A community contribution by a person must be in the
7 following form:

8 (I) Cash or other liquid assets;

9 (II) Real property;

10 (III) Goods or inventory; or

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

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

1 or rehabilitate housing for low-income or very-low-income
2 households on scattered sites. The Office of Tourism, Trade,
3 and Economic Development may reserve up to 50 percent of the
4 available annual tax credits for housing for very-low-income
5 households pursuant to s. 420.9071(28) for the first 6 months
6 of the fiscal year. With respect to housing, contributions may
7 be used to pay the following eligible low-income and
8 very-low-income housing-related activities:

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

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

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

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

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

26 (I) A community action program;

27 (II) A nonprofit community-based development
28 organization whose mission is the provision of housing for
29 low-income or very-low-income households or increasing
30 entrepreneurial and job-development opportunities for
31 low-income persons;

- 1 (III) A neighborhood housing services corporation;
2 (IV) A local housing authority created under chapter
3 421;
4 (V) A community redevelopment agency created under s.
5 163.356;
6 (VI) The Florida Industrial Development Corporation;
7 (VII) A historic preservation district agency or
8 organization;
9 (VIII) A regional workforce board;
10 (IX) A direct-support organization as provided in s.
11 240.551;
12 (X) An enterprise zone development agency created
13 under s. 290.0056;
14 (XI) A community-based organization incorporated under
15 chapter 617 which is recognized as educational, charitable, or
16 scientific pursuant to s. 501(c)(3) of the Internal Revenue
17 Code and whose bylaws and articles of incorporation include
18 affordable housing, economic development, or community
19 development as the primary mission of the corporation;
20 (XII) Units of local government;
21 (XIII) Units of state government; or
22 (XIV) Any other agency that the Office of Tourism,
23 Trade, and Economic Development designates by rule.
24
25 In no event may a contributing person have a financial
26 interest in the eligible sponsor.
27 d. The project must be located in an area designated
28 an enterprise zone or a Front Porch Florida Community pursuant
29 to s. 14.2015(9)(b), unless the project increases access to
30 high-speed broadband capability for rural communities with
31 enterprise zones but is physically located outside the

1 designated rural zone boundaries. Any project designed to
2 construct or rehabilitate housing for low-income or
3 very-low-income households as defined in s. 420.0971(19) and
4 (28) is exempt from the area requirement of this
5 sub-subparagraph.

6 3. Application requirements.--

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

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

27 c. Any person who has received notification from the
28 Office of Tourism, Trade, and Economic Development that a tax
29 credit has been approved must apply to the department to
30 receive the refund. Application must be made on the form
31 prescribed for claiming refunds of sales and use taxes and be

1 accompanied by a copy of the notification. A person may submit
2 only one application for refund to the department within any
3 12-month period.

4 4. Administration.--

5 a. The Office of Tourism, Trade, and Economic
6 Development may adopt rules pursuant to ss. 120.536(1) and
7 120.54 necessary to administer this paragraph, including rules
8 for the approval or disapproval of proposals by a person.

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

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

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

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

30 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are
31 also exempt from the tax imposed by this chapter sales made to

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

1 license fees and charges for films, videotapes, and
2 transcriptions used in producing radio or television
3 broadcasts. The exemption provided in this subsection does not
4 include sales, rental, use, consumption, or storage for use in
5 any political subdivision or municipality in this state of
6 machines and equipment and parts and accessories therefor used
7 in providing two-way telecommunications services to the public
8 for hire by the use of a telecommunications facility, as
9 defined in s. 364.02(13), and for which a certificate is
10 required under chapter 364, which facility is owned and
11 operated by any county, municipality, or other political
12 subdivision of the state. Any immunity of any political
13 subdivision of the state or other entity of local government
14 from taxation of the property used to provide
15 telecommunication services that is taxed as a result of this
16 section is hereby waived. However, the exemption provided in
17 this subsection includes transactions taxable under this
18 chapter which are for use by the operator of a public-use
19 airport, as defined in s. 332.004, in providing such
20 telecommunications services for the airport or its tenants,
21 concessionaires, or licensees, or which are for use by a
22 public hospital for the provision of such telecommunications
23 services.

24 (7) MISCELLANEOUS EXEMPTIONS.--

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

29 (b) Boiler fuels.--When purchased for use as a
30 combustible fuel, purchases of natural gas, residual oil,
31 recycled oil, waste oil, solid waste material, coal, sulfur,

1 wood, wood residues or wood bark used in an industrial
2 manufacturing, processing, compounding, or production process
3 at a fixed location in this state are exempt from the taxes
4 imposed by this chapter; however, such exemption shall not be
5 allowed unless the purchaser signs a certificate stating that
6 the fuel to be exempted is for the exclusive use designated
7 herein. This exemption does not apply to the use of boiler
8 fuels that are not used in manufacturing, processing,
9 compounding, or producing items of tangible personal property
10 for sale, or to the use of boiler fuels used by any firm
11 subject to regulation by the Division of Hotels and
12 Restaurants of the Department of Business and Professional
13 Regulation.

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

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

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

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

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

31

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

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

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

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

1 similar facility designed and operated primarily for the care
2 of the aged.

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

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

26 (l) Organizations providing special educational,
27 cultural, recreational, and social benefits to minors.--Also
28 exempt from the tax imposed by this chapter are sales or
29 leases to and sales of donated property by nonprofit
30 organizations which are incorporated pursuant to chapter 617
31 the primary purpose of which is providing activities that

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

9 (m) Religious institutions.--

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

18 2. As used in this paragraph, the term "religious
19 institutions" means churches, synagogues, and established
20 physical places for worship at which nonprofit religious
21 services and activities are regularly conducted and carried
22 on. The term "religious institutions" includes nonprofit
23 corporations the sole purpose of which is to provide free
24 transportation services to church members, their families, and
25 other church attendees. The term "religious institutions" also
26 includes nonprofit state, nonprofit district, or other
27 nonprofit governing or administrative offices the function of
28 which is to assist or regulate the customary activities of
29 religious institutions. The term "religious institutions" also
30 includes any nonprofit corporation that is qualified as
31 nonprofit under s. 501(c)(3) of the Internal Revenue Code of

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

22 (n) Veterans' organizations.--

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

27 2. As used in this paragraph, the term "veterans'
28 organizations" means nationally chartered or recognized
29 veterans' organizations, including, but not limited to,
30 Florida chapters of the Paralyzed Veterans of America,
31 Catholic War Veterans of the U.S.A., Jewish War Veterans of

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

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

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

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

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

30 ~~(s) Tasting beverages.--Vinous and alcoholic beverages~~
31 ~~provided by distributors or vendors for the purpose of "wine~~

1 ~~tasting" and "spirituous beverage tasting" as contemplated~~
2 ~~under the provisions of ss. 564.06 and 565.12, respectively,~~
3 ~~are exempt from the tax imposed by this chapter.~~

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

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

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

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

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

26 4. As used in this paragraph, "registered repair
27 facility" means:

28 a. A full-service facility that:

29 (I) Is located on a navigable body of water;
30
31

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

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

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

10 b. A marina that:

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

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

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

17 c. A shoreside facility that:

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (ff)~~(jj)~~ Solar energy systems.--Also exempt are solar
30 energy systems or any component thereof. The Florida Solar
31 Energy Center shall from time to time certify to the

1 department a list of equipment and requisite hardware
2 considered to be a solar energy system or a component thereof.
3 This exemption is repealed July 1, 2005.

4 (gg)~~(kk)~~ Nonprofit cooperative hospital
5 laundries.--Also exempt from the tax imposed by this chapter
6 are sales or leases to nonprofit organizations that are
7 incorporated under chapter 617 and which are treated, for
8 federal income tax purposes, as cooperatives under subchapter
9 T of the Internal Revenue Code, whose sole purpose is to offer
10 laundry supplies and services to their members, which members
11 must all be exempt from federal income tax pursuant to s.
12 501(c)(3) of the Internal Revenue Code.

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

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

31

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

13

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

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

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

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

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

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

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

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

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

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

9 3. This exemption shall be applied as follows:

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

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

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

16 (tt)~~(aaa)~~ Film and other printing supplies.--Also
17 exempt are the following materials purchased, produced, or
18 created by businesses classified under SIC Industry Numbers
19 275, 276, 277, 278, or 279 for use in producing graphic matter
20 for sale: film, photographic paper, dyes used for embossing
21 and engraving, artwork, typography, lithographic plates, and
22 negatives. As used in this paragraph, "SIC" means those
23 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 (uu)~~(bbb)~~ People-mover systems.--People-mover systems,
27 and parts thereof, which are purchased or manufactured by
28 contractors employed either directly by or as agents for the
29 United States Government, the state, a county, a municipality,
30 a political subdivision of the state, or the public operator
31 of a public-use airport as defined by s. 332.004(14) are

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

24 (vv)~~(ccc)~~ Organizations providing crime prevention,
25 drunk driving prevention, or juvenile delinquency prevention
26 services.--Sales or leases to any nonprofit organization that
27 provides crime prevention services, drunk driving prevention
28 services, or juvenile delinquency prevention services that
29 benefit society as a whole are exempt from the tax imposed by
30 this chapter, if the organization holds a current exemption
31 from federal income tax under s. 501(c)(3) of the Internal

1 Revenue Code and the organization has as its sole or primary
2 purpose the provision of services that contribute to the
3 prevention of hardships caused by crime, drunk driving, or
4 juvenile delinquency.

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

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

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

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

24 ~~(a) The sale or use of vessels and parts thereof used~~
25 ~~to transport persons or property in interstate or foreign~~
26 ~~commerce, including commercial fishing vessels, is subject to~~
27 ~~the taxes imposed in this chapter only to the extent provided~~
28 ~~herein. The basis of the tax shall be the ratio of intrastate~~
29 ~~mileage to interstate or foreign mileage traveled by the~~
30 ~~carrier's vessels which were used in interstate or foreign~~
31 ~~commerce and which had at least some Florida mileage during~~

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

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

28 ~~(c) It is the intent of the Legislature that neither~~
29 ~~subsection (4) nor this subsection shall be construed as~~
30 ~~imposing the tax provided by this chapter on vessels used as~~
31 ~~common carriers, contract carriers, or private carriers,~~

1 ~~engaged in interstate or foreign commerce, except to the~~
2 ~~extent provided by the pro rata formula provided in subsection~~
3 ~~(4) and in paragraph (a).~~

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

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

25 ~~(b) Motor vehicles which are engaged in interstate~~
26 ~~commerce as common carriers, and parts thereof, used to~~
27 ~~transport persons or property in interstate or foreign~~
28 ~~commerce are subject to tax imposed in this chapter only to~~
29 ~~the extent provided herein. The basis of the tax shall be the~~
30 ~~ratio of intrastate mileage to interstate or foreign mileage~~
31 ~~traveled by the carrier's motor vehicles which were used in~~

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

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

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

17 (9)~~(11)~~ PARTIAL EXEMPTION; FLYABLE AIRCRAFT.--

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

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

31

1 (c) The maximum tax collectible under this subsection
2 may not exceed 6 percent of the sales price of such aircraft.
3 No Florida tax may be imposed on the sale of such aircraft if
4 the state in which the aircraft will be domiciled does not
5 allow Florida sales or use tax to be credited against its
6 sales or use tax. Furthermore, no tax may be imposed on the
7 sale of such aircraft if the state in which the aircraft will
8 be domiciled has enacted a sales and use tax exemption for
9 flyable aircraft or if the aircraft will be domiciled outside
10 the United States.

11 (d) The purchaser shall execute a sworn affidavit
12 attesting that he or she is not a resident of this state and
13 stating where the aircraft will be domiciled. If the aircraft
14 is subsequently used in this state within 6 months of the time
15 of purchase, in violation of the intent of this subsection,
16 the purchaser shall be liable for payment of the full use tax
17 imposed by this chapter and shall be subject to the penalty
18 imposed by s. 212.12(2), which penalty shall be mandatory.
19 Notwithstanding the provisions of this paragraph, the owner of
20 an aircraft purchased pursuant to this subsection may permit
21 the aircraft to be returned to this state for repairs within 6
22 months after the date of sale without the aircraft being in
23 violation of the law and without incurring liability for
24 payment of tax or penalty on the purchase price of the
25 aircraft, so long as the aircraft is removed from this state
26 within 20 days after the completion of the repairs and such
27 removal can be proven by invoices for fuel, tie-down, or
28 hangar charges issued by out-of-state vendors or suppliers or
29 similar documentation.

30 (10)~~(12)~~ PARTIAL EXEMPTION; MASTER TAPES, RECORDS,
31 FILMS, OR VIDEO TAPES.--

1 (a) There are exempt from the taxes imposed by this
2 chapter the gross receipts from the sale or lease of, and the
3 storage, use, or other consumption in this state of, master
4 tapes or master records embodying sound, or master films or
5 master video tapes; except that amounts paid to recording
6 studios or motion picture or television studios for the
7 tangible elements of such master tapes, records, films, or
8 video tapes are taxable as otherwise provided in this chapter.
9 This exemption will inure to the taxpayer upon presentation of
10 the certificate of exemption issued to the taxpayer under the
11 provisions of s. 288.1258.

12 (b) For the purposes of this subsection, the term:

13 1. "Amounts paid for the tangible elements" does not
14 include any amounts paid for the copyrightable, artistic, or
15 other intangible elements of such master tapes, records,
16 films, or video tapes, whether designated as royalties or
17 otherwise, including, but not limited to, services rendered in
18 producing, fabricating, processing, or imprinting tangible
19 personal property or any other services or production expenses
20 in connection therewith which may otherwise be construed as
21 constituting a "sale" under s. 212.02.

22 2. "Master films or master video tapes" means films or
23 video tapes utilized by the motion picture and television
24 production industries in making visual images for
25 reproduction.

26 3. "Master tapes or master records embodying sound"
27 means tapes, records, and other devices utilized by the
28 recording industry in making recordings embodying sound.

29 4. "Motion picture or television studio" means a
30 facility in which film or video tape productions or parts of
31 productions are made and which contains the necessary

1 equipment and personnel for this purpose and includes a mobile
2 unit or vehicle that is equipped in much the same manner as a
3 stationary studio and used in the making of film or video tape
4 productions.

5 5. "Recording studio" means a place where, by means of
6 mechanical or electronic devices, voices, music, or other
7 sounds are transmitted to tapes, records, or other devices
8 capable of reproducing sound.

9 6. "Recording industry" means any person engaged in an
10 occupation or business of making recordings embodying sound
11 for a livelihood or for a profit.

12 7. "Motion picture or television production industry"
13 means any person engaged in an occupation or business for a
14 livelihood or for profit of making visual motion picture or
15 television visual images for showing on screen or television
16 for theatrical, commercial, advertising, or educational
17 purposes.

18 (11)~~(13)~~ No transactions shall be exempt from the tax
19 imposed by this chapter except those expressly exempted
20 herein. All laws granting tax exemptions, to the extent they
21 may be inconsistent or in conflict with this chapter,
22 including, but not limited to, the following designated laws,
23 shall yield to and be superseded by the provisions of this
24 subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31,
25 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 315.11,
26 348.65, 348.762, 349.13, 403.1834, 616.07, and 623.09, and the
27 following Laws of Florida, acts of the year indicated: s. 31,
28 chapter 30843, 1955; s. 19, chapter 30845, 1955; s. 12,
29 chapter 30927, 1955; s. 8, chapter 31179, 1955; s. 15, chapter
30 31263, 1955; s. 13, chapter 31343, 1955; s. 16, chapter
31 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-2261; s.

1 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11, chapter
2 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446; and
3 s. 10, chapter 67-1681. This subsection does not supersede the
4 authority of a local government to adopt financial and local
5 government incentives pursuant to s. 163.2517.

6 (12)~~(14)~~ TECHNICAL ASSISTANCE ADVISORY COMMITTEE.--The
7 department shall establish a technical assistance advisory
8 committee with public and private sector members, including
9 representatives of both manufacturers and retailers, to advise
10 the Department of Revenue and the Department of Health in
11 determining the taxability of specific products and product
12 lines pursuant to subsection (1) and paragraph (2)(a). In
13 determining taxability and in preparing a list of specific
14 products and product lines that are or are not taxable, the
15 committee shall not be subject to the provisions of chapter
16 120. Private sector members shall not be compensated for
17 serving on the committee.

18 (13)~~(15)~~ ELECTRICAL ENERGY USED IN AN ENTERPRISE
19 ZONE.--

20 (a) Beginning July 1, 1995, charges for electrical
21 energy used by a qualified business at a fixed location in an
22 enterprise zone in a municipality which has enacted an
23 ordinance pursuant to s. 166.231(8) which provides for
24 exemption of municipal utility taxes on such businesses or in
25 an enterprise zone jointly authorized by a county and a
26 municipality which has enacted an ordinance pursuant to s.
27 166.231(8) which provides for exemption of municipal utility
28 taxes on such businesses shall receive an exemption equal to
29 50 percent of the tax imposed by this chapter, or, if no less
30 than 20 percent of the employees of the business are residents
31 of an enterprise zone, excluding temporary and part-time

1 employees, the exemption shall be equal to 100 percent of the
2 tax imposed by this chapter. A qualified business may receive
3 such exemption for a period of 5 years from the billing period
4 beginning not more than 30 days following notification to the
5 applicable utility company by the department that an exemption
6 has been authorized pursuant to this subsection and s.
7 166.231(8).

8 (b) To receive this exemption, a business must file an
9 application, with the enterprise zone development agency
10 having jurisdiction over the enterprise zone where the
11 business is located, on a form provided by the department for
12 the purposes of this subsection and s. 166.231(8). The
13 application shall be made under oath and shall include:

- 14 1. The name and location of the business.
- 15 2. The identifying number assigned pursuant to s.
16 290.0065 to the enterprise zone in which the business is
17 located.
- 18 3. The date on which electrical service is to be first
19 initiated to the business.
- 20 4. The name and mailing address of the entity from
21 which electrical energy is to be purchased.
- 22 5. The date of the application.
- 23 6. The name of the city in which the business is
24 located.
- 25 7. If applicable, the name and address of each
26 permanent employee of the business including, for each
27 employee who is a resident of an enterprise zone, the
28 identifying number assigned pursuant to s. 290.0065 to the
29 enterprise zone in which the employee resides.
- 30 8. Whether the business is a small business as defined
31 by s. 288.703(1).

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

18 (d) If, in a subsequent audit conducted by the
19 department, it is determined that the business did not meet
20 the criteria mandated in this subsection, the amount of taxes
21 exempted shall immediately be due and payable to the
22 department by the business, together with the appropriate
23 interest and penalty, computed from the due date of each bill
24 for the electrical energy purchased as exempt under this
25 subsection, in the manner prescribed by this chapter.

26 (e) The department shall adopt rules governing
27 applications for, issuance of, and the form of applications
28 for the exemption authorized in this subsection and provisions
29 for recapture of taxes exempted under this subsection, and the
30 department may establish guidelines as to qualifications for
31 exemption.

1 (f) For the purpose of the exemption provided in this
2 subsection, the term "qualified business" means a business
3 which is:

4 1. First occupying a new structure to which electrical
5 service, other than that used for construction purposes, has
6 not been previously provided or furnished;

7 2. Newly occupying an existing, remodeled, renovated,
8 or rehabilitated structure to which electrical service, other
9 than that used for remodeling, renovation, or rehabilitation
10 of the structure, has not been provided or furnished in the
11 three preceding billing periods; or

12 3. Occupying a new, remodeled, rebuilt, renovated, or
13 rehabilitated structure for which a refund has been granted
14 pursuant to paragraph (5)(g).

15 (g) This subsection shall expire and be void on
16 December 31, 2005, except that:

17 1. Paragraph (d) shall not expire; and

18 2. Any qualified business which has been granted an
19 exemption under this subsection prior to that date shall be
20 allowed the full benefit of this exemption as if this
21 subsection had not expired on that date.

22 (14)~~(16)~~ EXEMPTIONS; SPACE ACTIVITIES.--

23 (a) There shall be exempt from the tax imposed by this
24 chapter:

25 1. The sale, lease, use, storage, consumption, or
26 distribution in this state of any orbital space facility,
27 space propulsion system, or space vehicle, satellite, or
28 station of any kind possessing space flight capacity,
29 including the components thereof.

30 2. The sale, lease, use, storage, consumption, or
31 distribution in this state of tangible personal property

1 placed on or used aboard any orbital space facility, space
2 propulsion system, or space vehicle, satellite, or station of
3 any kind, irrespective of whether such tangible personal
4 property is returned to this state for subsequent use,
5 storage, or consumption in any manner. This exemption is not
6 affected by the failure of a launch to occur, or the
7 destruction of a launch vehicle or any components thereof.

8 (b) This subsection shall be strictly construed and
9 enforced.

10 (15)~~(17)~~ EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.--

11 (a) Subject to paragraph (d), the tax imposed by this
12 chapter does not apply to the sale to or use by a government
13 contractor of overhead materials. The term "government
14 contractor" includes prime contractors and subcontractors.

15 (b) As used in this subsection, the term "overhead
16 materials" means all tangible personal property, other than
17 qualifying property as defined in s. 212.02(14)(a) and
18 electricity, which is used or consumed in the performance of a
19 qualifying contract, title to which property vests in or
20 passes to the government under the contract.

21 (c) As used in this subsection and in s.
22 212.02(14)(a), the term "qualifying contract" means a contract
23 with the United States Department of Defense or the National
24 Aeronautics and Space Administration, or a subcontract
25 thereunder, but does not include a contract or subcontract for
26 the repair, alteration, improvement, or construction of real
27 property, except to the extent that purchases under such a
28 contract would otherwise be exempt from the tax imposed by
29 this chapter.

30 (d) The exemption provided in this subsection applies
31 as follows:

1 1. Beginning July 1, 2000, the tax imposed by this
2 chapter shall be applicable to 60 percent of the sales price
3 or cost price of such overhead materials.

4 2. Beginning July 1, 2001, the tax imposed by this
5 chapter shall be applicable to 40 percent of the sales price
6 or cost price of such overhead materials.

7 3. Beginning July 1, 2002, the tax imposed by this
8 chapter shall be applicable to 20 percent of the sales price
9 or cost price of such overhead materials.

10 4. Beginning July 1, 2003, the entire sales price or
11 cost price of such overhead materials is exempt from the tax
12 imposed by this chapter.

13
14 The exemption provided in this subsection does not apply to
15 any part of the cost of overhead materials allocated to a
16 contract that is not a qualifying contract.

17 (e) Possession by a seller of a resale certificate or
18 direct-pay permit relieves the seller from the responsibility
19 of collecting the tax, and the department shall look solely to
20 the contractor for recovery of such tax if it determines that
21 the contractor was not entitled to the exemption. The
22 contractor shall self-accrue and remit any applicable sales or
23 use tax due with respect to overhead materials and with
24 respect to costs allocable to contracts that are not
25 qualifying contracts. The department may amend its rules to
26 reflect the use of resale certificates and direct-pay permits
27 with respect to the exemption provided for in this subsection.

28 (f) This subsection is not an expression of
29 legislative intent as to the applicability of any tax to any
30 sale or use of overhead materials prior to July 1, 1999. In
31

1 addition, this subsection does not imply that transactions or
2 costs that are not described in this subsection are taxable.

3 Section 16. Effective July 1, 2004, section 212.0801,
4 Florida Statutes, is created to read:

5 212.0801 Sales and use tax on services; specified
6 exemptions.--

7 (1) There shall be exempt from the tax imposed by this
8 chapter the following services:

9 (a) Services by general physicians (SIC Industry Group
10 Number 801)

11 (b) Services by dentists (SIC Industry Group Number
12 802)

13 (c) Services by osteopathic physicians (SIC Industry
14 Group Number 803)

15 (d) Services by chiropractors, optometrists and other
16 health practitioners (SIC Industry Group Number 804)

17 (e) Nursing and personal care facilities services (SIC
18 Industry Group Number 805)

19 (f) Hospital services (SIC Industry Group Number 806)

20 (g) Medical and dental laboratory services (SIC
21 Industry Group Number 807)

22 (h) Outpatient care facility services (SIC Industry
23 Group Number 808)

24 (i) Other health and allied services (SIC Industry
25 Group Number 809)

26 (j) Agricultural services (SIC Major Group Number 07)

27 (k) Forestry services (SIC Industry Number 0851)

28 (l) Services by real estate agents (SIC Industry Group
29 Number 653)

30 (m) Insurance agents and brokers services (SIC Major
31 Group Number 64)

- 1 (n) Services between members of an affiliated group of
2 corporations as defined in s. 212.02.
- 3 (o) Money lending by banks (SIC Major Group Number 60)
- 4 (p) Money lending by nonbank financial institutions
5 (SIC Major Group Number 61)
- 6 (q) Security and commodity brokers services (SIC Major
7 Group Number 62)
- 8 (r) Services by insurance carriers (SIC Major Group
9 Number 63)
- 10 (s) Publishing and printing - newspaper, periodical
11 and miscellaneous advertising (SIC Industry Group Numbers
12 271-274)
- 13 (t) Radio and television broadcasting - advertising
14 (SIC Industry Group Number 483)
- 15 (u) Satellite up-link, down-link, and miscellaneous
16 communications services (SIC Industry Group Numbers 481-484)
- 17 (v) Newspaper delivery by independent carriers (SIC
18 Industry Number 5963)
- 19 (w) Services by advertising agencies and advertising
20 representatives (SIC Industry Numbers 7311 and 7313)
- 21 (x) News and feature syndicates (SIC Industry Number
22 7383)
- 23 (y) Sewage and garbage collection services and utility
24 hook-ups (SIC Major Group Number 49)
- 25 (z) Services by educational institutions (SIC Major
26 Group Number 82)
- 27 (aa) Social services (SIC Major Group Number 83)
- 28 (bb) Government enterprise activity service fees (SIC
29 Industry Group Number 919)
- 30 (cc) Local and suburban bus transportation services
31 (SIC Industry Group Number 411)

1 (dd) Employee leasing services (SIC Industry Number
2 7363)

3 (ee) Legal services rendered by an attorney to a
4 client to the extent that the right to counsel guaranteed
5 pursuant to either the Sixth Amendment to the United States
6 Constitution or s. 16 of Art. I of the State Constitution is
7 applicable to such legal services. However, this exemption
8 applies only if the criminal charges brought in the case are
9 dismissed or the client is ultimately adjudicated not guilty
10 by a court of competent jurisdiction. This exemption shall be
11 granted only pursuant to a refund of taxes previously paid on
12 such services.

13 (ff) Services provided by travel agents related to
14 arrangement of transportation and accommodations.

15 (gg) Beauty and barber shop services (SIC Industry
16 Group Numbers 723 and 724).

17 (hh) Charges for transportation of pulpwood.

18 (ii) Railroad transportation of freight (SIC Industry
19 Group Number 401).

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

24 Section 17. Effective July 1, 2004, section 212.0821,
25 Florida Statutes, is reenacted to read:

26 212.0821 Legislative intent that political
27 subdivisions and public libraries use their sales tax
28 exemption certificates for purchases on behalf of specified
29 groups.--It is the intent of the Legislature that the
30 political subdivisions of the state and the public libraries
31 utilize their sales tax exemption certificates to purchase,

1 with funds provided by the following groups, services,
2 equipment, supplies, and items necessary for the operation of
3 such groups, in addition to the normal exempt purchases that
4 political subdivisions and libraries are empowered to make:

5 (1) School districts shall purchase necessary goods
6 and services requested by parent-teacher organizations.

7 (2) Counties and municipalities shall purchase
8 necessary goods and services requested by REACT groups,
9 neighborhood crime watch groups, and state or locally
10 recognized organizations solely engaged in youth activities
11 identical to those discussed in s. 212.08(7)(1).

12 (3) Public libraries shall purchase necessary goods
13 and services requested by groups solely engaged in fundraising
14 activities for such libraries.

15 Section 18. Effective July 1, 2004, section 212.09,
16 Florida Statutes, is reenacted to read:

17 212.09 Trade-ins deducted.--

18 (1) Where used articles, accepted and intended for
19 resale, are taken in trade, or a series of trades, as a credit
20 or part payment on the sale of new articles, the tax levied by
21 this chapter shall be paid on the sales price of the new
22 article, less the credit for the used article taken in trade.

23 (2) Where used articles, accepted and intended for
24 resale, are taken in trade, or a series of trades, as a credit
25 or part payment on the sale of used articles, the tax levied
26 by this chapter shall be paid on the sales price of the used
27 article less the credit for the used article taken in trade.

28 (3) A person who is not registered with the department
29 as a seller of aircraft, boats, mobile homes, or vehicles who
30 is selling an aircraft, boat, mobile home, or vehicle and who
31 takes in trade an item other than an aircraft, boat, mobile

1 home, or vehicle may not use the item as a credit against
2 sales price.

3 Section 19. Effective July 1, 2004, section 212.11,
4 Florida Statutes, is amended to read:

5 212.11 Tax returns and regulations.--

6 (1)(a) Each dealer shall calculate his or her
7 estimated tax liability for any month by one of the following
8 methods:

- 9 1. Sixty percent of the current month's liability
10 pursuant to this chapter as shown on the tax return;
- 11 2. Sixty percent of the tax reported on the tax return
12 pursuant to this chapter by a dealer for the taxable
13 transactions occurring during the corresponding month of the
14 preceding calendar year; or
- 15 3. Sixty percent of the average tax liability pursuant
16 to this chapter for those months during the preceding calendar
17 year in which the dealer reported taxable transactions.

18 (b) For the purpose of ascertaining the amount of tax
19 payable under this chapter, it shall be the duty of all
20 dealers to file a return and remit the tax, on or before the
21 20th day of the month, to the department, upon forms prepared
22 and furnished by it or in a format prescribed by it. Such
23 return must show the rentals, admissions, gross sales, or
24 purchases, as the case may be, arising from all leases,
25 rentals, admissions, sales, or purchases taxable under this
26 chapter during the preceding calendar month.

27 (c) However, the department may require:

- 28 1. A quarterly return and payment when the tax
29 remitted by the dealer for the preceding four calendar
30 quarters did not exceed \$1,000.

31

1 2. A semiannual return and payment when the tax
2 remitted by the dealer for the preceding four calendar
3 quarters did not exceed \$500.

4 3. An annual return and payment when the tax remitted
5 by the dealer for the preceding four calendar quarters did not
6 exceed \$100.

7 4. A quarterly return and monthly payment when the tax
8 remitted by the dealer for the preceding four calendar
9 quarters exceeded \$1,000 but did not exceed \$12,000.

10

11 The department is authorized to allow a dealer filing returns
12 and paying tax under subparagraph 1., subparagraph 2.,
13 subparagraph 3., or subparagraph 4. to continue to use the
14 same filing frequency, even though the dealer has paid tax in
15 a filing period that is greater than the maximum amount
16 allowed for such period. The dealer must submit a written
17 request to the department to be continued on the same filing
18 frequency, and such request must be based on an explanation
19 that the tax amount submitted represents nonrecurring business
20 activity.

21 (d) The department may authorize dealers who are newly
22 required to file returns and pay tax quarterly to file returns
23 and remit the tax for the 3-month periods ending in February,
24 May, August, and November, and may authorize dealers who are
25 newly required to file returns and pay tax semiannually to
26 file returns and remit the tax for the 6-month periods ending
27 in May and November.

28 (e) The department shall accept returns, except those
29 required to be initiated through an electronic data
30 interchange, as timely if postmarked on or before the 20th day
31 of the month; if the 20th day falls on a Saturday, Sunday, or

1 federal or state legal holiday, returns shall be accepted as
2 timely if postmarked on the next succeeding workday. Any
3 dealer who operates two or more places of business for which
4 returns are required to be filed with the department and
5 maintains records for such places of business in a central
6 office or place shall have the privilege on each reporting
7 date of filing a consolidated return for all such places of
8 business in lieu of separate returns for each such place of
9 business; however, such consolidated returns must clearly
10 indicate the amounts collected within each county of the
11 state. Any dealer who files a consolidated return shall
12 calculate his or her estimated tax liability for each county
13 by the same method the dealer uses to calculate his or her
14 estimated tax liability on the consolidated return as a whole.
15 Each dealer shall file a return for each tax period even
16 though no tax is due for such period.

17 (f)1. A taxpayer who is required to remit taxes by
18 electronic funds transfer shall make a return in a manner that
19 is initiated through an electronic data interchange. The
20 acceptable method of transfer, the method, form, and content
21 of the electronic data interchange, giving due regard to
22 developing uniform standards for formats as adopted by the
23 American National Standards Institute, the circumstances under
24 which an electronic data interchange shall serve as a
25 substitute for the filing of another form of return, and the
26 means, if any, by which taxpayers will be provided with
27 acknowledgments, shall be as prescribed by the department. The
28 department must accept such returns as timely if initiated and
29 accepted on or before the 20th day of the month. If the 20th
30 day falls on a Saturday, Sunday, or federal or state legal
31

1 holiday, returns must be accepted as timely if initiated and
2 accepted on the next succeeding workday.

3 2. The department may waive the requirement to make a
4 return through an electronic data interchange due to problems
5 arising from the taxpayer's computer capabilities, data
6 systems changes, and taxpayer operating procedures. To obtain
7 a waiver, the taxpayer shall demonstrate in writing to the
8 department that such circumstances exist.

9 (2)(a) The sales and use tax on services imposed by
10 this chapter shall be computed according to the brackets set
11 forth in s. 212.12 on the sales price or cost price of the
12 service at the time of the sale, and is due and payable as
13 provided under this section, unless the dealer elects to remit
14 the tax pursuant to paragraph (b).

15 (b) A dealer may elect to ascertain the amount of the
16 tax payable under this chapter on the basis of cash receipts
17 for all taxable transactions under this chapter. Such election
18 shall be made and may be changed by the dealer pursuant to
19 procedures established by rule of the department. The
20 department shall provide by rule for the issuance and periodic
21 renewal every 5 years of registrations for dealers registered
22 as service providers. Only those persons primarily engaged in
23 the business of selling services are eligible for such
24 registration.

25 (c) However, if a transaction involves both the sale
26 or use of services and the sale or use of tangible personal
27 property, and the tangible personal property is not an
28 inconsequential element of the transaction, the sales and use
29 tax on services shall be computed and remitted as provided in
30 paragraph (a), and paragraph (b) is not applicable.

31

1 ~~(3)~~(2) Gross proceeds from rentals or leases of
2 tangible personal property shall be reported and the tax shall
3 be paid with respect thereto in accordance with such rules and
4 regulations as the department may prescribe.

5 ~~(4)~~(3) Except as otherwise expressly provided for
6 herein, it is hereby declared to be the intention of this
7 chapter to impose a tax on the gross proceeds of all leases
8 and rentals of tangible personal property in this state when
9 the lease or rental is a part of the regularly established
10 business, or the same is incidental or germane thereto.

11 ~~(5)~~(4)(a) Each dealer who is subject to the tax
12 imposed by this chapter and who paid such tax for the
13 preceding state fiscal year in an amount greater than or equal
14 to \$200,000 shall calculate the amount of estimated tax due
15 pursuant to this section for any month as provided in
16 paragraph (1)(a).

17 (b) The amount of any estimated tax shall be due,
18 payable, and remitted by electronic funds transfer by the 20th
19 day of the month for which it is estimated. The difference
20 between the amount of estimated tax paid and the actual amount
21 of tax due under this chapter for such month shall be due and
22 payable by the first day of the following month and remitted
23 by electronic funds transfer by the 20th day thereof.

24 (c) Any dealer who is eligible to file a consolidated
25 return and who paid the tax imposed by this chapter for the
26 immediately preceding state fiscal year in an amount greater
27 than or equal to \$200,000 or would have paid the tax in such
28 amount if he or she had filed a consolidated return shall be
29 subject to the provisions of this subsection notwithstanding
30 an election by the dealer in any month to file a separate
31 return.

1 (d) A dealer engaged in the business of selling boats,
2 motor vehicles, or aircraft who made at least one sale of a
3 boat, motor vehicle, or aircraft with a sales price of
4 \$200,000 or greater in the previous state fiscal year may
5 qualify for payment of estimated sales tax pursuant to the
6 provisions of this paragraph. To qualify, a dealer must apply
7 annually to the department prior to October 1, and, if
8 qualified, the department must grant the application for
9 payment of estimated sales tax pursuant to this paragraph for
10 the following calendar year. In lieu of the method for
11 calculating estimated sales tax liability pursuant to
12 subparagraph (1)(a)3., a qualified dealer must calculate that
13 option as 60 percent of the average tax liability pursuant to
14 this chapter for all sales excluding the sale of each boat,
15 motor vehicle, or aircraft with a sales price of \$200,000 or
16 greater during the state fiscal year ending the year in which
17 the application is made. A qualified dealer must also remit
18 the sales tax for each sale of a boat, motor vehicle, or
19 aircraft with a sales price of \$200,000 or greater by either
20 electronic funds transfer on the date of the sale or on a form
21 prescribed by the department and postmarked on the date of the
22 sale.

23 (e) The penalty provisions of this chapter, except s.
24 212.12(2)(e), apply to the provisions of this subsection.

25 Section 20. 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 21. 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 22. Effective July 1, 2005, sections 395.701
28 and 395.7015 are repealed.

29 Section 23. 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 24. It is the intent of the Legislature to
9 further examine the impact of taxation of transportation
10 services, as required by this act and by Section 19 of Article
11 VII of the State Constitution as created by Committee
12 Substitute for Senate Joint Resolution 938, in order to
13 minimize or eliminate adverse impacts on Florida businesses
14 and consumers. If future revenue estimates of the revenues
15 realized under this act allow for additional exemptions from
16 the sales and use tax in order to achieve revenue neutrality,
17 it is the intent of the Legislature to first exempt
18 transportation services.

19 Section 25. This act shall take effect July 1, 2004,
20 but shall not take effect unless the amendment to the State
21 Constitution proposed by Committee Substitute for Senate Joint
22 Resolution 938 is approved by vote of the electors in the
23 general election held in November of 2002.
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