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A bill to be entitled  
 An act relating to taxation; amending s. 198.32, F.S.;  
 specifying application to all estates of provisions  
 allowing the personal representative of an estate that is  
 not subject to tax to execute an affidavit attesting that  
 the estate is not taxable; amending ss. 199.135 and  
 201.08, F.S.; specifying the due date of taxes on certain  
 securities related to timeshare interests in timeshare  
 plans; requiring recordation of payment of certain taxes  
 to the Department of Revenue; specifying a due date for  
 payment to the department of certain taxes from escrow;  
 authorizing the department to adopt rules; amending s.  
 201.02, F.S.; specifying the due date of taxes on certain  
 deeds or other instruments related to timeshare interests  
 in timeshare plans; requiring recordation of payment of  
 certain taxes to the department; specifying a due date for  
 payment to the department of certain taxes from escrow;  
 authorizing the department to adopt rules; amending s.  
 202.11, F.S.; revising the definition of the term "service  
 address"; amending s. 212.12, F.S.; providing that any  
 person who willfully attempts in any manner to evade a tax  
 or fee imposed under ch. 212, F.S., commits a felony of  
 the third degree; providing an additional penalty;  
 amending s. 213.21, F.S.; including taxes imposed under  
 ss. 125.0104 and 125.0108, F.S., under automatic penalty  
 compromise or settlement provisions; providing an  
 exception; providing for retroactive operation; creating  
 s. 213.758, F.S.; providing for vesting in the department  
 title to certain evidence or unclaimed tangible personal

HB 1991

2004

30 property; authorizing the department to retain, transfer,  
 31 or destroy such evidence or property under certain  
 32 circumstances; requiring the department to prescribe  
 33 rules; providing application; amending s. 212.054, F.S.;  
 34 prohibiting counties and school boards from holding a  
 35 discretionary sales surtax referendum on the day of any  
 36 primary election; preserving authority to hold a special  
 37 referendum election; amending s. 212.06, F.S.; prohibiting  
 38 imposition of a tax on certain vessels imported into the  
 39 state for certain purposes; providing limitations;  
 40 creating s. 213.016, F.S.; defining the term "new state  
 41 tax or fee" for certain purposes; specifying the  
 42 imposition of a new state tax or fee by constitutional  
 43 amendment; amending s. 288.1162, F.S.; increasing the  
 44 number of facilities the Office of Tourism, Trade, and  
 45 Economic Development may certify as a facility for a new  
 46 professional sports franchise or as a facility for a  
 47 retained professional sports franchise; providing  
 48 circumstances under which a franchise can serve as the  
 49 basis for more than one certification; prohibiting  
 50 payments to a certified applicant beyond the period for  
 51 which original certification was issued; providing that  
 52 certain applicants certified after a certain date may not  
 53 receive certain disbursements until a time certain;  
 54 providing effective dates.

56 Be It Enacted by the Legislature of the State of Florida:  
 57

HB 1991

2004

58 Section 1. Subsection (2) of section 198.32, Florida  
 59 Statutes, is amended to read:

60 198.32 Prima facie liability for tax.--

61 (2) Whenever an estate is not subject to tax under this  
 62 chapter and is not required to file a return, the personal  
 63 representative may execute an affidavit attesting that the  
 64 estate is not taxable. The form of the affidavit shall be  
 65 prescribed by the department, and shall include, but not be  
 66 limited to, statements regarding the decedent's domicile and  
 67 whether a federal estate tax return will be filed, and  
 68 acknowledgment of the personal representative's personal  
 69 liability under s. 198.23. This affidavit shall be subject to  
 70 record and admissible in evidence to show nonliability for tax.  
 71 This subsection applies to all estates, regardless of the date  
 72 of death of the decedent.

73 Section 2. Subsection (5) is added to section 199.135,  
 74 Florida Statutes, to read:

75 199.135 Due date and payment of nonrecurring tax.--The  
 76 nonrecurring tax imposed on notes, bonds, and other obligations  
 77 for payment of money secured by a mortgage, deed of trust, or  
 78 other lien evidenced by a written instrument presented for  
 79 recordation shall be due and payable when the instrument is  
 80 presented for recordation. If there is no written instrument or  
 81 if it is not so presented within 30 days following creation of  
 82 the obligation, then the tax shall be due and payable within 30  
 83 days following creation of the obligation.

84 (5)(a) In recognition of the special escrow requirements  
 85 that apply to sales of timeshare interests in timeshare plans  
 86 pursuant to s. 721.08, taxes on notes or other obligations

HB 1991

2004

87 secured by a mortgage or other lien upon real property situated  
 88 in this state executed in conjunction with the sale by a  
 89 developer of a timeshare interest in a timeshare plan are due on  
 90 the earlier of the date on which:

- 91 1. The mortgage or other lien is recorded; or
- 92 2. All of the conditions precedent to the release of the  
 93 purchaser's escrowed funds or other property pursuant to s.  
 94 721.08(2)(c) have been complied with, regardless of whether the  
 95 developer has posted an alternative assurance. Taxes due under  
 96 this subparagraph shall be paid on or before the 20th day of the  
 97 month following the month in which they become due.

98 (b)1. If tax has been paid to the department by the  
 99 taxpayer under subparagraph (a)2. and the mortgage or other lien  
 100 with respect to which the tax is remitted is subsequently  
 101 recorded, a notation reflecting the prior payment of the tax  
 102 must be made upon the mortgage or other lien.

103 2. Notwithstanding paragraph (a), if moneys are designated  
 104 on a closing statement as taxes collected from the purchaser but  
 105 the mortgage or other lien with respect to which the tax was  
 106 collected has not been recorded, the tax moneys shall be paid to  
 107 the department on or before the 20th day of the month following  
 108 the month in which the funds are available for release from  
 109 escrow, unless such moneys are refunded to the purchaser before  
 110 that date.

111 (c) The department may adopt rules to implement the method  
 112 for reporting taxes due under this subsection.

113 Section 3. Subsection (10) is added to section 201.02,  
 114 Florida Statutes, to read:

HB 1991

2004

115 201.02 Tax on deeds and other instruments relating to real  
 116 property or interests in real property.--

117 (10)(a) In recognition of the special escrow requirements  
 118 that apply to sales of timeshare interests in timeshare plans  
 119 pursuant to s. 721.08, taxes on deeds or other instruments  
 120 conveying interest in real property in this state which are  
 121 executed in conjunction with the sale by a developer of a  
 122 timeshare interest in a timeshare plan shall be due on the  
 123 earlier of the date on which:

124 1. The deed or other instrument conveying interest in real  
 125 property in this state is recorded; or

126 2. All of the conditions precedent to the release of the  
 127 purchaser's escrowed funds or other property pursuant to the  
 128 requirements of s. 721.08(2)(c) have been complied with,  
 129 regardless of whether the developer has posted an alternative  
 130 assurance. Taxes due under this subparagraph shall be paid on or  
 131 before the 20th day of the month following the month in which  
 132 they become due.

133 (b)1. If tax has been paid to the department pursuant to  
 134 subparagraph(a)2. and the deed or other instrument conveying  
 135 interest in real property in this state with respect to which  
 136 the tax was remitted is subsequently recorded, a notation  
 137 reflecting the prior payment of the tax must be made upon the  
 138 deed or other instrument conveying interest in real property in  
 139 this state.

140 2. Notwithstanding paragraph (a), if moneys are designated  
 141 on a closing statement as taxes collected from the purchaser but  
 142 a default or cancellation occurs and no deed or other instrument  
 143 conveying interest in real property in this state has been

HB 1991

2004

144 recorded or delivered to the purchaser, the tax moneys shall be  
 145 paid to the department on or before the 20th day of the month  
 146 following the month in which such funds are available for  
 147 release from escrow pursuant to s. 721.08(2)(a) or (b), unless  
 148 such moneys are refunded to the purchaser before that date.

149 (c) The department may adopt rules to implement the method  
 150 for reporting taxes due pursuant to this subsection.

151 Section 4. Subsection (8) is added to section 201.08,  
 152 Florida Statutes, to read:

153 201.08 Tax on promissory or nonnegotiable notes, written  
 154 obligations to pay money, or assignments of wages or other  
 155 compensation; exception.--

156 (8)(a) In recognition of the special escrow requirements  
 157 that apply to sales of timeshare interests in timeshare plans  
 158 pursuant to s. 721.08, taxes on notes or other written  
 159 obligations and mortgages or other evidences of indebtedness  
 160 executed in conjunction with the sale by a developer of a  
 161 timeshare interest in a timeshare plan shall be due on the  
 162 earlier date on which:

163 1. The mortgage or other evidence of indebtedness is  
 164 recorded or filed in this state; or

165 2. All of the conditions precedent to the release of the  
 166 purchaser's escrowed funds or other property pursuant to the  
 167 requirements of s. 721.08(2)(c) have been complied with,  
 168 regardless of whether the developer has posted an alternative  
 169 assurance. Taxes due pursuant to this subparagraph shall be paid  
 170 on or before the 20th day of the month following the month in  
 171 which they become due.

HB 1991

2004

172 (b)1. If tax has been paid to the department pursuant to  
 173 subparagraph (a)2. and the mortgage or other evidence of  
 174 indebtedness with respect to which the tax was remitted is  
 175 subsequently recorded or filed in this state, a notation  
 176 reflecting the prior payment of the tax must be made upon the  
 177 mortgage or filed in this state or other evidence of  
 178 indebtedness recorded.

179 2. Notwithstanding paragraph (a), if moneys are designated  
 180 on a closing statement as taxes collected from the purchaser but  
 181 the mortgage or other evidence of indebtedness with respect to  
 182 which the tax is collected has not been recorded, the tax moneys  
 183 shall be paid to the department on or before the 20th day of the  
 184 month following the month in which the funds are available for  
 185 release from escrow, unless such moneys are refunded to the  
 186 purchaser before that date.

187 (c) The department may adopt rules to implement the method  
 188 for reporting taxes due pursuant to this subsection.

189 Section 5. Effective July 1, 2004, paragraph (a) of  
 190 subsection (15) of section 202.11, Florida Statutes, is amended  
 191 to read:

192 202.11 Definitions.--As used in this chapter:

193 (15) "Service address" means:

194 (a) Except as otherwise provided in this section:7

195 1. The location of the communications equipment from which  
 196 communications services originate or at which communications  
 197 services are received by the customer.

198 2. In the case of a communications service paid through a  
 199 credit or payment mechanism that does not relate to a service  
 200 address, such as a bank, travel, debit, or credit card, and in

HB 1991

2004

201 the case of third-number and calling-card calls, the service  
 202 address is the address of the central office, as determined by  
 203 the area code and the first three digits of the seven-digit  
 204 originating telephone number.

205 3. If the location of the equipment described in  
 206 subparagraph 1. is not known and if subparagraph 2. does not  
 207 apply, the service address is the location of the customer's  
 208 primary use of the communications service. For purposes of this  
 209 subparagraph, the location of the customer's primary use of a  
 210 communications service is the residential street address or the  
 211 business street address of the customer.

212 Section 6. Effective July 1, 2004, paragraph (g) is added  
 213 to subsection (2) of section 212.12, Florida Statutes, to read:

214 212.12 Dealer's credit for collecting tax; penalties for  
 215 noncompliance; powers of Department of Revenue in dealing with  
 216 delinquents; brackets applicable to taxable transactions;  
 217 records required.--

218 (2)

219 (g) Any person who willfully attempts in any manner to  
 220 evade any tax or fee imposed under this chapter or the payment  
 221 thereof commits a felony of the third degree, punishable as  
 222 provided in s. 775.082, s. 775.083, or s. 775.084 and, in  
 223 addition to other penalties provided by law, is liable for a  
 224 specific penalty of 100 percent of the tax bill or fee.

225 Section 7. Effective upon this act becoming a law and  
 226 operating retroactively to July ~~January~~ 1, 2003, subsection (10)  
 227 of section 213.21, Florida Statutes, is amended to read:

228 213.21 Informal conferences; compromises.--



HB 1991

2004

229 (10)(a) ~~Effective July 1, 2003,~~ Notwithstanding any other  
 230 provision of law and solely for the purpose of administering the  
 231 taxes tax imposed by ss. 125.0104 and 125.0108 and chapter 212,  
 232 except s. 212.0606, under the circumstances set forth in this  
 233 subsection, the department shall settle or compromise a  
 234 taxpayer's liability for penalty without requiring the taxpayer  
 235 to submit a written request for compromise or settlement.

236 (b) For taxpayers who file returns and remit tax on a  
 237 monthly basis:

238 1. Any penalty related to a noncompliant filing event  
 239 shall be settled or compromised if the taxpayer has:

240 a. No noncompliant filing event in the immediately  
 241 preceding 12-month period and no unresolved ~~chapter 212~~  
 242 liability under ss. 125.0104 and 125.0108 and chapter 212  
 243 resulting from a noncompliant filing event; or

244 b. One noncompliant filing event in the immediately  
 245 preceding 12-month period, resolution of the current  
 246 noncompliant filing event through payment of tax and interest  
 247 and the filing of a return within 30 days after notification by  
 248 the department, and no unresolved ~~chapter 212~~ liability under  
 249 ss. 125.0104 and 125.0108 and chapter 212 resulting from a  
 250 noncompliant filing event.

251 2. If a taxpayer has two or more noncompliant filing  
 252 events in the immediately preceding 12-month period, the  
 253 taxpayer shall be liable, absent a showing by the taxpayer that  
 254 the noncompliant filing event was due to extraordinary  
 255 circumstances, for the penalties provided in s. 125.0104 or s.  
 256 125.0108 and s. 212.12, including loss of collection allowance,  
 257 and shall be reported to a credit bureau.

HB 1991

2004

258 (c) For taxpayers who file returns and remit tax on a  
 259 quarterly basis, any penalty related to a noncompliant filing  
 260 event shall be settled or compromised if the taxpayer has no  
 261 noncompliant filing event in the immediately preceding 12-month  
 262 period and no unresolved ~~chapter 212~~ liability under s.  
 263 125.0104, s. 125.0108, or chapter 212 resulting from a  
 264 noncompliant filing event.

265 (d) For purposes of this subsection:

266 1. "Noncompliant filing event" means a failure to timely  
 267 file a complete and accurate return required under s. 125.0104,  
 268 s. 125.0108, or chapter 212 or a failure to timely pay the  
 269 amount of tax reported on a return required by s. 125.0104, s.  
 270 125.0108, or chapter 212.

271 2. "Extraordinary circumstances" means the occurrence of  
 272 events beyond the control of the taxpayer, such as, but not  
 273 limited to, the death of the taxpayer, acts of war or terrorism,  
 274 natural disasters, fire, or other casualty, or the nonfeasance  
 275 or misfeasance of the taxpayer's employees or representatives  
 276 responsible for compliance with s. 125.0104, s. 125.0108, or the  
 277 ~~provisions of~~ chapter 212. With respect to the acts of an  
 278 employee or representative, the taxpayer must show that the  
 279 principals of the business lacked actual knowledge of the  
 280 noncompliance and that the noncompliance was resolved within 30  
 281 days after actual knowledge.

282 Section 8. Effective July 1, 2004, section 213.758,  
 283 Florida Statutes, is created to read:

284 213.758 Procedure regarding unclaimed evidence.--

285 (1) Title to unclaimed evidence or unclaimed tangible  
 286 personal property lawfully seized pursuant to an investigation,

HB 1991

2004

287 obtained for use as evidence in a proceeding, or held as  
 288 evidence by the department shall vest permanently in the  
 289 department 60 days after the conclusion of the related legal  
 290 proceeding.

291 (a) If the property is of appreciable value, the  
 292 department may:

- 293 1. Retain the property for the department's own use; or
- 294 2. Transfer the property to another unit of state or local  
 295 government.

296 (b) If the property is not of appreciable value, the  
 297 agency may destroy it.

298 (2) The department shall prescribe by rule procedures to  
 299 be followed when transferring title or record of ownership of  
 300 property of appreciable value or when destroying property not of  
 301 appreciable value. The rule must also set forth criteria  
 302 regarding treatment of unclaimed evidence or unclaimed tangible  
 303 personal property, including, but not limited to, notice and  
 304 timing requirements.

305 (3) This section applies to all unclaimed evidence or  
 306 unclaimed tangible personal property possessed by the department  
 307 on the date this section takes effect.

308 Section 9. Subsection (9) is added to section 212.054,  
 309 Florida Statutes, to read:

310 212.054 Discretionary sales surtax; limitations,  
 311 administration, and collection.--

312 (9) Notwithstanding any other provision of law, a county  
 313 or school board shall not hold any discretionary sales surtax  
 314 referendum required by s. 212.055 on the day of any federal,  
 315 state, or local primary election. This does not prohibit a

HB 1991

2004

316 county from calling a special election for the purpose of  
 317 holding the referendum.

318 Section 10. Paragraph (e) of subsection (1) and subsection  
 319 (12) of section 212.06, Florida Statutes, are amended to read:

320 212.06 Sales, storage, use tax; collectible from dealers;  
 321 "dealer" defined; dealers to collect from purchasers;  
 322 legislative intent as to scope of tax.--

323 (1)

324 (e)1. Notwithstanding any other provision of this chapter,  
 325 tax shall not be imposed on any vessel registered pursuant to s.  
 326 328.52 by a vessel dealer or vessel manufacturer with respect to  
 327 a vessel used solely for demonstration, sales promotional, or  
 328 testing purposes. The term "promotional purposes" shall include,  
 329 but not be limited to, participation in fishing tournaments. For  
 330 the purposes of this paragraph, "promotional purposes" means the  
 331 entry of the vessel in a marine-related event where prospective  
 332 purchasers would be in attendance, where the vessel is entered  
 333 in the name of the dealer or manufacturer, and where the vessel  
 334 is clearly marked as for sale, on which vessel the name of the  
 335 dealer or manufacturer is clearly displayed, and which vessel  
 336 has never been transferred into the dealer's or manufacturer's  
 337 accounting books from an inventory item to a capital asset for  
 338 depreciation purposes.

339 2. The provisions of this paragraph do not apply to any  
 340 vessel when used for transporting persons or goods for  
 341 compensation; when offered, let, or rented to another for  
 342 consideration; when offered for rent or hire as a means of  
 343 transportation for compensation; or when offered or used to

HB 1991

2004

344 provide transportation for persons solicited through personal  
 345 contact or through advertisement on a "share expense" basis.

346 3. Notwithstanding any other provision of this chapter,  
 347 tax shall not be imposed on any vessel imported into this state  
 348 for the sole purpose of being offered for sale at retail by a  
 349 yacht broker or yacht dealer registered in this state, provided  
 350 the vessel remains under the care, custody, and control of the  
 351 registered broker or dealer and the owner of the vessel makes no  
 352 personal use of the vessel during that time. The provisions of  
 353 this chapter govern the taxability of any sale or use of the  
 354 vessel subsequent to its importation under this provision.

355 (12) In lieu of any other facts which may indicate  
 356 commingling, any boat which remains in this state for more than  
 357 an aggregate of 183 days in any 1-year period, except as  
 358 provided in subparagraph (1)(e)3., subsection (8), or s.  
 359 212.08(7)(t), shall be presumed to be commingled with the  
 360 general mass of property of this state.

361 Section 11. Section 213.016, Florida Statutes, is created  
 362 to read:

363 213.016 Constitutionally imposed new state taxes or fees;  
 364 definition; effect.--

365 (1) For purposes of s. 7, Art. XI of the State  
 366 Constitution, the term "new state tax or fee" means any tax or  
 367 fee which would produce revenue subject to lump sum or other  
 368 appropriation by the Legislature, for the state General Revenue  
 369 Fund or for any trust fund, which tax or fee was not in effect  
 370 on November 7, 1994, and shall include, but is not limited to,  
 371 the elimination, sunset, or repeal of any exemption or exclusion  
 372 from a state tax or fee or the increase in the rate of levy of a

HB 1991

2004

373 state tax or fee.

374 (2) A new state tax or fee shall be deemed imposed if,  
 375 upon approval of such tax or fee by an amendment to the State  
 376 Constitution by the requisite number of voters, no further  
 377 legislative action is required, except for implementing  
 378 legislation, in order for the new state tax or fee to take  
 379 effect.

380 Section 12. Effective July 1, 2004, subsections (7) and  
 381 (9) of section 288.1162, Florida Statutes, are amended to read:

382 288.1162 Professional sports franchises; spring training  
 383 franchises; duties.--

384 (7) The Office of Tourism, Trade, and Economic Development  
 385 shall notify the Department of Revenue of any facility certified  
 386 as a facility for a new professional sports franchise or a  
 387 facility for a retained professional sports franchise or as a  
 388 facility for a retained spring training franchise. The Office of  
 389 Tourism, Trade, and Economic Development shall certify no more  
 390 than nine ~~eight~~ facilities as facilities for a new professional  
 391 sports franchise or as facilities for a retained professional  
 392 sports franchise and shall certify at least five as facilities  
 393 for retained spring training franchises, including in such total  
 394 any facilities certified by the Department of Commerce before  
 395 July 1, 1996. The office may make no more than one certification  
 396 for any facility. The office may not certify funding for less  
 397 than the requested amount to any applicant certified as a  
 398 facility for a retained spring training franchise.

399 (9)(a) An applicant is not qualified for certification  
 400 under this section if the franchise formed the basis for a  
 401 previous certification, unless:

HB 1991

2004

402       1. The previous certification was withdrawn by the  
 403 facility or invalidated by the Office of Tourism, Trade, and  
 404 Economic Development or the Department of Commerce before any  
 405 funds were distributed pursuant to s. 212.20; or

406       2. The previous certification was for an applicant that  
 407 served as the home facility for two professional sports  
 408 franchises and the franchise used as the basis for the previous  
 409 certification is used as the basis for the certification of a  
 410 new applicant. Notwithstanding any other provision of this  
 411 section, the franchise continuing to use the original applicant  
 412 shall be deemed the franchise forming the basis of the previous  
 413 certification and the previous certification shall continue to  
 414 apply for the time period permitted from the original date of  
 415 certification.

416       (b) This subsection does not disqualify an applicant if  
 417 the previous certification occurred between May 23, 1993, and  
 418 May 25, 1993; however, any funds to be distributed pursuant to  
 419 s. 212.20 for the second certification shall be offset by the  
 420 amount distributed to the previous certified facility.  
 421 Distribution of funds for the second certification shall not be  
 422 made until all amounts payable for the first certification have  
 423 been distributed.

424       (c) Payments to a certified applicant may not extend beyond  
 425 the period for which the original certification was issued.

426       Section 13. Notwithstanding any other provision of law, an  
 427 applicant that is certified after the effective date of this act  
 428 pursuant to s. 288.1162, Florida Statutes, by the Office of  
 429 Tourism, Trade, and Economic Development as a facility for a new  
 430 professional sports franchise or a facility for a retained

HB 1991

2004

431 professional sports franchise may not receive disbursements  
432 pursuant to s. 212.20(6)(d)7.b., Florida Statutes, until July 1,  
433 2005.

434 Section 14. Except as otherwise expressly provided in this  
435 act, this act shall take effect upon becoming a law.