

By Senator Lynn

7-01552A-09

20092576__

1 A bill to be entitled
2 An act relating to review of exemptions and exclusions
3 from the tax on sales, use, and other transactions;
4 amending s. 11.903, F.S.; expanding purposes of the
5 Joint Legislative Sunset Committee to conform to
6 changes made by this act; creating s. 11.9035, F.S.;
7 providing a short title; providing additional
8 responsibilities of the Joint Legislative Sunset
9 Committee for the purpose of reviewing exemptions from
10 the general state sales and use tax and exclusions of
11 sales of services from such taxation; providing for
12 meetings and governance by joint rules; providing
13 definitions; specifying powers and duties; providing
14 for reports; requiring continuing periodic review of
15 sales tax exemptions and exclusions; providing for
16 legislative proposals; amending s. 212.08, F.S.;
17 providing for future elimination of all sales, rental,
18 use, consumption, distribution, and storage tax
19 exemptions under the section except those for general
20 groceries, medical, guide dogs for the blind, and
21 household fuels; repealing s. 212.051, F.S., relating
22 to exemption for equipment, machinery, and other
23 materials for pollution control; repealing s. 212.052,
24 F.S., relating to exemption for research or
25 development costs; repealing s. 212.0598, F.S.,
26 relating to partial exemption for air carriers'
27 maintenance bases; repealing s. 212.0602, F.S.,
28 relating to a limited exemption for education;
29 repealing s. 212.0801, F.S., relating to an exemption

7-01552A-09

20092576

30 for qualified aircraft; repealing s. 212.0821, F.S.,
31 relating to legislative intent that political
32 subdivisions and public libraries use sales tax
33 exemption certificates for certain purchases;
34 repealing s. 212.09, F.S., relating to trade-ins
35 deducted; repealing s. 212.096, F.S., relating to
36 credit for job creation in enterprise zones; repealing
37 s. 212.097, F.S., relating to Urban High Crime area
38 job tax credit; repealing s. 212.098, F.S., relating
39 to rural job tax credit; providing for future repeal
40 of certain provisions of ss. 212.02, 212.03, 212.031,
41 212.04, 212.05, 212.0506, 212.06, 212.0601, 212.07,
42 212.081, 212.12, 212.20, and 376.75, F.S., relating to
43 various sales and use tax exemptions, exclusions, and
44 credits; providing exceptions; providing effective
45 dates.

46
47 WHEREAS, Florida's current budget difficulties require the
48 state to consider innovative solutions in addressing the long-
49 term viability of the state's tax structure, and

50 WHEREAS, the state's tax structure should treat individuals
51 fairly and equitably, imposing similar tax burdens on people in
52 similar circumstances, and

53 WHEREAS, exemptions to the state's sales tax should serve
54 an important state interest and should be uniform in the effect
55 on citizens of the state, and

56 WHEREAS, the Legislature finds that a periodic sunset and
57 review of all sales tax exemptions will serve to restore
58 fairness to the state's tax structure, NOW, THEREFORE,

7-01552A-09

20092576

59
60 Be It Enacted by the Legislature of the State of Florida:

61
62 Section 1. Subsection (2) of section 11.903, Florida
63 Statutes, is amended to read:

64 11.903 Legislative Sunset Review Committees and the Joint
65 Legislative Sunset Committee.—

66 (2) The Senate and House of Representatives shall appoint a
67 Joint Legislative Sunset Committee for the purposes of
68 overseeing the agency review process required by ss. 11.901-
69 11.920 and the review of exemptions from the tax on sales, use,
70 and other transactions required by s. 11.9035 and of making
71 recommendations to the Legislature regarding such reviews.

72 Section 2. Section 11.9035, Florida Statutes, is created to
73 read:

74 11.9035 Sales and use tax exemption and exclusion review.—

75 (1) SHORT TITLE.—This section may be cited as the "Florida
76 Sales Tax Fairness Restoration Act."

77 (2) SALES TAX EXEMPTIONS REVIEW.—In addition to the review
78 required under ss. 11.901-11.920, the Joint Legislative Sunset
79 Committee shall conduct comprehensive, periodic reviews of all
80 exemptions from the general state sales and use tax and
81 exclusions of sales of services from such taxation as provided
82 by this section.

83 (3) PROCEDURES.—In addition to other meeting requirements
84 specified by ss. 11.901-11.920, the committee for each review
85 cycle shall have its initial meeting no later than September 1,
86 2009, and thereafter as necessary at the call of the chair at
87 the time and place designated by the chair. A quorum shall

7-01552A-09

20092576

88 consist of a majority of the committee members from each house.
89 During the interim between regular sessions, the committee may
90 conduct its meetings through teleconferences or other similar
91 means.

92 (4) RULES.—For purposes of this section, the committee
93 shall be governed by joint rules adopted by the Legislature
94 pursuant to authority to adopt rules under s. 4, Art. III of the
95 State Constitution.

96 (5) DEFINITIONS.—As used in this section, the term:

97 (a) "General state sales and use tax" means the sales and
98 use tax imposed under chapter 212.

99 (b) "Service" means a service within any of the following
100 service categories under the North American Industry
101 Classification System (NAICS):

- 102 1. Personal services.
- 103 2. Professional services.
- 104 3. Business services.
- 105 4. Financial services.
- 106 5. Media services.
- 107 6. Entertainment and sports services.
- 108 7. Construction services.
- 109 8. Institutional services.
- 110 9. Transportation services.
- 111 10. Health services.

112 (6) POWERS AND DUTIES.—The committee shall have the power
113 and duty to conduct a comprehensive review of all current and
114 future exemptions from the general state sales and use tax and
115 the exclusion of sales of services from such taxation. The
116 committee shall establish criteria by which each exemption or

7-01552A-09

20092576

117 exclusion shall be evaluated. In developing the evaluation
118 criteria, the committee shall consider the following principles
119 of taxation:

120 (a) Equity.—The Florida tax system should treat individuals
121 equitably. It should impose similar tax burdens on people in
122 similar circumstances and should minimize regressivity.

123 (b) Simplicity, transparency, and compliance.—The Florida
124 tax system should facilitate taxpayer compliance. It should be
125 simple and easy to understand and should provide visibility and
126 awareness of the taxes being paid.

127 (c) Neutrality.—The Florida tax system should affect
128 taxpayers uniformly and consistently. The primary purpose of any
129 tax should be to raise revenue for appropriate governmental
130 functions, rather than to influence business and personal
131 decisions.

132 (d) Stability.—The Florida tax system should produce
133 revenues in a stable and reliable manner that is sufficient to
134 fund appropriate governmental functions and expenditures.

135 (e) Integration.—The Florida tax system should balance the
136 need for integration of federal, state, and local taxation.

137 (f) Public purpose.—Any sales and use tax exemption or
138 exclusion under the Florida tax system should be based upon a
139 determination that the exemption or exclusion promotes an
140 important state interest and should benefit citizens as equally
141 as possible.

142 (7) FINDINGS AND RECOMMENDATIONS.—In conducting its review
143 of each exemption from the general state sales and use tax or
144 the exclusion of the sale of a service from such taxation, the
145 committee shall make findings of fact and recommend whether the

7-01552A-09

20092576

146 exemption should be retained, modified, or repealed or whether
147 the exclusion should be retained or eliminated. Each
148 recommendation must be made by majority vote of the committee
149 members from each house. If a majority vote of the committee
150 members from each house cannot be achieved, the committee must
151 recommend that the exemption or exclusion be repealed. The
152 findings of fact and recommendations of the committee shall be
153 made by reports to the President of the Senate and the Speaker
154 of the House of Representatives.

155 (8) EXEMPTIONS AND EXCLUSIONS REVIEW.—

156 (a) The committee may use its discretion in determining the
157 order in which it reviews the exemptions and exclusions. For the
158 initial review, the committee shall submit, to the President of
159 the Senate and the Speaker of the House of Representatives, its
160 initial report on one-third of the exemptions and exclusions by
161 November 1, 2009, its report on the second one-third of the
162 exemptions and exclusions by March 1, 2010, and its report on
163 the final one-third of the exemptions and exclusions by July 1,
164 2010, with no duplication of exemptions or exclusions from one
165 report to the next. Thereafter, the committee shall review every
166 3 years approximately one-third of the exemptions and exclusions
167 with no duplication of exemptions or exclusions reviewed from
168 one 3-year period to the next 3-year period. The committee shall
169 submit its 3-year period review reports no later than December 1
170 of the year prior to the next regular session after the
171 expiration of the third year of each 3-year review cycle. The
172 committee shall begin a new 9-year review cycle of all
173 exemptions from the general state sales and use tax and all
174 exclusions of sales of services from such taxation every 9 years

7-01552A-09

20092576

175 after the termination of the previous review cycle.

176 (b) Notwithstanding the provisions of this section,
177 exemptions and exclusions for necessities, including, but not
178 limited to, exemptions for general groceries as described in s.
179 212.08(1), exemptions for medical products or supplies as
180 described in s. 212.08(2), health services, residential housing,
181 residential electricity, and home heating fuel, and sales of
182 property or services that the state is prohibited from taxing
183 under the Constitution or laws of the United States may not be
184 subject to review by the committee or repeal in legislation
185 proposed by the committee.

186 (9) LEGISLATION.—At the regular session after submission of
187 each annual report to the Speaker of the House of
188 Representatives and the President of the Senate, the committee
189 shall introduce in both houses of the Legislature bills
190 presenting for reenactment, modification, or repeal those
191 exemptions from the general state sales and use tax or any
192 imposition of such taxation on sales of services that were
193 recommended by the committee in the report submitted immediately
194 prior to the session in which introduced. Each bill introduced
195 must be restricted to a single exemption or the imposition of
196 the tax on a single service and must be submitted to a vote of
197 the members of each house of the Legislature no later than the
198 eighth week of the session in which introduced, unless the
199 substance of the bill has already been voted on by the members
200 of that house of the Legislature in another bill during that
201 session and either passed or defeated or the bill has already
202 been submitted to the members of the other house and has been
203 defeated.

7-01552A-09

20092576__

204 (10) REPEAL.—Any exemption from the state general sales and
205 use tax or exemption from imposition of such tax on sales of
206 services, that is not prohibited from review by the committee
207 under the requirements of paragraph (8)(b) and is not modified
208 or reenacted by the end of the regular session after any 9-year
209 review period, stands repealed on July 1 after the end of the
210 regular session immediately after the 9-year review period.

211 (11) CONSTRUCTION.—This section does not preclude a
212 legislator from filing for any legislative session a bill
213 proposing to modify, repeal, or enact any exemption from the
214 general state sales and use tax or the imposition of such
215 taxation on the sales of any service.

216 Section 3. Effective July 1, 2012, section 212.08, Florida
217 Statutes, is amended to read:

218 212.08 Sales, rental, use, consumption, distribution, and
219 storage tax; specified exemptions.—The sale at retail, the
220 rental, the use, the consumption, the distribution, and the
221 storage to be used or consumed in this state of the following
222 are hereby specifically exempt from the tax imposed by this
223 chapter.

224 (1) EXEMPTIONS; GENERAL GROCERIES.—

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

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

232 1. Cereals and cereal products, baked goods, oleomargarine,

7-01552A-09

20092576

233 meat and meat products, fish and seafood products, frozen foods
234 and dinners, poultry, eggs and egg products, vegetables and
235 vegetable products, fruit and fruit products, spices, salt,
236 sugar and sugar products, milk and dairy products, and products
237 intended to be mixed with milk.

238 2. Natural fruit or vegetable juices or their concentrates
239 or reconstituted natural concentrated fruit or vegetable juices,
240 whether frozen or unfrozen, dehydrated, powdered, granulated,
241 sweetened or unsweetened, seasoned with salt or spice, or
242 unseasoned; coffee, coffee substitutes, or cocoa; and tea,
243 unless it is sold in a liquid form.

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

246 (c) The exemption provided by this subsection does not
247 apply:

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

250 2. When the food products are furnished, prepared, or
251 served for consumption at tables, chairs, or counters or from
252 trays, glasses, dishes, or other tableware, whether provided by
253 the dealer or by a person with whom the dealer contracts to
254 furnish, prepare, or serve food products to others.

255 3. When the food products are ordinarily sold for immediate
256 consumption on the seller's premises or near a location at which
257 parking facilities are provided primarily for the use of patrons
258 in consuming the products purchased at the location, even though
259 such products are sold on a "take out" or "to go" order and are
260 actually packaged or wrapped and taken from the premises of the
261 dealer.

7-01552A-09

20092576__

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

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

267 6. When the food products are sold as hot prepared food
268 products.

269 7. To soft drinks, which include, but are not limited to,
270 any nonalcoholic beverage, any preparation or beverage commonly
271 referred to as a "soft drink," or any noncarbonated drink made
272 from milk derivatives or tea, when sold in cans or similar
273 containers.

274 8. To ice cream, frozen yogurt, and similar frozen dairy or
275 nondairy products in cones, small cups, or pints, popsicles,
276 frozen fruit bars, or other novelty items, whether or not sold
277 separately.

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

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

284 11. To candy and any similar product regarded as candy or
285 confection, based on its normal use, as indicated on the label
286 or advertising thereof.

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

290 13. When food products are served, prepared, or sold in or

7-01552A-09

20092576

291 by restaurants, lunch counters, cafeterias, hotels, taverns, or
292 other like places of business.

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

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

297 2. "For consumption on the seller's premises" means that
298 the food or drink sold may be immediately consumed on the
299 premises where the dealer conducts his or her business. In
300 determining whether an item of food is sold for immediate
301 consumption, there shall be considered the customary consumption
302 practices prevailing at the selling facility.

303 3. "Premises" shall be construed broadly, and means, but is
304 not limited to, the lobby, aisle, or auditorium of a theater;
305 the seating, aisle, or parking area of an arena, rink, or
306 stadium; or the parking area of a drive-in or outdoor theater.
307 The premises of a caterer with respect to catered meals or
308 beverages shall be the place where such meals or beverages are
309 served.

310 4. "Hot prepared food products" means those products,
311 items, or components which have been prepared for sale in a
312 heated condition and which are sold at any temperature that is
313 higher than the air temperature of the room or place where they
314 are sold. "Hot prepared food products," for the purposes of this
315 subsection, includes a combination of hot and cold food items or
316 components where a single price has been established for the
317 combination and the food products are sold in such combination,
318 such as a hot meal, a hot specialty dish or serving, or a hot
319 sandwich or hot pizza, including cold components or side items.

7-01552A-09

20092576

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

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

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

334 (2) EXEMPTIONS; MEDICAL.—

335 (a) There shall be exempt from the tax imposed by this
336 chapter any medical products and supplies or medicine dispensed
337 according to an individual prescription or prescriptions written
338 by a prescriber authorized by law to prescribe medicinal drugs;
339 hypodermic needles; hypodermic syringes; chemical compounds and
340 test kits used for the diagnosis or treatment of human disease,
341 illness, or injury; and common household remedies recommended
342 and generally sold for internal or external use in the cure,
343 mitigation, treatment, or prevention of illness or disease in
344 human beings, but not including cosmetics or toilet articles,
345 notwithstanding the presence of medicinal ingredients therein,
346 according to a list prescribed and approved by the Department of
347 Health, which list shall be certified to the Department of
348 Revenue from time to time and included in the rules promulgated

7-01552A-09

20092576

349 by the Department of Revenue. There shall also be exempt from
350 the tax imposed by this chapter artificial eyes and limbs;
351 orthopedic shoes; prescription eyeglasses and items incidental
352 thereto or which become a part thereof; dentures; hearing aids;
353 crutches; prosthetic and orthopedic appliances; and funerals. In
354 addition, any items intended for one-time use which transfer
355 essential optical characteristics to contact lenses shall be
356 exempt from the tax imposed by this chapter; however, this
357 exemption shall apply only after \$100,000 of the tax imposed by
358 this chapter on such items has been paid in any calendar year by
359 a taxpayer who claims the exemption in such year. Funeral
360 directors shall pay tax on all tangible personal property used
361 by them in their business.

362 (b) For the purposes of this subsection:

363 1. "Prosthetic and orthopedic appliances" means any
364 apparatus, instrument, device, or equipment used to replace or
365 substitute for any missing part of the body, to alleviate the
366 malfunction of any part of the body, or to assist any disabled
367 person in leading a normal life by facilitating such person's
368 mobility. Such apparatus, instrument, device, or equipment shall
369 be exempted according to an individual prescription or
370 prescriptions written by a physician licensed under chapter 458,
371 chapter 459, chapter 460, chapter 461, or chapter 466, or
372 according to a list prescribed and approved by the Department of
373 Health, which list shall be certified to the Department of
374 Revenue from time to time and included in the rules promulgated
375 by the Department of Revenue.

376 2. "Cosmetics" means articles intended to be rubbed,
377 poured, sprinkled, or sprayed on, introduced into, or otherwise

7-01552A-09

20092576

378 applied to the human body for cleansing, beautifying, promoting
379 attractiveness, or altering the appearance and also means
380 articles intended for use as a compound of any such articles,
381 including, but not limited to, cold creams, suntan lotions,
382 makeup, and body lotions.

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

389 4. "Prescription" includes any order for drugs or medicinal
390 supplies written or transmitted by any means of communication by
391 a duly licensed practitioner authorized by the laws of the state
392 to prescribe such drugs or medicinal supplies and intended to be
393 dispensed by a pharmacist. The term also includes an orally
394 transmitted order by the lawfully designated agent of such
395 practitioner. The term also includes an order written or
396 transmitted by a practitioner licensed to practice in a
397 jurisdiction other than this state, but only if the pharmacist
398 called upon to dispense such order determines, in the exercise
399 of his or her professional judgment, that the order is valid and
400 necessary for the treatment of a chronic or recurrent illness.
401 The term also includes a pharmacist's order for a product
402 selected from the formulary created pursuant to s. 465.186. A
403 prescription may be retained in written form, or the pharmacist
404 may cause it to be recorded in a data processing system,
405 provided that such order can be produced in printed form upon
406 lawful request.

7-01552A-09

20092576

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

410 (d) Lithotripters are exempt.

411 (e) Human organs are exempt.

412 (f) Sales of drugs to or by physicians, dentists,
413 veterinarians, and hospitals in connection with medical
414 treatment are exempt.

415 (g) Medical products and supplies used in the cure,
416 mitigation, alleviation, prevention, or treatment of injury,
417 disease, or incapacity which are temporarily or permanently
418 incorporated into a patient or client by a practitioner of the
419 healing arts licensed in the state are exempt.

420 (h) The purchase by a veterinarian of commonly recognized
421 substances possessing curative or remedial properties which are
422 ordered and dispensed as treatment for a diagnosed health
423 disorder by or on the prescription of a duly licensed
424 veterinarian, and which are applied to or consumed by animals
425 for alleviation of pain or the cure or prevention of sickness,
426 disease, or suffering are exempt. Also exempt are the purchase
427 by a veterinarian of antiseptics, absorbent cotton, gauze for
428 bandages, lotions, vitamins, and worm remedies.

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

433 (j) Parts, special attachments, special lettering, and
434 other like items that are added to or attached to tangible
435 personal property so that a handicapped person can use them are

7-01552A-09

20092576

436 exempt when such items are purchased by a person pursuant to an
437 individual prescription.

438 (k) This subsection shall be strictly construed and
439 enforced.

440 ~~(3) EXEMPTIONS; CERTAIN FARM EQUIPMENT. There shall be no~~
441 ~~tax on the sale, rental, lease, use, consumption, or storage for~~
442 ~~use in this state of power farm equipment used exclusively on a~~
443 ~~farm or in a forest in the agricultural production of crops or~~
444 ~~products as produced by those agricultural industries included~~
445 ~~in s. 570.02(1), or for fire prevention and suppression work~~
446 ~~with respect to such crops or products. Harvesting may not be~~
447 ~~construed to include processing activities. This exemption is~~
448 ~~not forfeited by moving farm equipment between farms or forests.~~
449 ~~However, this exemption shall not be allowed unless the~~
450 ~~purchaser, renter, or lessee signs a certificate stating that~~
451 ~~the farm equipment is to be used exclusively on a farm or in a~~
452 ~~forest for agricultural production or for fire prevention and~~
453 ~~suppression, as required by this subsection. Possession by a~~
454 ~~seller, lessor, or other dealer of a written certification by~~
455 ~~the purchaser, renter, or lessee certifying the purchaser's,~~
456 ~~renter's, or lessee's entitlement to an exemption permitted by~~
457 ~~this subsection relieves the seller from the responsibility of~~
458 ~~collecting the tax on the nontaxable amounts, and the department~~
459 ~~shall look solely to the purchaser for recovery of such tax if~~
460 ~~it determines that the purchaser was not entitled to the~~
461 ~~exemption.~~

462 ~~(4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.—~~

463 ~~(a) Also exempt are:~~

464 ~~1. Water delivered to the purchaser through pipes or~~

7-01552A-09

20092576__

465 ~~conduits or delivered for irrigation purposes. The sale of~~
466 ~~drinking water in bottles, cans, or other containers, including~~
467 ~~water that contains minerals or carbonation in its natural state~~
468 ~~or water to which minerals have been added at a water treatment~~
469 ~~facility regulated by the Department of Environmental Protection~~
470 ~~or the Department of Health, is exempt. This exemption does not~~
471 ~~apply to the sale of drinking water in bottles, cans, or other~~
472 ~~containers if carbonation or flavorings, except those added at a~~
473 ~~water treatment facility, have been added. Water that has been~~
474 ~~enhanced by the addition of minerals and that does not contain~~
475 ~~any added carbonation or flavorings is also exempt.~~

476 ~~2. All fuels used by a public or private utility, including~~
477 ~~any municipal corporation or rural electric cooperative~~
478 ~~association, in the generation of electric power or energy for~~
479 ~~sale. Fuel other than motor fuel and diesel fuel is taxable as~~
480 ~~provided in this chapter with the exception of fuel expressly~~
481 ~~exempt herein. Motor fuels and diesel fuels are taxable as~~
482 ~~provided in chapter 206, with the exception of those motor fuels~~
483 ~~and diesel fuels used by railroad locomotives or vessels to~~
484 ~~transport persons or property in interstate or foreign commerce,~~
485 ~~which are taxable under this chapter only to the extent provided~~
486 ~~herein. The basis of the tax shall be the ratio of intrastate~~
487 ~~mileage to interstate or foreign mileage traveled by the~~
488 ~~carrier's railroad locomotives or vessels that were used in~~
489 ~~interstate or foreign commerce and that had at least some~~
490 ~~Florida mileage during the previous fiscal year of the carrier,~~
491 ~~such ratio to be determined at the close of the fiscal year of~~
492 ~~the carrier. However, during the fiscal year in which the~~
493 ~~carrier begins its initial operations in this state, the~~

7-01552A-09

20092576

494 ~~carrier's mileage apportionment factor may be determined on the~~
495 ~~basis of an estimated ratio of anticipated miles in this state~~
496 ~~to anticipated total miles for that year, and subsequently,~~
497 ~~additional tax shall be paid on the motor fuel and diesel fuels,~~
498 ~~or a refund may be applied for, on the basis of the actual ratio~~
499 ~~of the carrier's railroad locomotives' or vessels' miles in this~~
500 ~~state to its total miles for that year. This ratio shall be~~
501 ~~applied each month to the total Florida purchases made in this~~
502 ~~state of motor and diesel fuels to establish that portion of the~~
503 ~~total used and consumed in intrastate movement and subject to~~
504 ~~tax under this chapter. The basis for imposition of any~~
505 ~~discretionary surtax shall be set forth in s. 212.054. Fuels~~
506 ~~used exclusively in intrastate commerce do not qualify for the~~
507 ~~proration of tax.~~

508 ~~3. The transmission or wheeling of electricity.~~

509 ~~(b) Alcoholic beverages and malt beverages are not exempt.~~
510 ~~The terms "alcoholic beverages" and "malt beverages" as used in~~
511 ~~this paragraph have the same meanings ascribed to them in ss.~~
512 ~~561.01(4) and 563.01, respectively. It is determined by the~~
513 ~~Legislature that the classification of alcoholic beverages made~~
514 ~~in this paragraph for the purpose of extending the tax imposed~~
515 ~~by this chapter is reasonable and just, and it is intended that~~
516 ~~such tax be separate from, and in addition to, any other tax~~
517 ~~imposed on alcoholic beverages.~~

518 ~~(5) EXEMPTIONS; ACCOUNT OF USE.—~~

519 ~~(a) Items in agricultural use and certain nets. There are~~
520 ~~exempt from the tax imposed by this chapter nets designed and~~
521 ~~used exclusively by commercial fisheries; disinfectants,~~
522 ~~fertilizers, insecticides, pesticides, herbicides, fungicides,~~

7-01552A-09

20092576__

523 ~~and weed killers used for application on crops or groves,~~
524 ~~including commercial nurseries and home vegetable gardens, used~~
525 ~~in dairy barns or on poultry farms for the purpose of protecting~~
526 ~~poultry or livestock, or used directly on poultry or livestock,~~
527 ~~portable containers or movable receptacles in which portable~~
528 ~~containers are placed, used for processing farm products; field~~
529 ~~and garden seeds, including flower seeds; nursery stock,~~
530 ~~seedlings, cuttings, or other propagative material purchased for~~
531 ~~growing stock; seeds, seedlings, cuttings, and plants used to~~
532 ~~produce food for human consumption; cloth, plastic, and other~~
533 ~~similar materials used for shade, mulch, or protection from~~
534 ~~frost or insects on a farm; generators used on poultry farms;~~
535 ~~and liquefied petroleum gas or other fuel used to heat a~~
536 ~~structure in which started pullets or broilers are raised;~~
537 ~~however, such exemption shall not be allowed unless the~~
538 ~~purchaser or lessee signs a certificate stating that the item to~~
539 ~~be exempted is for the exclusive use designated herein. Also~~
540 ~~exempt are cellophane wrappers, glue for tin and glass~~
541 ~~(apiarists), mailing cases for honey, shipping cases, window~~
542 ~~cartons, and baling wire and twine used for baling hay, when~~
543 ~~used by a farmer to contain, produce, or process an agricultural~~
544 ~~commodity.~~

545 ~~(b) Machinery and equipment used to increase productive~~
546 ~~output.—~~

547 ~~1. Industrial machinery and equipment purchased for~~
548 ~~exclusive use by a new business in spaceport activities as~~
549 ~~defined by s. 212.02 or for use in new businesses which~~
550 ~~manufacture, process, compound, or produce for sale items of~~
551 ~~tangible personal property at fixed locations are exempt from~~

7-01552A-09

20092576

552 ~~the tax imposed by this chapter upon an affirmative showing by~~
553 ~~the taxpayer to the satisfaction of the department that such~~
554 ~~items are used in a new business in this state. Such purchases~~
555 ~~must be made prior to the date the business first begins its~~
556 ~~productive operations, and delivery of the purchased item must~~
557 ~~be made within 12 months of that date.~~

558 ~~2. Industrial machinery and equipment purchased for~~
559 ~~exclusive use by an expanding facility which is engaged in~~
560 ~~spaceport activities as defined by s. 212.02 or for use in~~
561 ~~expanding manufacturing facilities or plant units which~~
562 ~~manufacture, process, compound, or produce for sale items of~~
563 ~~tangible personal property at fixed locations in this state are~~
564 ~~exempt from any amount of tax imposed by this chapter upon an~~
565 ~~affirmative showing by the taxpayer to the satisfaction of the~~
566 ~~department that such items are used to increase the productive~~
567 ~~output of such expanded facility or business by not less than 10~~
568 ~~percent.~~

569 ~~3.a. To receive an exemption provided by subparagraph 1. or~~
570 ~~subparagraph 2., a qualifying business entity shall apply to the~~
571 ~~department for a temporary tax exemption permit. The application~~
572 ~~shall state that a new business exemption or expanded business~~
573 ~~exemption is being sought. Upon a tentative affirmative~~
574 ~~determination by the department pursuant to subparagraph 1. or~~
575 ~~subparagraph 2., the department shall issue such permit.~~

576 ~~b. The applicant shall be required to maintain all~~
577 ~~necessary books and records to support the exemption. Upon~~
578 ~~completion of purchases of qualified machinery and equipment~~
579 ~~pursuant to subparagraph 1. or subparagraph 2., the temporary~~
580 ~~tax permit shall be delivered to the department or returned to~~

7-01552A-09

20092576__

581 ~~the department by certified or registered mail.~~

582 ~~e. If, in a subsequent audit conducted by the department,~~
583 ~~it is determined that the machinery and equipment purchased as~~
584 ~~exempt under subparagraph 1. or subparagraph 2. did not meet the~~
585 ~~criteria mandated by this paragraph or if commencement of~~
586 ~~production did not occur, the amount of taxes exempted at the~~
587 ~~time of purchase shall immediately be due and payable to the~~
588 ~~department by the business entity, together with the appropriate~~
589 ~~interest and penalty, computed from the date of purchase, in the~~
590 ~~manner prescribed by this chapter.~~

591 ~~d. In the event a qualifying business entity fails to apply~~
592 ~~for a temporary exemption permit or if the tentative~~
593 ~~determination by the department required to obtain a temporary~~
594 ~~exemption permit is negative, a qualifying business entity shall~~
595 ~~receive the exemption provided in subparagraph 1. or~~
596 ~~subparagraph 2. through a refund of previously paid taxes. No~~
597 ~~refund may be made for such taxes unless the criteria mandated~~
598 ~~by subparagraph 1. or subparagraph 2. have been met and~~
599 ~~commencement of production has occurred.~~

600 ~~4. The department shall adopt rules governing applications~~
601 ~~for, issuance of, and the form of temporary tax exemption~~
602 ~~permits; provisions for recapture of taxes; and the manner and~~
603 ~~form of refund applications and may establish guidelines as to~~
604 ~~the requisites for an affirmative showing of increased~~
605 ~~productive output, commencement of production, and qualification~~
606 ~~for exemption.~~

607 ~~5. The exemptions provided in subparagraphs 1. and 2. do~~
608 ~~not apply to machinery or equipment purchased or used by~~
609 ~~electric utility companies, communications companies, oil or gas~~

7-01552A-09

20092576

610 ~~exploration or production operations, publishing firms that do~~
611 ~~not export at least 50 percent of their finished product out of~~
612 ~~the state, any firm subject to regulation by the Division of~~
613 ~~Hotels and Restaurants of the Department of Business and~~
614 ~~Professional Regulation, or any firm which does not manufacture,~~
615 ~~process, compound, or produce for sale items of tangible~~
616 ~~personal property or which does not use such machinery and~~
617 ~~equipment in spaceport activities as required by this paragraph.~~
618 ~~The exemptions provided in subparagraphs 1. and 2. shall apply~~
619 ~~to machinery and equipment purchased for use in phosphate or~~
620 ~~other solid minerals severance, mining, or processing~~
621 ~~operations.~~

622 ~~6. For the purposes of the exemptions provided in~~
623 ~~subparagraphs 1. and 2., these terms have the following~~
624 ~~meanings:~~

625 ~~a. "Industrial machinery and equipment" means tangible~~
626 ~~personal property or other property that has a depreciable life~~
627 ~~of 3 years or more and that is used as an integral part in the~~
628 ~~manufacturing, processing, compounding, or production of~~
629 ~~tangible personal property for sale or is exclusively used in~~
630 ~~spaceport activities. A building and its structural components~~
631 ~~are not industrial machinery and equipment unless the building~~
632 ~~or structural component is so closely related to the industrial~~
633 ~~machinery and equipment that it houses or supports that the~~
634 ~~building or structural component can be expected to be replaced~~
635 ~~when the machinery and equipment are replaced. Heating and air-~~
636 ~~conditioning systems are not industrial machinery and equipment~~
637 ~~unless the sole justification for their installation is to meet~~
638 ~~the requirements of the production process, even though the~~

7-01552A-09

20092576

639 ~~system may provide incidental comfort to employees or serve, to~~
640 ~~an insubstantial degree, nonproduction activities. The term~~
641 ~~includes parts and accessories only to the extent that the~~
642 ~~exemption thereof is consistent with the provisions of this~~
643 ~~paragraph.~~

644 ~~b. "Productive output" means the number of units actually~~
645 ~~produced by a single plant or operation in a single continuous~~
646 ~~12-month period, irrespective of sales. Increases in productive~~
647 ~~output shall be measured by the output for 12 continuous months~~
648 ~~immediately following the completion of installation of such~~
649 ~~machinery or equipment over the output for the 12 continuous~~
650 ~~months immediately preceding such installation. However, if a~~
651 ~~different 12-month continuous period of time would more~~
652 ~~accurately reflect the increase in productive output of~~
653 ~~machinery and equipment purchased to facilitate an expansion,~~
654 ~~the increase in productive output may be measured during that~~
655 ~~12-month continuous period of time if such time period is~~
656 ~~mutually agreed upon by the Department of Revenue and the~~
657 ~~expanding business prior to the commencement of production;~~
658 ~~provided, however, in no case may such time period begin later~~
659 ~~than 2 years following the completion of installation of the new~~
660 ~~machinery and equipment. The units used to measure productive~~
661 ~~output shall be physically comparable between the two periods,~~
662 ~~irrespective of sales.~~

663 ~~(c) Machinery and equipment used in production of~~
664 ~~electrical or steam energy.~~

665 ~~1. The purchase of machinery and equipment for use at a~~
666 ~~fixed location which machinery and equipment are necessary in~~
667 ~~the production of electrical or steam energy resulting from the~~

7-01552A-09

20092576__

668 ~~burning of boiler fuels other than residual oil is exempt from~~
669 ~~the tax imposed by this chapter. Such electrical or steam energy~~
670 ~~must be primarily for use in manufacturing, processing,~~
671 ~~compounding, or producing for sale items of tangible personal~~
672 ~~property in this state. Use of a de minimis amount of residual~~
673 ~~fuel to facilitate the burning of nonresidual fuel shall not~~
674 ~~reduce the exemption otherwise available under this paragraph.~~

675 ~~2. In facilities where machinery and equipment are~~
676 ~~necessary to burn both residual and nonresidual fuels, the~~
677 ~~exemption shall be prorated. Such proration shall be based upon~~
678 ~~the production of electrical or steam energy from nonresidual~~
679 ~~fuels as a percentage of electrical or steam energy from all~~
680 ~~fuels. If it is determined that 15 percent or less of all~~
681 ~~electrical or steam energy generated was produced by burning~~
682 ~~residual fuel, the full exemption shall apply. Purchasers~~
683 ~~claiming a partial exemption shall obtain such exemption by~~
684 ~~refund of taxes paid, or as otherwise provided in the~~
685 ~~department's rules.~~

686 ~~3. The department may adopt rules that provide for~~
687 ~~implementation of this exemption. Purchasers of machinery and~~
688 ~~equipment qualifying for the exemption provided in this~~
689 ~~paragraph shall furnish the vendor with an affidavit stating~~
690 ~~that the item or items to be exempted are for the use designated~~
691 ~~herein. Any person furnishing a false affidavit to the vendor~~
692 ~~for the purpose of evading payment of any tax imposed under this~~
693 ~~chapter shall be subject to the penalty set forth in s. 212.085~~
694 ~~and as otherwise provided by law. Purchasers with self-accrual~~
695 ~~authority shall maintain all documentation necessary to prove~~
696 ~~the exempt status of purchases.~~

7-01552A-09

20092576

697 ~~(d) Machinery and equipment used under federal procurement~~
698 ~~contract.—~~

699 ~~1. Industrial machinery and equipment purchased by an~~
700 ~~expanding business which manufactures tangible personal property~~
701 ~~pursuant to federal procurement regulations at fixed locations~~
702 ~~in this state are exempt from the tax imposed in this chapter~~
703 ~~upon an affirmative showing by the taxpayer to the satisfaction~~
704 ~~of the department that such items are used to increase the~~
705 ~~implicit productive output of the expanded business by not less~~
706 ~~than 10 percent. The percentage of increase is measured as~~
707 ~~deflated implicit productive output for the calendar year during~~
708 ~~which the installation of the machinery or equipment is~~
709 ~~completed or during which commencement of production utilizing~~
710 ~~such items is begun divided by the implicit productive output~~
711 ~~for the preceding calendar year. In no case may the commencement~~
712 ~~of production begin later than 2 years following completion of~~
713 ~~installation of the machinery or equipment.~~

714 ~~2. The amount of the exemption allowed shall equal the~~
715 ~~taxes otherwise imposed by this chapter on qualifying industrial~~
716 ~~machinery or equipment reduced by the percentage of gross~~
717 ~~receipts from cost-reimbursement type contracts attributable to~~
718 ~~the plant or operation to total gross receipts so attributable,~~
719 ~~accrued for the year of completion or commencement.~~

720 ~~3. The exemption provided by this paragraph shall inure to~~
721 ~~the taxpayer only through refund of previously paid taxes. Such~~
722 ~~refund shall be made within 30 days of formal approval by the~~
723 ~~department of the taxpayer's application, which application may~~
724 ~~be made on an annual basis following installation of the~~
725 ~~machinery or equipment.~~

7-01552A-09

20092576__

726 ~~4. For the purposes of this paragraph, the term:~~

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

729 ~~b. "Deflated implicit productive output" means the product~~
730 ~~of implicit productive output times the quotient of the national~~
731 ~~defense implicit price deflator for the preceding calendar year~~
732 ~~divided by the deflator for the year of completion or~~
733 ~~commencement.~~

734 ~~e. "Eligible costs" means the total direct and indirect~~
735 ~~costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding~~
736 ~~general and administrative costs, selling expenses, and profit,~~
737 ~~defined by the uniform cost-accounting standards adopted by the~~
738 ~~Cost Accounting Standards Board created pursuant to 50 U.S.C. s.~~
739 ~~2168.~~

740 ~~d. "Implicit productive output" means the annual eligible~~
741 ~~costs attributable to all contracts or subcontracts subject to~~
742 ~~federal procurement regulations of the single plant or operation~~
743 ~~at which the machinery or equipment is used.~~

744 ~~e. "Industrial machinery and equipment" means tangible~~
745 ~~personal property or other property that has a depreciable life~~
746 ~~of 3 years or more, that qualifies as an eligible cost under~~
747 ~~federal procurement regulations, and that is used as an integral~~
748 ~~part of the process of production of tangible personal property.~~
749 ~~A building and its structural components are not industrial~~
750 ~~machinery and equipment unless the building or structural~~
751 ~~component is so closely related to the industrial machinery and~~
752 ~~equipment that it houses or supports that the building or~~
753 ~~structural component can be expected to be replaced when the~~
754 ~~machinery and equipment are replaced. Heating and air-~~

7-01552A-09

20092576

755 ~~conditioning systems are not industrial machinery and equipment~~
756 ~~unless the sole justification for their installation is to meet~~
757 ~~the requirements of the production process, even though the~~
758 ~~system may provide incidental comfort to employees or serve, to~~
759 ~~an insubstantial degree, nonproduction activities. The term~~
760 ~~includes parts and accessories only to the extent that the~~
761 ~~exemption of such parts and accessories is consistent with the~~
762 ~~provisions of this paragraph.~~

763 ~~f. "National defense implicit price deflator" means the~~
764 ~~national defense implicit price deflator for the gross national~~
765 ~~product as determined by the Bureau of Economic Analysis of the~~
766 ~~United States Department of Commerce.~~

767 ~~5. The exclusions provided in subparagraph (b)5. apply to~~
768 ~~this exemption. This exemption applies only to machinery or~~
769 ~~equipment purchased pursuant to production contracts with the~~
770 ~~United States Department of Defense and Armed Forces, the~~
771 ~~National Aeronautics and Space Administration, and other federal~~
772 ~~agencies for which the contracts are classified for national~~
773 ~~security reasons. In no event shall the provisions of this~~
774 ~~paragraph apply to any expanding business the increase in~~
775 ~~productive output of which could be measured under the~~
776 ~~provisions of sub-subparagraph (b)6.b. as physically comparable~~
777 ~~between the two periods.~~

778 ~~(c) Gas or electricity used for certain agricultural~~
779 ~~purposes.—~~

780 ~~1. Butane gas, propane gas, natural gas, and all other~~
781 ~~forms of liquefied petroleum gases are exempt from the tax~~
782 ~~imposed by this chapter if used in any tractor, vehicle, or~~
783 ~~other farm equipment which is used exclusively on a farm or for~~

7-01552A-09

20092576__

784 ~~processing farm products on the farm and no part of which gas is~~
785 ~~used in any vehicle or equipment driven or operated on the~~
786 ~~public highways of this state. This restriction does not apply~~
787 ~~to the movement of farm vehicles or farm equipment between~~
788 ~~farms. The transporting of bees by water and the operating of~~
789 ~~equipment used in the apiary of a beekeeper is also deemed an~~
790 ~~exempt use.~~

791 ~~2. Electricity used directly or indirectly for production~~
792 ~~or processing of agricultural products on the farm is exempt~~
793 ~~from the tax imposed by this chapter. This exemption applies~~
794 ~~only if the electricity used for the exempt purposes is~~
795 ~~separately metered. If the electricity is not separately~~
796 ~~metered, it is conclusively presumed that some portion of the~~
797 ~~electricity is used for a nonexempt purpose, and all of the~~
798 ~~electricity used for such purposes is taxable.~~

799 ~~(f) Motion picture or video equipment used in motion~~
800 ~~picture or television production activities and sound recording~~
801 ~~equipment used in the production of master tapes and master~~
802 ~~records.—~~

803 ~~1. Motion picture or video equipment and sound recording~~
804 ~~equipment purchased or leased for use in this state in~~
805 ~~production activities is exempt from the tax imposed by this~~
806 ~~chapter. The exemption provided by this paragraph shall inure to~~
807 ~~the taxpayer upon presentation of the certificate of exemption~~
808 ~~issued to the taxpayer under the provisions of s. 288.1258.~~

809 ~~2. For the purpose of the exemption provided in~~
810 ~~subparagraph 1.:~~

811 ~~a. "Motion picture or video equipment" and "sound recording~~
812 ~~equipment" includes only tangible personal property or other~~

7-01552A-09

20092576__

813 ~~property that has a depreciable life of 3 years or more and that~~
814 ~~is used by the lessee or purchaser exclusively as an integral~~
815 ~~part of production activities; however, motion picture or video~~
816 ~~equipment and sound recording equipment does not include~~
817 ~~supplies, tape, records, film, or video tape used in productions~~
818 ~~or other similar items; vehicles or vessels; or general office~~
819 ~~equipment not specifically suited to production activities. In~~
820 ~~addition, the term does not include equipment purchased or~~
821 ~~leased by television or radio broadcasting or cable companies~~
822 ~~licensed by the Federal Communications Commission. Furthermore,~~
823 ~~a building and its structural components are not motion picture~~
824 ~~or video equipment and sound recording equipment unless the~~
825 ~~building or structural component is so closely related to the~~
826 ~~motion picture or video equipment and sound recording equipment~~
827 ~~that it houses or supports that the building or structural~~
828 ~~component can be expected to be replaced when the motion picture~~
829 ~~or video equipment and sound recording equipment are replaced.~~
830 ~~Heating and air-conditioning systems are not motion picture or~~
831 ~~video equipment and sound recording equipment unless the sole~~
832 ~~justification for their installation is to meet the requirements~~
833 ~~of the production activities, even though the system may provide~~
834 ~~incidental comfort to employees or serve, to an insubstantial~~
835 ~~degree, nonproduction activities.~~

836 ~~b. "Production activities" means activities directed toward~~
837 ~~the preparation of a:~~
838 ~~(I) Master tape or master record embodying sound; or~~
839 ~~(II) Motion picture or television production which is~~
840 ~~produced for theatrical, commercial, advertising, or educational~~
841 ~~purposes and utilizes live or animated actions or a combination~~

7-01552A-09

20092576

842 ~~of live and animated actions. The motion picture or television~~
843 ~~production shall be commercially produced for sale or for~~
844 ~~showing on screens or broadcasting on television and may be on~~
845 ~~film or video tape.~~

846 ~~(g) Building materials used in the rehabilitation of real~~
847 ~~property located in an enterprise zone.—~~

848 ~~1. Building materials used in the rehabilitation of real~~
849 ~~property located in an enterprise zone shall be exempt from the~~
850 ~~tax imposed by this chapter upon an affirmative showing to the~~
851 ~~satisfaction of the department that the items have been used for~~
852 ~~the rehabilitation of real property located in an enterprise~~
853 ~~zone. Except as provided in subparagraph 2., this exemption~~
854 ~~inures to the owner, lessee, or lessor of the rehabilitated real~~
855 ~~property located in an enterprise zone only through a refund of~~
856 ~~previously paid taxes. To receive a refund pursuant to this~~
857 ~~paragraph, the owner, lessee, or lessor of the rehabilitated~~
858 ~~real property located in an enterprise zone must file an~~
859 ~~application under oath with the governing body or enterprise~~
860 ~~zone development agency having jurisdiction over the enterprise~~
861 ~~zone where the business is located, as applicable, which~~
862 ~~includes:~~

863 ~~a. The name and address of the person claiming the refund.~~

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

867 ~~c. A description of the improvements made to accomplish the~~
868 ~~rehabilitation of the real property.~~

869 ~~d. A copy of the building permit issued for the~~
870 ~~rehabilitation of the real property.~~

7-01552A-09

20092576

871 e. ~~A sworn statement, under the penalty of perjury, from~~
872 ~~the general contractor licensed in this state with whom the~~
873 ~~applicant contracted to make the improvements necessary to~~
874 ~~accomplish the rehabilitation of the real property, which~~
875 ~~statement lists the building materials used in the~~
876 ~~rehabilitation of the real property, the actual cost of the~~
877 ~~building materials, and the amount of sales tax paid in this~~
878 ~~state on the building materials. In the event that a general~~
879 ~~contractor has not been used, the applicant shall provide this~~
880 ~~information in a sworn statement, under the penalty of perjury.~~
881 ~~Copies of the invoices which evidence the purchase of the~~
882 ~~building materials used in such rehabilitation and the payment~~
883 ~~of sales tax on the building materials shall be attached to the~~
884 ~~sworn statement provided by the general contractor or by the~~
885 ~~applicant. Unless the actual cost of building materials used in~~
886 ~~the rehabilitation of real property and the payment of sales~~
887 ~~taxes due thereon is documented by a general contractor or by~~
888 ~~the applicant in this manner, the cost of such building~~
889 ~~materials shall be an amount equal to 40 percent of the increase~~
890 ~~in assessed value for ad valorem tax purposes.~~

891 f. ~~The identifying number assigned pursuant to s. 290.0065~~
892 ~~to the enterprise zone in which the rehabilitated real property~~
893 ~~is located.~~

894 g. ~~A certification by the local building code inspector~~
895 ~~that the improvements necessary to accomplish the rehabilitation~~
896 ~~of the real property are substantially completed.~~

897 h. ~~Whether the business is a small business as defined by~~
898 ~~s. 288.703(1).~~

899 i. ~~If applicable, the name and address of each permanent~~

7-01552A-09

20092576

900 ~~employee of the business, including, for each employee who is a~~
901 ~~resident of an enterprise zone, the identifying number assigned~~
902 ~~pursuant to s. 290.0065 to the enterprise zone in which the~~
903 ~~employee resides.~~

904 ~~2. This exemption inures to a city, county, other~~
905 ~~governmental agency, or nonprofit community-based organization~~
906 ~~through a refund of previously paid taxes if the building~~
907 ~~materials used in the rehabilitation of real property located in~~
908 ~~an enterprise zone are paid for from the funds of a community~~
909 ~~development block grant, State Housing Initiatives Partnership~~
910 ~~Program, or similar grant or loan program. To receive a refund~~
911 ~~pursuant to this paragraph, a city, county, other governmental~~
912 ~~agency, or nonprofit community-based organization must file an~~
913 ~~application which includes the same information required to be~~
914 ~~provided in subparagraph 1. by an owner, lessee, or lessor of~~
915 ~~rehabilitated real property. In addition, the application must~~
916 ~~include a sworn statement signed by the chief executive officer~~
917 ~~of the city, county, other governmental agency, or nonprofit~~
918 ~~community-based organization seeking a refund which states that~~
919 ~~the building materials for which a refund is sought were paid~~
920 ~~for from the funds of a community development block grant, State~~
921 ~~Housing Initiatives Partnership Program, or similar grant or~~
922 ~~loan program.~~

923 ~~3. Within 10 working days after receipt of an application,~~
924 ~~the governing body or enterprise zone development agency shall~~
925 ~~review the application to determine if it contains all the~~
926 ~~information required pursuant to subparagraph 1. or subparagraph~~
927 ~~2. and meets the criteria set out in this paragraph. The~~
928 ~~governing body or agency shall certify all applications that~~

7-01552A-09

20092576

929 ~~contain the information required pursuant to subparagraph 1. or~~
930 ~~subparagraph 2. and meet the criteria set out in this paragraph~~
931 ~~as eligible to receive a refund. If applicable, the governing~~
932 ~~body or agency shall also certify if 20 percent of the employees~~
933 ~~of the business are residents of an enterprise zone, excluding~~
934 ~~temporary and part-time employees. The certification shall be in~~
935 ~~writing, and a copy of the certification shall be transmitted to~~
936 ~~the executive director of the Department of Revenue. The~~
937 ~~applicant shall be responsible for forwarding a certified~~
938 ~~application to the department within the time specified in~~
939 ~~subparagraph 4.~~

940 ~~4. An application for a refund pursuant to this paragraph~~
941 ~~must be submitted to the department within 6 months after the~~
942 ~~rehabilitation of the property is deemed to be substantially~~
943 ~~completed by the local building code inspector or by September 1~~
944 ~~after the rehabilitated property is first subject to assessment.~~

945 ~~5. Not more than one exemption through a refund of~~
946 ~~previously paid taxes for the rehabilitation of real property~~
947 ~~shall be permitted for any single parcel of property unless~~
948 ~~there is a change in ownership, a new lessor, or a new lessee of~~
949 ~~the real property. No refund shall be granted pursuant to this~~
950 ~~paragraph unless the amount to be refunded exceeds \$500. No~~
951 ~~refund granted pursuant to this paragraph shall exceed the~~
952 ~~lesser of 97 percent of the Florida sales or use tax paid on the~~
953 ~~cost of the building materials used in the rehabilitation of the~~
954 ~~real property as determined pursuant to sub-subparagraph 1.e. or~~
955 ~~\$5,000, or, if no less than 20 percent of the employees of the~~
956 ~~business are residents of an enterprise zone, excluding~~
957 ~~temporary and part-time employees, the amount of refund granted~~

7-01552A-09

20092576

958 ~~pursuant to this paragraph shall not exceed the lesser of 97~~
959 ~~percent of the sales tax paid on the cost of such building~~
960 ~~materials or \$10,000. A refund approved pursuant to this~~
961 ~~paragraph shall be made within 30 days of formal approval by the~~
962 ~~department of the application for the refund. This subparagraph~~
963 ~~shall apply retroactively to July 1, 2005.~~

964 ~~6. The department shall adopt rules governing the manner~~
965 ~~and form of refund applications and may establish guidelines as~~
966 ~~to the requisites for an affirmative showing of qualification~~
967 ~~for exemption under this paragraph.~~

968 ~~7. The department shall deduct an amount equal to 10~~
969 ~~percent of each refund granted under the provisions of this~~
970 ~~paragraph from the amount transferred into the Local Government~~
971 ~~Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20~~
972 ~~for the county area in which the rehabilitated real property is~~
973 ~~located and shall transfer that amount to the General Revenue~~
974 ~~Fund.~~

975 ~~8. For the purposes of the exemption provided in this~~
976 ~~paragraph:~~

977 ~~a. "Building materials" means tangible personal property~~
978 ~~which becomes a component part of improvements to real property.~~

979 ~~b. "Real property" has the same meaning as provided in s.~~
980 ~~192.001(12).~~

981 ~~c. "Rehabilitation of real property" means the~~
982 ~~reconstruction, renovation, restoration, rehabilitation,~~
983 ~~construction, or expansion of improvements to real property.~~

984 ~~d. "Substantially completed" has the same meaning as~~
985 ~~provided in s. 192.042(1).~~

986 ~~9. This paragraph expires on the date specified in s.~~

7-01552A-09

20092576

987 ~~290.016 for the expiration of the Florida Enterprise Zone Act.~~

988 ~~(h) Business property used in an enterprise zone.—~~

989 ~~1. Business property purchased for use by businesses~~
990 ~~located in an enterprise zone which is subsequently used in an~~
991 ~~enterprise zone shall be exempt from the tax imposed by this~~
992 ~~chapter. This exemption inures to the business only through a~~
993 ~~refund of previously paid taxes. A refund shall be authorized~~
994 ~~upon an affirmative showing by the taxpayer to the satisfaction~~
995 ~~of the department that the requirements of this paragraph have~~
996 ~~been met.~~

997 ~~2. To receive a refund, the business must file under oath~~
998 ~~with the governing body or enterprise zone development agency~~
999 ~~having jurisdiction over the enterprise zone where the business~~
1000 ~~is located, as applicable, an application which includes:~~

1001 ~~a. The name and address of the business claiming the~~
1002 ~~refund.~~

1003 ~~b. The identifying number assigned pursuant to s. 290.0065~~
1004 ~~to the enterprise zone in which the business is located.~~

1005 ~~e. A specific description of the property for which a~~
1006 ~~refund is sought, including its serial number or other permanent~~
1007 ~~identification number.~~

1008 ~~d. The location of the property.~~

1009 ~~e. The sales invoice or other proof of purchase of the~~
1010 ~~property, showing the amount of sales tax paid, the date of~~
1011 ~~purchase, and the name and address of the sales tax dealer from~~
1012 ~~whom the property was purchased.~~

1013 ~~f. Whether the business is a small business as defined by~~
1014 ~~s. 288.703(1).~~

1015 ~~g. If applicable, the name and address of each permanent~~

7-01552A-09

20092576

1016 ~~employee of the business, including, for each employee who is a~~
1017 ~~resident of an enterprise zone, the identifying number assigned~~
1018 ~~pursuant to s. 290.0065 to the enterprise zone in which the~~
1019 ~~employee resides.~~

1020 ~~3. Within 10 working days after receipt of an application,~~
1021 ~~the governing body or enterprise zone development agency shall~~
1022 ~~review the application to determine if it contains all the~~
1023 ~~information required pursuant to subparagraph 2. and meets the~~
1024 ~~criteria set out in this paragraph. The governing body or agency~~
1025 ~~shall certify all applications that contain the information~~
1026 ~~required pursuant to subparagraph 2. and meet the criteria set~~
1027 ~~out in this paragraph as eligible to receive a refund. If~~
1028 ~~applicable, the governing body or agency shall also certify if~~
1029 ~~20 percent of the employees of the business are residents of an~~
1030 ~~enterprise zone, excluding temporary and part-time employees.~~
1031 ~~The certification shall be in writing, and a copy of the~~
1032 ~~certification shall be transmitted to the executive director of~~
1033 ~~the Department of Revenue. The business shall be responsible for~~
1034 ~~forwarding a certified application to the department within the~~
1035 ~~time specified in subparagraph 4.~~

1036 ~~4. An application for a refund pursuant to this paragraph~~
1037 ~~must be submitted to the department within 6 months after the~~
1038 ~~tax is due on the business property that is purchased.~~

1039 ~~5. The amount refunded on purchases of business property~~
1040 ~~under this paragraph shall be the lesser of 97 percent of the~~
1041 ~~sales tax paid on such business property or \$5,000, or, if no~~
1042 ~~less than 20 percent of the employees of the business are~~
1043 ~~residents of an enterprise zone, excluding temporary and part-~~
1044 ~~time employees, the amount refunded on purchases of business~~

7-01552A-09

20092576

1045 ~~property under this paragraph shall be the lesser of 97 percent~~
1046 ~~of the sales tax paid on such business property or \$10,000. A~~
1047 ~~refund approved pursuant to this paragraph shall be made within~~
1048 ~~30 days of formal approval by the department of the application~~
1049 ~~for the refund. No refund shall be granted under this paragraph~~
1050 ~~unless the amount to be refunded exceeds \$100 in sales tax paid~~
1051 ~~on purchases made within a 60-day time period.~~

1052 ~~6. The department shall adopt rules governing the manner~~
1053 ~~and form of refund applications and may establish guidelines as~~
1054 ~~to the requisites for an affirmative showing of qualification~~
1055 ~~for exemption under this paragraph.~~

1056 ~~7. If the department determines that the business property~~
1057 ~~is used outside an enterprise zone within 3 years from the date~~
1058 ~~of purchase, the amount of taxes refunded to the business~~
1059 ~~purchasing such business property shall immediately be due and~~
1060 ~~payable to the department by the business, together with the~~
1061 ~~appropriate interest and penalty, computed from the date of~~
1062 ~~purchase, in the manner provided by this chapter.~~

1063 ~~Notwithstanding this subparagraph, business property used~~
1064 ~~exclusively in:~~

- 1065 ~~a. Licensed commercial fishing vessels,~~
- 1066 ~~b. Fishing guide boats, or~~
- 1067 ~~c. Ecotourism guide boats~~

1068
1069 ~~that leave and return to a fixed location within an area~~
1070 ~~designated under s. 379.2353 are eligible for the exemption~~
1071 ~~provided under this paragraph if all requirements of this~~
1072 ~~paragraph are met. Such vessels and boats must be owned by a~~
1073 ~~business that is eligible to receive the exemption provided~~

7-01552A-09

20092576

1074 ~~under this paragraph. This exemption does not apply to the~~
1075 ~~purchase of a vessel or boat.~~

1076 ~~8. The department shall deduct an amount equal to 10~~
1077 ~~percent of each refund granted under the provisions of this~~
1078 ~~paragraph from the amount transferred into the Local Government~~
1079 ~~Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20~~
1080 ~~for the county area in which the business property is located~~
1081 ~~and shall transfer that amount to the General Revenue Fund.~~

1082 ~~9. For the purposes of this exemption, "business property"~~
1083 ~~means new or used property defined as "recovery property" in s.~~
1084 ~~168(c) of the Internal Revenue Code of 1954, as amended, except:~~

1085 ~~a. Property classified as 3-year property under s.~~
1086 ~~168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;~~

1087 ~~b. Industrial machinery and equipment as defined in sub-~~
1088 ~~subparagraph (b)6.a. and eligible for exemption under paragraph~~
1089 ~~(b);~~

1090 ~~c. Building materials as defined in sub-subparagraph~~
1091 ~~(g)8.a.; and~~

1092 ~~d. Business property having a sales price of under \$5,000~~
1093 ~~per unit.~~

1094 ~~10. This paragraph expires on the date specified in s.~~
1095 ~~290.016 for the expiration of the Florida Enterprise Zone Act.~~

1096 ~~(i) Aircraft modification services. There shall be exempt~~
1097 ~~from the tax imposed by this chapter all charges for aircraft~~
1098 ~~modification services, including parts and equipment furnished~~
1099 ~~or installed in connection therewith, performed under authority~~
1100 ~~of a supplemental type certificate issued by the Federal~~
1101 ~~Aviation Administration.~~

1102 ~~(j) Machinery and equipment used in semiconductor, defense,~~

7-01552A-09

20092576__

1103 ~~or space technology production.~~

1104 ~~1.a. Industrial machinery and equipment used in~~
1105 ~~semiconductor technology facilities certified under subparagraph~~
1106 ~~5. to manufacture, process, compound, or produce semiconductor~~
1107 ~~technology products for sale or for use by these facilities are~~
1108 ~~exempt from the tax imposed by this chapter. For purposes of~~
1109 ~~this paragraph, industrial machinery and equipment includes~~
1110 ~~molds, dies, machine tooling, other appurtenances or accessories~~
1111 ~~to machinery and equipment, testing equipment, test beds,~~
1112 ~~computers, and software, whether purchased or self-fabricated,~~
1113 ~~and, if self-fabricated, includes materials and labor for~~
1114 ~~design, fabrication, and assembly.~~

1115 ~~b. Industrial machinery and equipment used in defense or~~
1116 ~~space technology facilities certified under subparagraph 5. to~~
1117 ~~design, manufacture, assemble, process, compound, or produce~~
1118 ~~defense technology products or space technology products for~~
1119 ~~sale or for use by these facilities are exempt from the tax~~
1120 ~~imposed by this chapter.~~

1121 ~~2. Building materials purchased for use in manufacturing or~~
1122 ~~expanding clean rooms in semiconductor manufacturing facilities~~
1123 ~~are exempt from the tax imposed by this chapter.~~

1124 ~~3. In addition to meeting the criteria mandated by~~
1125 ~~subparagraph 1. or subparagraph 2., a business must be certified~~
1126 ~~by the Office of Tourism, Trade, and Economic Development as~~
1127 ~~authorized in this paragraph in order to qualify for exemption~~
1128 ~~under this paragraph.~~

1129 ~~4. For items purchased tax-exempt pursuant to this~~
1130 ~~paragraph, possession of a written certification from the~~
1131 ~~purchaser, certifying the purchaser's entitlement to exemption~~

7-01552A-09

20092576__

1132 ~~pursuant to this paragraph, relieves the seller of the~~
1133 ~~responsibility of collecting the tax on the sale of such items,~~
1134 ~~and the department shall look solely to the purchaser for~~
1135 ~~recovery of tax if it determines that the purchaser was not~~
1136 ~~entitled to the exemption.~~

1137 ~~5.a. To be eligible to receive the exemption provided by~~
1138 ~~subparagraph 1. or subparagraph 2., a qualifying business entity~~
1139 ~~shall apply initially to Enterprise Florida, Inc. The original~~
1140 ~~certification shall be valid for a period of 2 years. In lieu of~~
1141 ~~submitting a new application, the original certification may be~~
1142 ~~renewed biennially by submitting to the Office of Tourism,~~
1143 ~~Trade, and Economic Development a statement, certified under~~
1144 ~~oath, that there has been no material change in the conditions~~
1145 ~~or circumstances entitling the business entity to the original~~
1146 ~~certification. The initial application and the certification~~
1147 ~~renewal statement shall be developed by the Office of Tourism,~~
1148 ~~Trade, and Economic Development in consultation with Enterprise~~
1149 ~~Florida, Inc.~~

1150 ~~b. Enterprise Florida, Inc., shall review each submitted~~
1151 ~~initial application and information and determine whether or not~~
1152 ~~the application is complete within 5 working days. Once an~~
1153 ~~application is complete, Enterprise Florida, Inc., shall, within~~
1154 ~~10 working days, evaluate the application and recommend approval~~
1155 ~~or disapproval of the application to the Office of Tourism,~~
1156 ~~Trade, and Economic Development.~~

1157 ~~e. Upon receipt of the initial application and~~
1158 ~~recommendation from Enterprise Florida, Inc., or upon receipt of~~
1159 ~~a certification renewal statement, the Office of Tourism, Trade,~~
1160 ~~and Economic Development shall certify within 5 working days~~

7-01552A-09

20092576

1161 ~~those applicants who are found to meet the requirements of this~~
1162 ~~section and notify the applicant, Enterprise Florida, Inc., and~~
1163 ~~the department of the original certification or certification~~
1164 ~~renewal. If the Office of Tourism, Trade, and Economic~~
1165 ~~Development finds that the applicant does not meet the~~
1166 ~~requirements of this section, it shall notify the applicant and~~
1167 ~~Enterprise Florida, Inc., within 10 working days that the~~
1168 ~~application for certification has been denied and the reasons~~
1169 ~~for denial. The Office of Tourism, Trade, and Economic~~
1170 ~~Development has final approval authority for certification under~~
1171 ~~this section.~~

1172 ~~d. The initial application and certification renewal~~
1173 ~~statement must indicate, for program evaluation purposes only,~~
1174 ~~the average number of full-time equivalent employees at the~~
1175 ~~facility over the preceding calendar year, the average wage and~~
1176 ~~benefits paid to those employees over the preceding calendar~~
1177 ~~year, the total investment made in real and tangible personal~~
1178 ~~property over the preceding calendar year, and the total value~~
1179 ~~of tax-exempt purchases and taxes exempted during the previous~~
1180 ~~year. The department shall assist the Office of Tourism, Trade,~~
1181 ~~and Economic Development in evaluating and verifying information~~
1182 ~~provided in the application for exemption.~~

1183 ~~e. The Office of Tourism, Trade, and Economic Development~~
1184 ~~may use the information reported on the initial application and~~
1185 ~~certification renewal statement for evaluation purposes only and~~
1186 ~~shall prepare an annual report on the exemption program and its~~
1187 ~~cost and impact. The annual report for the preceding fiscal year~~
1188 ~~shall be submitted to the Governor, the President of the Senate,~~
1189 ~~and the Speaker of the House of Representatives by September 30~~

7-01552A-09

20092576__

1190 ~~of each fiscal year.~~

1191 ~~6. A business certified to receive this exemption may elect~~
1192 ~~to designate one or more state universities or community~~
1193 ~~colleges as recipients of up to 100 percent of the amount of the~~
1194 ~~exemption for which they may qualify. To receive these funds,~~
1195 ~~the institution must agree to match the funds so earned with~~
1196 ~~equivalent cash, programs, services, or other in-kind support on~~
1197 ~~a one-to-one basis in the pursuit of research and development~~
1198 ~~projects as requested by the certified business. The rights to~~
1199 ~~any patents, royalties, or real or intellectual property must be~~
1200 ~~vested in the business unless otherwise agreed to by the~~
1201 ~~business and the university or community college.~~

1202 ~~7. As used in this paragraph, the term:~~

1203 ~~a. "Semiconductor technology products" means raw~~
1204 ~~semiconductor wafers or semiconductor thin films that are~~
1205 ~~transformed into semiconductor memory or logic wafers, including~~
1206 ~~wafers containing mixed memory and logic circuits; related~~
1207 ~~assembly and test operations; active-matrix flat panel displays;~~
1208 ~~semiconductor chips; semiconductor lasers; optoelectronic~~
1209 ~~elements; and related semiconductor technology products as~~
1210 ~~determined by the Office of Tourism, Trade, and Economic~~
1211 ~~Development.~~

1212 ~~b. "Clean rooms" means manufacturing facilities enclosed in~~
1213 ~~a manner that meets the clean manufacturing requirements~~
1214 ~~necessary for high-technology semiconductor-manufacturing~~
1215 ~~environments.~~

1216 ~~c. "Defense technology products" means products that have a~~
1217 ~~military application, including, but not limited to, weapons,~~
1218 ~~weapons systems, guidance systems, surveillance systems,~~

7-01552A-09

20092576__

1219 ~~communications or information systems, munitions, aircraft,~~
1220 ~~vessels, or boats, or components thereof, which are intended for~~
1221 ~~military use and manufactured in performance of a contract with~~
1222 ~~the United States Department of Defense or the military branch~~
1223 ~~of a recognized foreign government or a subcontract thereunder~~
1224 ~~which relates to matters of national defense.~~

1225 ~~d. "Space technology products" means products that are~~
1226 ~~specifically designed or manufactured for application in space~~
1227 ~~activities, including, but not limited to, space launch~~
1228 ~~vehicles, space flight vehicles, missiles, satellites or~~
1229 ~~research payloads, avionics, and associated control systems and~~
1230 ~~processing systems and components of any of the foregoing. The~~
1231 ~~term does not include products that are designed or manufactured~~
1232 ~~for general commercial aviation or other uses even though those~~
1233 ~~products may also serve an incidental use in space applications.~~

1234 ~~(k) *Samples.* Paint color card samples, flooring and wall~~
1235 ~~samples, fabric swatch samples, window covering samples, and~~
1236 ~~similar samples, when such samples serve no useful purpose other~~
1237 ~~than as a comparison of color, texture, or design; are provided~~
1238 ~~by the manufacturer to a dealer or ultimate consumer for no~~
1239 ~~charge; and are given away by the dealer to the ultimate~~
1240 ~~consumer for no charge, are exempt.~~

1241 ~~(l) *Growth enhancers or performance enhancers for cattle.*~~
1242 ~~There is exempt from the tax imposed by this chapter the sale of~~
1243 ~~performance-enhancing or growth-enhancing products for cattle.~~

1244 ~~(m) *Educational materials purchased by certain child care*~~
1245 ~~*facilities.* Educational materials, such as glue, paper, paints,~~
1246 ~~crayons, unique craft items, scissors, books, and educational~~
1247 ~~toys, purchased by a child care facility that meets the~~

7-01552A-09

20092576__

1248 ~~standards delineated in s. 402.305, is licensed under s.~~
1249 ~~402.308, holds a current Gold Seal Quality Care designation~~
1250 ~~pursuant to s. 402.281, and provides basic health insurance to~~
1251 ~~all employees are exempt from the taxes imposed by this chapter.~~
1252 ~~For purposes of this paragraph, the term "basic health~~
1253 ~~insurance" shall be defined and promulgated in rules developed~~
1254 ~~jointly by the Department of Children and Family Services, the~~
1255 ~~Agency for Health Care Administration, and the Financial~~
1256 ~~Services Commission.~~

1257 ~~(n) Materials for construction of single family homes in~~
1258 ~~certain areas.—~~

1259 ~~1. As used in this paragraph, the term:~~

1260 ~~a. "Building materials" means tangible personal property~~
1261 ~~that becomes a component part of a qualified home.~~

1262 ~~b. "Qualified home" means a single-family home having an~~
1263 ~~appraised value of no more than \$160,000 which is located in an~~
1264 ~~enterprise zone, empowerment zone, or Front Porch Florida~~
1265 ~~Community and which is constructed and occupied by the owner~~
1266 ~~thereof for residential purposes.~~

1267 ~~e. "Substantially completed" has the same meaning as~~
1268 ~~provided in s. 192.042(1).~~

1269 ~~2. Building materials used in the construction of a~~
1270 ~~qualified home and the costs of labor associated with the~~
1271 ~~construction of a qualified home are exempt from the tax imposed~~
1272 ~~by this chapter upon an affirmative showing to the satisfaction~~
1273 ~~of the department that the requirements of this paragraph have~~
1274 ~~been met. This exemption inures to the owner through a refund of~~
1275 ~~previously paid taxes. To receive this refund, the owner must~~
1276 ~~file an application under oath with the department which~~

7-01552A-09

20092576

- 1277 includes:
- 1278 ~~a. The name and address of the owner.~~
- 1279 ~~b. The address and assessment roll parcel number of the~~
1280 ~~home for which a refund is sought.~~
- 1281 ~~c. A copy of the building permit issued for the home.~~
- 1282 ~~d. A certification by the local building code inspector~~
1283 ~~that the home is substantially completed.~~
- 1284 ~~e. A sworn statement, under penalty of perjury, from the~~
1285 ~~general contractor licensed in this state with whom the owner~~
1286 ~~contracted to construct the home, which statement lists the~~
1287 ~~building materials used in the construction of the home and the~~
1288 ~~actual cost thereof, the labor costs associated with such~~
1289 ~~construction, and the amount of sales tax paid on these~~
1290 ~~materials and labor costs. If a general contractor was not used,~~
1291 ~~the owner shall provide this information in a sworn statement,~~
1292 ~~under penalty of perjury. Copies of invoices evidencing payment~~
1293 ~~of sales tax must be attached to the sworn statement.~~
- 1294 ~~f. A sworn statement, under penalty of perjury, from the~~
1295 ~~owner affirming that he or she is occupying the home for~~
1296 ~~residential purposes.~~
- 1297 ~~3. An application for a refund under this paragraph must be~~
1298 ~~submitted to the department within 6 months after the date the~~
1299 ~~home is deemed to be substantially completed by the local~~
1300 ~~building code inspector. Within 30 working days after receipt of~~
1301 ~~the application, the department shall determine if it meets the~~
1302 ~~requirements of this paragraph. A refund approved pursuant to~~
1303 ~~this paragraph shall be made within 30 days after formal~~
1304 ~~approval of the application by the department.~~
- 1305 ~~4. The department shall establish by rule an application~~

7-01552A-09

20092576

1306 ~~form and criteria for establishing eligibility for exemption~~
1307 ~~under this paragraph.~~

1308 ~~5. The exemption shall apply to purchases of materials on~~
1309 ~~or after July 1, 2000.~~

1310 ~~(e) Building materials in redevelopment projects.—~~

1311 ~~1. As used in this paragraph, the term:~~

1312 ~~a. "Building materials" means tangible personal property~~
1313 ~~that becomes a component part of a housing project or a mixed-~~
1314 ~~use project.~~

1315 ~~b. "Housing project" means the conversion of an existing~~
1316 ~~manufacturing or industrial building to housing units in an~~
1317 ~~urban high-crime area, enterprise zone, empowerment zone, Front~~
1318 ~~Porch Community, designated brownfield area, or urban infill~~
1319 ~~area and in which the developer agrees to set aside at least 20~~
1320 ~~percent of the housing units in the project for low-income and~~
1321 ~~moderate-income persons or the construction in a designated~~
1322 ~~brownfield area of affordable housing for persons described in~~
1323 ~~s. 420.0004(8), (10), (11), or (15) or in s. 159.603(7).~~

1324 ~~e. "Mixed-use project" means the conversion of an existing~~
1325 ~~manufacturing or industrial building to mixed-use units that~~
1326 ~~include artists' studios, art and entertainment services, or~~
1327 ~~other compatible uses. A mixed-use project must be located in an~~
1328 ~~urban high-crime area, enterprise zone, empowerment zone, Front~~
1329 ~~Porch Community, designated brownfield area, or urban infill~~
1330 ~~area, and the developer must agree to set aside at least 20~~
1331 ~~percent of the square footage of the project for low-income and~~
1332 ~~moderate-income housing.~~

1333 ~~d. "Substantially completed" has the same meaning as~~
1334 ~~provided in s. 192.042(1).~~

7-01552A-09

20092576__

1335 ~~2. Building materials used in the construction of a housing~~
1336 ~~project or mixed-use project are exempt from the tax imposed by~~
1337 ~~this chapter upon an affirmative showing to the satisfaction of~~
1338 ~~the department that the requirements of this paragraph have been~~
1339 ~~met. This exemption inures to the owner through a refund of~~
1340 ~~previously paid taxes. To receive this refund, the owner must~~
1341 ~~file an application under oath with the department which~~
1342 ~~includes:~~

1343 ~~a. The name and address of the owner.~~

1344 ~~b. The address and assessment roll parcel number of the~~
1345 ~~project for which a refund is sought.~~

1346 ~~c. A copy of the building permit issued for the project.~~

1347 ~~d. A certification by the local building code inspector~~
1348 ~~that the project is substantially completed.~~

1349 ~~e. A sworn statement, under penalty of perjury, from the~~
1350 ~~general contractor licensed in this state with whom the owner~~
1351 ~~contracted to construct the project, which statement lists the~~
1352 ~~building materials used in the construction of the project and~~
1353 ~~the actual cost thereof, and the amount of sales tax paid on~~
1354 ~~these materials. If a general contractor was not used, the owner~~
1355 ~~shall provide this information in a sworn statement, under~~
1356 ~~penalty of perjury. Copies of invoices evidencing payment of~~
1357 ~~sales tax must be attached to the sworn statement.~~

1358 ~~3. An application for a refund under this paragraph must be~~
1359 ~~submitted to the department within 6 months after the date the~~
1360 ~~project is deemed to be substantially completed by the local~~
1361 ~~building code inspector. Within 30 working days after receipt of~~
1362 ~~the application, the department shall determine if it meets the~~
1363 ~~requirements of this paragraph. A refund approved pursuant to~~

7-01552A-09

20092576

1364 ~~this paragraph shall be made within 30 days after formal~~
1365 ~~approval of the application by the department.~~

1366 ~~4. The department shall establish by rule an application~~
1367 ~~form and criteria for establishing eligibility for exemption~~
1368 ~~under this paragraph.~~

1369 ~~5. The exemption shall apply to purchases of materials on~~
1370 ~~or after July 1, 2000.~~

1371 ~~(p) Community contribution tax credit for donations.—~~

1372 ~~1. Authorization.—Persons who are registered with the~~
1373 ~~department under s. 212.18 to collect or remit sales or use tax~~
1374 ~~and who make donations to eligible sponsors are eligible for tax~~
1375 ~~credits against their state sales and use tax liabilities as~~
1376 ~~provided in this paragraph:~~

1377 ~~a. The credit shall be computed as 50 percent of the~~
1378 ~~person's approved annual community contribution.~~

1379 ~~b. The credit shall be granted as a refund against state~~
1380 ~~sales and use taxes reported on returns and remitted in the 12~~
1381 ~~months preceding the date of application to the department for~~
1382 ~~the credit as required in sub-subparagraph 3.c. If the annual~~
1383 ~~credit is not fully used through such refund because of~~
1384 ~~insufficient tax payments during the applicable 12-month period,~~
1385 ~~the unused amount may be included in an application for a refund~~
1386 ~~made pursuant to sub-subparagraph 3.c. in subsequent years~~
1387 ~~against the total tax payments made for such year. Carryover~~
1388 ~~credits may be applied for a 3-year period without regard to any~~
1389 ~~time limitation that would otherwise apply under s. 215.26.~~

1390 ~~c. A person may not receive more than \$200,000 in annual~~
1391 ~~tax credits for all approved community contributions made in any~~
1392 ~~one year.~~

7-01552A-09

20092576__

1393 ~~d. All proposals for the granting of the tax credit require~~
1394 ~~the prior approval of the Office of Tourism, Trade, and Economic~~
1395 ~~Development.~~

1396 ~~e. The total amount of tax credits which may be granted for~~
1397 ~~all programs approved under this paragraph, s. 220.183, and s.~~
1398 ~~624.5105 is \$10.5 million annually for projects that provide~~
1399 ~~homeownership opportunities for low income or very low income~~
1400 ~~households as defined in s. 420.9071(19) and (28) and \$3.5~~
1401 ~~million annually for all other projects.~~

1402 ~~f. A person who is eligible to receive the credit provided~~
1403 ~~for in this paragraph, s. 220.183, or s. 624.5105 may receive~~
1404 ~~the credit only under the one section of the person's choice.~~

1405 ~~2. Eligibility requirements.—~~

1406 ~~a. A community contribution by a person must be in the~~
1407 ~~following form:~~

1408 ~~(I) Cash or other liquid assets;~~

1409 ~~(II) Real property;~~

1410 ~~(III) Goods or inventory; or~~

1411 ~~(IV) Other physical resources as identified by the Office~~
1412 ~~of Tourism, Trade, and Economic Development.~~

1413 ~~b. All community contributions must be reserved exclusively~~
1414 ~~for use in a project. As used in this sub-subparagraph, the term~~
1415 ~~"project" means any activity undertaken by an eligible sponsor~~
1416 ~~which is designed to construct, improve, or substantially~~
1417 ~~rehabilitate housing that is affordable to low-income or very-~~
1418 ~~low-income households as defined in s. 420.9071(19) and (28);~~
1419 ~~designed to provide commercial, industrial, or public resources~~
1420 ~~and facilities; or designed to improve entrepreneurial and job-~~
1421 ~~development opportunities for low income persons. A project may~~

7-01552A-09

20092576__

1422 ~~be the investment necessary to increase access to high-speed~~
1423 ~~broadband capability in rural communities with enterprise zones,~~
1424 ~~including projects that result in improvements to communications~~
1425 ~~assets that are owned by a business. A project may include the~~
1426 ~~provision of museum educational programs and materials that are~~
1427 ~~directly related to any project approved between January 1,~~
1428 ~~1996, and December 31, 1999, and located in an enterprise zone~~
1429 ~~designated pursuant to s. 290.0065. This paragraph does not~~
1430 ~~preclude projects that propose to construct or rehabilitate~~
1431 ~~housing for low-income or very-low-income households on~~
1432 ~~scattered sites. With respect to housing, contributions may be~~
1433 ~~used to pay the following eligible low-income and very-low-~~
1434 ~~income housing-related activities:~~

1435 ~~(I) Project development impact and management fees for low-~~
1436 ~~income or very-low-income housing projects;~~

1437 ~~(II) Down payment and closing costs for eligible persons,~~
1438 ~~as defined in s. 420.9071(19) and (28);~~

1439 ~~(III) Administrative costs, including housing counseling~~
1440 ~~and marketing fees, not to exceed 10 percent of the community~~
1441 ~~contribution, directly related to low-income or very-low-income~~
1442 ~~projects; and~~

1443 ~~(IV) Removal of liens recorded against residential property~~
1444 ~~by municipal, county, or special district local governments when~~
1445 ~~satisfaction of the lien is a necessary precedent to the~~
1446 ~~transfer of the property to an eligible person, as defined in s.~~
1447 ~~420.9071(19) and (28), for the purpose of promoting home~~
1448 ~~ownership. Contributions for lien removal must be received from~~
1449 ~~a nonrelated third party.~~

1450 ~~e. The project must be undertaken by an "eligible sponsor,"~~

7-01552A-09

20092576

1451 ~~which includes:~~

1452 ~~(I) A community action program;~~

1453 ~~(II) A nonprofit community-based development organization~~

1454 ~~whose mission is the provision of housing for low-income or~~

1455 ~~very-low-income households or increasing entrepreneurial and~~

1456 ~~job-development opportunities for low-income persons;~~

1457 ~~(III) A neighborhood housing services corporation;~~

1458 ~~(IV) A local housing authority created under chapter 421;~~

1459 ~~(V) A community redevelopment agency created under s.~~

1460 ~~163.356;~~

1461 ~~(VI) The Florida Industrial Development Corporation;~~

1462 ~~(VII) A historic preservation district agency or~~

1463 ~~organization;~~

1464 ~~(VIII) A regional workforce board;~~

1465 ~~(IX) A direct-support organization as provided in s.~~

1466 ~~1009.983;~~

1467 ~~(X) An enterprise zone development agency created under s.~~

1468 ~~290.0056;~~

1469 ~~(XI) A community-based organization incorporated under~~

1470 ~~chapter 617 which is recognized as educational, charitable, or~~

1471 ~~scientific pursuant to s. 501(c)(3) of the Internal Revenue Code~~

1472 ~~and whose bylaws and articles of incorporation include~~

1473 ~~affordable housing, economic development, or community~~

1474 ~~development as the primary mission of the corporation;~~

1475 ~~(XII) Units of local government;~~

1476 ~~(XIII) Units of state government; or~~

1477 ~~(XIV) Any other agency that the Office of Tourism, Trade,~~

1478 ~~and Economic Development designates by rule.~~

1479

7-01552A-09

20092576

1480 ~~In no event may a contributing person have a financial interest~~
1481 ~~in the eligible sponsor.~~

1482 ~~d. The project must be located in an area designated an~~
1483 ~~enterprise zone or a Front Porch Florida Community pursuant to~~
1484 ~~s. 20.18(6), unless the project increases access to high-speed~~
1485 ~~broadband capability for rural communities with enterprise zones~~
1486 ~~but is physically located outside the designated rural zone~~
1487 ~~boundaries. Any project designed to construct or rehabilitate~~
1488 ~~housing for low-income or very-low-income households as defined~~
1489 ~~in s. 420.9071(19) and (28) is exempt from the area requirement~~
1490 ~~of this sub-subparagraph.~~

1491 ~~e.(I) If, during the first 10 business days of the state~~
1492 ~~fiscal year, eligible tax credit applications for projects that~~
1493 ~~provide homeownership opportunities for low-income or very-low-~~
1494 ~~income households as defined in s. 420.9071(19) and (28) are~~
1495 ~~received for less than the annual tax credits available for~~
1496 ~~those projects, the Office of Tourism, Trade, and Economic~~
1497 ~~Development shall grant tax credits for those applications and~~
1498 ~~shall grant remaining tax credits on a first-come, first-served~~
1499 ~~basis for any subsequent eligible applications received before~~
1500 ~~the end of the state fiscal year. If, during the first 10~~
1501 ~~business days of the state fiscal year, eligible tax credit~~
1502 ~~applications for projects that provide homeownership~~
1503 ~~opportunities for low-income or very-low-income households as~~
1504 ~~defined in s. 420.9071(19) and (28) are received for more than~~
1505 ~~the annual tax credits available for those projects, the office~~
1506 ~~shall grant the tax credits for those applications as follows:~~

1507 ~~(A) If tax credit applications submitted for approved~~
1508 ~~projects of an eligible sponsor do not exceed \$200,000 in total,~~

7-01552A-09

20092576__

1509 ~~the credits shall be granted in full if the tax credit~~
1510 ~~applications are approved.~~

1511 ~~(B) If tax credit applications submitted for approved~~
1512 ~~projects of an eligible sponsor exceed \$200,000 in total, the~~
1513 ~~amount of tax credits granted pursuant to sub-sub-sub-~~
1514 ~~subparagraph (A) shall be subtracted from the amount of~~
1515 ~~available tax credits, and the remaining credits shall be~~
1516 ~~granted to each approved tax credit application on a pro rata~~
1517 ~~basis.~~

1518 ~~(II) If, during the first 10 business days of the state~~
1519 ~~fiscal year, eligible tax credit applications for projects other~~
1520 ~~than those that provide homeownership opportunities for low-~~
1521 ~~income or very low-income households as defined in s.~~
1522 ~~420.9071(19) and (28) are received for less than the annual tax~~
1523 ~~credits available for those projects, the office shall grant tax~~
1524 ~~credits for those applications and shall grant remaining tax~~
1525 ~~credits on a first come, first served basis for any subsequent~~
1526 ~~eligible applications received before the end of the state~~
1527 ~~fiscal year. If, during the first 10 business days of the state~~
1528 ~~fiscal year, eligible tax credit applications for projects other~~
1529 ~~than those that provide homeownership opportunities for low-~~
1530 ~~income or very low-income households as defined in s.~~
1531 ~~420.9071(19) and (28) are received for more than the annual tax~~
1532 ~~credits available for those projects, the office shall grant the~~
1533 ~~tax credits for those applications on a pro rata basis.~~

1534 ~~3. Application requirements.—~~

1535 ~~a. Any eligible sponsor seeking to participate in this~~
1536 ~~program must submit a proposal to the Office of Tourism, Trade,~~
1537 ~~and Economic Development which sets forth the name of the~~

7-01552A-09

20092576__

1538 ~~sponsor, a description of the project, and the area in which the~~
1539 ~~project is located, together with such supporting information as~~
1540 ~~is prescribed by rule. The proposal must also contain a~~
1541 ~~resolution from the local governmental unit in which the project~~
1542 ~~is located certifying that the project is consistent with local~~
1543 ~~plans and regulations.~~

1544 ~~b. Any person seeking to participate in this program must~~
1545 ~~submit an application for tax credit to the office which sets~~
1546 ~~forth the name of the sponsor, a description of the project, and~~
1547 ~~the type, value, and purpose of the contribution. The sponsor~~
1548 ~~shall verify the terms of the application and indicate its~~
1549 ~~receipt of the contribution, which verification must be in~~
1550 ~~writing and accompany the application for tax credit. The person~~
1551 ~~must submit a separate tax credit application to the office for~~
1552 ~~each individual contribution that it makes to each individual~~
1553 ~~project.~~

1554 ~~e. Any person who has received notification from the office~~
1555 ~~that a tax credit has been approved must apply to the department~~
1556 ~~to receive the refund. Application must be made on the form~~
1557 ~~prescribed for claiming refunds of sales and use taxes and be~~
1558 ~~accompanied by a copy of the notification. A person may submit~~
1559 ~~only one application for refund to the department within any 12-~~
1560 ~~month period.~~

1561 ~~4. Administration.—~~

1562 ~~a. The Office of Tourism, Trade, and Economic Development~~
1563 ~~may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary~~
1564 ~~to administer this paragraph, including rules for the approval~~
1565 ~~or disapproval of proposals by a person.~~

1566 ~~b. The decision of the office must be in writing, and, if~~

7-01552A-09

20092576

1567 ~~approved, the notification shall state the maximum credit~~
1568 ~~allowable to the person. Upon approval, the office shall~~
1569 ~~transmit a copy of the decision to the Department of Revenue.~~

1570 ~~e. The office shall periodically monitor all projects in a~~
1571 ~~manner consistent with available resources to ensure that~~
1572 ~~resources are used in accordance with this paragraph; however,~~
1573 ~~each project must be reviewed at least once every 2 years.~~

1574 ~~d. The office shall, in consultation with the Department of~~
1575 ~~Community Affairs and the statewide and regional housing and~~
1576 ~~financial intermediaries, market the availability of the~~
1577 ~~community contribution tax credit program to community-based~~
1578 ~~organizations.~~

1579 ~~5. Notwithstanding sub-subparagraph 1.e., and for the 2008-~~
1580 ~~2009 fiscal year only, the total amount of tax credit which may~~
1581 ~~be granted for all programs approved under this section and ss.~~
1582 ~~220.183 and 624.5105 is \$13 million annually for projects that~~
1583 ~~provide homeownership opportunities for low income or very low-~~
1584 ~~income households as defined in s. 420.9071(19) and (28) and~~
1585 ~~\$3.5 million annually for all other projects. This subparagraph~~
1586 ~~expires June 30, 2009.~~

1587 ~~6. Expiration. This paragraph expires June 30, 2015;~~
1588 ~~however, any accrued credit carryover that is unused on that~~
1589 ~~date may be used until the expiration of the 3-year carryover~~
1590 ~~period for such credit.~~

1591 ~~(6) EXEMPTIONS; POLITICAL SUBDIVISIONS. There are also~~
1592 ~~exempt from the tax imposed by this chapter sales made to the~~
1593 ~~United States Government, a state, or any county, municipality,~~
1594 ~~or political subdivision of a state when payment is made~~
1595 ~~directly to the dealer by the governmental entity. This~~

7-01552A-09

20092576__

1596 ~~exemption shall not inure to any transaction otherwise taxable~~
1597 ~~under this chapter when payment is made by a government employee~~
1598 ~~by any means, including, but not limited to, cash, check, or~~
1599 ~~credit card when that employee is subsequently reimbursed by the~~
1600 ~~governmental entity. This exemption does not include sales of~~
1601 ~~tangible personal property made to contractors employed either~~
1602 ~~directly or as agents of any such government or political~~
1603 ~~subdivision thereof when such tangible personal property goes~~
1604 ~~into or becomes a part of public works owned by such government~~
1605 ~~or political subdivision. A determination whether a particular~~
1606 ~~transaction is properly characterized as an exempt sale to a~~
1607 ~~government entity or a taxable sale to a contractor shall be~~
1608 ~~based on the substance of the transaction rather than the form~~
1609 ~~in which the transaction is cast. The department shall adopt~~
1610 ~~rules that give special consideration to factors that govern the~~
1611 ~~status of the tangible personal property before its affixation~~
1612 ~~to real property. In developing these rules, assumption of the~~
1613 ~~risk of damage or loss is of paramount consideration in the~~
1614 ~~determination. This exemption does not include sales, rental,~~
1615 ~~use, consumption, or storage for use in any political~~
1616 ~~subdivision or municipality in this state of machines and~~
1617 ~~equipment and parts and accessories therefor used in the~~
1618 ~~generation, transmission, or distribution of electrical energy~~
1619 ~~by systems owned and operated by a political subdivision in this~~
1620 ~~state for transmission or distribution expansion. Likewise~~
1621 ~~exempt are charges for services rendered by radio and television~~
1622 ~~stations, including line charges, talent fees, or license fees~~
1623 ~~and charges for films, videotapes, and transcriptions used in~~
1624 ~~producing radio or television broadcasts. The exemption provided~~

7-01552A-09

20092576__

1625 ~~in this subsection does not include sales, rental, use,~~
1626 ~~consumption, or storage for use in any political subdivision or~~
1627 ~~municipality in this state of machines and equipment and parts~~
1628 ~~and accessories therefor used in providing two-way~~
1629 ~~telecommunications services to the public for hire by the use of~~
1630 ~~a telecommunications facility, as defined in s. 364.02(15), and~~
1631 ~~for which a certificate is required under chapter 364, which~~
1632 ~~facility is owned and operated by any county, municipality, or~~
1633 ~~other political subdivision of the state. Any immunity of any~~
1634 ~~political subdivision of the state or other entity of local~~
1635 ~~government from taxation of the property used to provide~~
1636 ~~telecommunication services that is taxed as a result of this~~
1637 ~~section is hereby waived. However, the exemption provided in~~
1638 ~~this subsection includes transactions taxable under this chapter~~
1639 ~~which are for use by the operator of a public-use airport, as~~
1640 ~~defined in s. 332.004, in providing such telecommunications~~
1641 ~~services for the airport or its tenants, concessionaires, or~~
1642 ~~licensees, or which are for use by a public hospital for the~~
1643 ~~provision of such telecommunications services.~~

1644 (3)-(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
1645 entity by this chapter do not inure to any transaction that is
1646 otherwise taxable under this chapter when payment is made by a
1647 representative or employee of the entity by any means,
1648 including, but not limited to, cash, check, or credit card, even
1649 when that representative or employee is subsequently reimbursed
1650 by the entity. In addition, exemptions provided to any entity by
1651 this subsection do not inure to any transaction that is
1652 otherwise taxable under this chapter unless the entity has
1653 obtained a sales tax exemption certificate from the department

7-01552A-09

20092576

1654 or the entity obtains or provides other documentation as
1655 required by the department. Eligible purchases or leases made
1656 with such a certificate must be in strict compliance with this
1657 subsection and departmental rules, and any person who makes an
1658 exempt purchase with a certificate that is not in strict
1659 compliance with this subsection and the rules is liable for and
1660 shall pay the tax. The department may adopt rules to administer
1661 this subsection.

1662 ~~(a) Artificial commemorative flowers. Exempt from the tax~~
1663 ~~imposed by this chapter is the sale of artificial commemorative~~
1664 ~~flowers by bona fide nationally chartered veterans'~~
1665 ~~organizations.~~

1666 ~~(b) Boiler fuels. When purchased for use as a combustible~~
1667 ~~fuel, purchases of natural gas, residual oil, recycled oil,~~
1668 ~~waste oil, solid waste material, coal, sulfur, wood, wood~~
1669 ~~residues or wood bark used in an industrial manufacturing,~~
1670 ~~processing, compounding, or production process at a fixed~~
1671 ~~location in this state are exempt from the taxes imposed by this~~
1672 ~~chapter; however, such exemption shall not be allowed unless the~~
1673 ~~purchaser signs a certificate stating that the fuel to be~~
1674 ~~exempted is for the exclusive use designated herein. This~~
1675 ~~exemption does not apply to the use of boiler fuels that are not~~
1676 ~~used in manufacturing, processing, compounding, or producing~~
1677 ~~items of tangible personal property for sale, or to the use of~~
1678 ~~boiler fuels used by any firm subject to regulation by the~~
1679 ~~Division of Hotels and Restaurants of the Department of Business~~
1680 ~~and Professional Regulation.~~

1681 ~~(c) Crustacea bait. Also exempt from the tax imposed by~~
1682 ~~this chapter is the purchase by commercial fishers of bait~~

7-01552A-09

20092576__

1683 ~~intended solely for use in the entrapment of *Callinectes sapidus*~~
1684 ~~and *Menippe mercenaria*.~~

1685 ~~(d) *Feeds.* Feeds for poultry, ostriches, and livestock,~~
1686 ~~including racehorses and dairy cows, are exempt.~~

1687 ~~(e) *Film rentals.* Film rentals are exempt when an admission~~
1688 ~~is charged for viewing such film, and license fees and direct~~
1689 ~~charges for films, videotapes, and transcriptions used by~~
1690 ~~television or radio stations or networks are exempt.~~

1691 ~~(f) *Flags.* Also exempt are sales of the flag of the United~~
1692 ~~States and the official state flag of Florida.~~

1693 ~~(g) *Florida Retired Educators Association and its local*~~
1694 ~~*chapters.* Also exempt from payment of the tax imposed by this~~
1695 ~~chapter are purchases of office supplies, equipment, and~~
1696 ~~publications made by the Florida Retired Educators Association~~
1697 ~~and its local chapters.~~

1698 ~~(a) *(h) Guide dogs for the blind.*~~ Also exempt are the sale
1699 or rental of guide dogs for the blind, commonly referred to as
1700 "seeing-eye dogs," and the sale of food or other items for such
1701 guide dogs.

1702 1. The department shall issue a consumer's certificate of
1703 exemption to any blind person who holds an identification card
1704 as provided for in s. 413.091 and who either owns or rents, or
1705 contemplates the ownership or rental of, a guide dog for the
1706 blind. The consumer's certificate of exemption shall be issued
1707 without charge and shall be of such size as to be capable of
1708 being carried in a wallet or billfold.

1709 2. The department shall make such rules concerning items
1710 exempt from tax under the provisions of this paragraph as may be
1711 necessary to provide that any person authorized to have a

7-01552A-09

20092576__

1712 consumer's certificate of exemption need only present such a
1713 certificate at the time of paying for exempt goods and shall not
1714 be required to pay any tax thereon.

1715 ~~(i) Hospital meals and rooms. Also exempt from payment of~~
1716 ~~the tax imposed by this chapter on rentals and meals are~~
1717 ~~patients and inmates of any hospital or other physical plant or~~
1718 ~~facility designed and operated primarily for the care of persons~~
1719 ~~who are ill, aged, infirm, mentally or physically incapacitated,~~
1720 ~~or otherwise dependent on special care or attention. Residents~~
1721 ~~of a home for the aged are exempt from payment of taxes on meals~~
1722 ~~provided through the facility. A home for the aged is defined as~~
1723 ~~a facility that is licensed or certified in part or in whole~~
1724 ~~under chapter 400, chapter 429, or chapter 651, or that is~~
1725 ~~financed by a mortgage loan made or insured by the United States~~
1726 ~~Department of Housing and Urban Development under s. 202, s. 202~~
1727 ~~with a s. 8 subsidy, s. 221(d)(3) or (4), s. 232, or s. 236 of~~
1728 ~~the National Housing Act, or other such similar facility~~
1729 ~~designed and operated primarily for the care of the aged.~~

1730 (b)(j) Household fuels.—Also exempt from payment of the tax
1731 imposed by this chapter are sales of utilities to residential
1732 households ~~or owners of residential models~~ in this state by
1733 utility companies who pay the gross receipts tax imposed under
1734 s. 203.01, and sales of fuel to residential households ~~or owners~~
1735 ~~of residential models~~, including oil, kerosene, liquefied
1736 petroleum gas, coal, wood, and other fuel products used in the
1737 household or residential model for the purposes of heating,
1738 cooking, lighting, and refrigeration, regardless of whether such
1739 sales of utilities and fuels are separately metered and billed
1740 direct to the residents or are metered and billed to the

7-01552A-09

20092576__

1741 landlord. If any part of the utility or fuel is used for a
1742 nonexempt purpose, the entire sale is taxable. The landlord
1743 shall provide a separate meter for nonexempt utility or fuel
1744 consumption. ~~For the purposes of this paragraph, licensed family~~
1745 ~~day care homes shall also be exempt.~~

1746 ~~(k) Meals provided by certain nonprofit organizations.—~~
1747 ~~There is exempt from the tax imposed by this chapter the sale of~~
1748 ~~prepared meals by a nonprofit volunteer organization to~~
1749 ~~handicapped, elderly, or indigent persons when such meals are~~
1750 ~~delivered as a charitable function by the organization to such~~
1751 ~~persons at their places of residence.~~

1752 ~~(l) Organizations providing special educational, cultural,~~
1753 ~~recreational, and social benefits to minors.—Also exempt from~~
1754 ~~the tax imposed by this chapter are sales or leases to and sales~~
1755 ~~of donated property by nonprofit organizations which are~~
1756 ~~incorporated pursuant to chapter 617 the primary purpose of~~
1757 ~~which is providing activities that contribute to the development~~
1758 ~~of good character or good sportsmanship, or to the educational~~
1759 ~~or cultural development, of minors. This exemption is extended~~
1760 ~~only to that level of the organization that has a salaried~~
1761 ~~executive officer or an elected nonsalaried executive officer.~~
1762 ~~For the purpose of this paragraph, the term "donated property"~~
1763 ~~means any property transferred to such nonprofit organization~~
1764 ~~for less than 50 percent of its fair market value.~~

1765 ~~(m) Religious institutions.—~~

1766 ~~1. There are exempt from the tax imposed by this chapter~~
1767 ~~transactions involving sales or leases directly to religious~~
1768 ~~institutions when used in carrying on their customary nonprofit~~
1769 ~~religious activities or sales or leases of tangible personal~~

7-01552A-09

20092576__

1770 ~~property by religious institutions having an established~~
1771 ~~physical place for worship at which nonprofit religious services~~
1772 ~~and activities are regularly conducted and carried on.~~

1773 2. ~~As used in this paragraph, the term "religious~~
1774 ~~institutions" means churches, synagogues, and established~~
1775 ~~physical places for worship at which nonprofit religious~~
1776 ~~services and activities are regularly conducted and carried on.~~
1777 ~~The term "religious institutions" includes nonprofit~~
1778 ~~corporations the sole purpose of which is to provide free~~
1779 ~~transportation services to church members, their families, and~~
1780 ~~other church attendees. The term "religious institutions" also~~
1781 ~~includes nonprofit state, nonprofit district, or other nonprofit~~
1782 ~~governing or administrative offices the function of which is to~~
1783 ~~assist or regulate the customary activities of religious~~
1784 ~~institutions. The term "religious institutions" also includes~~
1785 ~~any nonprofit corporation that is qualified as nonprofit under~~
1786 ~~s. 501(c) (3) of the Internal Revenue Code of 1986, as amended,~~
1787 ~~and that owns and operates a Florida television station, at~~
1788 ~~least 90 percent of the programming of which station consists of~~
1789 ~~programs of a religious nature and the financial support for~~
1790 ~~which, exclusive of receipts for broadcasting from other~~
1791 ~~nonprofit organizations, is predominantly from contributions~~
1792 ~~from the general public. The term "religious institutions" also~~
1793 ~~includes any nonprofit corporation that is qualified as~~
1794 ~~nonprofit under s. 501(c) (3) of the Internal Revenue Code of~~
1795 ~~1986, as amended, the primary activity of which is making and~~
1796 ~~distributing audio recordings of religious scriptures and~~
1797 ~~teachings to blind or visually impaired persons at no charge.~~
1798 ~~The term "religious institutions" also includes any nonprofit~~

7-01552A-09

20092576__

1799 ~~corporation that is qualified as nonprofit under s. 501(c)(3) of~~
1800 ~~the Internal Revenue Code of 1986, as amended, the sole or~~
1801 ~~primary function of which is to provide, upon invitation,~~
1802 ~~nonprofit religious services, evangelistic services, religious~~
1803 ~~education, administrative assistance, or missionary assistance~~
1804 ~~for a church, synagogue, or established physical place of~~
1805 ~~worship at which nonprofit religious services and activities are~~
1806 ~~regularly conducted.~~

1807 ~~(n) Veterans' organizations.—~~

1808 ~~1. There are exempt from the tax imposed by this chapter~~
1809 ~~transactions involving sales or leases to qualified veterans'~~
1810 ~~organizations and their auxiliaries when used in carrying on~~
1811 ~~their customary veterans' organization activities.~~

1812 ~~2. As used in this paragraph, the term "veterans'~~
1813 ~~organizations" means nationally chartered or recognized~~
1814 ~~veterans' organizations, including, but not limited to, Florida~~
1815 ~~chapters of the Paralyzed Veterans of America, Catholic War~~
1816 ~~Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and~~
1817 ~~the Disabled American Veterans, Department of Florida, Inc.,~~
1818 ~~which hold current exemptions from federal income tax under s.~~
1819 ~~501(c)(4) or (19) of the Internal Revenue Code of 1986, as~~
1820 ~~amended.~~

1821 ~~(o) Schools, colleges, and universities. Also exempt from~~
1822 ~~the tax imposed by this chapter are sales or leases to state~~
1823 ~~tax-supported schools, colleges, or universities.~~

1824 ~~(p) Section 501(c)(3) organizations. Also exempt from the~~
1825 ~~tax imposed by this chapter are sales or leases to organizations~~
1826 ~~determined by the Internal Revenue Service to be currently~~
1827 ~~exempt from federal income tax pursuant to s. 501(c)(3) of the~~

7-01552A-09

20092576

1828 ~~Internal Revenue Code of 1986, as amended, when such leases or~~
1829 ~~purchases are used in carrying on their customary nonprofit~~
1830 ~~activities.~~

1831 ~~(q) Resource recovery equipment. Also exempt is resource~~
1832 ~~recovery equipment which is owned and operated by or on behalf~~
1833 ~~of any county or municipality, certified by the Department of~~
1834 ~~Environmental Protection under the provisions of s. 403.715.~~

1835 ~~(r) School books and school lunches. This exemption applies~~
1836 ~~to school books used in regularly prescribed courses of study,~~
1837 ~~and to school lunches served in public, parochial, or nonprofit~~
1838 ~~schools operated for and attended by pupils of grades K through~~
1839 ~~12. Yearbooks, magazines, newspapers, directories, bulletins,~~
1840 ~~and similar publications distributed by such educational~~
1841 ~~institutions to their students are also exempt. School books and~~
1842 ~~food sold or served at community colleges and other institutions~~
1843 ~~of higher learning are taxable.~~

1844 ~~(s) Tasting beverages. Vinous and alcoholic beverages~~
1845 ~~provided by distributors or vendors for the purpose of "wine~~
1846 ~~tasting" and "spirituous beverage tasting" as contemplated under~~
1847 ~~the provisions of ss. 564.06 and 565.12, respectively, are~~
1848 ~~exempt from the tax imposed by this chapter.~~

1849 ~~(t) Boats temporarily docked in state.-~~

1850 ~~1. Notwithstanding the provisions of chapter 328,~~
1851 ~~pertaining to the registration of vessels, a boat upon which the~~
1852 ~~state sales or use tax has not been paid is exempt from the use~~
1853 ~~tax under this chapter if it enters and remains in this state~~
1854 ~~for a period not to exceed a total of 20 days in any calendar~~
1855 ~~year calculated from the date of first dockage or slippage at a~~
1856 ~~facility, registered with the department, that rents dockage or~~

7-01552A-09

20092576__

1857 ~~slippage space in this state. If a boat brought into this state~~
1858 ~~for use under this paragraph is placed in a facility, registered~~
1859 ~~with the department, for repairs, alterations, refitting, or~~
1860 ~~modifications and such repairs, alterations, refitting, or~~
1861 ~~modifications are supported by written documentation, the 20-day~~
1862 ~~period shall be tolled during the time the boat is physically in~~
1863 ~~the care, custody, and control of the repair facility, including~~
1864 ~~the time spent on sea trials conducted by the facility. The 20-~~
1865 ~~day time period may be tolled only once within a calendar year~~
1866 ~~when a boat is placed for the first time that year in the~~
1867 ~~physical care, custody, and control of a registered repair~~
1868 ~~facility; however, the owner may request and the department may~~
1869 ~~grant an additional tolling of the 20-day period for purposes of~~
1870 ~~repairs that arise from a written guarantee given by the~~
1871 ~~registered repair facility, which guarantee covers only those~~
1872 ~~repairs or modifications made during the first tolled period.~~
1873 ~~Within 72 hours after the date upon which the registered repair~~
1874 ~~facility took possession of the boat, the facility must have in~~
1875 ~~its possession, on forms prescribed by the department, an~~
1876 ~~affidavit which states that the boat is under its care, custody,~~
1877 ~~and control and that the owner does not use the boat while in~~
1878 ~~the facility. Upon completion of the repairs, alterations,~~
1879 ~~refitting, or modifications, the registered repair facility~~
1880 ~~must, within 72 hours after the date of release, have in its~~
1881 ~~possession a copy of the release form which shows the date of~~
1882 ~~release and any other information the department requires. The~~
1883 ~~repair facility shall maintain a log that documents all~~
1884 ~~alterations, additions, repairs, and sea trials during the time~~
1885 ~~the boat is under the care, custody, and control of the~~

7-01552A-09

20092576

1886 ~~facility. The affidavit shall be maintained by the registered~~
1887 ~~repair facility as part of its records for as long as required~~
1888 ~~by s. 213.35. When, within 6 months after the date of its~~
1889 ~~purchase, a boat is brought into this state under this~~
1890 ~~paragraph, the 6-month period provided in s. 212.05(1)(a)2. or~~
1891 ~~s. 212.06(8) shall be tolled.~~

1892 ~~2. During the period of repairs, alterations, refitting, or~~
1893 ~~modifications and during the 20-day period referred to in~~
1894 ~~subparagraph 1., the boat may be listed for sale, contracted for~~
1895 ~~sale, or sold exclusively by a broker or dealer registered with~~
1896 ~~the department without incurring a use tax under this chapter;~~
1897 ~~however, the sales tax levied under this chapter applies to such~~
1898 ~~sale.~~

1899 ~~3. The mere storage of a boat at a registered repair~~
1900 ~~facility does not qualify as a tax-exempt use in this state.~~

1901 ~~4. As used in this paragraph, "registered repair facility"~~
1902 ~~means:~~

1903 ~~a. A full-service facility that:~~

1904 ~~(I) Is located on a navigable body of water;~~

1905 ~~(II) Has haulout capability such as a dry dock, travel~~
1906 ~~lift, railway, or similar equipment to service craft under the~~
1907 ~~care, custody, and control of the facility;~~

1908 ~~(III) Has adequate piers and storage facilities to provide~~
1909 ~~safe berthing of vessels in its care, custody, and control; and~~

1910 ~~(IV) Has necessary shops and equipment to provide repair or~~
1911 ~~warranty work on vessels under the care, custody, and control of~~
1912 ~~the facility;~~

1913 ~~b. A marina that:~~

1914 ~~(I) Is located on a navigable body of water;~~

7-01552A-09

20092576

1915 ~~(II) Has adequate piers and storage facilities to provide~~
 1916 ~~safe berthing of vessels in its care, custody, and control; and~~

1917 ~~(III) Has necessary shops and equipment to provide repairs~~
 1918 ~~or warranty work on vessels; or~~

1919 ~~e. A shoreside facility that:~~

1920 ~~(I) Is located on a navigable body of water;~~

1921 ~~(II) Has adequate piers and storage facilities to provide~~
 1922 ~~safe berthing of vessels in its care, custody, and control; and~~

1923 ~~(III) Has necessary shops and equipment to provide repairs~~
 1924 ~~or warranty work.~~

1925 ~~(u) Volunteer fire departments. Also exempt are~~
 1926 ~~firefighting and rescue service equipment and supplies purchased~~
 1927 ~~by volunteer fire departments, duly chartered under the Florida~~
 1928 ~~Statutes as corporations not for profit.~~

1929 ~~(v) Professional services.~~

1930 ~~1. Also exempted are professional, insurance, or personal~~
 1931 ~~service transactions that involve sales as inconsequential~~
 1932 ~~elements for which no separate charges are made.~~

1933 ~~2. The personal service transactions exempted pursuant to~~
 1934 ~~subparagraph 1. do not exempt the sale of information services~~
 1935 ~~involving the furnishing of printed, mimeographed, or~~
 1936 ~~multigraphed matter, or matter duplicating written or printed~~
 1937 ~~matter in any other manner, other than professional services and~~
 1938 ~~services of employees, agents, or other persons acting in a~~
 1939 ~~representative or fiduciary capacity or information services~~
 1940 ~~furnished to newspapers and radio and television stations. As~~
 1941 ~~used in this subparagraph, the term "information services"~~
 1942 ~~includes the services of collecting, compiling, or analyzing~~
 1943 ~~information of any kind or nature and furnishing reports thereof~~

7-01552A-09

20092576

1944 ~~to other persons.~~

1945 ~~3. This exemption does not apply to any service warranty~~
1946 ~~transaction taxable under s. 212.0506.~~

1947 ~~4. This exemption does not apply to any service transaction~~
1948 ~~taxable under s. 212.05(1)(i).~~

1949 ~~(w) Certain newspaper, magazine, and newsletter~~
1950 ~~subscriptions, shoppers, and community newspapers. Likewise~~
1951 ~~exempt are newspaper, magazine, and newsletter subscriptions in~~
1952 ~~which the product is delivered to the customer by mail. Also~~
1953 ~~exempt are free, circulated publications that are published on a~~
1954 ~~regular basis, the content of which is primarily advertising,~~
1955 ~~and that are distributed through the mail, home delivery, or~~
1956 ~~newsstands. The exemption for newspaper, magazine, and~~
1957 ~~newsletter subscriptions which is provided in this paragraph~~
1958 ~~applies only to subscriptions entered into after March 1, 1997.~~

1959 ~~(x) Sporting equipment brought into the state. Sporting~~
1960 ~~equipment brought into Florida, for a period of not more than 4~~
1961 ~~months in any calendar year, used by an athletic team or an~~
1962 ~~individual athlete in a sporting event is exempt from the use~~
1963 ~~tax if such equipment is removed from the state within 7 days~~
1964 ~~after the completion of the event.~~

1965 ~~(y) Charter fishing vessels. The charge for chartering any~~
1966 ~~boat or vessel, with the crew furnished, solely for the purpose~~
1967 ~~of fishing is exempt from the tax imposed under s. 212.04 or s.~~
1968 ~~212.05. This exemption does not apply to any charge to enter or~~
1969 ~~stay upon any "head boat," party boat, or other boat or vessel.~~
1970 ~~Nothing in this paragraph shall be construed to exempt any boat~~
1971 ~~from sales or use tax upon the purchase thereof except as~~
1972 ~~provided in paragraph (t) and s. 212.05.~~

7-01552A-09

20092576

1973 ~~(z) Vending machines sponsored by nonprofit or charitable~~
1974 ~~organizations. Also exempt are food or drinks for human~~
1975 ~~consumption sold for 25 cents or less through a coin-operated~~
1976 ~~vending machine sponsored by a nonprofit corporation qualified~~
1977 ~~as nonprofit pursuant to s. 501(c)(3) or (4) of the Internal~~
1978 ~~Revenue Code of 1986, as amended.~~

1979 ~~(aa) Certain commercial vehicles. Also exempt is the sale,~~
1980 ~~lease, or rental of a commercial motor vehicle as defined in s.~~
1981 ~~207.002(2), when the following conditions are met:~~

1982 ~~1. The sale, lease, or rental occurs between two commonly~~
1983 ~~owned and controlled corporations;~~

1984 ~~2. Such vehicle was titled and registered in this state at~~
1985 ~~the time of the sale, lease, or rental; and~~

1986 ~~3. Florida sales tax was paid on the acquisition of such~~
1987 ~~vehicle by the seller, lessor, or renter.~~

1988 ~~(bb) Community cemeteries. Also exempt are purchases by any~~
1989 ~~nonprofit corporation that has qualified under s. 501(c)(13) of~~
1990 ~~the Internal Revenue Code of 1986, as amended, and is operated~~
1991 ~~for the purpose of maintaining a cemetery that was donated to~~
1992 ~~the community by deed.~~

1993 ~~(cc) Works of art.—~~

1994 ~~1. Also exempt are works of art sold to or used by an~~
1995 ~~educational institution.~~

1996 ~~2. This exemption also applies to the sale to or use in~~
1997 ~~this state of any work of art by any person if it was purchased~~
1998 ~~or imported exclusively for the purpose of being donated to any~~
1999 ~~educational institution, or loaned to and made available for~~
2000 ~~display by any educational institution, provided that the term~~
2001 ~~of the loan agreement is for at least 10 years.~~

7-01552A-09

20092576

2002 ~~3. The exemption provided by this paragraph for donations~~
2003 ~~is allowed only if the person who purchased the work of art~~
2004 ~~transfers title to the donated work of art to an educational~~
2005 ~~institution. Such transfer of title shall be evidenced by an~~
2006 ~~affidavit meeting requirements established by rule to document~~
2007 ~~entitlement to the exemption. Nothing in this paragraph shall~~
2008 ~~preclude a work of art donated to an educational institution~~
2009 ~~from remaining in the possession of the donor or purchaser, as~~
2010 ~~long as title to the work of art lies with the educational~~
2011 ~~institution.~~

2012 ~~4. A work of art is presumed to have been purchased in or~~
2013 ~~imported into this state exclusively for loan as provided in~~
2014 ~~subparagraph 2., if it is so loaned or placed in storage in~~
2015 ~~preparation for such a loan within 90 days after purchase or~~
2016 ~~importation, whichever is later; but a work of art is not deemed~~
2017 ~~to be placed in storage in preparation for loan for purposes of~~
2018 ~~this exemption if it is displayed at any place other than an~~
2019 ~~educational institution.~~

2020 ~~5. The exemptions provided by this paragraph are allowed~~
2021 ~~only if the person who purchased the work of art gives to the~~
2022 ~~vendor an affidavit meeting the requirements, established by~~
2023 ~~rule, to document entitlement to the exemption. The person who~~
2024 ~~purchased the work of art shall forward a copy of such affidavit~~
2025 ~~to the Department of Revenue at the time it is issued to the~~
2026 ~~vendor.~~

2027 ~~6. The exemption for loans provided by subparagraph 2.~~
2028 ~~applies only for the period during which a work of art is in the~~
2029 ~~possession of the educational institution or is in storage~~
2030 ~~before transfer of possession to that institution; and when it~~

7-01552A-09

20092576__

2031 ceases to be so possessed or held, tax based upon the sales
2032 price paid by the owner is payable, and the statute of
2033 limitations provided in s. 95.091 shall begin to run at that
2034 time. However, tax shall not become due if the work of art is
2035 donated to an educational institution after the loan ceases.

2036 7. Any educational institution to which a work of art has
2037 been donated pursuant to this paragraph shall make available to
2038 the department the title to the work of art and any other
2039 relevant information. Any educational institution which has
2040 received a work of art on loan pursuant to this paragraph shall
2041 make available to the department information relating to the
2042 work of art. Any educational institution that transfers from its
2043 possession a work of art as defined by this paragraph which has
2044 been loaned to it must notify the Department of Revenue within
2045 60 days after the transfer.

2046 8. For purposes of the exemptions provided by this
2047 paragraph, the term:

2048 a. "Educational institutions" includes state tax-supported,
2049 parochial, church, and nonprofit private schools, colleges, or
2050 universities that conduct regular classes and courses of study
2051 required for accreditation by or membership in the Southern
2052 Association of Colleges and Schools, the Florida Council of
2053 Independent Schools, or the Florida Association of Christian
2054 Colleges and Schools, Inc.; nonprofit private schools that
2055 conduct regular classes and courses of study accepted for
2056 continuing education credit by a board of the Division of
2057 Medical Quality Assurance of the Department of Health; or
2058 nonprofit libraries, art galleries, performing arts centers that
2059 provide educational programs to school children, which programs

7-01552A-09

20092576

2060 ~~involve performances or other educational activities at the~~
2061 ~~performing arts center and serve a minimum of 50,000 school~~
2062 ~~children a year, and museums open to the public.~~

2063 ~~b. "Work of art" includes pictorial representations,~~
2064 ~~sculpture, jewelry, antiques, stamp collections and coin~~
2065 ~~collections, and other tangible personal property, the value of~~
2066 ~~which is attributable predominantly to its artistic, historical,~~
2067 ~~political, cultural, or social importance.~~

2068 ~~(dd) Taxicab leases. The lease of or license to use a~~
2069 ~~taxicab or taxicab-related equipment and services provided by a~~
2070 ~~taxicab company to an independent taxicab operator are exempt,~~
2071 ~~provided, however, the exemptions provided under this paragraph~~
2072 ~~only apply if sales or use tax has been paid on the acquisition~~
2073 ~~of the taxicab and its related equipment.~~

2074 ~~(ee) Aircraft repair and maintenance labor charges. There~~
2075 ~~shall be exempt from the tax imposed by this chapter all labor~~
2076 ~~charges for the repair and maintenance of qualified aircraft,~~
2077 ~~aircraft of more than 15,000 pounds maximum certified takeoff~~
2078 ~~weight, and rotary wing aircraft of more than 10,000 pounds~~
2079 ~~maximum certified takeoff weight. Except as otherwise provided~~
2080 ~~in this chapter, charges for parts and equipment furnished in~~
2081 ~~connection with such labor charges are taxable.~~

2082 ~~(ff) Certain electricity or steam uses.—~~

2083 ~~1. Subject to the provisions of subparagraph 4., charges~~
2084 ~~for electricity or steam used to operate machinery and equipment~~
2085 ~~at a fixed location in this state when such machinery and~~
2086 ~~equipment is used to manufacture, process, compound, produce, or~~
2087 ~~prepare for shipment items of tangible personal property for~~
2088 ~~sale, or to operate pollution control equipment, recycling~~

7-01552A-09

20092576__

2089 ~~equipment, maintenance equipment, or monitoring or control~~
2090 ~~equipment used in such operations are exempt to the extent~~
2091 ~~provided in this paragraph. If 75 percent or more of the~~
2092 ~~electricity or steam used at the fixed location is used to~~
2093 ~~operate qualifying machinery or equipment, 100 percent of the~~
2094 ~~charges for electricity or steam used at the fixed location are~~
2095 ~~exempt. If less than 75 percent but 50 percent or more of the~~
2096 ~~electricity or steam used at the fixed location is used to~~
2097 ~~operate qualifying machinery or equipment, 50 percent of the~~
2098 ~~charges for electricity or steam used at the fixed location are~~
2099 ~~exempt. If less than 50 percent of the electricity or steam used~~
2100 ~~at the fixed location is used to operate qualifying machinery or~~
2101 ~~equipment, none of the charges for electricity or steam used at~~
2102 ~~the fixed location are exempt.~~

2103 ~~2. This exemption applies only to industries classified~~
2104 ~~under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 22,~~
2105 ~~23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38,~~
2106 ~~and 39 and Industry Group Number 212. As used in this paragraph,~~
2107 ~~"SIC" means those classifications contained in the Standard~~
2108 ~~Industrial Classification Manual, 1987, as published by the~~
2109 ~~Office of Management and Budget, Executive Office of the~~
2110 ~~President.~~

2111 ~~3. Possession by a seller of a written certification by the~~
2112 ~~purchaser, certifying the purchaser's entitlement to an~~
2113 ~~exemption permitted by this subsection, relieves the seller from~~
2114 ~~the responsibility of collecting the tax on the nontaxable~~
2115 ~~amounts, and the department shall look solely to the purchaser~~
2116 ~~for recovery of such tax if it determines that the purchaser was~~
2117 ~~not entitled to the exemption.~~

7-01552A-09

20092576__

2118 ~~4. Such exemption shall be applied as follows: beginning~~
2119 ~~July 1, 2000, 100 percent of the charges for such electricity or~~
2120 ~~steam shall be exempt.~~

2121 ~~(gg) Fair associations. Also exempt from the tax imposed by~~
2122 ~~this chapter is the sale, use, lease, rental, or grant of a~~
2123 ~~license to use, made directly to or by a fair association, of~~
2124 ~~real or tangible personal property; any charge made by a fair~~
2125 ~~association, or its agents, for parking, admissions, or for~~
2126 ~~temporary parking of vehicles used for sleeping quarters;~~
2127 ~~rentals, subleases, and sublicenses of real or tangible personal~~
2128 ~~property between the owner of the central amusement attraction~~
2129 ~~and any owner of an amusement ride, as those terms are used in~~
2130 ~~ss. 616.15(1)(b) and 616.242(3)(a), for the furnishing of~~
2131 ~~amusement rides at a public fair or exposition; and other~~
2132 ~~transactions of a fair association which are incurred directly~~
2133 ~~by the fair association in the financing, construction, and~~
2134 ~~operation of a fair, exposition, or other event or facility that~~
2135 ~~is authorized by s. 616.08. As used in this paragraph, the terms~~
2136 ~~"fair association" and "public fair or exposition" have the same~~
2137 ~~meaning as those terms are defined in s. 616.001. This exemption~~
2138 ~~does not apply to the sale of tangible personal property made by~~
2139 ~~a fair association through an agent or independent contractor;~~
2140 ~~sales of admissions and tangible personal property by a~~
2141 ~~concessionaire, vendor, exhibitor, or licensee; or rentals and~~
2142 ~~subleases of tangible personal property or real property between~~
2143 ~~the owner of the central amusement attraction and a~~
2144 ~~concessionaire, vendor, exhibitor, or licensee, except for the~~
2145 ~~furnishing of amusement rides, which transactions are exempt.~~

2146 ~~(hh) Solar energy systems. Also exempt are solar energy~~

7-01552A-09

20092576

2147 ~~systems or any component thereof. The Florida Solar Energy~~
2148 ~~Center shall from time to time certify to the department a list~~
2149 ~~of equipment and requisite hardware considered to be a solar~~
2150 ~~energy system or a component thereof.~~

2151 ~~(ii) Nonprofit cooperative hospital laundries. Also exempt~~
2152 ~~are sales or leases to nonprofit organizations that are~~
2153 ~~incorporated under chapter 617 and which are treated, for~~
2154 ~~federal income tax purposes, as cooperatives under subchapter T~~
2155 ~~of the Internal Revenue Code, whose sole purpose is to offer~~
2156 ~~laundry supplies and services to their members who must all be~~
2157 ~~exempt from federal income tax pursuant to s. 501(c)(3) of the~~
2158 ~~Internal Revenue Code. A member of a nonprofit cooperative~~
2159 ~~hospital laundry whose Internal Revenue Code status changes~~
2160 ~~shall, within 90 days after such change, divest all~~
2161 ~~participation in the cooperative. The provision of laundry~~
2162 ~~supplies and services to a nonmember business pursuant to a~~
2163 ~~declaration of emergency under s. 252.36(2) and a written~~
2164 ~~emergency plan of operation executed by the members of the~~
2165 ~~cooperative does not invalidate or cause the denial of a~~
2166 ~~cooperative's certificate of exemption.~~

2167 ~~(jj) Complimentary meals. Also exempt from the tax imposed~~
2168 ~~by this chapter are food or drinks that are furnished as part of~~
2169 ~~a packaged room rate by any person offering for rent or lease~~
2170 ~~any transient living accommodations as described in s.~~
2171 ~~509.013(4) (a) which are licensed under part I of chapter 509 and~~
2172 ~~which are subject to the tax under s. 212.03, if a separate~~
2173 ~~charge or specific amount for the food or drinks is not shown.~~
2174 ~~Such food or drinks are considered to be sold at retail as part~~
2175 ~~of the total charge for the transient living accommodations.~~

7-01552A-09

20092576__

2176 ~~Moreover, the person offering the accommodations is not~~
2177 ~~considered to be the consumer of items purchased in furnishing~~
2178 ~~such food or drinks and may purchase those items under~~
2179 ~~conditions of a sale for resale.~~

2180 ~~(kk) Nonprofit corporation conducting the correctional work~~
2181 ~~programs.—Products sold pursuant to s. 946.515 by the~~
2182 ~~corporation organized pursuant to part II of chapter 946 are~~
2183 ~~exempt from the tax imposed by this chapter. This exemption~~
2184 ~~applies retroactively to July 1, 1983.~~

2185 ~~(ll) Parent teacher organizations, parent teacher~~
2186 ~~associations, and schools having grades K through 12.—~~

2187 ~~1. Sales or leases to parent-teacher organizations and~~
2188 ~~associations the purpose of which is to raise funds for schools~~
2189 ~~that teach grades K through 12 and that are associated with~~
2190 ~~schools having grades K through 12 are exempt from the tax~~
2191 ~~imposed by this chapter.~~

2192 ~~2. Parent teacher organizations and associations described~~
2193 ~~in subparagraph 1., and schools having grades K through 12, may~~
2194 ~~pay tax to their suppliers on the cost price of school materials~~
2195 ~~and supplies purchased, rented, or leased for resale or rental~~
2196 ~~to students in grades K through 12, of items sold for~~
2197 ~~fundraising purposes, and of items sold through vending machines~~
2198 ~~located on the school premises, in lieu of collecting the tax~~
2199 ~~imposed by this chapter from the purchaser. This paragraph also~~
2200 ~~applies to food or beverages sold through vending machines~~
2201 ~~located in the student lunchroom or dining room of a school~~
2202 ~~having kindergarten through grade 12.~~

2203 ~~(mm) Mobile home lot improvements.—Items purchased by~~
2204 ~~developers for use in making improvements to a mobile home lot~~

7-01552A-09

20092576__

2205 ~~owned by the developer may be purchased tax exempt as a sale for~~
2206 ~~resale if made pursuant to a contract that requires the~~
2207 ~~developer to sell a mobile home to a purchaser, place the mobile~~
2208 ~~home on the lot, and make the improvements to the lot for a~~
2209 ~~single lump-sum price. The developer must collect and remit~~
2210 ~~sales tax on the entire lump-sum price.~~

2211 ~~(nn) Veterans Administration. When a veteran of the armed~~
2212 ~~forces purchases an aircraft, boat, mobile home, motor vehicle,~~
2213 ~~or other vehicle from a dealer pursuant to the provisions of 38~~
2214 ~~U.S.C. s. 3902(a), or any successor provision of the United~~
2215 ~~States Code, the amount that is paid directly to the dealer by~~
2216 ~~the Veterans Administration is not taxable. However, any portion~~
2217 ~~of the purchase price which is paid directly to the dealer by~~
2218 ~~the veteran is taxable.~~

2219 ~~(oo) Complimentary items. There is exempt from the tax~~
2220 ~~imposed by this chapter:~~

2221 ~~1. Any food or drink, whether or not cooked or prepared on~~
2222 ~~the premises, provided without charge as a sample or for the~~
2223 ~~convenience of customers by a dealer that primarily sells food~~
2224 ~~product items at retail.~~

2225 ~~2. Any item given to a customer as part of a price~~
2226 ~~guarantee plan related to point-of-sale errors by a dealer that~~
2227 ~~primarily sells food products at retail.~~

2228
2229 ~~The exemptions in this paragraph do not apply to businesses with~~
2230 ~~the primary activity of serving prepared meals or alcoholic~~
2231 ~~beverages for immediate consumption.~~

2232 ~~(pp) Donated foods or beverages. Any food or beverage~~
2233 ~~donated by a dealer that sells food products at retail to a food~~

7-01552A-09

20092576

2234 ~~bank or an organization that holds a current exemption from~~
2235 ~~federal corporate income tax pursuant to s. 501(c) of the~~
2236 ~~Internal Revenue Code of 1986, as amended, is exempt from the~~
2237 ~~tax imposed by this chapter.~~

2238 ~~(qq) *Racing dogs.* The sale of a racing dog by its owner is~~
2239 ~~exempt if the owner is also the breeder of the animal.~~

2240 ~~(rr) *Equipment used in aircraft repair and maintenance.*~~
2241 ~~There shall be exempt from the tax imposed by this chapter~~
2242 ~~replacement engines, parts, and equipment used in the repair or~~
2243 ~~maintenance of qualified aircraft, aircraft of more than 15,000~~
2244 ~~pounds maximum certified takeoff weight, and rotary wing~~
2245 ~~aircraft of more than 10,300 pounds maximum certified takeoff~~
2246 ~~weight, when such parts or equipment are installed on such~~
2247 ~~aircraft that is being repaired or maintained in this state.~~

2248 ~~(ss) *Aircraft sales or leases.* The sale or lease of a~~
2249 ~~qualified aircraft or an aircraft of more than 15,000 pounds~~
2250 ~~maximum certified takeoff weight for use by a common carrier is~~
2251 ~~exempt from the tax imposed by this chapter. As used in this~~
2252 ~~paragraph, "common carrier" means an airline operating under~~
2253 ~~Federal Aviation Administration regulations contained in Title~~
2254 ~~14, chapter I, part 121 or part 129 of the Code of Federal~~
2255 ~~Regulations.~~

2256 ~~(tt) *Nonprofit water systems.* Sales or leases to a not for~~
2257 ~~profit corporation which holds a current exemption from federal~~
2258 ~~income tax under s. 501(c)(4) or (12) of the Internal Revenue~~
2259 ~~Code, as amended, are exempt from the tax imposed by this~~
2260 ~~chapter if the sole or primary function of the corporation is to~~
2261 ~~construct, maintain, or operate a water system in this state.~~

2262 ~~(uu) *Library cooperatives.* Sales or leases to library~~

7-01552A-09

20092576__

2263 ~~cooperatives certified under s. 257.41(2) are exempt from the~~
2264 ~~tax imposed by this chapter.~~

2265 ~~(vv) Advertising agencies.~~

2266 ~~1. As used in this paragraph, the term "advertising agency"~~
2267 ~~means any firm that is primarily engaged in the business of~~
2268 ~~providing advertising materials and services to its clients.~~

2269 ~~2. The sale of advertising services by an advertising~~
2270 ~~agency to a client is exempt from the tax imposed by this~~
2271 ~~chapter. Also exempt from the tax imposed by this chapter are~~
2272 ~~items of tangible personal property such as photographic~~
2273 ~~negatives and positives, videos, films, galleys, mechanicals,~~
2274 ~~veloxes, illustrations, digital audiotapes, analog tapes,~~
2275 ~~printed advertisement copies, compact discs for the purpose of~~
2276 ~~recording, digital equipment, and artwork and the services used~~
2277 ~~to produce those items if the items are:~~

2278 ~~a. Sold to an advertising agency that is acting as an agent~~
2279 ~~for its clients pursuant to contract, and are created for the~~
2280 ~~performance of advertising services for the clients;~~

2281 ~~b. Produced, fabricated, manufactured, or otherwise created~~
2282 ~~by an advertising agency for its clients, and are used in the~~
2283 ~~performance of advertising services for the clients; or~~

2284 ~~c. Sold by an advertising agency to its clients in the~~
2285 ~~performance of advertising services for the clients, whether or~~
2286 ~~not the charges for these items are marked up or separately~~
2287 ~~stated.~~

2288
2289 ~~The exemption provided by this subparagraph does not apply when~~
2290 ~~tangible personal property such as film, paper, and videotapes~~
2291 ~~is purchased to create items such as photographic negatives and~~

7-01552A-09

20092576

2292 ~~positives, videos, films, galleys, mechanicals, veloxes,~~
2293 ~~illustrations, and artwork that are sold to an advertising~~
2294 ~~agency or produced in-house by an advertising agency on behalf~~
2295 ~~of its clients.~~

2296 ~~3. The items exempted from tax under subparagraph 2. and~~
2297 ~~the creative services used by an advertising agency to design~~
2298 ~~the advertising for promotional goods such as displays, display~~
2299 ~~containers, exhibits, newspaper inserts, brochures, catalogues,~~
2300 ~~direct mail letters or flats, shirts, hats, pens, pencils, key~~
2301 ~~chains, or other printed goods or materials are not subject to~~
2302 ~~tax. However, when such promotional goods are produced or~~
2303 ~~reproduced for distribution, tax applies to the sales price~~
2304 ~~charged to the client for such promotional goods.~~

2305 ~~4. For items purchased by an advertising agency and exempt~~
2306 ~~from tax under this paragraph, possession of an exemption~~
2307 ~~certificate from the advertising agency certifying the agency's~~
2308 ~~entitlement to exemption relieves the vendor of the~~
2309 ~~responsibility of collecting the tax on the sale of such items~~
2310 ~~to the advertising agency, and the department shall look solely~~
2311 ~~to the advertising agency for recovery of tax if it determines~~
2312 ~~that the advertising agency was not entitled to the exemption.~~

2313 ~~5. The exemptions provided by this paragraph apply~~
2314 ~~retroactively, except that all taxes that have been collected~~
2315 ~~must be remitted, and taxes that have been remitted before July~~
2316 ~~1, 1999, on transactions that are subject to exemption under~~
2317 ~~this paragraph are not subject to refund.~~

2318 ~~6. The department may adopt rules that interpret or define~~
2319 ~~the provisions of these exemptions and provide examples~~
2320 ~~regarding the application of these exemptions.~~

7-01552A-09

20092576

2321 ~~(ww) Bullion. The sale of gold, silver, or platinum~~
2322 ~~bullion, or any combination thereof, in a single transaction is~~
2323 ~~exempt if the sales price exceeds \$500. The dealer must maintain~~
2324 ~~proper documentation, as prescribed by rule of the department,~~
2325 ~~to identify that portion of a transaction which involves the~~
2326 ~~sale of gold, silver, or platinum bullion and is exempt under~~
2327 ~~this paragraph.~~

2328 ~~(xx) Certain repair and labor charges.—~~

2329 ~~1. Subject to the provisions of subparagraphs 2. and 3.,~~
2330 ~~there is exempt from the tax imposed by this chapter all labor~~
2331 ~~charges for the repair of, and parts and materials used in the~~
2332 ~~repair of and incorporated into, industrial machinery and~~
2333 ~~equipment which is used for the manufacture, processing,~~
2334 ~~compounding, production, or preparation for shipping of items of~~
2335 ~~tangible personal property at a fixed location within this~~
2336 ~~state.~~

2337 ~~2. This exemption applies only to industries classified~~
2338 ~~under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 22,~~
2339 ~~23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38,~~
2340 ~~and 39 and Industry Group Number 212. As used in this~~
2341 ~~subparagraph, "SIC" means those classifications contained in the~~
2342 ~~Standard Industrial Classification Manual, 1987, as published by~~
2343 ~~the Office of Management and Budget, Executive Office of the~~
2344 ~~President.~~

2345 ~~3. This exemption shall be applied as follows:~~

2346 ~~a. Beginning July 1, 2000, 50 percent of such charges for~~
2347 ~~repair parts and labor shall be exempt.~~

2348 ~~b. Beginning July 1, 2001, 75 percent of such charges for~~
2349 ~~repair parts and labor shall be exempt.~~

7-01552A-09

20092576

2350 e. ~~Beginning July 1, 2002, 100 percent of such charges for~~
2351 ~~repair parts and labor shall be exempt.~~

2352 ~~(yy) Film and other printing supplies. Also exempt are the~~
2353 ~~following materials purchased, produced, or created by~~
2354 ~~businesses classified under SIC Industry Numbers 275, 276, 277,~~
2355 ~~278, or 279 for use in producing graphic matter for sale: film,~~
2356 ~~photographic paper, dyes used for embossing and engraving,~~
2357 ~~artwork, typography, lithographic plates, and negatives. As used~~
2358 ~~in this paragraph, "SIC" means those classifications contained~~
2359 ~~in the Standard Industrial Classification Manual, 1987, as~~
2360 ~~published by the Office of Management and Budget, Executive~~
2361 ~~Office of the President.~~

2362 ~~(zz) People-mover systems. People-mover systems, and parts~~
2363 ~~thereof, which are purchased or manufactured by contractors~~
2364 ~~employed either directly by or as agents for the United States~~
2365 ~~Government, the state, a county, a municipality, a political~~
2366 ~~subdivision of the state, or the public operator of a public-use~~
2367 ~~airport as defined by s. 332.004(14) are exempt from the tax~~
2368 ~~imposed by this chapter when the systems or parts go into or~~
2369 ~~become part of publicly owned facilities. In the case of~~
2370 ~~contractors who manufacture and install such systems and parts,~~
2371 ~~this exemption extends to the purchase of component parts and~~
2372 ~~all other manufacturing and fabrication costs. The department~~
2373 ~~may provide a form to be used by contractors to provide to~~
2374 ~~suppliers of people-mover systems or parts to certify the~~
2375 ~~contractors' eligibility for the exemption provided under this~~
2376 ~~paragraph. As used in this paragraph, "people-mover systems"~~
2377 ~~includes wheeled passenger vehicles and related control and~~
2378 ~~power distribution systems that are part of a transportation~~

7-01552A-09

20092576__

2379 ~~system for use by the general public, regardless of whether such~~
2380 ~~vehicles are operator-controlled or driverless, self-propelled~~
2381 ~~or propelled by external power and control systems, or conducted~~
2382 ~~on roads, rails, guidebeams, or other permanent structures that~~
2383 ~~are an integral part of such transportation system. "Related~~
2384 ~~control and power distribution systems" includes any electrical~~
2385 ~~or electronic control or signaling equipment, but does not~~
2386 ~~include the embedded wiring, conduits, or cabling used to~~
2387 ~~transmit electrical or electronic signals among such control~~
2388 ~~equipment, power distribution equipment, signaling equipment,~~
2389 ~~and wheeled vehicles.~~

2390 ~~(aaa) Florida Fire and Emergency Services Foundation.—Sales~~
2391 ~~or leases to the Florida Fire and Emergency Services Foundation~~
2392 ~~are exempt from the tax imposed by this chapter.~~

2393 ~~(bbb) Railroad roadway materials.—Also exempt from the tax~~
2394 ~~imposed by this chapter are railroad roadway materials used in~~
2395 ~~the construction, repair, or maintenance of railways. Railroad~~
2396 ~~roadway materials shall include rails, ties, ballasts,~~
2397 ~~communication equipment, signal equipment, power transmission~~
2398 ~~equipment, and any other track materials.~~

2399 ~~(ccc) Equipment, machinery, and other materials for~~
2400 ~~renewable energy technologies.—~~

2401 ~~1. As used in this paragraph, the term:~~

2402 ~~a. "Biodiesel" means the mono-alkyl esters of long-chain~~
2403 ~~fatty acids derived from plant or animal matter for use as a~~
2404 ~~source of energy and meeting the specifications for biodiesel~~
2405 ~~and biodiesel blends with petroleum products as adopted by the~~
2406 ~~Department of Agriculture and Consumer Services. Biodiesel may~~
2407 ~~refer to biodiesel blends designated BXX, where XX represents~~

7-01552A-09

20092576__

2408 ~~the volume percentage of biodiesel fuel in the blend.~~

2409 ~~b. "Ethanol" means an anhydrous denatured alcohol produced~~
2410 ~~by the conversion of carbohydrates meeting the specifications~~
2411 ~~for fuel ethanol and fuel ethanol blends with petroleum products~~
2412 ~~as adopted by the Department of Agriculture and Consumer~~
2413 ~~Services. Ethanol may refer to fuel ethanol blends designated~~
2414 ~~EXX, where XX represents the volume percentage of fuel ethanol~~
2415 ~~in the blend.~~

2416 ~~e. "Hydrogen fuel cells" means equipment using hydrogen or~~
2417 ~~a hydrogen-rich fuel in an electrochemical process to generate~~
2418 ~~energy, electricity, or the transfer of heat.~~

2419 ~~2. The sale or use of the following in the state is exempt~~
2420 ~~from the tax imposed by this chapter:~~

2421 ~~a. Hydrogen-powered vehicles, materials incorporated into~~
2422 ~~hydrogen-powered vehicles, and hydrogen-fueling stations, up to~~
2423 ~~a limit of \$2 million in tax each state fiscal year for all~~
2424 ~~taxpayers.~~

2425 ~~b. Commercial stationary hydrogen fuel cells, up to a limit~~
2426 ~~of \$1 million in tax each state fiscal year for all taxpayers.~~

2427 ~~e. Materials used in the distribution of biodiesel (B10-~~
2428 ~~B100) and ethanol (E10-E100), including fueling infrastructure,~~
2429 ~~transportation, and storage, up to a limit of \$1 million in tax~~
2430 ~~each state fiscal year for all taxpayers. Gasoline fueling~~
2431 ~~station pump retrofits for ethanol (E10-E100) distribution~~
2432 ~~qualify for the exemption provided in this sub-subparagraph.~~

2433 ~~3. The Florida Energy and Climate Commission shall provide~~
2434 ~~to the department a list of items eligible for the exemption~~
2435 ~~provided in this paragraph.~~

2436 ~~4.a. The exemption provided in this paragraph shall be~~

7-01552A-09

20092576

2437 ~~available to a purchaser only through a refund of previously~~
2438 ~~paid taxes. An eligible item is subject to refund one time. A~~
2439 ~~person who has received a refund on an eligible item shall~~
2440 ~~notify the next purchaser of the item that such item is no~~
2441 ~~longer eligible for a refund of paid taxes. This notification~~
2442 ~~shall be provided to each subsequent purchaser on the sales~~
2443 ~~invoice or other proof of purchase.~~

2444 ~~b. To be eligible to receive the exemption provided in this~~
2445 ~~paragraph, a purchaser shall file an application with the~~
2446 ~~Florida Energy and Climate Commission. The application shall be~~
2447 ~~developed by the Florida Energy and Climate Commission, in~~
2448 ~~consultation with the department, and shall require:~~

2449 ~~(I) The name and address of the person claiming the refund.~~

2450 ~~(II) A specific description of the purchase for which a~~
2451 ~~refund is sought, including, when applicable, a serial number or~~
2452 ~~other permanent identification number.~~

2453 ~~(III) The sales invoice or other proof of purchase showing~~
2454 ~~the amount of sales tax paid, the date of purchase, and the name~~
2455 ~~and address of the sales tax dealer from whom the property was~~
2456 ~~purchased.~~

2457 ~~(IV) A sworn statement that the information provided is~~
2458 ~~accurate and that the requirements of this paragraph have been~~
2459 ~~met.~~

2460 ~~e. Within 30 days after receipt of an application, the~~
2461 ~~Florida Energy and Climate Commission shall review the~~
2462 ~~application and shall notify the applicant of any deficiencies.~~
2463 ~~Upon receipt of a completed application, the Florida Energy and~~
2464 ~~Climate Commission shall evaluate the application for exemption~~
2465 ~~and issue a written certification that the applicant is eligible~~

7-01552A-09

20092576__

2466 ~~for a refund or issue a written denial of such certification~~
2467 ~~within 60 days after receipt of the application. The Florida~~
2468 ~~Energy and Climate Commission shall provide the department with~~
2469 ~~a copy of each certification issued upon approval of an~~
2470 ~~application.~~

2471 ~~d. Each certified applicant shall be responsible for~~
2472 ~~forwarding a certified copy of the application and copies of all~~
2473 ~~required documentation to the department within 6 months after~~
2474 ~~certification by the Florida Energy and Climate Commission.~~

2475 ~~e. A refund approved pursuant to this paragraph shall be~~
2476 ~~made within 30 days after formal approval by the department.~~

2477 ~~f. The Florida Energy and Climate Commission may adopt the~~
2478 ~~form for the application for a certificate, requirements for the~~
2479 ~~content and format of information submitted to the Florida~~
2480 ~~Energy and Climate Commission in support of the application,~~
2481 ~~other procedural requirements, and criteria by which the~~
2482 ~~application will be determined by rule. The department may adopt~~
2483 ~~all other rules pursuant to ss. 120.536(1) and 120.54 to~~
2484 ~~administer this paragraph, including rules establishing~~
2485 ~~additional forms and procedures for claiming this exemption.~~

2486 ~~g. The Florida Energy and Climate Commission shall be~~
2487 ~~responsible for ensuring that the total amounts of the~~
2488 ~~exemptions authorized do not exceed the limits as specified in~~
2489 ~~subparagraph 2.~~

2490 ~~5. The Florida Energy and Climate Commission shall~~
2491 ~~determine and publish on a regular basis the amount of sales tax~~
2492 ~~funds remaining in each fiscal year.~~

2493 ~~6. This paragraph expires July 1, 2010.~~

2494 ~~(ddd) Advertising materials distributed free of charge by~~

7-01552A-09

20092576

2495 ~~mail in an envelope. Likewise exempt are materials consisting~~
2496 ~~exclusively of advertisements, such as individual coupons or~~
2497 ~~other individual cards, sheets, or pages of printed advertising,~~
2498 ~~that are distributed free of charge by mail in an envelope for~~
2499 ~~10 or more persons on a monthly, bimonthly, or other regular~~
2500 ~~basis.~~

2501 ~~(eee) Certain delivery charges. Separately stated charges~~
2502 ~~that can be avoided at the option of the purchaser for the~~
2503 ~~delivery, inspection, placement, or removal from packaging or~~
2504 ~~shipping materials of furniture or appliances by the selling~~
2505 ~~dealer at the premises of the purchaser or the removal of~~
2506 ~~similar items from the premises of the purchaser are exempt. If~~
2507 ~~any charge for delivery, inspection, placement, or removal of~~
2508 ~~furniture or appliances includes the modification, assembly, or~~
2509 ~~construction of such furniture or appliances, then all of the~~
2510 ~~charges are taxable.~~

2511 ~~(fff) Bookstore operations at a postsecondary educational~~
2512 ~~institution. Also exempt from payment of the tax imposed by this~~
2513 ~~chapter on renting, leasing, letting, or granting a license for~~
2514 ~~the use of any real property are payments to a postsecondary~~
2515 ~~educational institution made by any person pursuant to a grant~~
2516 ~~of the right to conduct bookstore operations on real property~~
2517 ~~owned or leased by the postsecondary educational institution. As~~
2518 ~~used in this paragraph, the term "bookstore operations" means~~
2519 ~~activities consisting predominantly of sales, distribution, and~~
2520 ~~provision of textbooks, merchandise, and services traditionally~~
2521 ~~offered in college and university bookstores for the benefit of~~
2522 ~~the institution's students, faculty, and staff.~~

2523 ~~(8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE OR~~

7-01552A-09

20092576

2524 FOREIGN COMMERCE.—

2525 ~~(a) The sale or use of vessels and parts thereof used to~~
2526 ~~transport persons or property in interstate or foreign commerce,~~
2527 ~~including commercial fishing vessels, is subject to the taxes~~
2528 ~~imposed in this chapter only to the extent provided herein. The~~
2529 ~~basis of the tax shall be the ratio of intrastate mileage to~~
2530 ~~interstate or foreign mileage traveled by the carrier's vessels~~
2531 ~~which were used in interstate or foreign commerce and which had~~
2532 ~~at least some Florida mileage during the previous fiscal year.~~
2533 ~~The ratio would be determined at the close of the carrier's~~
2534 ~~fiscal year. However, during the fiscal year in which the vessel~~
2535 ~~begins its initial operations in this state, the vessel's~~
2536 ~~mileage apportionment factor may be determined on the basis of~~
2537 ~~an estimated ratio of anticipated miles in this state to~~
2538 ~~anticipated total miles for that year and, subsequently,~~
2539 ~~additional tax shall be paid on the vessel, or a refund may be~~
2540 ~~applied for, on the basis of the actual ratio of the vessel's~~
2541 ~~miles in this state to its total miles for that year. This ratio~~
2542 ~~shall be applied each month to the total Florida purchases of~~
2543 ~~such vessels and parts thereof which are used in Florida to~~
2544 ~~establish that portion of the total used and consumed in~~
2545 ~~intrastate movement and subject to the tax at the applicable~~
2546 ~~rate. The basis for imposition of any discretionary surtax shall~~
2547 ~~be as set forth in s. 212.054. Items, appropriate to carry out~~
2548 ~~the purposes for which a vessel is designed or equipped and~~
2549 ~~used, purchased by the owner, operator, or agent of a vessel for~~
2550 ~~use on board such vessel shall be deemed to be parts of the~~
2551 ~~vessel upon which the same are used or consumed. Vessels and~~
2552 ~~parts thereof used to transport persons or property in~~

7-01552A-09

20092576__

2553 ~~interstate and foreign commerce are hereby determined to be~~
2554 ~~susceptible to a distinct and separate classification for~~
2555 ~~taxation under the provisions of this chapter. Vessels and parts~~
2556 ~~thereof used exclusively in intrastate commerce do not qualify~~
2557 ~~for the proration of tax.~~

2558 ~~(b) The partial exemption provided for in this subsection~~
2559 ~~shall not be allowed unless the purchaser signs an affidavit~~
2560 ~~stating that the item or items to be partially exempted are for~~
2561 ~~the exclusive use designated herein and setting forth the extent~~
2562 ~~of such partial exemption. Any person furnishing a false~~
2563 ~~affidavit to such effect for the purpose of evading payment of~~
2564 ~~any tax imposed under this chapter is subject to the penalties~~
2565 ~~set forth in s. 212.12 and as otherwise provided by law.~~

2566 ~~(c) It is the intent of the Legislature that neither~~
2567 ~~subsection (4) nor this subsection shall be construed as~~
2568 ~~imposing the tax provided by this chapter on vessels used as~~
2569 ~~common carriers, contract carriers, or private carriers, engaged~~
2570 ~~in interstate or foreign commerce, except to the extent provided~~
2571 ~~by the pro rata formula provided in subsection (4) and in~~
2572 ~~paragraph (a).~~

2573 ~~(9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES~~
2574 ~~ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.—~~

2575 ~~(a) Railroads that are licensed as common carriers by the~~
2576 ~~Surface Transportation Board and parts thereof used to transport~~
2577 ~~persons or property in interstate or foreign commerce are~~
2578 ~~subject to tax imposed in this chapter only to the extent~~
2579 ~~provided herein. The basis of the tax shall be the ratio of~~
2580 ~~intrastate mileage to interstate or foreign mileage traveled by~~
2581 ~~the carrier during the previous fiscal year of the carrier. Such~~

7-01552A-09

20092576

2582 ~~ratio is to be determined at the close of the carrier's fiscal~~
2583 ~~year. However, during the fiscal year in which the railroad~~
2584 ~~begins its initial operations in this state, the railroad's~~
2585 ~~mileage apportionment factor may be determined on the basis of~~
2586 ~~an estimated ratio of anticipated miles in this state to~~
2587 ~~anticipated total miles for that year and, subsequently,~~
2588 ~~additional tax shall be paid on the railroad, or a refund may be~~
2589 ~~applied for, on the basis of the actual ratio of the railroad's~~
2590 ~~miles in this state to its total miles for that year. This ratio~~
2591 ~~shall be applied each month to the purchases of the railroad in~~
2592 ~~this state which are used in this state to establish that~~
2593 ~~portion of the total used and consumed in intrastate movement~~
2594 ~~and subject to tax under this chapter. The basis for imposition~~
2595 ~~of any discretionary surtax is set forth in s. 212.054.~~
2596 ~~Railroads that are licensed as common carriers by the Surface~~
2597 ~~Transportation Board and parts thereof used to transport persons~~
2598 ~~or property in interstate and foreign commerce are hereby~~
2599 ~~determined to be susceptible to a distinct and separate~~
2600 ~~classification for taxation under the provisions of this~~
2601 ~~chapter.~~

2602 ~~(b) Motor vehicles that are engaged in interstate commerce~~
2603 ~~as common carriers, and parts thereof, used to transport persons~~
2604 ~~or property in interstate or foreign commerce are subject to tax~~
2605 ~~imposed in this chapter only to the extent provided herein. The~~
2606 ~~basis of the tax shall be the ratio of intrastate mileage to~~
2607 ~~interstate or foreign mileage traveled by the carrier's motor~~
2608 ~~vehicles which were used in interstate or foreign commerce and~~
2609 ~~which had at least some Florida mileage during the previous~~
2610 ~~fiscal year of the carrier. Such ratio is to be determined at~~

7-01552A-09

20092576__

2611 ~~the close of the carrier's fiscal year. However, during the~~
2612 ~~fiscal year in which the carrier begins its initial operations~~
2613 ~~in this state, the carrier's mileage apportionment factor may be~~
2614 ~~determined on the basis of an estimated ratio of anticipated~~
2615 ~~miles in this state to anticipated total miles for that year~~
2616 ~~and, subsequently, additional tax shall be paid on the carrier,~~
2617 ~~or a refund may be applied for, on the basis of the actual ratio~~
2618 ~~of the carrier's miles in this state to its total miles for that~~
2619 ~~year. This ratio shall be applied each month to the purchases in~~
2620 ~~this state of such motor vehicles and parts thereof which are~~
2621 ~~used in this state to establish that portion of the total used~~
2622 ~~and consumed in intrastate movement and subject to tax under~~
2623 ~~this chapter. The basis for imposition of any discretionary~~
2624 ~~surtax is set forth in s. 212.054. Motor vehicles that are~~
2625 ~~engaged in interstate commerce, and parts thereof, used to~~
2626 ~~transport persons or property in interstate and foreign commerce~~
2627 ~~are hereby determined to be susceptible to a distinct and~~
2628 ~~separate classification for taxation under the provisions of~~
2629 ~~this chapter. Motor vehicles and parts thereof used exclusively~~
2630 ~~in intrastate commerce do not qualify for the proration of tax.~~
2631 ~~For purposes of this paragraph, parts of a motor vehicle engaged~~
2632 ~~in interstate commerce include a separate tank not connected to~~
2633 ~~the fuel supply system of the motor vehicle into which diesel~~
2634 ~~fuel is placed to operate a refrigeration unit or other~~
2635 ~~equipment.~~

2636 ~~(10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT OF~~
2637 ~~ANOTHER STATE.—~~

2638 ~~(a) The tax collected on the sale of a new or used motor~~
2639 ~~vehicle in this state to a resident of another state shall be an~~

7-01552A-09

20092576

2640 ~~amount equal to the sales tax which would be imposed on such~~
2641 ~~sale under the laws of the state of which the purchaser is a~~
2642 ~~resident, except that such tax shall not exceed the tax that~~
2643 ~~would otherwise be imposed under this chapter. At the time of~~
2644 ~~the sale, the purchaser shall execute a notarized statement of~~
2645 ~~his or her intent to license the vehicle in the state of which~~
2646 ~~the purchaser is a resident within 45 days of the sale and of~~
2647 ~~the fact of the payment to the State of Florida of a sales tax~~
2648 ~~in an amount equivalent to the sales tax of his or her state of~~
2649 ~~residence and shall submit the statement to the appropriate~~
2650 ~~sales tax collection agency in his or her state of residence.~~
2651 ~~Nothing in this subsection shall be construed to require the~~
2652 ~~removal of the vehicle from this state following the filing of~~
2653 ~~an intent to license the vehicle in the purchaser's home state~~
2654 ~~if the purchaser licenses the vehicle in his or her home state~~
2655 ~~within 45 days after the date of sale.~~

2656 ~~(b) Notwithstanding the partial exemption allowed in~~
2657 ~~paragraph (a), a vehicle is subject to this state's sales tax at~~
2658 ~~the applicable state sales tax rate plus authorized surtaxes~~
2659 ~~when the vehicle is purchased by a nonresident corporation or~~
2660 ~~partnership and:~~

2661 ~~1. An officer of the corporation is a resident of this~~
2662 ~~state;~~

2663 ~~2. A stockholder of the corporation who owns at least 10~~
2664 ~~percent of the corporation is a resident of this state; or~~

2665 ~~3. A partner in the partnership who has at least 10 percent~~
2666 ~~ownership is a resident of this state.~~

2667
2668 ~~However, if the vehicle is removed from this state within 45~~

7-01552A-09

20092576

2669 ~~days after purchase and remains outside the state for a minimum~~
2670 ~~of 180 days, the vehicle may qualify for the partial exemption~~
2671 ~~allowed in paragraph (a) despite the residency of owners or~~
2672 ~~stockholders of the purchasing entity.~~

2673 ~~(c) Nothing herein shall require the payment of tax to the~~
2674 ~~State of Florida for assessments made prior to July 1, 2001, if~~
2675 ~~the tax imposed by this section has been paid to the state in~~
2676 ~~which the vehicle was licensed and the department has assessed a~~
2677 ~~like amount of tax on the same transactions. This provision~~
2678 ~~shall apply retroactively to assessments that have been~~
2679 ~~protested prior to August 1, 1999, and have not been paid on the~~
2680 ~~date this act takes effect.~~

2681 ~~(11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.—~~

2682 ~~(a) The tax imposed on the sale by a manufacturer of~~
2683 ~~flyable aircraft, who designs such aircraft, which sale may~~
2684 ~~include necessary equipment and modifications placed on such~~
2685 ~~flyable aircraft prior to delivery by the manufacturer, shall be~~
2686 ~~an amount equal to the sales tax which would be imposed on such~~
2687 ~~sale under the laws of the state in which the aircraft will be~~
2688 ~~domiciled.~~

2689 ~~(b) This partial exemption applies only if the purchaser is~~
2690 ~~a resident of another state who will not use the aircraft in~~
2691 ~~this state, or if the purchaser is a resident of another state~~
2692 ~~and uses the aircraft in interstate or foreign commerce, or if~~
2693 ~~the purchaser is a resident of a foreign country.~~

2694 ~~(c) The maximum tax collectible under this subsection may~~
2695 ~~not exceed 6 percent of the sales price of such aircraft. No~~
2696 ~~Florida tax may be imposed on the sale of such aircraft if the~~
2697 ~~state in which the aircraft will be domiciled does not allow~~

7-01552A-09

20092576__

2698 Florida sales or use tax to be credited against its sales or use
2699 tax. Furthermore, no tax may be imposed on the sale of such
2700 aircraft if the state in which the aircraft will be domiciled
2701 has enacted a sales and use tax exemption for flyable aircraft
2702 or if the aircraft will be domiciled outside the United States.

2703 (d) The purchaser shall execute a sworn affidavit attesting
2704 that he or she is not a resident of this state and stating where
2705 the aircraft will be domiciled. If the aircraft is subsequently
2706 used in this state within 6 months of the time of purchase, in
2707 violation of the intent of this subsection, the purchaser shall
2708 be liable for payment of the full use tax imposed by this
2709 chapter and shall be subject to the penalty imposed by s.
2710 212.12(2), which penalty shall be mandatory. Notwithstanding the
2711 provisions of this paragraph, the owner of an aircraft purchased
2712 pursuant to this subsection may permit the aircraft to be
2713 returned to this state for repairs within 6 months after the
2714 date of sale without the aircraft being in violation of the law
2715 and without incurring liability for payment of tax or penalty on
2716 the purchase price of the aircraft, so long as the aircraft is
2717 removed from this state within 20 days after the completion of
2718 the repairs and such removal can be proven by invoices for fuel,
2719 tie down, or hangar charges issued by out-of-state vendors or
2720 suppliers or similar documentation.

2721 (12) PARTIAL EXEMPTION; MASTER TAPES, RECORDS, FILMS, OR
2722 VIDEO TAPES.—

2723 (a) There are exempt from the taxes imposed by this chapter
2724 the gross receipts from the sale or lease of, and the storage,
2725 use, or other consumption in this state of, master tapes or
2726 master records embodying sound, or master films or master video

7-01552A-09

20092576

2727 ~~tapes; except that amounts paid to recording studios or motion~~
2728 ~~picture or television studios for the tangible elements of such~~
2729 ~~master tapes, records, films, or video tapes are taxable as~~
2730 ~~otherwise provided in this chapter. This exemption will inure to~~
2731 ~~the taxpayer upon presentation of the certificate of exemption~~
2732 ~~issued to the taxpayer under the provisions of s. 288.1258.~~

2733 ~~(b) For the purposes of this subsection, the term:~~

2734 ~~1. "Amounts paid for the tangible elements" does not~~
2735 ~~include any amounts paid for the copyrightable, artistic, or~~
2736 ~~other intangible elements of such master tapes, records, films,~~
2737 ~~or video tapes, whether designated as royalties or otherwise,~~
2738 ~~including, but not limited to, services rendered in producing,~~
2739 ~~fabricating, processing, or imprinting tangible personal~~
2740 ~~property or any other services or production expenses in~~
2741 ~~connection therewith which may otherwise be construed as~~
2742 ~~constituting a "sale" under s. 212.02.~~

2743 ~~2. "Master films or master video tapes" means films or~~
2744 ~~video tapes utilized by the motion picture and television~~
2745 ~~production industries in making visual images for reproduction.~~

2746 ~~3. "Master tapes or master records embodying sound" means~~
2747 ~~tapes, records, and other devices utilized by the recording~~
2748 ~~industry in making recordings embodying sound.~~

2749 ~~4. "Motion picture or television studio" means a facility~~
2750 ~~in which film or video tape productions or parts of productions~~
2751 ~~are made and which contains the necessary equipment and~~
2752 ~~personnel for this purpose and includes a mobile unit or vehicle~~
2753 ~~that is equipped in much the same manner as a stationary studio~~
2754 ~~and used in the making of film or video tape productions.~~

2755 ~~5. "Recording studio" means a place where, by means of~~

7-01552A-09

20092576__

2756 ~~mechanical or electronic devices, voices, music, or other sounds~~
2757 ~~are transmitted to tapes, records, or other devices capable of~~
2758 ~~reproducing sound.~~

2759 ~~6. "Recording industry" means any person engaged in an~~
2760 ~~occupation or business of making recordings embodying sound for~~
2761 ~~a livelihood or for a profit.~~

2762 ~~7. "Motion picture or television production industry" means~~
2763 ~~any person engaged in an occupation or business for a livelihood~~
2764 ~~or for profit of making visual motion picture or television~~
2765 ~~visual images for showing on screen or television for~~
2766 ~~theatrical, commercial, advertising, or educational purposes.~~

2767 ~~(13) No transactions shall be exempt from the tax imposed~~
2768 ~~by this chapter except those expressly exempted herein. All laws~~
2769 ~~granting tax exemptions, to the extent they may be inconsistent~~
2770 ~~or in conflict with this chapter, including, but not limited to,~~
2771 ~~the following designated laws, shall yield to and be superseded~~
2772 ~~by the provisions of this subsection: ss. 125.019, 153.76,~~
2773 ~~154.2331, 159.15, 159.31, 159.50, 159.708, 163.385, 163.395,~~
2774 ~~215.76, 243.33, 315.11, 348.65, 348.762, 349.13, 403.1834,~~
2775 ~~616.07, and 623.09, and the following Laws of Florida, acts of~~
2776 ~~the year indicated: s. 31, chapter 30843, 1955; s. 19, chapter~~
2777 ~~30845, 1955; s. 12, chapter 30927, 1955; s. 8, chapter 31179,~~
2778 ~~1955; s. 15, chapter 31263, 1955; s. 13, chapter 31343, 1955; s.~~
2779 ~~16, chapter 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-~~
2780 ~~2261; s. 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11,~~
2781 ~~chapter 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446;~~
2782 ~~and s. 10, chapter 67-1681. This subsection does not supersede~~
2783 ~~the authority of a local government to adopt financial and local~~
2784 ~~government incentives pursuant to s. 163.2517.~~

7-01552A-09

20092576__

2785 ~~(14) TECHNICAL ASSISTANCE ADVISORY COMMITTEE. The~~
2786 ~~department shall establish a technical assistance advisory~~
2787 ~~committee with public and private sector members, including~~
2788 ~~representatives of both manufacturers and retailers, to advise~~
2789 ~~the Department of Revenue and the Department of Health in~~
2790 ~~determining the taxability of specific products and product~~
2791 ~~lines pursuant to subsection (1) and paragraph (2) (a). In~~
2792 ~~determining taxability and in preparing a list of specific~~
2793 ~~products and product lines that are or are not taxable, the~~
2794 ~~committee shall not be subject to the provisions of chapter 120.~~
2795 ~~Private sector members shall not be compensated for serving on~~
2796 ~~the committee.~~

2797 ~~(15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.—~~

2798 ~~(a) Beginning July 1, 1995, charges for electrical energy~~
2799 ~~used by a qualified business at a fixed location in an~~
2800 ~~enterprise zone in a municipality which has enacted an ordinance~~
2801 ~~pursuant to s. 166.231(8) which provides for exemption of~~
2802 ~~municipal utility taxes on such businesses or in an enterprise~~
2803 ~~zone jointly authorized by a county and a municipality which has~~
2804 ~~enacted an ordinance pursuant to s. 166.231(8) which provides~~
2805 ~~for exemption of municipal utility taxes on such businesses~~
2806 ~~shall receive an exemption equal to 50 percent of the tax~~
2807 ~~imposed by this chapter, or, if no less than 20 percent of the~~
2808 ~~employees of the business are residents of an enterprise zone,~~
2809 ~~excluding temporary and part-time employees, the exemption shall~~
2810 ~~be equal to 100 percent of the tax imposed by this chapter. A~~
2811 ~~qualified business may receive such exemption for a period of 5~~
2812 ~~years from the billing period beginning not more than 30 days~~
2813 ~~following notification to the applicable utility company by the~~

7-01552A-09

20092576

2814 ~~department that an exemption has been authorized pursuant to~~
2815 ~~this subsection and s. 166.231(8).~~

2816 ~~(b) To receive this exemption, a business must file an~~
2817 ~~application, with the enterprise zone development agency having~~
2818 ~~jurisdiction over the enterprise zone where the business is~~
2819 ~~located, on a form provided by the department for the purposes~~
2820 ~~of this subsection and s. 166.231(8). The application shall be~~
2821 ~~made under oath and shall include:~~

2822 ~~1. The name and location of the business.~~

2823 ~~2. The identifying number assigned pursuant to s. 290.0065~~
2824 ~~to the enterprise zone in which the business is located.~~

2825 ~~3. The date on which electrical service is to be first~~
2826 ~~initiated to the business.~~

2827 ~~4. The name and mailing address of the entity from which~~
2828 ~~electrical energy is to be purchased.~~

2829 ~~5. The date of the application.~~

2830 ~~6. The name of the city in which the business is located.~~

2831 ~~7. If applicable, the name and address of each permanent~~
2832 ~~employee of the business including, for each employee who is a~~
2833 ~~resident of an enterprise zone, the identifying number assigned~~
2834 ~~pursuant to s. 290.0065 to the enterprise zone in which the~~
2835 ~~employee resides.~~

2836 ~~8. Whether the business is a small business as defined by~~
2837 ~~s. 288.703(1).~~

2838 ~~(c) Within 10 working days after receipt of an application,~~
2839 ~~the enterprise zone development agency shall review the~~
2840 ~~application to determine if it contains all information required~~
2841 ~~pursuant to paragraph (b) and meets the criteria set out in this~~
2842 ~~subsection. The agency shall certify all applications that~~

7-01552A-09

20092576

2843 ~~contain the information required pursuant to paragraph (b) and~~
2844 ~~meet the criteria set out in this subsection as eligible to~~
2845 ~~receive an exemption. If applicable, the agency shall also~~
2846 ~~certify if 20 percent of the employees of the business are~~
2847 ~~residents of an enterprise zone, excluding temporary and part-~~
2848 ~~time employees. The certification shall be in writing, and a~~
2849 ~~copy of the certification shall be transmitted to the executive~~
2850 ~~director of the Department of Revenue. The applicant shall be~~
2851 ~~responsible for forwarding a certified application to the~~
2852 ~~department within 6 months after the occurrence of the~~
2853 ~~appropriate qualifying provision set out in paragraph (f).~~

2854 ~~(d) If, in a subsequent audit conducted by the department,~~
2855 ~~it is determined that the business did not meet the criteria~~
2856 ~~mandated in this subsection, the amount of taxes exempted shall~~
2857 ~~immediately be due and payable to the department by the~~
2858 ~~business, together with the appropriate interest and penalty,~~
2859 ~~computed from the due date of each bill for the electrical~~
2860 ~~energy purchased as exempt under this subsection, in the manner~~
2861 ~~prescribed by this chapter.~~

2862 ~~(e) The department shall adopt rules governing applications~~
2863 ~~for, issuance of, and the form of applications for the exemption~~
2864 ~~authorized in this subsection and provisions for recapture of~~
2865 ~~taxes exempted under this subsection, and the department may~~
2866 ~~establish guidelines as to qualifications for exemption.~~

2867 ~~(f) For the purpose of the exemption provided in this~~
2868 ~~subsection, the term "qualified business" means a business which~~
2869 ~~is:~~

2870 ~~1. First occupying a new structure to which electrical~~
2871 ~~service, other than that used for construction purposes, has not~~

7-01552A-09

20092576__

2872 ~~been previously provided or furnished;~~

2873 ~~2. Newly occupying an existing, remodeled, renovated, or~~
2874 ~~rehabilitated structure to which electrical service, other than~~
2875 ~~that used for remodeling, renovation, or rehabilitation of the~~
2876 ~~structure, has not been provided or furnished in the three~~
2877 ~~preceding billing periods; or~~

2878 ~~3. Occupying a new, remodeled, rebuilt, renovated, or~~
2879 ~~rehabilitated structure for which a refund has been granted~~
2880 ~~pursuant to paragraph (5) (g).~~

2881 ~~(g) This subsection expires on the date specified in s.~~
2882 ~~290.016 for the expiration of the Florida Enterprise Zone Act,~~
2883 ~~except that:~~

2884 ~~1. Paragraph (d) shall not expire; and~~

2885 ~~2. Any qualified business which has been granted an~~
2886 ~~exemption under this subsection prior to that date shall be~~
2887 ~~allowed the full benefit of this exemption as if this subsection~~
2888 ~~had not expired on that date.~~

2889 ~~(16) EXEMPTIONS; SPACE ACTIVITIES.—~~

2890 ~~(a) There shall be exempt from the tax imposed by this~~
2891 ~~chapter:~~

2892 ~~1. The sale, lease, use, storage, consumption, or~~
2893 ~~distribution in this state of any orbital space facility, space~~
2894 ~~propulsion system, or space vehicle, satellite, or station of~~
2895 ~~any kind possessing space flight capacity, including the~~
2896 ~~components thereof.~~

2897 ~~2. The sale, lease, use, storage, consumption, or~~
2898 ~~distribution in this state of tangible personal property placed~~
2899 ~~on or used aboard any orbital space facility, space propulsion~~
2900 ~~system, or space vehicle, satellite, or station of any kind,~~

7-01552A-09

20092576__

2901 ~~irrespective of whether such tangible personal property is~~
2902 ~~returned to this state for subsequent use, storage, or~~
2903 ~~consumption in any manner. This exemption is not affected by the~~
2904 ~~failure of a launch to occur, or the destruction of a launch~~
2905 ~~vehicle or any components thereof.~~

2906 ~~(b) This subsection shall be strictly construed and~~
2907 ~~enforced.~~

2908 ~~(17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—~~

2909 ~~(a) Subject to paragraph (d), the tax imposed by this~~
2910 ~~chapter does not apply to the sale to or use by a government~~
2911 ~~contractor of overhead materials. The term "government~~
2912 ~~contractor" includes prime contractors and subcontractors.~~

2913 ~~(b) As used in this subsection, the term "overhead~~
2914 ~~materials" means all tangible personal property, other than~~
2915 ~~qualifying property as defined in s. 212.02(14)(a) and~~
2916 ~~electricity, which is used or consumed in the performance of a~~
2917 ~~qualifying contract, title to which property vests in or passes~~
2918 ~~to the government under the contract.~~

2919 ~~(c) As used in this subsection and in s. 212.02(14)(a), the~~
2920 ~~term "qualifying contract" means a contract with the United~~
2921 ~~States Department of Defense or the National Aeronautics and~~
2922 ~~Space Administration, or a subcontract thereunder, but does not~~
2923 ~~include a contract or subcontract for the repair, alteration,~~
2924 ~~improvement, or construction of real property, except to the~~
2925 ~~extent that purchases under such a contract would otherwise be~~
2926 ~~exempt from the tax imposed by this chapter.~~

2927 ~~(d) The exemption provided in this subsection applies as~~
2928 ~~follows:~~

2929 ~~1. Beginning July 1, 2000, the tax imposed by this chapter~~

7-01552A-09

20092576

2930 ~~shall be applicable to 60 percent of the sales price or cost~~
2931 ~~price of such overhead materials.~~

2932 ~~2. Beginning July 1, 2001, the tax imposed by this chapter~~
2933 ~~shall be applicable to 40 percent of the sales price or cost~~
2934 ~~price of such overhead materials.~~

2935 ~~3. Beginning July 1, 2002, the tax imposed by this chapter~~
2936 ~~shall be applicable to 20 percent of the sales price or cost~~
2937 ~~price of such overhead materials.~~

2938 ~~4. Beginning July 1, 2003, the entire sales price or cost~~
2939 ~~price of such overhead materials is exempt from the tax imposed~~
2940 ~~by this chapter.~~

2941
2942 ~~The exemption provided in this subsection does not apply to any~~
2943 ~~part of the cost of overhead materials allocated to a contract~~
2944 ~~that is not a qualifying contract.~~

2945 ~~(e) Possession by a seller of a resale certificate or~~
2946 ~~direct pay permit relieves the seller from the responsibility of~~
2947 ~~collecting the tax, and the department shall look solely to the~~
2948 ~~contractor for recovery of such tax if it determines that the~~
2949 ~~contractor was not entitled to the exemption. The contractor~~
2950 ~~shall self-accrue and remit any applicable sales or use tax due~~
2951 ~~with respect to overhead materials and with respect to costs~~
2952 ~~allocable to contracts that are not qualifying contracts. The~~
2953 ~~department may amend its rules to reflect the use of resale~~
2954 ~~certificates and direct-pay permits with respect to the~~
2955 ~~exemption provided for in this subsection.~~

2956 ~~(f) This subsection is not an expression of legislative~~
2957 ~~intent as to the applicability of any tax to any sale or use of~~
2958 ~~overhead materials prior to July 1, 1999. In addition, this~~

7-01552A-09

20092576__

2959 ~~subsection does not imply that transactions or costs that are~~
2960 ~~not described in this subsection are taxable.~~

2961 ~~(18) MACHINERY AND EQUIPMENT USED PREDOMINANTLY FOR~~
2962 ~~RESEARCH AND DEVELOPMENT.—~~

2963 ~~(a) Machinery and equipment used predominantly for research~~
2964 ~~and development as defined in this subsection are exempt from~~
2965 ~~the tax imposed by this chapter.~~

2966 ~~(b) For purposes of this subsection:~~

2967 ~~1. "Machinery and equipment" includes, but is not limited~~
2968 ~~to, molds, dies, machine tooling, other appurtenances or~~
2969 ~~accessories to machinery and equipment, testing and measuring~~
2970 ~~equipment, test beds, computers, and software, whether purchased~~
2971 ~~or self-fabricated, and, if self-fabricated, includes materials~~
2972 ~~and labor for design, fabrication, and assembly.~~

2973 ~~2. "Predominantly" means at least 50 percent of the time.~~

2974 ~~3. "Research and development" means research that has one~~
2975 ~~of the following as its ultimate goal:~~

2976 ~~a. Basic research in a scientific field of endeavor;~~

2977 ~~b. Advancing knowledge or technology in a scientific or~~
2978 ~~technical field of endeavor;~~

2979 ~~c. The development of a new product, whether or not the new~~
2980 ~~product is offered for sale;~~

2981 ~~d. The improvement of an existing product, whether or not~~
2982 ~~the improved product is offered for sale;~~

2983 ~~e. The development of new uses of an existing product,~~
2984 ~~whether or not a new use is offered as a rationale to purchase~~
2985 ~~the product; or~~

2986 ~~f. The design and development of prototypes, whether or not~~
2987 ~~a resulting product is offered for sale.~~

7-01552A-09

20092576

2988
2989 ~~The term "research and development" does not include ordinary~~
2990 ~~testing or inspection of materials or products used for quality~~
2991 ~~control, market research, efficiency surveys, consumer surveys,~~
2992 ~~advertising and promotions, management studies, or research in~~
2993 ~~connection with literary, historical, social science,~~
2994 ~~psychological, or other similar nontechnical activities.~~

2995 ~~(c) The department may adopt rules pursuant to ss.~~
2996 ~~120.536(1) and 120.54 that provide for administering and~~
2997 ~~implementing this exemption.~~

2998 ~~(d) A person who claims the exemption provided in this~~
2999 ~~subsection shall furnish the vendor of the machinery or~~
3000 ~~equipment, including the vendor of materials and labor used in~~
3001 ~~self-fabrication of the machinery or equipment, an affidavit~~
3002 ~~stating that the item or items for which an exemption is claimed~~
3003 ~~are machinery and equipment that will be used predominantly for~~
3004 ~~research and development as required by this subsection. A~~
3005 ~~purchaser who claims the exemption by refund shall include the~~
3006 ~~affidavit with the refund application. The affidavit must~~
3007 ~~contain the purchaser's name, address, sales and use tax~~
3008 ~~registration number, and, if applicable, federal employer's~~
3009 ~~identification number. Any person fraudulently furnishing an~~
3010 ~~affidavit to the vendor for the purpose of evading payment of~~
3011 ~~any tax imposed under this chapter shall be subject to the~~
3012 ~~penalty set forth in s. 212.085 and as otherwise provided by~~
3013 ~~law.~~

3014 ~~(e) In lieu of furnishing an affidavit, a purchaser~~
3015 ~~claiming the exemption provided in this subsection who has a~~
3016 ~~direct pay permit may furnish the vendor with a copy of the~~

7-01552A-09

20092576__

3017 ~~direct pay permit and shall maintain all documentation necessary~~
3018 ~~to prove the exempt status of the purchases and fabrication~~
3019 ~~activity.~~

3020 ~~(f) Purchasers shall maintain all documentation necessary~~
3021 ~~to prove the exempt status of purchases and fabrication activity~~
3022 ~~and make such documentation available for inspection pursuant to~~
3023 ~~the requirements of s. 212.13(2).~~

3024 Section 4. (1) Effective July 1, 2012, ss. 212.051,
3025 212.052, 212.0598, 212.0602, 212.0801, 212.0821, 212.09,
3026 212.096, 212.097, and 212.098, Florida Statutes, are repealed.

3027 (2) Unless modified or reenacted as provided in s. 11.9035,
3028 Florida Statutes, effective July 1, 2012, any exemption,
3029 deduction, or credit from the state sales and use tax or any
3030 exclusion of sales and services from such tax granted by:

3031 (a) Section 212.02, Florida Statutes, except rent on low
3032 income housing under s. 212.02(2), Florida Statutes;

3033 (b) Section 212.03, Florida Statutes, except rent charges
3034 paid by long-term residents under s. 212.03(4), Florida
3035 Statutes; rent charges paid by full-time students, by active
3036 military personnel, and by permanent residents under s.
3037 212.03(7)(a); Florida Statutes; rent charges in mobile home
3038 parks under s. 212.03(7)(c), Florida Statutes; and rent charges
3039 for living accommodations in migrant labor camps under s.
3040 212.03(7)(d), Florida Statutes;

3041 (c) Section 212.031, Florida Statutes, except utility
3042 charges under s. 212.031(7), Florida Statutes;

3043 (d) Sections 212.04, 212.05, and 212.0506, Florida
3044 Statutes;

3045 (e) Sections 212.06 and 212.081, Florida Statutes, except

7-01552A-09

20092576__

3046 any sale exempted by federal law or the United States
3047 Constitution; and

3048 (f) Sections 212.0601, 212.07, 212.12, 212.20, and 376.75,
3049 Florida Statutes, are repealed.

3050 Section 5. Except as otherwise expressly provided in this
3051 act, this act shall take effect July 1, 2009.