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By the Committee on Finance & Taxation and Representative Gardner

1 A bill to be entitled
2 An act relating to taxation; amending s.
3 212.059, F.S., relating to the sales and use
4 tax on services; revising provisions relating
5 to computation, collection, and remittance of
6 the tax and registration of dealers as service
7 providers; requiring multistate purchasers that
8 self-accrue the tax to file an annual
9 supplementary tax return; revising provisions
10 relating to apportionment of interstate or
11 international transportation services;
12 requiring applicants for specified environment-
13 related permits to attest that applicable use
14 taxes have been paid; amending s. 212.0591,
15 F.S.; revising rules of construction relating
16 to inclusion of a proportion of the sales or
17 cost price under certain circumstances,
18 transactions involving both taxable and exempt
19 services, and determining where the benefit of
20 a service is enjoyed; providing legislative
21 intent regarding exemptions from the tax;
22 amending s. 212.0592, F.S.; revising exemptions
23 and conditions applicable thereto and providing
24 additional exemptions; amending s. 212.0593,
25 F.S., relating to administration of the
26 exemption for services sold in this state for
27 use outside this state; revising provisions
28 relating to exempt purchase permits; revising
29 time period for maintenance of dealers' monthly
30 logs and a penalty applicable thereto;
31 specifying inapplicability of certain refund

This publication was produced at an average cost of 1.5 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

1	provisions; repealing section 5 of chapter 87-	1.19
2	6, Laws of Florida, and creating s. 212.0594,	
3	F.S.; revising special provisions applicable to	1.20
4	the tax on construction services; amending s.	
5	212.0595, F.S.; revising special provisions	1.21
6	applicable to the tax on advertising; creating	1.22
7	s. 212.0597, F.S.; providing special resale	
8	rules for construction support services and	
9	advertising agency support services; creating	1.23
10	s. 212.0598, F.S.; specifying conditions under	1.24
11	which certain air carriers may elect to be	1.25
12	subject to the tax on services and tangible	
13	personal property; providing basis of the tax	1.26
14	applicable to such air carriers, specifying	
15	application of such tax to air carriers who do	1.27
16	not so elect; amending s. 212.02, F.S.;	
17	revising definitions applicable to chapter 212,	1.28
18	F.S.; amending s. 212.031, F.S.; revising an	
19	exemption from the tax on rental, lease, or	1.29
20	granting a license for use of real property for	
21	certain property leased to persons providing	
22	food and drink concessionaire services;	1.30
23	amending s. 212.04, F.S.; exempting admissions	
24	to certain athletic or other events sponsored	1.31
25	by schools and other institutions or by	
26	governmental entities and certain admissions	1.32
27	paid by students to places of sport or	1.33
28	recreation; providing an exception, amending s.	
29	212.05, F.S.; specifying application of a	1.34
30	definition of "telecommunication service";	
31	specifying application of the tax on sales, use	1.35

1	and other transactions to sale of newspapers	
2	and magazines; amending s. 212.08, F S.;	1.36
3	providing an additional medical exemption from	1.37
4	said tax; revising the exemptions for sales to	1.38
5	political subdivisions and educational	
6	institutions, film rentals, and vehicles	1.39
7	engaged in interstate or foreign commerce;	1 40
8	amending s. 212.095, F.S.; removing a	
9	prohibition against dealers assisting in	
10	preparation of tax refund claims; amending s.	1.41
11	212.11, F.S., revising provisions which	
12	authorize quarterly returns for certain dealers	1.42
13	remitting the tax solely for the provision of	
14	services; amending section 17 of chapter 87-6,	1 43
15	Laws of Florida; revising the effective date of	
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17	dealer's credit to persons who remit taxes or	
18	fees reported on the same documents utilized	1.45
19	for sales and use tax; amending ss. 212.235,	1.46
20	201.15, and 206.875, F.S ; renaming the State	
21	Infrastructure Trust Fund as the State	1.47
22	Infrastructure Fund; amending s. 215.32, F.S.;	1.48
23	establishing the State Infrastructure Fund	
24	within the State Treasury; amending section 31	1.49
25	of chapter 87-6, Laws of Florida, revising an	
26	exemption from the tax on services for certain	1 50
27	improvements to real property; requiring the	
28	Department of Revenue to report to the	1.51
29	Legislature; amending section 32 of chapter 87-	
30	6, Laws of Florida, relating to certain	
31	conditions applicable to self-accrual; amending	1.52

1	section 33 of chapter 87-6, Laws of Florida;	
2	specifying administrative provisions applicable	1.53
3	to department rules implementing said chapter	
4	and this act; amending section 36 of chapter	1.54
5	87-6, Laws of Florida, relating to waiver of	
6	penalties and interest with respect to the tax	1.55
7	on services for a specified period; amending	
8	section 37 of chapter 87-6, Laws of Florida;	1.56
9	revising provisions relating to application of	
10	the tax to certain prepaid services; amending	1.57
11	section 38 of chapter 87-6, Laws of Florida;	1.58
12	revising provisions relating to construction of	
13	said chapter with respect to certain client	1.59
14	confidentiality; imposing a tax on persons	
15	selling certain special fuel held in inventory	1.60
16	on July 1, 1987, on which the additional tax on	
17	such fuel levied under chapter 87-6, Laws of	1.61
18	Florida, has not been paid; providing	
19	penalties; providing for rules and notice;	
20	providing for distribution of the proceeds;	1.62
21	amending ss. 120.575 and 120.65, F.S.; revising	
22	provisions relating to appointment of a panel	1.63
23	to be hearing officer in certain administrative	
24	taxpayer contest proceedings; amending section	1.64
25	47 of chapter 87-6, Laws of Florida; revising a	
26	date for a department study of taxable	1.65
27	services; amending section 48 of chapter 87-6,	
28	Laws of Florida; revising provisions relating	1.66
29	to application of a tax amnesty program;	
30	amending s. 95.091, F.S.; revising provisions	1.67
31	which establish limitations on actions to	1.68

1	collect certain taxes; amending section 54 of	
2	chapter 87-6, Laws of Florida; removing an	1.69
3	amendment to s. 211.33(2), F.S., relating to	
4	delinquency penalties and penalties for	1.70
5	substantial underpayment of tax on severance of	
6	solid minerals; amending sections 58 and 60 of	1.71
7	chapter 87-6, Laws of Florida; revising the	
8	effective date of the repeal of ss. 212.14(6)	1.72
9	and 214.09, F.S., and the amendment of 214.04,	
10	F.S., relating to limitations on assessment of	1.73
11	sales tax and on notices of deficiency of	
12	designated nonproperty taxes; repealing	1.74
13	sections 50, 61-98, 101-106, and 108 of chapter	
14	87-6, Laws of Florida, which provide increased	1.75
15	penalties for certain tax crimes; providing an	
16	appropriation to the Division of Administrative	1.76
17	Hearings; creating the Fairness in Retail Sales	1.77
18	Taxation Act; providing findings and intent;	1.78
19	creating s. 212.0596, F.S.; providing	
20	application of the tax on sales, use and other	1.79
21	transactions to mail order sales; specifying	1.81
22	conditions under which dealers making such	
23	sales are subject to said tax; providing duties	1.82
24	of such dealers; providing for enforcement in	
25	other jurisdictions; amending s. 212.06, F.S.;	1.83
26	including such persons within the definition of	
27	"dealer"; providing for levy of tax on sales of	1.84
28	tangible personal property to be transported to	
29	a cooperating state; specifying requirements	2.1
30	applicable to cooperating states; providing for	
31	payment of taxes collected to cooperating	2.2

1	states; providing duties of dealers selling	
2	tangible personal property for delivery in	
3	another state; amending s. 212.20, F.S.;	2.3
4	providing for refund of certain taxes	
5	adjudicated unconstitutionally levied or	2.4
6	collected; amending s. 212.02, F.S.; providing	
7	definitions; amending s. 212.05, F.S.;	2.5
8	including mail order sales as a taxable	
9	privilege; amending s. 212.12, F.S.; excluding	2.6
10	dealers making mail order sales from the	
11	dealer's credit; authorizing the executive	
12	director of the Department of Revenue to	2.7
13	negotiate a collection allowance with such	
14	dealers, providing for audits and inspections;	2.8
15	amending s. 212.15, F.S., relating to	
16	collection of taxes, to conform; amending s.	2.9
17	212.18, F.S.; excluding the business of making	
18	mail order sales from registration fees;	2 10
19	providing an appropriation to the Department of	
20	Revenue; providing for severability; providing	2.11
21	effective dates.	2.12
22		
23	Be It Enacted by the Legislature of the State of Florida:	1 enc
24		
25	Section 1. Subsections (3), (4) and (5) of section	2.14
26	212.059, Florida Statutes, as created by chapter 87-6, Laws of	2.15
27	Florida, are amended, and subsection (6) is added to said	
28	section, to read:	2.16
29	212.059 Sales and use tax on services.--It is hereby	2.17
30	declared to be the legislative intent to levy an excise tax on	2.18
31	the sale of services in this state as hereinafter provided.	2.19

1	It is further declared to be the legislative intent to levy a	2.21
2	complementary excise tax on the use of services in this state	
3	as hereinafter provided.	2.22
4	(3)(a) The sales and use tax on services imposed by	2.23
5	this section shall be collected by the dealer as defined in	2.24
6	this part and remitted by him to the state at the time and in	2.25
7	the manner as provided in this part.	
8	(b) If the seller-of-the-service-is-a-multistate	2.26
9	business-and-the sale <u>of a service</u> is outside this state, any	2.28
10	applicable use tax shall be remitted by the purchaser of the	2.30
11	service. However, this paragraph shall not apply to	2.31
12	interstate or international transportation services. <u>Neither</u>	1:1us
13	<u>does this paragraph apply if the seller has tax nexus in this</u>	2.33
14	<u>state and the service sold either directly relates to real</u>	
15	<u>property in this state, directly relates to tangible personal</u>	2.34
16	<u>property in this state other than vehicles or vessels in</u>	
17	<u>interstate or foreign commerce, or is represented by tangible</u>	2.35
18	<u>personal property forwarded to a person in this state.</u>	2.36
19	(4)(a) The sales and use tax on services imposed by	2.37
20	this section shall be <u>computed due-and-payable</u> according to	2.39
21	the brackets set forth in s. 212.12 <u>on the sales price or cost</u>	
22	<u>price of the service at the time of the sale, and shall be due</u>	2.40
23	<u>and payable as provided under s. 212.11, at-the-time-of-the</u>	2.41
24	sale-or-use-of-the-service unless the dealer elects to remit	2.43
25	the tax pursuant to paragraph (b).	2.44
26	(b) A dealer may register-with-the-department-as-a	2.44
27	service-provider-and elect to <u>ascertain the amount of remit</u>	2.45
28	the tax <u>payable under this section on the basis of cash</u>	1:1us
29	<u>receipts for all taxable transactions under this section, on</u>	1:10s
30	a-service-at-the-time-consideration-is-paid-for-such-service	2.49
31	and-on-the-amount-of-consideration-paid---if-such-election-is	2.50

1	made, it shall be applicable to all transactions of such	
2	dealer taxed under this section; Such election shall be made	2.52
3	and may be changed by the dealer pursuant to procedures	
4	established by rule of the department. <u>The department shall</u>	1:1us
5	<u>provide by rule for the issuance and periodic renewal every 5</u>	
6	<u>years of registrations for dealers registered as service</u>	2.55
7	<u>providers. Only those persons primarily engaged in the</u>	2.56
8	<u>business of selling services shall be eligible for such</u>	
9	<u>registration.</u>	2.57
10	(c) However, if a transaction involves both the sale	2.57
11	or use of services and the sale or use of tangible personal	2.59
12	property, and the tangible personal property is not an	
13	inconsequential element of the transaction, the sales and use	2.60
14	tax on services shall be <u>computed and remitted as provided in</u>	1:1us
15	<u>paragraph (a), and paragraph (b) shall not be applicable due</u>	2.62
16	and payable at the time of the sale or use regardless of the	
17	time consideration is paid for such services. Each multistate	1:1us
18	purchaser that self-accrues the taxes due on its purchases of	
19	services shall file an annual supplementary tax return	2.66
20	summarizing its purchases and sales of services for its prior	2.67
21	fiscal year. The return shall include a final calculation of	
22	taxes allocated or apportioned under s. 212.0591(9), and such	2.68
23	other information as the department may prescribe by rule.	2.69
24	<u>The return shall be filed on or before the deadline for filing</u>	2.70
25	<u>Florida or federal income tax returns, recognizing any</u>	2.71
26	<u>extensions of time granted thereto.</u>	
27	(5) Notwithstanding other provisions of this section	2.73
28	to the contrary:	
29	(a) Interstate and international transportation	2.73
30	services shall be considered sold or used in this state to the	2.75
31		

1	extent that the sales price or cost price of the service is	
2	apportioned to this state pursuant to paragraph (b).	2.76
3	(b) The sales price of the sale of interstate or	2.77
4	international transportation services, or the cost price of	2.78
5	the use of interstate or international transportation	
6	services, shall be apportioned to the state as provided in	2.80
7	this paragraph. There shall be included in the measure of the	2.81
8	tax imposed by this part on the sale or use of interstate or	2.83
9	international transportation services that proportion of the	2.84
10	sales price or cost price of the Florida service provider	3.1
11	which is equal to the proportion of mileage within Florida to	3.2
12	the total <u>direct United-States</u> mileage of the Florida service	3.3
13	provider for the service transaction in question. <u>If the</u>	1:1us
14	<u>transportation service of the Florida service provider</u>	
15	<u>originates and terminates at points within the United States,</u>	3.5
16	<u>the "total direct mileage of the Florida service provider"</u>	
17	<u>shall be limited to total United States direct mileage.</u> For	3.8
18	purposes of this paragraph, "Florida service provider" means	
19	the person providing transportation services in Florida	3.10
20	regardless of the commercial domicile of such person.	
21	(6) <u>No permit required pursuant to chapters 161, 298,</u>	1.1us
22	<u>373, 376, 380, or 403 shall be issued until the applicant</u>	3.12
23	<u>attests, on a form promulgated by the department, that all</u>	3.13
24	<u>applicable use taxes have been paid on the purchase of</u>	
25	<u>services outside of this state that are used in this state in</u>	3.14
26	<u>furtherance of such permit. Completed forms shall be returned</u>	3.15
27	<u>to the department by the permitting body on a monthly basis.</u>	3.16
28	Section 2. Subsections (2), (7) and (9) of section	3.17
29	212.0591, Florida Statutes, as created by chapter 87-6, Laws	3 19
30	of Florida, are amended, and subsection (10) is added to said	
31	section, to read:	

1	212.0591 Rules of construction.--For purposes of the	3.20
2	sales and use tax on services, the following rules of	3.21
3	construction shall apply:	
4	(2) If the entire sales price of the sale of a service	1:1os
5	or if the entire cost price of the use of a service cannot be	1:1os
6	included within the measure of the tax imposed by this part	3.25
7	under the Constitution or laws of the United States, there	
8	shall be apportioned-to-the-state-and included in the measure	3.28
9	of the tax imposed by this part on the sale of services that	3.29
10	proportion of the sales price which-the-cost-of-performing-the	1:1os
11	services-within-the-state-bears-to-the-total-cost-of	
12	performing-the-services , or on the use of services that	3.33
13	proportion of the cost price, that <u>may lawfully be included</u>	
14	<u>under the laws and Constitution of the United States fairly</u>	3.34
15	reflects-the-benefit-of-the-services-enjoyed-within-the-state.	3.37
16	(7) If a transaction involves both the sale or use of	3.38
17	a service taxable under this part and the sale or use of a	3.39
18	service exempt under this part, the consideration paid shall	3.40
19	be separately identified and stated with respect to the	
20	taxable and exempt portions of the transaction as a condition	3.41
21	of the exemption. <u>However, this subsection shall not apply to</u>	1:1us
22	<u>sales that are exempt pursuant to s. 212.0592(1).</u>	3.43
23	(9) For purposes of determining where-a-service-is	1:1os
24	used-or-consumed-and where the benefit of the service is	
25	enjoyed, the following provisions shall be applicable:	3.47
26	(a) If the purchaser is an individual <u>not acting as a</u>	3.47
27	<u>business</u> , and	3.48
28	1. If the service directly relates to real property,	3.49
29	the benefit of the service shall be presumed to be enjoyed in	1:1os
30	the-state where the real property is located; or	3.51
31		

1	2. If subparagraph 1. is not applicable, <u>and if the</u>	3.51
2	<u>service is of a type that the benefit of the service is</u>	3.52
3	<u>consumed within 90 days of performance of the service, the</u>	3.53
4	benefit of the service shall be presumed to be enjoyed in the	3.55
5	state where the greater proportion of the service is	
6	performed, based on costs of performance; or	3.57
7	<u>3. If subparagraphs 1. and 2. are not applicable, the</u>	1:1us
8	<u>benefit of the service shall be presumed to be enjoyed where</u>	3.58
9	<u>the purchaser is domiciled; or</u>	
10	<u>4.3: Notwithstanding subparagraphs 1., and 2., and 3.,</u>	3 59
11	if the purchaser can demonstrate to the satisfaction of the	3 61
12	department that the benefit of the service was enjoyed <u>outside</u>	
13	<u>of this state in-a-state, the service shall be deemed used or</u>	3.63
14	<u>consumed outside of this state in-that-state.</u>	
15	(b) If the purchaser is a business, and:	3.63
16	1. If the service directly relates to real property,	3.65
17	the benefit of the service shall be presumed to be enjoyed in	3.66
18	the-state where the real property is located; or	3.67
19	2. If the service directly relates to tangible	3.68
20	personal property, the benefit of the service shall be	3.69
21	presumed to be enjoyed in-the-state where the property has	3.70
22	acquired a business situs if the property has acquired such	3.71
23	situs; or	
24	3. If the service directly involves sales to a <u>service</u>	3.73
25	<u>purchaser's</u> local market, the benefit of the service shall be	
26	presumed to be enjoyed in-the-state where the purchaser's	3.75
27	local market exists; or	
28	4. If subparagraphs 1., 2., and 3. are not applicable,	3.75
29	and the purchaser of the service is doing business in this	3.78
30	state and <u>outside of this state in-one-or-more-other-states,</u>	3.79
31	the service shall be presumed to be enjoyed in this state to	3.80

1	the extent that the purchaser is doing business in this state.	
2	For purposes of determining the extent of the purchaser's	3.81
3	business in this state, the apportionment formulas set forth	3.82
4	in part IV of chapter 214, as modified by s. 220.15(4), shall	3.83
5	be utilized. <u>In the case</u> if the purchaser is a member of an	1:lus
6	affiliated group, the affiliated group, as defined in s.	4.1
7	212.02, shall be considered the purchaser for purposes of this	4.2
8	<u>subsection</u> subparagraph; or	
9	5. If the provisions of subparagraphs 1., 2., 3., and	4.3
10	4. are not applicable, the benefit of the service shall be	4.4
11	presumed to be enjoyed in the state where the purchaser is	4.6
12	exclusively doing business; or	
13	6. Notwithstanding subparagraphs 1., 2., 3., 4. and	4.7
14	5., if the purchaser can demonstrate to the satisfaction of	4.8
15	the department that the benefit of the service was enjoyed	4.9
16	<u>outside of this state</u> in a state , the service shall be deemed	4.10
17	used or consumed <u>outside of this state</u> in that state .	4.12
18	(c) Notwithstanding paragraphs (a) and (b), interstate	4.14
19	and international transportation services shall be presumed to	
20	be enjoyed in this state to the extent that the sales price or	4.16
21	cost price of such services is apportioned to this state	
22	pursuant to s. 212.059(5).	4.17
23	<u>(d) Notwithstanding paragraphs (a) and (b),</u>	1:lus
24	<u>advertising shall be presumed to be enjoyed in this state to</u>	4.18
25	<u>the extent that the sales price or cost price of such services</u>	4.19
26	<u>is apportioned to this state pursuant to s. 212.0595.</u>	4.20
27	<u>(e) Notwithstanding paragraphs (a) and (b), the</u>	1:lus
28	<u>benefit of a service provided to the estate of a decedent</u>	4.21
29	<u>shall be presumed to be enjoyed where the decedent last</u>	4.22
30	<u>established residency.</u>	
31		

1	<u>(10) It is the intent of the Legislature to exempt</u>	4 23
2	<u>from the tax on services only those services for which</u>	
3	<u>exemptions are expressly provided. Therefore, if any</u>	4.24
4	<u>exemption is declared unconstitutional per se by a court of</u>	
5	<u>competent jurisdiction, it is the intent of the Legislature</u>	4.25
6	<u>that the exemption be deemed inoperative as to all persons and</u>	4.26
7	<u>not expanded to encompass services or persons not expressly</u>	
8	<u>exempted from the tax.</u>	4 27
9	Section 3. Subsections (1), (4), (5), and (6),	4 27
10	paragraph (a) of subsection (7), and subsections (11), (16),	4.28
11	(17), (18), (21), (22), (23), (26), (27), (31), (35), and (36)	4.29
12	of section 212.0592, Florida Statutes, as created by chapter	
13	87-6, Laws of Florida, are amended, and subsections (42),	4.32
14	(43), (44), (45), (46), (47), (48), and (49) are added to said	
15	section, to read:	4.34
16	212.0592 Exemptions from sales or use tax on	4.34
17	services.--There shall be exempt from the tax on the sale or	4.35
18	use of services imposed by ss. 212.059(1) or (2), 212.0594,	4.36
19	and 212.0595 the following:	
20	(1)(a) Services sold in this state for use outside of	4.37
21	this state.	4.38
22	(b) A service shall be deemed to be purchased for use	4.38
23	in-the-state where the benefit of the service is enjoyed. For	4.40
24	purposes of determining where the benefit of the service is	
25	enjoyed, s. 212.0591(9) shall apply.	4.41
26	(c) In order to qualify for this exemption, the	4.41
27	provisions of s. 212.0593 shall be met.	4.42
28	(4) Services that partners who are natural persons	4.42
29	render to their partnerships, unless the partner renders his	4.45
30	services to the partnership in the capacity of an independent	
31		

1	<u>contractor, and services that partners who are professional</u>	4.46
2	<u>corporations render exclusively to the partnership.</u>	4.47
3	(5) Services between members of an affiliated group of	4.48
4	corporations, as defined in s. 212.02. However, this	4.51
5	exemption shall not apply <u>only</u> to the sale or use of any	4.52
6	service between any such members who are not included in the	
7	affiliated group for purposes of this part. If the exemption	4.55
8	provided in this subsection is not applicable, the sales price	4.56
9	or cost price of the service <u>between each unincorporated member</u>	
10	<u>and any other member</u> shall be based upon the fair market value	4.57
11	of the service. The sale or use of services between divisions	4.59
12	that may be separate taxpayers within the same corporation	4.61
13	shall be exempt. Nothing herein shall be construed to require	4.62
14	the filing of a consolidated return under chapter 220 in order	4.63
15	to qualify for the exemption granted by this subsection.	
16	(6) Agricultural services enumerated in SIC Major	4.65
17	Group 07. However, this exemption shall not apply to	4.66
18	<u>landscape and horticultural services (Group Number 078), or to</u>	4.67
19	animal specialty services (Industry Number 0752), unless the	4.68
20	services relate to agricultural products as defined in s.	4.69
21	618.01(1), or <u>relate to greyhounds for participation in pari-</u>	4.70
22	<u>mutuel events landscape-and-horticultural-services-(Group</u>	4.72
23	<u>Number-078).</u>	4.73
24	(7)(a) Transportation and warehousing services	4.74
25	enumerated in SIC Major Groups 407-427 44, 45 and 47 for	1:105
26	agricultural commodities that have retained their original	
27	identity, phosphate rock as defined in s. 211.30(9), potash as	4.76
28	described in SIC Industry Number 1474, sulfur as described in	4.77
29	SIC Industry Number 1477, nitrogenous fertilizers as	
30	enumerated in SIC Industry Number 2873, and phosphatic	4.78
31	fertilizers as enumerated in SIC Industry Number 2874 For	4.79

1	purposes of this paragraph, an agricultural commodity retains	
2	its original identity unless it is processed, packaged in	4.80
3	cans, or frozen. However, produce which is processed but	4.81
4	neither canned nor frozen shall be considered an agricultural	4.82
5	commodity that has retained its original identity.	
6	(11)(a) Services of a financial nature, of a type	4.82
7	customarily performed by a financial institution.	4.83
8	(b) However, <u>unless the service is provided to a</u>	4.83
9	<u>nonresident entity or nonresident person as defined in Rule</u>	4.84
10	<u>3C-15.003, Florida Administrative Code,</u> this exemption shall	5.1
11	not apply to: charges for use of safety deposit boxes;	5.2
12	charges for use of night deposit services, charges for issuing	5.3
13	cashier's checks; charges for issuing traveler's checks;	
14	charges for issuing money orders; charges for preparation of	5.4
15	individual tax returns, charges for copies of documents; stop	
16	payment charges; return check charges, unless due to	5.5
17	insufficient funds, charges for service as personal	
18	representative of estates of decedents, credit information and	5.6
19	reporting services; overdraft charges, <u>fees for the collection</u>	5.7
20	<u>of coupons, drafts, checks, foreign exchange items, and</u>	
21	<u>similar over-the-counter collection items, collection-fees;</u>	5.8
22	hold mail fees, guardianship fees; credit and charge card	5.9
23	membership fees; cash vault fees, <u>investment advisory</u>	5.10
24	<u>services, except those performed by a trustee, or data</u>	5.11
25	processing services not otherwise exempt, except check	5.12
26	processing and check clearing services.	5.13
27	(c) The tax imposed under s. 212.059 shall not apply	5.13
28	to a service by a financial institution the charge for which	5.14
29	is waived or imputed.	5.15
30	(d) For purposes of this subsection, the term	5.15
31	"financial institution" means a financial institution as	5.16

1	defined in s. 655.005; any subsidiary thereof; any holding	5.17
2	company, other than a diversified savings and loan holding	
3	company as defined in s. 408 of the National Housing Act,	5.18
4	which controls a financial institution; and any subsidiary of	5.19
5	such holding <u>company; any Federal Reserve Bank; and any</u>	5.20
6	<u>Federal Home Loan Bank.</u>	
7	(16) Maintenance assessments or fees paid by an	5.22
8	association member to a homeowners association, residentia	5.23
9	condominium owners association, residentia property owners	5.25
10	association, residentia mobile homeowners association, or	
11	residentia cooperative association.	5.27
12	(17) Membership dues or membership fees paid to	5.28
13	membership organizations enumerated in SIC Major Group 86, and	5.30
14	to arts, historical, and science organizations, provided such	5.31
15	organizations are not-for-profit corporations under chapter	
16	617 or a comparable law of another state or are exempt	5.32
17	organizations under the Internal Revenue Code, and membership	
18	dues or other fees paid to regulatory athletic associations.	5.33
19	<u>However, no exemption shall be available for dues or fees paid</u>	1:lus
20	<u>to any membership organization that discriminates in its</u>	5.35
21	<u>membership based on race, sex, creed, national origin, or</u>	
22	<u>religion.</u>	5.36
23	(18) Qualified production services performed by any	5.38
24	person for a person principally engaged in the business of	5.39
25	producing qualified motion pictures or for a person who owns	5.40
26	or leases property used primarily for the production of	
27	qualified motion pictures. For purposes of this subsection:	5.41
28	(a) "Qualified production services" means any activity	5.41
29	or service performed directly in connection with the	5.42
30	production of qualified motion pictures, and includes:	5.43
31		

1	1. Photography, recording, casting, shooting, creation	5.43
2	of special effects, animation, adaptation (language, media,	5.44
3	electronic or otherwise), technological modifications,	
4	computer graphics, set and stage support, wardrobe, acting,	5.45
5	consulting, writing, directing, dubbing, mixing, editing,	5.46
6	cutting, looping, printing, processing, duplicating, storing	
7	and distributing;	5.47
8	2. The design, planning, engineering, construction,	5.47
9	alteration, repair and maintenance of real or personal	5.48
10	property including stages, sets, props, models, paintings, and	
11	facilities principally required for the performance of those	5.49
12	services listed in subparagraph 1.; and	5.50
13	3. Property management services directly related to	5.50
14	property used in connection with the services described in	5.52
15	subparagraphs 1. and 2.	
16	(b) "Qualified motion picture" means all or any part	5.54
17	of a series of related images, either on film, tape or other	
18	embodiment, including, but not limited to, all items	5.55
19	comprising part of the original work and film-related products	
20	derived therefrom as well as duplicates and prints thereof and	5.56
21	all sound recordings created to accompany a motion picture,	5.57
22	which is produced, adapted or altered for exploitation in, on	
23	or through any medium or device and at any location, primarily	5.59
24	for entertainment, industrial, <u>commercial</u> or educational	5.60
25	purposes.	
26	(21) Water transportation services described in SIC	5.61
27	Group Numbers 441 and 442, towing or tugboat services	5.62
28	described in SIC Industry Number 4454, marine cargo handling	5.63
29	services described in SIC Industry Number 4463, piloting	5.64
30	services, ship cleaning, steamship leasing, marine surveyors,	5.65
31	and ship repair and maintenance services <u>for vessels used in</u>	5.66

1	<u>interstate or international commerce; storage of cargo at port</u>	5.68
2	facilities; transportation services enumerated in SIC Industry	
3	Numbers 4712 and 4723, lighterage services, described in SIC	5.70
4	Industry Number 4453, and services related to processing and	
5	accessorizing of <u>motor vehicles as defined in s. 320.01</u>	1:lus
6	<u>automobiles</u> that are imported through Florida ports. The	5.74
7	exemption provided by this subsection also applies to services	
8	provided in connection with cargo in international trade by	5.76
9	any licensed customhouse broker; any customs bonded warehouse,	
10	container freight and examination station, or cartman, or	5.77
11	freight consolidator or deconsolidator.	5.78
12	(22) Sanitary services enumerated in SIC Group Number	5.80
13	495, garbage, refuse and debris transportation services	
14	enumerated in SIC Industry Number 4212, and septic tank	5.81
15	cleaning services enumerated in SIC Industry Number 7699, if	5.83
16	such services are sold to residential households or owners of	5.84
17	residential <u>models, water supply services enumerated in SIC</u>	
18	<u>Group Number 494 and irrigation systems services enumerated in</u>	6 2
19	<u>SIC Group Number 497.</u>	
20	(23) Security and commodity brokerage services	6.3
21	enumerated in SIC Major Group 62 involving the transfer of	6.4
22	securities or commodities. However, this exemption shall not	6.6
23	be construed to exempt any financial service taxable under	
24	subsection (11), or any accounting or investment <u>advisory</u>	6.8
25	<u>services, except those performed by a trustee.</u>	6.9
26	(26) Real estate commissions when the property seller	6.10
27	affirmatively demonstrates to the realtor responsible for	6.11
28	collecting the tax that at the time of signing the <u>initial</u>	1:lus
29	listing contract on the real estate offered for sale the	6.14
30	property seller-resided-thereon-and was <u>assessed as</u> entitled	1:los
31	to-the homestead <u>property exemption</u> pursuant to s. 196.031.	6.17

1	(27)(a) Legal services rendered by an attorney to a	6.17
2	client to the extent that the right to counsel guaranteed	6.18
3	pursuant to either the Sixth Amendment to the United States	6.19
4	Constitution or Article I, Section 16 of the Florida	
5	Constitution is applicable to such legal services. However,	6.21
6	this exemption shall only be applicable if the criminal	
7	charges brought in the case are dismissed or the client is	6.22
8	ultimately adjudicated not guilty by a court of competent	
9	jurisdiction. This exemption shall only be granted pursuant	6.23
10	to a refund of taxes previously paid on such services. <u>The</u>	1:lus
11	<u>provisions of s. 212.095 shall not apply to the refund</u>	
12	<u>authorized in this paragraph.</u>	6.26
13	(b) Legal services, provided to a natural person,	6.27
14	which relate to child support, child-custody, adoption,	6.29
15	divorce, guardianship, juvenile cases, landlord/tenant	
16	relations, mobile-home rentals, enforcement of civil rights or	6.31
17	<u>bankruptcy proceedings</u> recovery of past or future medical	6.32
18	expenses. However, this exemption shall be limited to \$500 in	1:los
19	services per person per calendar year.	6.34
20	(31) Religious services provided by religious	6.36
21	organizations, religious institutions, or religious leaders.	6.38
22	<u>Also included in this exemption shall be the sale of services</u>	6.39
23	<u>by any nonprofit religious organization described in SIC</u>	
24	<u>Industry Number 866, when provided in carrying out its</u>	6.40
25	<u>customary nonprofit religious activity.</u>	
26	(35) Data processing services performed for a	6.41
27	financial institution by a service corporation of <u>that a</u>	6.42
28	financial institution described in SIC Major Group 62,	6.43
29	provided.	
30	(a) The service corporation is organized pursuant to	6.43
31	s. 545.74, Rules of the Federal Home Loan Bank Board,	6.44

1	(b) All capital stock of the service corporation may	6.45
2	be purchased by only savings and loan associations <u>and savings</u>	
3	<u>banks</u> having operations in this state,	6.46
4	(c) No savings and loan association or savings bank	6.47
5	owns, or may own, more than 10 percent of such service	
6	corporation's outstanding capital stock;	6.48
7	(d) Every eligible savings and loan association or	6.48
8	savings bank <u>shall may</u> own an equal amount of capital stock or	1:lus
9	<u>shall may</u> , on such uniform basis as the service corporation	1:lus
10	<u>shall may</u> determine, own an amount of such stock equal to a	1:lus
11	stated percentage of its assets or savings capital at the time	6.52
12	the stock is purchased, or an amount of such stock equal to	6.53
13	its pro-rata share of accounts serviced.	
14	<u>(e) As used in this subsection, "financial</u>	6.54
15	<u>institution" means any savings and loan association or savings</u>	
16	<u>bank organized under the laws of this state, or of another</u>	6.55
17	<u>state, or of the United States.</u>	
18	(36) Personal laundry services sold to residents of	6.56
19	nursing home <u>facilities, adult congregate living facilities,</u>	6.58
20	<u>and hospices</u> licensed under part-f of chapter 400.	6.59
21	<u>(42) News services enumerated in SIC Group Number 735.</u>	1:lus
22	<u>(43) Amusement and recreation services enumerated in</u>	1:lus
23	<u>SIC Group Numbers 792, 793, 794 and 799, and museums, art</u>	6.61
24	<u>galleries, botanical and zoological garden services enumerated</u>	
25	<u>in SIC Major Group 84. However, this exemption shall not be</u>	6.63
26	<u>construed to exempt admissions charges or membership fees or</u>	
27	<u>dues taxable pursuant to other provisions of this part, or to</u>	6.64
28	<u>coin-operated amusement devices described in SIC Industry</u>	6.65
29	<u>Number 7993.</u>	
30	<u>(44) Services provided and paid for pursuant to court</u>	1:lus
31	<u>order in a bankruptcy proceeding.</u>	6.67

1	<u>(45) Household utility services sold to residential</u>	1 lus
2	<u>households or owners of residential models in this state by</u>	6.70
3	<u>utility companies who pay the gross receipts tax imposed under</u>	
4	<u>s. 203.01, or by liquefied petroleum gas companies, regardless</u>	6.71
5	<u>or whether such sales of services are separately metered and</u>	6.72
6	<u>billed direct to the residents or are metered and billed to</u>	
7	<u>the landlord. If any part of the services is used for a</u>	6 74
8	<u>nonexempt purpose, the entire sale is taxable.</u>	
9	<u>(46) Convention and conference registration fees.</u>	6.75
10	<u>(47) Transportation services by satellite or launch</u>	6.76
11	<u>vehicles.</u>	
12	<u>(48) Impact fees and charges related to idle plant</u>	1 lus
13	<u>capacity for access to sewage utilities and utilities subject</u>	6.77
14	<u>to the gross receipts tax imposed pursuant to chapter 203.</u>	
15	<u>(49) Services performed by permitted resource recovery</u>	6.80
16	<u>and management facilities as defined in part IV of chapter</u>	6.81
17	<u>403.</u>	
18	Section 4. Subsections (1), (3) and (4) of section	6.82
19	212.0593, Florida Statutes, as created by chapter 87-6, Laws	6.84
20	of Florida, are amended to read.	
21	212.0593 Administration of s. 212 0592(1).--	7 1
22	(1) Each multistate business having tax nexus in this	7.2
23	state under this part shall obtain from the department an	7.3
24	exempt purchase permit prior to claiming an exemption under s.	7.4
25	212.0592(1). <u>Such permit shall be used when purchasing any</u>	
26	<u>service sold in this state except advertising, regardless of</u>	7.5
27	<u>whether the service is used in this state.</u> Upon purchasing a	7.6
28	service from a dealer registered under this part, presentation	
29	by said multistate business of a valid exempt purchase permit	7.7
30	shall absolve the selling dealer from the responsibility of	7.8
31	collecting any sales tax which may be due on the service The	

1 purchaser shall self-accrue any taxes which may be due on the 7 8
 2 service and remit them to the department in the manner and
 3 under the requirements applicable to dealers under this part, 7.9
 4 subject to such additional reporting requirements as the 7.10
 5 department may prescribe.

6 (3) Each dealer shall maintain a monthly log showing 7 11
 7 each transaction for which sales tax was not collected because 7 12
 8 of the presentation of an exempt purchase permit or exempt 7.13
 9 purchase affidavit under this section. The log shall identify 7.14
 10 the purchaser, the exempt purchase permit number if
 11 applicable, the service sold, the price of the service and 7.15
 12 such other information as the department may prescribe. The 7.16
 13 logs and all affidavits accepted by the dealer shall be 7 18
 14 retained by the dealer for 5 3 years and made available to the 1 lus
 15 department upon request. Failure to maintain these records or 7.21
 16 to make them available to the department shall subject the
 17 dealer to a \$100 mandatory penalty ~~the penalties provided in~~ 7.23
 18 ~~sr-212713.~~

19 (4) If a purchaser fails to obtain an exempt purchase 7.24
 20 permit or execute an exempt purchase affidavit, but otherwise 7.26
 21 qualifies for an exemption pursuant to s. 212.0592(1), the
 22 purchaser may apply to the department for a refund of taxes 7.27
 23 paid on the exempt amount of the purchase. The application 7.29
 24 for refund shall be accompanied by an exempt purchase
 25 affidavit and shall be submitted within 1 year of the 7.30
 26 purchaser's payment of the tax. A refund recommended by the 7.31
 27 department pursuant to this subsection shall be reduced by the
 28 amount of any applicable dealer collection allowance 7.33
 29 previously allowed on the transaction. The provisions of s. 1 lus
 30 212.095 shall not apply to refunds granted pursuant to this
 31 subsection. 7.35

1	Section 5. <u>Section 5 of chapter 87-6, Laws of Florida,</u>	7.36
2	<u>is hereby repealed.</u>	7.37
3	Section 6. Section 212.0594, Florida Statutes, is	7.38
4	created to read:	
5	<u>212.0594 Construction services; special provisions.--</u>	7.39
6	<u>(1) For purposes of this section:</u>	7.40
7	<u>(a) "Prime contractor" means:</u>	1.1us
8	<u>1. A person who enters into a contract to construct,</u>	1.1us
9	<u>improve, alter, or repair realty with the person for whose</u>	7.42
10	<u>benefit the realty is being constructed, improved, altered, or</u>	7.43
11	<u>repaired;</u>	
12	<u>2. A person who enters into a contract to undertake</u>	1.1us
13	<u>the primary responsibility for supervising the construction,</u>	7.45
14	<u>improvement, alteration or repair of realty with the person</u>	
15	<u>for whose benefit the realty is being constructed, improved,</u>	7.46
16	<u>altered, or repaired, in which case, all other persons</u>	7.47
17	<u>involved in the construction who would otherwise qualify as</u>	
18	<u>prime contractors under subparagraph 1. shall be deemed</u>	7.48
19	<u>subcontractors;</u>	
20	<u>3. A person who undertakes, on a speculative basis or</u>	1.1us
21	<u>for his own use, the construction, improvement or alteration</u>	7.50
22	<u>of realty; or</u>	
23	<u>4. A person who manufactures factory-built buildings.</u>	1.1us
24	<u>(b) "Subcontractor" means a person who enters into a</u>	1.1us
25	<u>contract to provide construction services to a prime</u>	7.53
26	<u>contractor or to another subcontractor.</u>	
27	<u>(c) "Construction services" means any activity</u>	1.1us
28	<u>directly involving the construction, alteration, improvement</u>	7.55
29	<u>or repair of realty.</u>	
30	<u>(d) "Construction support services" means</u>	1.1us
31	<u>architectural, engineering, drafting, surveying, land</u>	7.56

1	<u>planning, landscape design and interior design services when</u>	
2	<u>such services directly relate to the construction, alteration,</u>	7.57
3	<u>improvement or repair of realty.</u>	7.58
4	(e) <u>"New construction" means factory-built buildings</u>	1:lus
5	<u>and any construction, alteration, improvement or repair of</u>	7.60
6	<u>realty for which the contract price, including building</u>	
7	<u>materials used in the performance of the contract, exceeds</u>	7.61
8	<u>\$5,000.</u>	
9	(f) <u>"Building materials" means tangible personal</u>	1:lus
10	<u>property physically incorporated into the affected realty.</u>	7.63
11	(g) <u>"Contract price" means the total consideration</u>	1:lus
12	<u>paid to the prime contractor pursuant to a contract for the</u>	7.66
13	<u>construction, alteration, improvement or repair of realty, or</u>	
14	<u>in the case of new construction undertaken on a speculative</u>	7.67
15	<u>basis, the total consideration paid pursuant to a contract to</u>	7.68
16	<u>purchase the improved realty. However, the contract price</u>	7.69
17	<u>shall not include the fair market value of land and any</u>	
18	<u>improvements to the land existing prior to the contract for</u>	7.70
19	<u>the construction, alteration, improvement or repair of the</u>	7.71
20	<u>realty, or the value of construction support services.</u>	7.72
21	(h) <u>"Fair market value" means 120 percent of the</u>	1:lus
22	<u>property's assessed value for ad valorem tax purposes, as</u>	7.74
23	<u>reflected by the most recent assessment roll for the county</u>	
24	<u>prior to the new construction, unless the prime contractor can</u>	7.76
25	<u>demonstrate to the satisfaction of the department by proof of</u>	
26	<u>comparable sales, actual purchase price, or appraisal, that</u>	7.77
27	<u>such assessment understates the value of the property.</u>	7.78
28	(i) <u>"Appraised value" means the actual value of the</u>	1:lus
29	<u>realty, exclusive of the fair market value of land and any</u>	7.80
30	<u>improvements to the land existing prior to the new</u>	
31		

1	<u>construction, as established by an independent appraisal of</u>	7.81
2	<u>the realty.</u>	
3	(2) <u>The tax imposed by s. 212.059 shall be applied to</u>	1:1us
4	<u>the sale of construction services in the following manner:</u>	7.83
5	(a) <u>For new construction undertaken pursuant to a</u>	1:1us
6	<u>contract, or undertaken on a speculative basis but sold within</u>	8.1
7	<u>6 months of completion of the new construction, the tax shall</u>	
8	<u>be imposed upon 50 percent of the contract price.</u>	8.3
9	(b) <u>For new construction undertaken for the prime</u>	1:1us
10	<u>contractor's own use, or undertaken on a speculative basis and</u>	8.5
11	<u>not sold within 6 months of completion, the tax shall be based</u>	8.6
12	<u>upon 50 percent of the appraised value.</u>	
13	(c) <u>However, for contracts signed or new construction</u>	1:1us
14	<u>begun on or after July 1, 1988, for new construction of</u>	8.8
15	<u>single-family homes, the tax shall be based upon 40 percent of</u>	
16	<u>the contract price or appraised value, whichever is applicable</u>	8.9
17	<u>pursuant to paragraphs (a) and (b).</u>	8.10
18	(d) <u>For new construction consisting of factory-built</u>	1:1us
19	<u>buildings, the tax shall be imposed upon the cost of physical</u>	8.12
20	<u>labor expended for the new construction and shall not include</u>	
21	<u>administrative overhead costs, transportation costs, or other</u>	8.13
22	<u>direct or indirect costs of the manufacturer of factory-built</u>	8.14
23	<u>buildings.</u>	
24	(e) <u>For construction other than new construction, the</u>	1:1us
25	<u>tax shall be imposed upon the total contract price, less the</u>	8.16
26	<u>amount paid by the prime contractor for building materials</u>	
27	<u>incorporated into the realty. However, the deduction for</u>	8.18
28	<u>building materials shall only apply if the prime contractor</u>	
29	<u>has previously paid the sales tax on such materials, and the</u>	8.19
30	<u>written contract or invoice provided by the prime contractor</u>	8.20
31	<u>to the person for whom the construction was done specifically</u>	

1	<u>itemizes the building materials and the price paid by the</u>	8.21
2	<u>prime contractor for such materials.</u>	8.22
3	<u>(f) If new construction is undertaken pursuant to a</u>	1.1us
4	<u>contract that is not an arm's-length transaction, or if new</u>	8.24
5	<u>construction is undertaken on a speculative basis and the</u>	
6	<u>realty is then sold within 6 months pursuant to a contract</u>	8.26
7	<u>that is not an arm's-length transaction, the tax shall be</u>	8.27
8	<u>imposed upon 50 percent of the appraised value of the new</u>	8.28
9	<u>construction, and not upon the contract price.</u>	8.29
10	<u>(g) Construction services performed pursuant to or in</u>	1.1us
11	<u>furtherance of a contract with a governmental entity described</u>	8.32
12	<u>in s. 212.08(6) or a nonprofit entity described in s.</u>	
13	<u>212.08(7)(c) shall be exempt from the tax on construction</u>	8.33
14	<u>services.</u>	
15	<u>(h) The tax on construction support services shall be</u>	1.1us
16	<u>imposed upon the total sales price for such services and shall</u>	8.35
17	<u>be due and payable in accordance with the provisions of s.</u>	8.36
18	<u>212.059(4).</u>	
19	<u>(3) The tax imposed by s. 212.059 on construction</u>	1:1us
20	<u>services shall be due and payable in the following manner</u>	8.38
21	<u>(a) The prime contractor shall be responsible for</u>	1:1us
22	<u>remitting the tax on construction services performed by</u>	8.40
23	<u>himself and by his subcontractors</u>	
24	<u>(b) Subcontractors shall not be required to collect</u>	1:1us
25	<u>the tax on construction services they perform.</u>	8.42
26	<u>(c) For new construction undertaken pursuant to a</u>	1:1us
27	<u>contract, the tax shall be due when the prime contractor</u>	8.44
28	<u>receives payments under the contract. If the contract price</u>	8.45
29	<u>is paid in draws or installments, the amount of tax to be paid</u>	
30	<u>with respect to each such draw or installment, before</u>	8.46
31	<u>application of the dealer credit, shall be that proportion of</u>	8.47

1	<u>the tax due on the total contract price which the amount of</u>	
2	<u>the draw or installment bears to the total contract price.</u>	8.48
3	<u>(d) For new construction undertaken on a speculative</u>	1:1us
4	<u>basis, the tax shall be due when title to the property is</u>	8.50
5	<u>first transferred, or within 6 months of completion of the</u>	
6	<u>construction, whichever occurs first.</u>	8.52
7	<u>(e) For new construction undertaken for the prime</u>	1:1us
8	<u>contractor's own use, the tax shall be due when a certificate</u>	8.54
9	<u>of occupancy is issued, or if no certificate of occupancy is</u>	
10	<u>required, when the new construction is first put to its</u>	8.56
11	<u>intended use.</u>	
12	<u>(f) For construction other than new construction, the</u>	1:1us
13	<u>tax shall be due when the prime contractor receives payment</u>	8.58
14	<u>for the construction services rendered.</u>	
15	<u>(g) Taxes due and payable pursuant to this section</u>	1:1us
16	<u>shall be remitted in accordance with s. 212.11.</u>	8.60
17	<u>(h) No unit of local government shall issue a</u>	1:1us
18	<u>certificate of occupancy for new construction until the prime</u>	8.62
19	<u>contractor certifies, on a form promulgated by the department</u>	
20	<u>and submitted to the local government, that the new</u>	8.63
21	<u>construction is substantially complete. Such forms shall be</u>	8.64
22	<u>provided to local governments by the department, and completed</u>	
23	<u>forms shall be returned monthly to the department by the local</u>	8.65
24	<u>governments.</u>	
25	<u>(4) The following provisions of this part shall not</u>	1:1us
26	<u>apply with regard to the tax on construction services:</u>	8.67
27	<u>(a) Section 212.02(5), the definition of "cost price."</u>	1:1us
28	<u>(b) Section 212.02(21), the definition of "sales</u>	1:1us
29	<u>price."</u>	
30	<u>(c) Section 212.059(3), regarding the collection and</u>	1:1us
31	<u>remittance of the tax.</u>	8.71

1	<u>(d) Section 212.059(4), regarding the time the tax is</u>	1:lus
2	<u>due.</u>	
3	<u>(e) Section 212.0591(4), regarding taxation of</u>	1:lus
4	<u>transactions previously taxed.</u>	8.74
5	<u>(f) Section 212.0591(6), regarding separate statement</u>	1:lus
6	<u>of services and real property.</u>	8.76
7	<u>(g) Section 212.0591(7), regarding separate statement</u>	1:lus
8	<u>of taxable and exempt services.</u>	8.78
9	<u>(h) Section 212.0592(2), regarding employee services,</u>	1:lus
10	<u>shall not apply for purposes of determining the cost price of</u>	8.80
11	<u>new construction.</u>	
12	<u>(i) Section 212.0592(3), regarding occasional or</u>	1:lus
13	<u>isolated sales.</u>	
14	<u>(j) Section 212.0592(4), regarding services sold to</u>	1:lus
15	<u>partnerships.</u>	
16	<u>(k) Section 212.0592(5), regarding services sold</u>	1:lus
17	<u>between members of an affiliated group.</u>	8.84
18	Section 7. Section 212.0595, Florida Statutes, as	9.1
19	created by chapter 87-6, Laws of Florida, is amended to read:	9.2
20	212.0595 Advertising; special provisions.--	9.3
21	Notwithstanding the provisions of ss. 212.059-212.0593, The	9.4
22	following special provisions shall be applicable to the sales	
23	and use tax on advertising:	9.6
24	(1) A tax is hereby imposed on advertising sold or	9.7
25	used in this state. The tax shall be at the rate of 5 percent	9.8
26	of the sales price or cost price of the advertising.	
27	(2) Advertising shall be deemed to have been sold in	9.9
28	this state if the greater proportion of the advertising is	9.10
29	performed within this state based on costs of performance as	
30	defined in s. 212.02.	9.11
31		

1	(3) Advertising shall be deemed to have been used in	9.11
2	this state if it was sold outside this state for consumption	9.12
3	in this state. Advertising shall be presumed to be consumed	9.13
4	in this state to the extent the cost price is apportioned to	9.14
5	this state pursuant to subsection (4).	
6	(4)(a) The sales price of the sale of advertising, or	9.16
7	the cost price of the use of advertising, shall be apportioned	
8	to the state as provided in this subsection. There shall be	9.18
9	included in the measure of the tax imposed by this section	
10	that proportion of the sales price or cost price which is	9.19
11	equal to the proportion of market coverage within Florida to	
12	the total United-States market coverage for the most recently	9.20
13	completed accounting year of the service provider. However,	9.23
14	in the case of new or restructured service providers, the	
15	department may prescribe by rule another time period or	9.24
16	proportion that fairly reflects Florida market coverage.	9.25
17	(b) For purposes of this subsection, "market coverage"	9.25
18	means average circulation <u>within the geographic area of</u>	9.26
19	<u>distribution for the publication,</u> in the case of print media,	9.27
20	and means population within the signal reception area of the	9.29
21	broadcaster, in the case of broadcast media, measured as	
22	prescribed by the department by rule.	9.30
23	(c) For advertising other than print or broadcast	9.30
24	media, the department shall establish by rule a method for	9.31
25	fairly apportioning advertising sold or used in this state.	9.32
26	(5) If advertising is sold in this state, the sales	9.32
27	tax imposed by this section shall be collected and remitted by	9.33
28	the advertising media <u>provider, unless the advertising is</u>	9.34
29	<u>purchased pursuant to a resale permit, in which case the</u>	
30	<u>person reselling the advertising shall collect and remit the</u>	9.35
31	<u>tax.</u>	

1	(6) If advertising is not sold in this state, but is	9.36
2	used in this state, the advertiser shall self-accrue the use	9.37
3	tax imposed by this section and remit the tax directly to the	
4	<u>department, unless the advertising is sold to a registered</u>	9.38
5	<u>dealer for resale, in which case the registered dealer shall</u>	9.39
6	<u>collect and remit the tax when the advertising is resold.</u>	
7	<u>(7)(a) When advertising is sold or resold, the seller</u>	9.40
8	<u>or reseller shall state the sales price of the advertising and</u>	9.42
9	<u>the applicable apportionment factor, if any, separately from</u>	
10	<u>any other charges which may be included in the invoice, charge</u>	9.43
11	<u>slip or other tangible evidence of sale.</u>	
12	<u>(b) When the tax on advertising is not collected by</u>	1-lus
13	<u>the seller of the advertising, it is the responsibility of the</u>	9.45
14	<u>purchaser to secure the apportionment factor pursuant to</u>	
15	<u>subsection (4) from the advertising media. When advertising</u>	9.48
16	is purchased and resold, the person reselling the advertising	9.49
17	may deduct the consideration paid for the advertising from his	
18	charges for purposes of calculating any tax due under this	9.50
19	part.	
20	(8) Nothing herein shall be construed to require the	9.51
21	advertising media to furnish to the department a listing of	9.52
22	persons placing advertising with the advertising media	9.53
23	(9) Consideration paid pursuant to a written contract	9.54
24	for a term in excess of two years, entered into prior to April	9.55
25	1, 1987, and which involves a transaction taxable under this	
26	section, shall be exempt from the tax imposed by this section	9.56
27	until the expiration of such contract. This exemption shall	9.58
28	not apply to advertising provided pursuant to any extension or	
29	renewal of such contract.	9.59
30	<u>(10) For purposes of this part, the term "advertising"</u>	1-lus
31	<u>means the medium used to convey the advertiser's message, and</u>	9.61

1	<u>shall include any mark-up charged by an advertising agency or</u>	9.62
2	<u>any other person for the service of brokering the medium.</u>	
3	<u>However, the term "advertising" shall not include creative</u>	9.63
4	<u>services of a type customarily performed by an advertising</u>	9.64
5	<u>agency.</u>	
6	<u>(11) The following provisions of this part shall not</u>	1:1us
7	<u>apply to the sale or use of advertising:</u>	9.66
8	<u>(a) Section 212.059(3), regarding collection of the</u>	1:1us
9	<u>tax on services; and</u>	9.68
10	<u>(b) Section 212.0593, regarding administration of s.</u>	9.69
11	<u>212.0592(1).</u>	
12	Section 8. Section 212.0597, Florida Statutes, is	9.70
13	created to read:	9.71
14	<u>212.0597 Special resale rules; construction support</u>	1:1us
15	<u>services and advertising agency support services.--</u>	9.72
16	<u>(1) The Legislature hereby recognizes that certain</u>	9.73
17	<u>service industries utilize subcontract labor more extensively</u>	
18	<u>than other service industries, and that the application of the</u>	9.74
19	<u>general rules regarding resale would result in excessive</u>	9.75
20	<u>pyramiding of the tax on services. Therefore, it is the</u>	9.76
21	<u>intent of the Legislature that special resale rules apply to</u>	
22	<u>these industries as herein provided.</u>	9.77
23	<u>(2) Notwithstanding the provisions of s. 212.02(19),</u>	1:1us
24	<u>construction support services and advertising agency support</u>	9.79
25	<u>services may be purchased for resale if:</u>	9.80
26	<u>(a) The service provides a direct and identifiable</u>	1:1us
27	<u>benefit to a single client or customer of the purchaser,</u>	9.81
28	<u>(b) The purchaser of the service buys the service</u>	9.82
29	<u>pursuant to a written contract with the seller and such</u>	
30	<u>contract identifies the client or customer for whom the</u>	9.83
31	<u>purchaser is buying the service;</u>	

1	<u>(c) The purchaser of the service identifies the seller</u>	9.84
2	<u>of the service purchased in his charge for the service on its</u>	
3	<u>subsequent sale;</u>	10.1
4	<u>(d) The service will be taxed under this part in a</u>	1:1us
5	<u>subsequent sale, unless exempt under other provisions of this</u>	10.2
6	<u>part; and</u>	
7	<u>(e) The service, if a construction support service, is</u>	10.3
8	<u>purchased by a person who is primarily engaged in the business</u>	
9	<u>of selling construction support services, or, if an</u>	10.4
10	<u>advertising agency support service, is purchased by a person</u>	10.5
11	<u>primarily engaged in the business of selling advertising</u>	
12	<u>agency services or advertising agency support services.</u>	10.6
13	<u>(3) For purposes of this section:</u>	1:1us
14	<u>(a) "Advertising agency support services" means</u>	10.7
15	<u>creative services used to produce advertising campaigns, such</u>	
16	<u>as photography, filming, copywriting, editing, printing,</u>	10.8
17	<u>modeling, and art production.</u>	10.9
18	<u>(b) "Construction support services" means</u>	1:1us
19	<u>architectural, engineering, drafting, surveying, land</u>	10.10
20	<u>planning, landscape design, and interior design services.</u>	10.11
21	Section 9. Section 212.0598, Florida Statutes, is	10.11
22	created to read:	10.12
23	<u>212.0598 Special provisions; air carriers.--</u>	1:1us
24	<u>(1) Notwithstanding other provisions of this part to</u>	10.13
25	<u>the contrary, any air carrier required by the United States</u>	10.14
26	<u>Department of Transportation to keep records according to said</u>	
27	<u>department's standard classification of accounting may elect,</u>	10.16
28	<u>upon the conditions prescribed in subsection (4), to be</u>	
29	<u>subject to the tax imposed by this part on services and</u>	10.17
30	<u>tangible personal property according to the provisions of this</u>	
31	<u>section.</u>	10.18

1	<u>(2) The basis of the tax shall be the ratio of Florida</u>	10.21
2	<u>mileage to total mileage traveled by the carrier's aircraft</u>	
3	<u>during the previous fiscal year as determined pursuant to part</u>	10.22
4	<u>IV of chapter 214. The ratio shall be determined at the close</u>	10.24
5	<u>of the carrier's preceding fiscal year. The ratio shall be</u>	10.25
6	<u>applied each month to the carrier's total systemwide gross</u>	10.26
7	<u>purchases of tangible personal property and services otherwise</u>	10.27
8	<u>taxable in Florida.</u>	
9	<u>(3) It is the legislative intent that air carriers are</u>	10.29
10	<u>hereby determined to be susceptible to a distinct and separate</u>	
11	<u>classification for taxation under the provisions of this part,</u>	10.30
12	<u>if the provisions of this section are met.</u>	10.31
13	<u>(4) The election provided for in this section shall</u>	10.32
14	<u>not be allowed unless the purchaser makes a written request,</u>	10.33
15	<u>in a manner prescribed by the Department of Revenue, to be</u>	10.34
16	<u>taxed under the provisions of subsection (2), and such person</u>	
17	<u>registers with the Department of Revenue as a dealer and</u>	10.36
18	<u>extends to his vendor at the time of purchase, if required to</u>	
19	<u>do so, a certificate stating that the item or items to be</u>	10.37
20	<u>partially exempted are for the exclusive use designated</u>	10.38
21	<u>herein. Otherwise, all purchases of taxable property and</u>	
22	<u>services purchased in this state shall be subject to taxation.</u>	10.39
23	<u>(5) Notwithstanding other provisions of this part to</u>	10.41
24	<u>the contrary, any air carrier eligible for the election</u>	
25	<u>provided in subsection (1) which does not so elect shall be</u>	10.43
26	<u>subject to the tax imposed by this part on the purchase or use</u>	
27	<u>of services and tangible personal property purchased or used</u>	10.45
28	<u>in this state, as well as other taxes imposed herein.</u>	10.46
29	Section 10. Subsections (2) and (6), paragraph (h) of	10.47
30	subsection (14), and paragraph (a) of subsection (19) of	10.49
31		

1	section 212.02, Florida Statutes, as amended by chapter 87-6,	10.50
2	Laws of Florida, are amended to read:	10.52
3	212.02 Definitions.--The following terms and phrases	10.53
4	when used in this chapter have the meanings ascribed to them	10.54
5	in this section, except where the context clearly indicates a	10.55
6	different meaning:	
7	(2) "Affiliated group" means an affiliated group of	10.56
8	corporations, as defined in s. 1504(a) of the Internal Revenue	10.57
9	Code, whose members are includable under s. <u>1504(b), (c), or</u>	10.58
10	<u>(d)</u> of the Internal Revenue Code, and are eligible to file a	10.61
11	consolidated tax return for Federal corporate income tax	
12	purposes; <u>however, s. 1504(b)(2) shall not apply to this</u>	10.62
13	<u>definition. However, the taxpayer may elect, pursuant to</u>	1:1us
14	<u>rules of the department governing the procedure for making and</u>	10.64
15	<u>amending such election, to define its affiliated group in a</u>	
16	<u>manner which excludes any member who has no tax nexus in this</u>	10.65
17	<u>state and any member whose business activities are unrelated</u>	10.66
18	<u>to the business activities of other members of the group.</u>	
19	<u>However, in no event shall the parent corporation be excluded</u>	10.67
20	<u>from the affiliated group.</u>	10.68
21	(6) "Costs of performance" means direct costs	10.69
22	determined in a manner consistent with generally accepted	10.71
23	accounting principles and in accordance with accepted	
24	conditions or practices in the type of trade or business in	10.72
25	which the <u>service provider taxpayer</u> engages.	10.73
26	(14) "Lease," "let," or "rental" means leasing or	1:qq
27	renting of living quarters or sleeping or housekeeping	10.76
28	accommodations in hotels, apartment houses, roominghouses,	
29	tourist or trailer camps and real property, the same being	10.77
30	defined as follows:	
31		

1	(h) "Real property" means <u>land, improvements thereto,</u>	10.78
2	<u>and fixtures, and is synonymous with "realty" and "real</u>	1:qq
3	<u>estate." any interest in the surface of real property unless</u>	10.81
4	<u>the property is:</u>	
5	1. Assessed as agricultural property under s. 193.461.	10.83
6	2. Used exclusively as dwelling units.	1:10s
7	3. Property subject to tax on parking, docking or	11.2
8	storage spaces under s. 212.03(6).	11.3
9	4. Recreational property or the common elements of a	1:10s
10	condominium when subject to a lease between the developer or	11.5
11	owner thereof and the condominium association in its own right	11.6
12	or as agent for the owners of individual condominium units or	11.7
13	the owners of individual condominium units. However, only the	11.9
14	lease payments on such property shall be exempt from the tax	
15	imposed by this chapter, and any other use made by the owner	11.11
16	or the condominium association shall be fully taxable under	11.12
17	this chapter.	
18	5. A public or private street or right-of-way occupied	1:10s
19	or used by a utility for utility purposes.	11.15
20	6. A public street or road which is used for	1:10s
21	transportation purposes.	11.17
22	7. Property used at an airport exclusively for the	1:10s
23	purpose of aircraft landing or aircraft taxing or property	11.20
24	used by an airline for the purpose of loading or unloading	
25	passengers or property onto or from aircraft or for fueling	11.21
26	aircraft.	11.22
27	8. Property used at a port authority as defined in s.	11.24
28	315.02(2) exclusively for the purpose of ocean-going vessels	11.25
29	or tugs docking, or such vessels mooring on property used by a	
30	port authority for the purpose of loading or unloading	11.26
31		

1	passengers or cargo onto or from such a vessel, or property	11.27
2	used at a port authority for fueling such vessels.	
3	9. -- Property used as an integral part of the	1:10s
4	performance of qualified production services as defined in s.	11.29
5	222.0592(10)(a).	
6	10. -- leased, subleased or rented to a person providing	1:10s
7	food and drink concessionaire services within the premises of	11.32
8	an airport, a movie theater, a business operated under a	
9	permit issued pursuant to chapter 550 or chapter 551 or any	11.34
10	publicly owned arena, sports stadium, convention hall, or	
11	exhibition hall.	
12	(19)(a) "Retail sale" or a "sale at retail" means a	1:qq
13	sale to a consumer or to any person for any purpose other than	11.39
14	for resale in the form of tangible personal property or	
15	services, and includes all such transactions that may be made	11.41
16	in lieu of retail sales or sales at retail. "Retail sale"	1:qq
17	does not include fee-sharing <u>for services described in s.</u>	
18	<u>475.011 by persons licensed under chapter 475 between real</u>	11.44
19	<u>estate agents and real estate brokers.</u> A sale of a service	11.46
20	shall be considered a sale for resale only if:	11.47
21	1. The purchaser of the service does not use or	11.47
22	consume the service but acts as a broker or intermediary in	11.49
23	procuring a service for his client or customer;	
24	2. The purchaser of the service buys the service	11.50
25	pursuant to a written contract with the seller and such	11.52
26	contract identifies the client or customer for whom the	
27	purchaser is buying the service;	
28	3. The purchaser of the service separately states the	11.54
29	value of the service purchased at the purchase price in his	
30	charge for the service on its subsequent sale;	11.56
31		

1	4. The service, with its value separately stated, will	11.57
2	be taxed under this part in a subsequent sale, <u>unless</u>	11.58
3	<u>otherwise exempt pursuant to s. 212.0592(1); and</u>	11.59
4	5. The service is purchased pursuant to a service	11.60
5	resale permit by a <u>dealer</u> person who is primarily engaged in	11.63
6	the business of selling services. The department shall	11.64
7	provide by rule for the issuance and periodic renewal every 5	
8	years of such resale permits.	11.66
9		
10	However, a sale, to other than an end user, of	11.67
11	telecommunication services consisting of a right of access for	11.68
12	which an access charge, as defined in s 203.012(1), is	11.69
13	imposed, is a sale for resale.	
14	Section 11. Paragraph (a) of subsection (1) of section	11.70
15	212.031, Florida Statutes, as amended by chapter 87-6, Laws of	11.71
16	Florida, is amended to read:	
17	212.031 Lease or rental of or license in real	11.72
18	property.--	
19	(1)(a) It is declared to be the legislative intent	11.75
20	that every person is exercising a taxable privilege who	11.76
21	engages in the business of renting, leasing, letting, or	11.77
22	granting a license for the use of any real property unless	11.78
23	such property is:	
24	1. Assessed as agricultural property under s. 193.461.	11.80
25	2. Used exclusively as dwelling units.	11.81
26	3. Property subject to tax on parking, docking, or	11.83
27	storage spaces under s. 212.03(6).	11.84
28	4. Recreational property or the common elements of a	12.1
29	condominium when subject to a lease between the developer or	12.2
30	owner thereof and the condominium association in its own right	12.3
31	or as agent for the owners of individual condominium units or	12.4

1	the owners of individual condominium units. However, only the	12.6
2	lease payments on such property shall be exempt from the tax	
3	imposed by this chapter, and any other use made by the owner	12.7
4	or the condominium association shall be fully taxable under	12.8
5	this chapter.	
6	5. A public or private street or right-of-way occupied	12.9
7	or used by a utility for utility purposes.	12.11
8	6. A public street or road which is used for	12.12
9	transportation purposes.	12.13
10	7. Property used at an airport exclusively for the	12.14
11	purpose of aircraft landing or aircraft taxiing or property	12.17
12	used by an airline for the purpose of loading or unloading	
13	passengers or property onto or from aircraft or for fueling	12.18
14	aircraft.	12.19
15	8. Property used at a port authority as defined in s.	12.21
16	315.02(2) exclusively for the purpose of oceangoing vessels or	12.22
17	tugs docking, or such vessels mooring on property used by a	
18	port authority for the purpose of loading or unloading	12.23
19	passengers or cargo onto or from such a vessel, or property	12.24
20	used at a port authority for fueling such vessels.	
21	9. Property used as an integral part of the	12.25
22	performance of qualified production services as defined in s.	12.26
23	212.0592(18)(a).	
24	10. Leased, subleased, or rented to a person providing	12.27
25	food and drink concessionaire services within the premises of	12.29
26	an airport , a movie theater, a business operated under a	
27	permit issued pursuant to chapter 550 or chapter 551, or any	12.31
28	publicly owned arena, sports stadium, convention hall, or	
29	<u>exhibition hall, auditorium or recreational facility.</u> A	1.1us
30	<u>person providing food and drink concessionaire services within</u>	
31	<u>the premises of an airport shall be subject to tax on the</u>	12.34

1	<u>rental of real property used for that purpose, but shall not</u>	
2	<u>be subject to the tax on any license to use the property.</u>	12.35
3	Section 12. Paragraph (a) of subsection (2) of section	12.36
4	212.04, Florida Statutes, as amended by chapter 87-6, Laws of	12.37
5	Florida, is amended to read:	
6	212.04 Admissions tax; rate, procedure, enforcement.--	12.38
7	(2)(a)1. <u>No tax shall be levied on admissions to</u>	12.39
8	<u>athletic or other events sponsored by elementary schools,</u>	12.40
9	<u>junior high schools, middle schools, high schools, community</u>	12.42
10	<u>colleges, public or private colleges and universities, deaf</u>	
11	<u>and blind schools, facilities of the youth services programs</u>	12.43
12	<u>of the Department of Health and Rehabilitative Services, and</u>	12.45
13	<u>state correctional institutions when only student, faculty, or</u>	
14	<u>inmate talent is utilized. However, this exemption shall not</u>	12.47
15	<u>apply to admission to athletic events sponsored by an</u>	
16	<u>institution within the State University System, and the</u>	12.48
17	<u>proceeds of the tax collected on such admissions shall be</u>	12.49
18	<u>retained and utilized by each institution to support women's</u>	
19	<u>athletics as provided in s. 240.533(4)(c).</u>	12.50
20	2. <u>No tax shall be levied on an admission paid by a</u>	12.52
21	<u>student, or on his behalf, to any required place of sport or</u>	12.54
22	<u>recreation if the student's participation in the sport or</u>	
23	<u>recreational activity is required as a part of a program or</u>	12.57
24	<u>activity sponsored by, and under the jurisdiction of, the</u>	12.59
25	<u>student's educational institution, provided his attendance is</u>	
26	<u>as a participant and not as a spectator.</u>	12.60
27	3. <u>No tax shall be levied on admissions to the</u>	1.1us
28	National Football League Championship game.	12.65
29	4. <u>No tax shall be levied on admissions to athletic or</u>	1:1us
30	<u>other events sponsored by governmental entities.</u>	12.67
31		

1	Section 13. Subsection (1) of section 212.05, Florida	12.67
2	Statutes, as amended by chapter 87-6, Laws of Florida, is	12.68
3	amended to read:	
4	212.05 Sales, storage, use tax.--It is hereby declared	12.68
5	to be the legislative intent that every person is exercising a	12.71
6	taxable privilege who engages in the business of selling	
7	tangible personal property at retail in this state, or who	12.72
8	rents or furnishes any of the things or services taxable under	12.73
9	this section, or who stores for use or consumption in this	12.76
10	state any item or article of tangible personal property as	
11	defined herein and who leases or rents such property within	12.77
12	the state.	
13	(1) For the exercise of such privilege, a tax is	12.79
14	levied on each taxable transaction or incident, which tax is	12.80
15	due and payable as follows:	
16	(a)1.a. At the rate of 5 percent of the sales price of	12.83
17	each item or article of tangible personal property when sold	
18	at retail in this state, computed on each taxable sale for the	12.84
19	purpose of remitting the amount of tax due the state, and	13.1
20	including each and every retail sale.	13.2
21	b. Each occasional or isolated sale of an aircraft,	13.3
22	boat, or mobile home, or motor vehicle of a class or type	13.7
23	which is required to be registered, licensed, titled, or	13.9
24	documented in this state or by the United States Government	13.10
25	shall be subject to tax at the rate provided in this	13.11
26	paragraph. The department shall, by rule, adopt the NADA	13.12
27	Official Used Car Guide as the reference price list for any	13.13
28	used motor vehicle which is required to be licensed pursuant	
29	to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If	13.15
30	any party to an occasional or isolated sale of such a vehicle	
31	reports to the tax collector a sales price which is less than	13.16

1	80 percent of the average loan price for the specified model	
2	and year of such vehicle as listed in the most recent	13.17
3	reference price list, the tax levied under this paragraph	13.18
4	shall be computed by the department on such average loan price	
5	unless the parties to the sale have provided to the tax	13.19
6	collector an affidavit, signed by each party, or other	
7	substantial proof, stating the actual sales price. Any party	13.22
8	to such sale who reports a sales price less than the actual	
9	sales price is guilty of a misdemeanor of the second degree,	13.23
10	punishable as provided in s. 775.083. The department shall	13.24
11	collect or attempt to collect from such party any delinquent	
12	sales taxes. In addition, such party shall pay any tax due	13.25
13	and any penalty and interest assessed, plus a penalty equal to	13.26
14	twice the amount of the additional tax owed. Notwithstanding	13.28
15	any other provision of law, the Department of Revenue may	
16	waive or compromise any penalty imposed after July 1, 1985,	13.29
17	pursuant to this sub-subparagraph. For purposes of this sub-	13.30
18	subparagraph, an occasional or isolated sale is one in which	13.31
19	the seller is not a motor vehicle dealer as defined in s.	13.32
20	320.27(1)(c).	
21	2. This paragraph does not apply to the sale of a boat	13.34
22	or airplane by or through a registered dealer under this	13.35
23	chapter to a purchaser who removes such boat or airplane from	13.36
24	this state within 10 days after the date of purchase or, when	13.37
25	the boat or airplane is repaired or altered, within 10 days	
26	after completion of such repairs or alterations. In no event	13.40
27	shall the boat or airplane remain in this state more than 90	
28	days after the date of purchase. This exemption shall not be	13.43
29	allowed unless the seller:	13.44
30	a. Obtains from the purchaser within 90 days from the	13.45
31	date of sale written proof that the purchaser licensed,	13.47

1	registered, or documented the boat or airplane outside the	13.48
2	state;	
3	b. Requires the purchaser to sign an affidavit that he	13.49
4	has read the provisions of this section; and	13.51
5	c. Makes the affidavit a part of his permanent record.	13.54
6		
7	In the event the purchaser fails to remove the boat or	13.55
8	airplane from this state within 10 days after purchase or,	13.57
9	when the boat or airplane is repaired or altered, within 10	13.59
10	days after completion of such repairs or alterations, or	13.60
11	permits the boat or airplane to return to this state within 6	13.61
12	months from the date of departure, the purchaser shall be	13.63
13	liable for use tax on the cost price of the boat or airplane	13.64
14	and, in addition thereto, payment of a penalty to the	
15	Department of Revenue equal to the tax payable. This penalty	13.66
16	shall be in lieu of the penalty imposed by s. 212.12(2) and is	
17	mandatory and shall not be waived by the department.	13.67
18	(b) At the rate of 5 percent of the cost price of each	13.68
19	item or article of tangible personal property when the same is	13.70
20	not sold but is used, consumed, distributed, or stored for use	13.71
21	or consumption in this state.	
22	(c) At the rate of 5 percent of the gross proceeds	13.74
23	derived from the lease or rental of tangible personal	13.75
24	property, as defined herein, except the lease or rental of a	
25	commercial motor vehicle as defined in s. 316.003(67)(a) to	13.77
26	one lessee or rentee for a period of not less than 12 months	
27	when tax was paid on the acquisition of such vehicle by the	13.79
28	lessor, when the lease or rental of such property is an	
29	established business or part of an established business or the	13.81
30	same is incidental or germane to such business.	
31		

1	(d) At the rate of 5 percent of the lease or rental	13.84
2	price paid by a lessee or rentee, or contracted or agreed to	
3	be paid by a lessee or rentee, to the owner of the tangible	14.1
4	personal property.	
5	(e)1. At the rate of 5 percent on charges for all	14.3
6	telegraph messages and long distance telephone calls beginning	14.4
7	and terminating in this state; on charges for	
8	telecommunication service as defined in s. 203.012 and for	14.5
9	those services described in s. 203.012(2)(a); on recurring	14.6
10	charges to regular subscribers for wired television service;	14.8
11	on all charges for the installation of telecommunication,	
12	wired television, and telegraphic equipment; and on all	14.9
13	charges for electrical power or energy. For purposes of this	14.11
14	<u>part subparagraph</u> , the term "telecommunication service" does	1:qq
15	not include local service provided through a pay telephone.	14.13
16	The provisions of s. 212.17(3), regarding credit for tax paid	14.15
17	on charges subsequently found to be worthless, shall be	14.17
18	equally applicable to any tax paid under the provisions of	14.18
19	this section on charges for telecommunication or telegraph	14.19
20	services or electric power subsequently found to be	14 20
21	uncollectible. The word "charges" in this paragraph does not	1:qq
22	include any excise or similar tax levied by the Federal	14.23
23	Government, any political subdivision of the state, or any	14.24
24	municipality upon the purchase or sale of telecommunication,	
25	wired television, or telegraph service or electric power,	14.25
26	which tax is collected by the seller from the purchaser.	14.27
27	2. Telegraph messages and telecommunication services	14.28
28	which originate or terminate in this state, other than	14.30
29	interstate private communication services, and are billed to a	14.31
30	customer, telephone number, or device located within this	
31	state are taxable under this paragraph. Interstate private	14.33

1	communication services are taxable under this paragraph as	
2	follows:	14.34
3	a. One hundred percent of the charge imposed at each	14.35
4	channel termination point within this state;	14.36
5	b. One hundred percent of the charge imposed for the	14.37
6	total channel mileage between each channel termination point	14.38
7	within this state; and	
8	c. Fifty percent of the charge imposed for the total	14.39
9	channel mileage between the first channel termination point	14.40
10	inside this state and the nearest channel termination point	
11	outside this state.	14.41
12	3. The tax imposed pursuant to this paragraph shall	14.43
13	not exceed \$50,000 per calendar year on charges to any person	14.44
14	for interstate telecommunications services defined in s.	
15	203.012(4) and (7)(b), if the majority of such services used	14.45
16	by such person are for communications originating outside of	14.46
17	this state and terminating in this state. This exemption	14.48
18	shall only be granted to holders of a direct pay permit issued	
19	pursuant to this subparagraph. No refunds shall be given for	14.50
20	taxes paid prior to receiving a direct pay permit. Upon	14.51
21	application, the department may issue a direct pay permit to	
22	the purchaser of telecommunications services authorizing such	14.52
23	purchaser to pay tax on such services directly to the	
24	department. Any vendor furnishing telecommunications services	14.54
25	to the holder of a valid direct pay permit shall be relieved	14.55
26	of the obligation to collect and remit the tax on such	
27	service. Tax payments and returns pursuant to a direct pay	14.56
28	permit shall be monthly. For purposes of this subparagraph,	14.57
29	the term "person" shall be limited to a single legal entity	
30	and shall not be construed as meaning a group or combination	14.59
31	of affiliated entities or entities controlled by one person or	14.60

1	group of persons. For purposes of this subparagraph, for	14.61
2	calendar year 1986, the term "calendar year" means the last 6	14.62
3	months of 1986.	
4	(f) At the rate of 5 percent on the sale, rental, use,	14.63
5	consumption, or storage for use in this state of machines and	14.64
6	equipment and parts and accessories therefor used in	14.65
7	manufacturing, processing, compounding, producing, mining, or	14.66
8	quarrying personal property for sale or to be used in	
9	furnishing communications, transportation, or public utility	14.67
10	services.	
11	(g) At the rate of 5 percent of the price, as	14.68
12	determined pursuant to part II, of each gallon of motor fuel	14.70
13	or special fuel taxable pursuant to that part, except that	
14	motor fuel and special fuel expressly taxable under this part	14.71
15	shall be taxed as provided in paragraphs (a) and (b).	
16	(h) Any person who purchases, installs, rents, or	14.72
17	leases a telephone system or telecommunication system for his	14.73
18	own use to provide himself with telephone service or	
19	telecommunication service which is a substitute for any	14.74
20	telephone company switched service or a substitute for any	14.76
21	dedicated facility by which a telephone company provides a	14.77
22	communication path is exercising a taxable privilege and shall	
23	register with the Department of Revenue and pay into the State	14.78
24	Treasury a yearly amount equal to 5 percent of the actual cost	14.79
25	of operating such system, notwithstanding the provisions of s.	
26	212.081(3)(b). "Actual cost" includes, but is not limited to,	14.80
27	depreciation, interest, maintenance, repair, and other	14.81
28	expenses directly attributable to the operation of such	14.82
29	system. For purposes of this paragraph, the depreciation	14.83
30	expense to be included in actual cost shall be the	
31	depreciation expense claimed for federal income tax purposes.	14.84

1	The total amount of any payment required by a lease or rental	15.1
2	contract or agreement shall be included within the actual	15.2
3	cost. The provisions of this paragraph do not apply to the	15.3
4	use by any local telephone company or any telecommunication	15.4
5	carrier of its own telephone system or telecommunication	
6	system to conduct a telecommunication service for hire. If a	15.6
7	system described in this paragraph is located in more than one	
8	state, the actual cost of such system for purposes of this	15.7
9	paragraph shall be the actual cost of the system's equipment	15.8
10	located in Florida.	
11	<u>(1) At the rate of 5 percent on the retail price of</u>	15.1us
12	<u>newspapers and magazines sold or used in Florida.</u>	15.10
13	<u>Notwithstanding other provisions of this part, the seller</u>	15.11
14	<u>shall not be required to separately state the tax on</u>	15.12
15	<u>newspapers. The tax on newspapers shall be remitted by the</u>	15.13
16	<u>publisher pursuant to s. 212.11.</u>	
17	Section 14. Paragraph (b) of subsection (9) of section	15.14
18	212.08, Florida Statutes, 1986 Supplement, is amended, and	15.15
19	paragraph (a) of subsection (2), subsection (6), and	
20	paragraphs (e) and (o) of subsection (7) of said section, as	15.17
21	amended by chapter 87-6, Laws of Florida, are amended, to	
22	read:	
23	212.08 Sales, rental, use, consumption, distribution,	15.17
24	and storage tax; specified exemptions.--The sale at retail,	15.18
25	the rental, the use, the consumption, the distribution, and	15.20
26	the storage to be used or consumed in this state of the	
27	following are hereby specifically exempt from the tax imposed	15.23
28	by part I of this chapter.	
29	(2) EXEMPTIONS; MEDICAL.--	15.24
30	(a) There shall be exempt from the tax imposed by this	15.24
31	chapter any product, supply, or medicine dispensed in a retail	15.25

1	establishment by a pharmacist licensed by the state, according	15.27
2	to an individual prescription or prescriptions written by a	
3	prescriber authorized by law to prescribe medicinal drugs;	15.28
4	hypodermic needles; hypodermic syringes; chemical compounds	15.30
5	and test kits used for the diagnosis or treatment of human	
6	disease, illness, or injury; and common household remedies	15.32
7	recommended and generally sold for internal or external use in	
8	the cure, mitigation, treatment, or prevention of illness or	15.33
9	disease in human beings, but not including cosmetics or toilet	15.34
10	articles, notwithstanding the presence of medicinal	
11	ingredients therein, according to a list prescribed and	15.35
12	approved by the Department of Health and Rehabilitative	15.37
13	Services, which list shall be certified to the Department of	15.38
14	Revenue from time to time and included in the rules	
15	promulgated by the Department of Revenue. There shall also be	15.40
16	exempt from the tax imposed by this chapter artificial eyes	15.41
17	and limbs; orthopedic shoes; prescription eyeglasses and items	15.42
18	incidental thereto or which become a part thereof; dentures;	15.43
19	hearing aids; <u>batteries specifically designed and identified</u>	15.44
20	<u>as hearing aid batteries</u> ; crutches; prosthetic and orthopedic	15.46
21	appliances; and funerals. Funeral directors shall pay tax on	15.47
22	all tangible personal property used by them in their business.	15.48
23	(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are	15.51
24	also exempt from the tax imposed by this chapter sales made to	15.52
25	the United States Government, <u>a</u> the state, or any county,	15.54
26	municipality, or political subdivision of <u>a</u> this state when	15.55
27	payment is made directly to the dealer by the governmental	15.56
28	entity. This exemption shall not inure to any transaction	15.57
29	otherwise taxable under this chapter when payment is made by a	15.58
30	government employee by any means, including, but not limited	
31	to, cash, check, or credit card when that employee is	15.60

1	subsequently reimbursed by the governmental entity. This	15.62
2	exemption does not include sales of tangible personal property	
3	made to contractors employed either directly or as agents of	15.63
4	any such government or political subdivision thereof when such	15.64
5	tangible personal property goes into or becomes a part of	15.66
6	public works owned by such government or political subdivision	15.67
7	thereof, except public works in progress or for which bonds or	
8	revenue certificates have been validated on or before August	15.68
9	1, 1959. This exemption does not include sales, rental, use,	15.69
10	consumption, or storage for use in any political subdivision	15.70
11	or municipality in this state of machines and equipment and	15.71
12	parts and accessories therefor used in the generation,	15.72
13	transmission, or distribution of electrical energy by systems	
14	owned and operated by a political subdivision in this state	15.73
15	except sales, rental, use, consumption, or storage for which	15.74
16	bonds or revenue certificates are validated on or before	15.75
17	January 1, 1973, for transmission or distribution expansion.	15.76
18	(7) MISCELLANEOUS EXEMPTIONS.--	15.77
19	(e) Film rentals.--Film rentals are exempt when an	15.79
20	admission is charged for viewing such film, and license fees	
21	and direct charges for films, videotapes, and transcriptions	15.81
22	used by television or radio stations or networks <u>are exempt.</u>	15.82
23	However, this exemption shall not be construed to exempt the	15.83
24	sale or use of advertising.	
25	(o) Religious, charitable, scientific, educational,	16.1
26	and veterans' institutions and organizations.--	16.2
27	1. There are exempt from the tax imposed by part I of	16.4
28	this chapter transactions involving:	
29	a. Sales or leases directly to churches or sales or	16.5
30	leases of tangible personal property or services by churches;	16.8
31		

1	b. Sales or leases to nonprofit religious, nonprofit	16.9
2	charitable, nonprofit scientific, or nonprofit educational	16.10
3	institutions when used in carrying on their customary	16.14
4	nonprofit religious, nonprofit charitable, nonprofit	16.15
5	scientific, or nonprofit educational activities, including	16.17
6	church cemeteries; and	
7	c. Sales or leases to the state headquarters of	16.19
8	qualified veterans' organizations and the state headquarters	16.20
9	of their auxiliaries when used in carrying on their customary	16.21
10	veterans' organization activities. If a qualified veterans'	16.22
11	organization or its auxiliary does not maintain a permanent	
12	state headquarters, then transactions involving sales or	16.23
13	leases to such organization and used to maintain the office of	16.24
14	the highest ranking state official are exempt from the tax	
15	imposed by this part.	16.25
16	2. The provisions of this section authorizing	16.26
17	exemptions from tax shall be strictly defined, limited, and	16.29
18	applied in each category as follows:	
19	a. "Religious institutions" means churches,	16.31
20	synagogues, and established physical places for worship in	16.32
21	this state at which nonprofit religious services and	16.33
22	activities are regularly conducted and carried on. The term	16.35
23	"religious institutions" includes nonprofit corporations the	
24	sole purpose of which is to provide free transportation	16.36
25	services to church members, their families, and other church	
26	attendees. The term "religious institutions" also includes	16.38
27	state, district, or other governing or administrative offices	16.39
28	the function of which is to assist or regulate the customary	
29	activities of religious organizations or members within the	16.40
30	state or district organization	
31		

1	b. "Charitable institutions" means only nonprofit	16.42
2	corporations qualified as nonprofit pursuant to s. 501(c)(3),	16.43
3	United States Internal Revenue Code, 1954, as amended, and	16.44
4	other nonprofit entities, the sole or primary function of	16.45
5	which is to provide, or to raise funds for organizations which	
6	provide, one or more of the following services if a reasonable	16.47
7	percentage of such service is provided free of charge, or at a	
8	substantially reduced cost, to persons, animals, or	16.48
9	organizations that are unable to pay for such service:	16.49
10	(I) Medical aid for the relief of disease, injury, or	16.50
11	disability;	16.51
12	(II) Regular provision of physical necessities such as	16.52
13	food, clothing, or shelter;	16.53
14	(III) Services for the prevention of, or	16.54
15	rehabilitation of persons from, alcoholism or drug abuse; the	16.55
16	prevention of suicide, or the alleviation of mental, physical,	16.57
17	or sensory health problems;	
18	(IV) Social welfare services including adoption	16.58
19	placement, child care, community care for the elderly, and	16.59
20	other social welfare services which clearly and substantially	16.60
21	benefit a client population which is disadvantaged or suffers	
22	a hardship;	
23	(V) Medical research for the relief of disease,	16.63
24	injury, or disability;	
25	(VI) Legal services; or	16.64
26	(VII) Food, shelter, or medical care for animals or	16.65
27	adoption services, cruelty investigations, or education	16.66
28	programs concerning animals;	
29		
30		
31		

1	and the term includes groups providing volunteer manpower to	16.67
2	organizations designated as charitable institutions hereunder.	16.68
3	c. "Scientific organizations" means scientific	16.69
4	organizations in this state which hold current exemptions from	16.72
5	federal income tax under s. 501(c)(3) of the Internal Revenue	
6	Code and also means organizations the purpose of which is to	16.73
7	protect air and water quality in this state or the purpose of	16.74
8	which is to protect wildlife in this state and which hold	
9	current exemptions from the federal income tax under s.	16.76
10	501(c)(3) of the Internal Revenue Code.	
11	d. "Educational institutions" means state tax-	16.78
12	supported or parochial, church and nonprofit private schools,	16.79
13	colleges, or universities which conduct regular classes and	16.80
14	courses of study required for accreditation by, or membership	
15	in, the Southern Association of Colleges and Schools, the	16.81
16	Department of Education, the Florida Council of Independent	16.82
17	Schools, or the Florida Association of Christian Colleges and	16.83
18	Schools, Inc., or which conduct regular classes and courses of	
19	study accepted for continuing education credit by the American	17.1
20	Medical Association or the American Dental Association.	
21	Nonprofit libraries, art galleries, and museums open to the	17.2
22	public are defined as educational institutions and are	17.3
23	eligible for exemption. <u>The term "educational institutions"</u>	17.4
24	<u>includes nonprofit cultural corporations which hold a current</u>	17.5
25	<u>exemption from federal income tax under s 501(c)(3) of the</u>	
26	<u>Internal Revenue Code, including art centers; musical</u>	17.6
27	<u>ensembles; theater companies, symphony orchestras; opera</u>	
28	<u>companies; dance companies; literary, folk arts, media,</u>	17.7
29	<u>interdisciplinary arts and presenting organizations; and arts</u>	17.8
30	<u>service organizations.</u> The term "educational institutions"	17.9
31	includes private nonprofit organizations the purpose of which	17.12

1	is to raise funds for schools teaching grades kindergarten	17.13
2	through high school, colleges, and universities located in	17.14
3	this state. The term "educational institutions" includes <u>any</u>	17.16
4	<u>nonprofit newspaper of free or paid circulation primarily on</u>	17.17
5	<u>university or college campuses which holds a current exemption</u>	
6	<u>from federal income tax under s. 501(c)(3) of the Internal</u>	17.19
7	<u>Revenue Code, and any educational television or radio network</u>	
8	or system established pursuant to s. 229.805 or s. 229.8051	17.20
9	and any nonprofit television or radio station which is a part	17.21
10	of such network or system and which holds a current exemption	
11	from federal income tax under s. 501(c)(3) of the Internal	17.22
12	Revenue Code. The term "educational institutions" also	17.23
13	includes state, district, or other governing or administrative	17.25
14	offices the function of which is to assist or regulate the	
15	customary activities of educational organizations or members	17.26
16	within the state or district organization.	
17	e. "Veterans' organizations" means nationally	17.28
18	chartered or recognized veterans' organizations, including,	
19	but not limited to, Florida chapters of the Paralyzed Veterans	17.29
20	of America, Catholic War Veterans of the U.S.A., and Jewish	17.30
21	War Veterans of the U.S.A. and the Disabled American Veterans,	17.32
22	Department of Florida, Inc., which hold current exemptions	17.33
23	from federal income tax under s. 501(c)(4) or s. 501(c)(19) of	17.34
24	the Internal Revenue Code.	17.35
25	(9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES	17.36
26	ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.--	17.39
27	(b) <u>Motor</u> vehicles which are licensed as common	17.40
28	carriers by the Interstate Commerce Commission or by the	17.41
29	United States Department of Transportation and parts thereof	17.42
30	used to transport persons or property in interstate or foreign	17.44
31	commerce are subject to tax imposed in this chapter only to	17.45

1	the extent provided herein. The basis of the tax shall be the	17.46
2	ratio of intrastate mileage to interstate or foreign mileage	
3	traveled by the carrier's <u>motor</u> vehicles which were used in	17.47
4	interstate or foreign commerce and which had at least some	17.49
5	Florida mileage during the previous fiscal year of the	
6	carrier. Such ratio is to be determined at the close of the	17.50
7	carrier's fiscal year This ratio shall be applied each month	17.51
8	to the total purchases of such <u>motor</u> vehicles and parts	17.52
9	thereof which are used in this state to establish that portion	17.53
10	of the total used and consumed in intrastate movement and	17.54
11	subject to tax under this part. <u>Motor</u> vehicles which are	17.55
12	licensed as common carriers by the Interstate Commerce	
13	Commission or the United States Department of Transportation	17.57
14	and parts thereof used to transport persons or property in	17.59
15	interstate and foreign commerce are hereby determined to be	17.60
16	susceptible to a distinct and separate classification for	17.61
17	taxation under the provisions of this part. <u>Motor</u> vehicles	17.62
18	and parts thereof used exclusively in intrastate commerce do	
19	not qualify for the proration of tax.	17.64
20	Section 15. Paragraph (a) of subsection (6) of section	17.65
21	212.095, Florida Statutes, as amended by chapter 87-6, Laws of	17.66
22	Florida, is amended to read.	
23	212.095 Refunds.--	17.67
24	(6)(a) Each registered dealer shall, in accordance	17.68
25	with the requirements of the department, keep at his principal	17.69
26	place of business in this state or at the location where the	17.70
27	sale is made a complete record or duplicate sales tickets of	
28	all items or services sold by him for which a refund provided	17.72
29	in this section may be claimed, which records shall contain	
30	the information required in paragraph (3)(a). Not licensed	17.73
31	dealer or his agent or employee may acknowledge or assist in	17.76

1	the preparation of any claim for tax refund; this provision	
2	does not apply to attorneys or to certified public accountants	17.77
3	licensed pursuant to chapter 473 when acting for or on behalf	17.79
4	of a client;	
5	Section 16. Paragraph (d) of subsection (1) of section	17.80
6	212.11, Florida Statutes, as amended by chapter 87-6, Laws of	17.81
7	Florida, is amended to read	
8	212.11 Tax returns and regulations.--	17.83
9	(1)	17.84
10	(d) Beginning October 1, 1987, the department may	18.1
11	authorize a quarterly return and payment for dealers	18.2
12	<u>registered as service providers and remitting</u> collecting tax	18.1us
13	solely from the provision of services. Such returns may be	18.6
14	authorized only for dealers whose monthly tax collections are	
15	less than \$500 in each month for the previous 3 months.	18.8
16	Quarterly payments pursuant to this paragraph shall be due and	18.1os
17	payable in March, June, September, and December of each year.	18.11
18	Section 17. Section 17 of chapter 87-6, Laws of	18.12
19	Florida, is amended to read:	
20	Section 17. The introductory paragraph of subsection	18.13
21	(1); Paragraph (b) of subsection (5); and subsections (7) and	18.16
22	(9) of section 212.12, Florida Statutes, 1986 Supplement, are	18.17
23	amended, and, effective January 1, 1988, paragraph (b) of	18.19
24	subsection (1) of said section is amended, to read:	18.20
25	212.12 Dealer's credit for collecting tax; penalties	18.21
26	for noncompliance; powers of Department of Revenue in dealing	18.22
27	with delinquents; brackets applicable to taxable transactions;	18.23
28	records required.--	
29	(1) <u>Notwithstanding any other provision of law and for</u>	18.24
30	the purpose of compensating persons granting licenses for and	18.25
31	the lessors of real and personal property taxed hereunder, for	18.26

1	the purpose of compensating dealers in tangible personal	18.27
2	property, for the purpose of compensating dealers providing	
3	communication services and taxable services, and for the	18.28
4	purpose of compensating owners of places where admissions are	18.29
5	collected, <u>and for the purpose of compensating remitters of</u>	
6	<u>any taxes or fees reported on the same documents utilized for</u>	18.30
7	<u>the sales and use tax</u> , as compensation for the keeping of	
8	prescribed records and the proper accounting and remitting of	18.31
9	taxes by them, such seller, person, lessor, dealer, and owner	18.32
10	<u>and remitter</u> shall be allowed 3 percent of the amount of the	18.34
11	tax due and accounted for and remitted to the department, in	
12	the form of a deduction in submitting his report and paying	18.35
13	the amount due by him; and the department shall allow such	18.36
14	deduction of 3 percent of the amount of the tax to the person	18.39
15	paying the same for remitting the tax in the manner herein	
16	provided, for paying the amount due to be paid by him, and as	18.40
17	further compensation to dealers in tangible personal property	18.41
18	for the keeping of prescribed records and for collection of	18.42
19	taxes and remitting the same. However, if the amount of the	18.44
20	tax due and remitted to the department for the reporting	
21	period exceeds \$1,000, the 3-percent allowance shall be	18.45
22	reduced to 1 percent for all amounts in excess of \$1,000.	18.46
23	(a) The collection allowance may not be granted, nor	18.47
24	may any deduction be permitted, if the tax is delinquent at	
25	the time of payment.	18.48
26	(b) The Department of Revenue may reduce the	18.48
27	collection allowance by 10 percent or \$50, whichever is less,	18.49
28	if a taxpayer files an incomplete return.	
29	1. An "incomplete return" is, for purposes of this	18.51
30	chapter, a return which is lacking such uniformity,	18.52
31	completeness, and arrangement that the physical handling,	

1	verification, or review of the return may not be readily	18.53
2	accomplished.	
3	2. The department shall adopt rules requiring such	18.55
4	information as it may deem necessary to ensure that the tax	18.56
5	levied hereunder is properly collected, reviewed, compiled,	
6	and enforced, including, but not limited to: the amount of	18.58
7	gross sales; the amount of taxable sales; <u>the amount of</u>	
8	<u>taxable purchases</u> ; the amount of tax collected or due; the	18.59
9	amount of lawful refunds, deductions, or credits claimed; the	18.60
10	amount claimed as the dealer's collection allowance; the	18.61
11	amount of penalty and interest; the amount due with the	
12	return; and such other information as the Department of	18.62
13	Revenue may specify. <u>The department shall require that the</u>	18.64
14	<u>amounts of gross sales, taxable sales, taxable purchases, and</u>	
15	<u>tax collected or due shall be reported by major sales tax</u>	18.65
16	<u>source: services; tangible personal property; admissions;</u>	18.66
17	<u>transient rentals; commercial leases or licenses; and</u>	
18	<u>agricultural equipment.</u>	18.67
19	(5)	18.68
20	(b) In the event any dealer or other person charged	18.68
21	herein fails or refuses to make his records available for	18.69
22	inspection so that no audit or examination has been made of	18.70
23	the books and records of such dealer or person, fails or	18.71
24	refuses to register as a dealer, or fails to make a report and	
25	pay the tax as provided by this chapter; or makes a grossly	18.72
26	incorrect report, or makes a report that is false or	18.73
27	fraudulent, then, in such event, it shall be the duty of the	18.74
28	department to make an assessment from an estimate based upon	
29	the best information then available to it for the taxable	18.75
30	period of retail sales of such dealer, the gross proceeds from	18.76
31	rentals, the total admissions received, amounts received from	18.77

1	leases of tangible personal property by such dealer, or of the	
2	cost price of all articles of tangible personal property	18.78
3	imported by the dealer for use or consumption or distribution	18.79
4	or storage to be used or consumed in this state <u>or of the</u>	18.80
5	<u>sales or cost price of all services the sale or use of which</u>	
6	<u>is taxable under this part,</u> together with interest, plus	18.81
7	penalty, if such have accrued, as the case may be. Then the	18.83
8	department shall proceed to collect such taxes, interest, and	18.84
9	penalty on the basis of such assessment, which shall be	
10	considered prima facie correct, and the burden to show the	19.1
11	contrary shall rest upon the dealer, seller, owner, or lessor,	19.2
12	as the case may be.	
13	(7) In the event the dealer has imported the tangible	19.3
14	personal property <u>or has acquired services outside the state</u>	1:1us
15	<u>for sale or use in this state</u> and he fails to produce an	19.5
16	invoice showing the cost price of the articles <u>or services,</u> as	19.6
17	defined in this chapter, which are subject to tax, or the	19.7
18	invoice does not reflect the true or actual cost price as	19.8
19	defined herein, then the department shall ascertain, in any	19.9
20	manner feasible, the true cost price, and assess and collect	19.10
21	the tax thereon with interest plus penalties, if such have	
22	accrued on the true cost price as assessed by it. The	19.12
23	assessment so made shall be considered prima facie correct,	19.13
24	and the duty shall be on the dealer to show to the contrary.	19.15
25	(9) Taxes imposed by this chapter upon the privilege	19.15
26	of the use, consumption, storage for consumption, or sale of	19.17
27	tangible personal property, admissions, license fees, rentals,	
28	and communication services, <u>and upon the sale or use of</u>	19.19
29	<u>services</u> as herein taxed shall be collected upon the basis of	19.21
30	an addition of the tax imposed by this chapter to the total	
31	price of such admissions, license fees, rentals, communication	19.22

1	<u>or other services</u> , or sale price of such article or articles	19.24
2	that are purchased, sold, or leased at any one time by or to a	19.25
3	customer or buyer; and the dealer, or person charged herein,	
4	is required to pay a privilege tax in the amount of the tax	19.26
5	imposed by this chapter on the total of his gross sales of	19.27
6	tangible personal property, admissions, license fees, rentals,	
7	and communication services <u>or to collect a tax upon the sale</u>	19.28
8	<u>or use of services</u> , and such person or dealer shall add the	19.29
9	tax imposed by this chapter to the price, license fee, rental,	19.30
10	or admissions, and communication <u>or other services</u> and collect	19.32
11	the total sum from the purchaser, admittee, licensee, lessee,	
12	or consumer. Notwithstanding the rate of taxes imposed upon	19.34
13	the privilege of sales, admissions, license fees, rentals, and	19.35
14	communication services, <u>or upon the sale or use of services</u> ,	19.36
15	the following brackets shall be applicable to all transactions	19.37
16	taxable at the rate of 5 percent:	
17	(a) On single sales of less than 10 cents, no tax	19.38
18	shall be added.	
19	(b) On single sales in amounts from 10 cents to 20	19.39
20	cents, both inclusive, 1 cent shall be added for taxes.	19.40
21	(c) On sales in amounts from 21 cents to 40 cents,	19.41
22	both inclusive, 2 cents shall be added for taxes.	
23	(d) On sales in amounts from 41 cents to 60 cents,	19.42
24	both inclusive, 3 cents shall be added for taxes.	19.43
25	(e) On sales in amounts from 61 cents to 80 cents,	19.43
26	both inclusive, 4 cents shall be added for taxes.	19.44
27	(f) On sales in amounts from 81 cents to \$1, both	19.45
28	inclusive, 5 cents shall be added for taxes.	19.46
29	(g) On sales in amounts of more than \$1, 5 percent	19.47
30	shall be charged upon each dollar of price, plus the	19.48
31		

1	appropriate bracket charge upon any fractional part of a	
2	dollar.	19.49
3	Section 18. Section 212.235, Florida Statutes, as	19.50
4	created by chapter 87-6, Laws of Florida, is amended to read:	19.51
5	212.235 State Infrastructure Trust Fund; deposits --	19.53
6	(1) Notwithstanding the provisions of ss. 212.20(1)	19.55
7	and 218.61, in fiscal year 1987-1988 an amount equal to 2	19.56
8	percent, and in each fiscal year thereafter an amount equal to	19.57
9	5 percent, of the proceeds remitted pursuant to this part by a	19.58
10	dealer, or the sums sufficient to provide the maximum receipts	19.59
11	specified herein, shall be <u>transferred</u> deposited into the	1-1us
12	State Infrastructure Trust Fund, which is created in the State	1.1os
13	Treasury. "Proceeds" means all funds collected and received	1:qq
14	by the Department of Revenue, including any interest and	19.64
15	penalties. However, any receipts of the trust fund, including	19.65
16	those received pursuant to ss. 201.15(5) and 206.875(3) and	19.67
17	interest earned, in excess of \$200 million in fiscal year	19.68
18	1987-1988, and \$500 million thereafter, shall revert to the	19.71
19	General Revenue Fund.	19.72
20	(2) Subject to an appropriation each year by the	19.73
21	Legislature, moneys in the fund shall only be used for the	19.74
22	purposes of.	19.75
23	(a) Acquiring the right-of-way for and constructing	19.75
24	state highways and bridges;	19.76
25	(b) Constructing public education capital facilities;	19.76
26	(c) Financing state projects for beach restoration or	19.78
27	renourishment or lake or river restoration;	
28	(d) Constructing state correctional facilities;	19.80
29	(e) Constructing other infrastructure projects; or	19.81
30	(f) Issuing revenue bonds to finance state capital	19.83
31	outlay projects authorized by this section. Such bonds shall	20.1

1	be payable solely from legislative appropriations from the	
2	State Infrastructure Trust Fund and shall not be a debt of the	20.3
3	state, and the state shall not be liable thereon. Neither the	20.4
4	taxing power, the credit, nor the revenues of the state shall	
5	be pledged to pay any obligation issued pursuant to this	20.6
6	subsection.	
7	Section 19. Effective August 1, 1987, subsection (5)	20.7
8	of section 201.15, Florida Statutes, as created by chapter 87-	20.11
9	6, Laws of Florida, is amended to read:	
10	201.15 Distribution of taxes collected.--All taxes	20.12
11	collected under the provisions of this chapter shall be	20.14
12	distributed as follows:	
13	(5) Six percent of the total taxes collected under the	20.15
14	provisions of this chapter shall be paid into the State	20.16
15	Treasury to the credit of the State Infrastructure Trust Fund.	1:10s
16	Section 20. Subsection (3) of section 206.875, Florida	20.18
17	Statutes, as created by chapter 87-6, Laws of Florida, is	20.19
18	amended to read:	
19	206.875 Allocation of tax.--	20.20
20	(3) Notwithstanding the provisions of subsections (1)	20.21
21	and (2), the department shall pay over to the State Treasurer	20.22
22	all funds received and collected by it under the provisions of	
23	s. 206.87(1)(b) to be credited to the account of the State	20.23
24	Infrastructure Trust Fund established pursuant to s. 212.235.	20.25
25	Section 21. Subsection (1) of section 215.32, Florida	20.26
26	Statutes, is amended, and paragraph (d) is added to subsection	20.27
27	(2) of said section, to read:	
28	215.32 State funds; segregation.--	20.28
29	(1) All moneys received by the state shall be	20.30
30	deposited in the State Treasury unless specifically provided	20.31
31	otherwise by law and shall be deposited in and accounted for	20.32

1	by the Treasurer and the Department of Banking and Finance	20.33
2	within the following funds, which funds are hereby created and	20.34
3	established:	
4	(a) General Revenue Fund;	20.35
5	(b) Trust funds; and	20.36
6	(c) Working Capital Fund; and	20.37
7	<u>(d) State Infrastructure Fund.</u>	1:lus
8	(2) The source and use of each of these funds shall be	20.39
9	as follows:	
10	<u>(d) The State Infrastructure Fund shall consist of all</u>	1:lus
11	<u>moneys received from proceeds earmarked for this fund pursuant</u>	20.41
12	<u>to ss. 201.15, 206.875, and 212.235. Such moneys shall only</u>	20.42
13	<u>be expended pursuant to legislative appropriations for</u>	
14	<u>infrastructure facilities listed in s. 212.235(2).</u>	20.43
15	Section 22. Section 31 of chapter 87-6, Laws of	20.44
16	Florida, is amended to read:	
17	Section 31. Notwithstanding any other provision of	20.45
18	this act, in the case of written contracts which are signed	20.47
19	prior to May 1, 1987, <u>or offers submitted prior to such date</u>	
20	<u>which are binding on the offeror and are accepted, for</u>	20 48
21	constructing improvements to real property, prime contractors,	20.50
22	as defined in s. 212.0594 (18) , Florida Statutes, responsible	
23	for performing the contract shall not be required to remit any	20 54
24	tax on services levied pursuant to s. 212.059 or s. 212.0594,	
25	Florida Statutes, provided that:	
26	(1) Pursuant to s. 212.0594, Florida Statutes, it is	20.55
27	the responsibility of the prime contractor to remit the tax.	20.57
28	(2) The purchase of the services for which the tax is	20 58
29	not being remitted is necessary to complete the contract and	20.59
30	the tax cannot be legally collected from the final purchaser	
31		

1	and cannot be included in the price charged the final	20.60
2	purchaser under the terms of the contract,†	20.61
3	(3) On the first tax return of the prime contractor in	20.62
4	which tax is not remitted pursuant to this section for a	20.63
5	specific contract, the prime contractor must submit an	
6	application in a manner approved by the Department of Revenue	20.64
7	by rule. A complete application shall include proof of the	20.65
8	written contract, the amount of tax not being remitted, <u>the</u>	20.66
9	<u>anticipated date of completion of the contract, an estimate of</u>	
10	<u>the value of services expected to be performed under the</u>	20.67
11	<u>contract subsequent to June 30, 1989,</u> and a sworn statement,	20.68
12	signed by the applicant or his representative, attesting to	20.69
13	the validity of the application. Subsequent taxes not	20.71
14	remitted pursuant to a specific contract must be identified as	
15	to amount and application authority at the time such taxes are	20.72
16	not paid,† and	
17	(4) The purchase of the service occurs before June 30,	20.73
18	<u>1989</u> 1988 .	1:10s
19	(5) <u>On or before March 1, 1988,</u> the Department of	1:11s
20	<u>Revenue shall provide the Legislature with an estimate of the</u>	20.75
21	<u>value of construction services expected to be performed after</u>	20.76
22	<u>June 30, 1989, on contracts that qualify for the exemption</u>	
23	<u>allowed pursuant to this section.</u>	20.77
24		
25	Any person who fraudulently does not remit taxes pursuant to	20.79
26	this section shall, in addition to being liable for the	20.80
27	payment of any taxes fraudulently not remitted plus a	
28	mandatory penalty of 100 percent of the taxes not remitted, be	20.81
29	guilty of a misdemeanor of the second degree, punishable as	20.82
30	provided in s. 775.082, s. 775.083, or s. 775.084, Florida	20.83
31	Statutes.	

1	Section 23. Section 32 of chapter 87-6, Laws of	20 84
2	Florida, is amended to read:	
3	Section 32. Rule 12A-1.091(6) of the Department of	21.2
4	Revenue is hereby repealed. However, the department is hereby	21.3
5	authorized to provide by rule for self-accrual of the sales	
6	tax under one or more of the following circumstances.	21.5
7	(1) Where authorized by law for purchasers of	21.5
8	services;	21.6
9	(2) Where authorized by law for holders of direct pay	21.6
10	permits;	
11	(3) Where tangible personal property is subject to tax	21.8
12	on a prorated basis, and the proration factor is based upon	
13	characteristics of the purchaser;	21.10
14	(4) Where <u>the taxable status of</u> types of tangible	21.10
15	personal property whose taxable status will be known only upon	21.12
16	use because the purchaser, by virtue of the normal	1:10s
17	characteristics of his trade or business; regularly consumes	21.15
18	the type of property as a supply as well as sells it for	21.16
19	resale; and	
20	(5) For commercial rentals where the purchaser rents	21.18
21	from a number of independent property owners who, apart from	
22	rentals to the purchaser in question, would otherwise not be	21.20
23	obligated to register as dealers.	
24	Section 24. Section 33 of chapter 87-6, Laws of	21.21
25	Florida, is amended to read.	
26	Section 33 The Legislature hereby finds that the	21.23
27	failure to promptly implement the provisions of this act would	
28	present an immediate threat to the welfare of the state	21.24
29	because revenues needed for operation of the state would not	21.25
30	be collected Therefore, the executive director of the	21.26
31	Department of Revenue is hereby authorized to adopt emergency	21.27

1 rules pursuant to s. 120.54(9), Florida Statutes, for purposes
2 of implementing this act. Notwithstanding any other provision 21.29
3 of law, such emergency rules shall remain effective for 6
4 months from the date of adoption. Other rules required by the 1:lus
5 Department of Revenue for the orderly implementation of
6 chapter 87-6, Laws of Florida, and this act shall not be 21.32
7 subject to a s. 120.54(4), Florida Statutes, rule challenge or 21.33
8 a s. 120.54(17), Florida Statutes, drawout proceeding, but,
9 once adopted, shall be subject to a s. 120.56, Florida 21.34
10 Statutes, invalidity challenge. Such rules shall be adopted 21.35
11 by the Governor and Cabinet and shall become effective upon
12 filing with the Department of State, notwithstanding the 21.36
13 provisions of s. 120.54(13), Florida Statutes.

14 Section 25. Section 36 of chapter 87-6, Laws of 21.37
15 Florida, is amended to read:

16 Section 36. Any penalties provided for pursuant to s. 21.39
17 212.12(2), Florida Statutes, shall be waived by the executive
18 director of the Department of Revenue for returns due for the 21.40
19 tax on services newly imposed by this act. If the executive 21.41
20 director determines that the interest owed pursuant to s. 21.42
21 212.12(3) ~~214-23~~, Florida Statutes, will cause an undue 21.44
22 hardship on the taxpayer, he may also waive the interest
23 payment. The waiver for penalties and interest shall apply 21.45
24 with respect to returns for taxes due and payable for the 21.46
25 period between July 1, 1987, and September 30, 1987. 21.47

26 Section 26. Section 37 of chapter 87-6, Laws of 21.47
27 Florida, is amended to read: 21.48

28 Section 37. When a service that is taxable beginning 21.50
29 July 1, 1987, is provided prior to that date, it shall not be
30 taxed, notwithstanding that compensation for the service is 21.51
31 paid or payable on or after that date. When a service that is 21.52

1	taxable beginning July 1, 1987, is provided on or after that	
2	date, the service shall be taxed unless it was prepaid in full	21.53
3	prior to April 1, 1987. When a service that is taxable	21.54
4	beginning on July 1, 1987, is provided over a period of time	
5	beginning prior to that date and ending after that date, the	21.55
6	service shall be taxed only upon that portion of the service	21.56
7	provided on or after July 1, 1987. <u>For purposes of this</u>	1:lus
8	<u>section, a service shall be deemed prepaid in full if payment</u>	
9	<u>for the service is pursuant to a finance agreement and such</u>	21.58
10	<u>agreement was sold by the service provider to a third party</u>	21.59
11	<u>prior to April 1, 1987.</u>	
12	Section 27. Section 38 of chapter 87-6, Laws of	21.60
13	Florida, is amended to read:	21.61
14	Section 38. Except for the purposes of s. 212-0593,	21.62
15	Florida Statutes; Nothing contained in this act shall be	1:lus
16	construed to require disclosure of privileged information, the	
17	confidentiality of which is protected under the Florida	21.64
18	Evidence Code require an attorney or a certified public	21.66
19	accountant licensed pursuant to chapter 473, Florida Statutes,	
20	to reveal the identity of any client for any reason.	21.68
21	Section 28. <u>Transition taxes.--</u>	21.69
22	<u>(1) There is hereby levied a tax on every person</u>	21.70
23	<u>selling special fuel in this state at the rate of 5 cents per</u>	
24	<u>gallon on special fuel upon which the tax imposed pursuant to</u>	21.72
25	<u>s. 206.87(1)(a), Florida Statutes, has been paid, which is</u>	
26	<u>held in inventory on July 1, 1987, and upon which the tax</u>	21.74
27	<u>imposed pursuant to s. 206.87(1)(b), Florida Statutes, has not</u>	
28	<u>been paid.</u>	21.75
29	<u>(2) "Special fuel" is defined as provided in s.</u>	1 lus
30	<u>206.86(1), Florida Statutes.</u>	21.77
31		

1	<u>(3) The tax levied under this section shall be due and</u>	1:1us
2	<u>payable on July 1, 1987, and shall be remitted to the</u>	21:79
3	<u>Department of Revenue on or before August 20, 1987, on forms</u>	
4	<u>prescribed by the department.</u>	21:80
5	<u>(4) If any person fails to make a report or pay the</u>	1:1us
6	<u>taxes due as required by this section, the department shall</u>	21:82
7	<u>add a penalty in the amount of 5 percent of any unpaid tax if</u>	
8	<u>the failure is for not more than 1 month, with an additional 5</u>	21:83
9	<u>percent of any unpaid tax for each additional month or</u>	21:84
10	<u>fraction thereof during which the failure continues. However,</u>	22:1
11	<u>such penalty may not exceed 100 percent in the aggregate of</u>	
12	<u>any unpaid tax. Furthermore, in no event may the penalty</u>	22:2
13	<u>assessed be less than \$5. The department shall collect the</u>	22:3
14	<u>tax, together with the penalty and costs, in the same manner</u>	
15	<u>as other delinquent taxes are collected. In addition,</u>	22:5
16	<u>interest at the rate of 1 percent per month shall be paid on</u>	22:6
17	<u>the delinquent tax.</u>	
18	<u>(5) The Department of Revenue may promulgate rules and</u>	1:1us
19	<u>conduct audits necessary for the implementation of this</u>	22:8
20	<u>section, and shall provide reasonable notice of the provisions</u>	
21	<u>of this section.</u>	22:9
22	<u>(6) Moneys collected pursuant to this section shall be</u>	1:1us
23	<u>distributed to the State Infrastructure Fund established</u>	22:11
24	<u>pursuant to s. 212.235, Florida Statutes.</u>	
25	Section 29. Paragraph (b) of subsection (1) of section	22:12
26	120.575, Florida Statutes, as created by chapter 87-6, Laws of	22:13
27	Florida, is amended to read:	
28	120.575 Taxpayer contest proceedings.--	22:14
29	(1)	22:14
30	(b) In any such administrative proceeding brought	22:15
31	pursuant to s. 120.57(1) as authorized in s. 72.011(1) to	

1	contest the legality of any assessment of tax imposed for the	22.16
2	sale or use of services as provided in chapter 212, or	22.17
3	interest thereon, or penalty therefor, the following	
4	procedures shall apply, any provisions of this chapter to the	22.18
5	contrary notwithstanding:	
6	1 The petition shall be filed with the division,	22.19
7	which shall forward a copy to the department immediately upon	
8	receipt of the petition.	22.20
9	2. The <u>hearing officer or</u> panel provided in s.	22.22
10	120.65(5) shall conduct all proceedings under this paragraph.	22.23
11	3. Within 10 days after receiving the petition, the	22.25
12	<u>hearing officer or</u> panel shall accept or deny the petition	
13	and, if accepted, shall conduct a hearing thereon, unless the	22.30
14	petition is withdrawn.	
15	4 Within 30 days after the hearing or receipt of the	22.32
16	hearing transcript, whichever is later, the <u>hearing officer or</u>	22.33
17	panel shall issue <u>an</u> its order, which shall consist of	22.35
18	findings of fact, conclusions of law, interpretation of	
19	administrative rules, and any other information required by	22.37
20	law or rule to be contained in the final order. Such order	22.38
21	shall affirm or deny the assessment, interest, or penalty, and	
22	shall determine the amount of any assessment, interest, or	22.39
23	penalty.	
24	5. The order of the <u>hearing officer or</u> panel shall be	22.42
25	final agency action.	
26	Section 30. Subsection (5) of section 120.65, Florida	22.43
27	Statutes, as created by chapter 87-6, Laws of Florida, is	22.44
28	amended to read:	
29	120.65 Hearing officers.--	22.44
30	(5) The director shall appoint, from among the full-	22.45
31	time hearing officers of the division, a panel consisting of	22.46

1	<u>one to three members to be the hearing officer in all</u>	
2	proceedings brought as provided in s. 120.575(1)(b). <u>The</u>	1:1us
3	<u>director shall have the discretion to determine the size of</u>	
4	<u>the panel based upon the complexity and precedential</u>	22.52
5	<u>importance of the issues involved, and the amount of potential</u>	
6	<u>revenues in dispute.</u> Such appointments shall be made with due	22.54
7	regard to the expertise required for determination of such	22.55
8	proceedings. Service as a member of such panel shall be at	22.57
9	the pleasure of the director, and such service may be in	22.58
10	addition to other duties of employment by the division.	
11	Section 31. Section 47 of chapter 87-6, Laws of	22.59
12	Florida, is amended to read:	
13	Section 47. The Department of Revenue is directed to	22.61
14	undertake a study of service transactions for the purpose of	22.62
15	identifying those transactions not taxable pursuant to the	
16	definition of service in s. 212.02, Florida Statutes. On or	22.64
17	before March 1, <u>1989</u> 1988 , the department shall report to the	
18	Governor and the Legislature all service transactions so	22.66
19	identified.	
20	Section 32. Section 48 of chapter 87-6, Laws of	22.67
21	Florida, is amended to read:	
22	Section 48. No later than January 1, 1988, the	22.67
23	Department of Revenue shall develop and implement a tax	22.69
24	amnesty program for taxpayers subject to the tax laws	
25	enumerated in s. 72.011(1), Florida Statutes, except those	22.70
26	taxes governed by <u>ss. s- 199.032, and-s- 212.0505, 212.059-</u>	1:1us
27	<u>212.0595, and 212.0598,</u> Florida Statutes. The tax amnesty	22.74
28	program shall be a one-time opportunity for eligible taxpayers	
29	to satisfy their tax liabilities under the revenue laws of	22.75
30	this state and thereby avoid criminal prosecution and any	
31	penalties imposed under such laws. Eligible taxpayers shall	22.77

1	have no more than a 6-month period during which to file	
2	returns or amended returns and to make full payment of the	22.78
3	amount of tax and interest due. An eligible taxpayer may	22.79
4	participate in the amnesty program whether or not the taxpayer	
5	is under audit or investigation; notwithstanding the fact that	22.80
6	the amount due is included in a proposed assessment or an	22.81
7	assessment, bill, notice, or demand for payment issued by the	
8	department; and without regard to whether the amount due is	22.82
9	subject to a pending administrative or judicial proceeding.	22.83
10	However, participation in the program shall be conditioned	22.84
11	upon the taxpayer's agreement that the right to protest or	23.1
12	initiate an administrative or judicial proceeding or to claim	
13	any refund of moneys paid under this amnesty program is barred	23.2
14	with respect to the amounts paid except as provided in this	23.3
15	section. No refund may be made of any penalty paid prior to	23.4
16	the date the amnesty program is implemented, and any refund or	23.5
17	credit of amounts paid as a result of participation in the	
18	amnesty program shall be strictly limited to amounts	23.6
19	determined by the department to have been paid in error. A	23.7
20	taxpayer who is under a criminal investigation, indictment,	
21	information, or prosecution is not eligible to participate in	23.8
22	the amnesty program. The department may prescribe such terms,	23.9
23	conditions, and methods of payment as it deems necessary for	23.10
24	fair and effective administration of the amnesty program, and	23.11
25	may establish procedures and guidelines and adopt forms and	
26	rules to implement the program. With or without an audit, the	23.13
27	department may issue a notice or demand for payment with	
28	respect to any tax or interest which it determines to be due	23.14
29	with any return filed under the tax amnesty program; such	23.15
30	notice and demand for payment shall be prima facie correct in	
31	any administrative, judicial, or quasi-judicial proceeding.	23.16

1	Section 33. Paragraph (a) of subsection (3) of section	23.17
2	95.091, Florida Statutes, as created by chapter 87-6, Laws of	23.18
3	Florida, is amended to read:	
4	95.091 Limitation on actions to collect taxes.--	23.19
5	(3)(a) With the exception of taxes levied under	23.20
6	chapter 198 and tax adjustments made pursuant to s. 220 23,	23.22
7	the Department of Revenue may determine and assess the amount	
8	of any tax, penalty, or interest due under any tax enumerated	23.23
9	in s. 72.011:	
10	1. Within 5 years after the date the tax is due, any	23.24
11	return with respect to the tax is due, or such return is	23.25
12	filed, whichever occurs later;	
13	2. Within 6 years after the date a taxpayer either	23.26
14	makes a substantial underpayment of tax or files a	23.27
15	substantially incorrect return;	
16	3. At any time while the right to a refund or credit	23.28
17	of the tax is available to the taxpayer;	23.29
18	4. At any time after the taxpayer has <u>fraudulently</u>	23.30
19	failed to make any payment of the tax, has <u>fraudulently</u> failed	1:lus
20	to file a required return, or has filed a grossly false or	
21	fraudulent return; or	23.34
22	5. In any case in which there has been an erroneous	23.35
23	refund of tax, within 5 years after making such refund, or at	23.36
24	any time after making such refund if it appears that any part	
25	of the refund was induced by fraud or the <u>intentional</u>	23.37
26	misrepresentation of a material fact	23.38
27	Section 34. Section 54 of chapter 87-6, Laws of	23.39
28	Florida, is amended to read:	23.40
29	Section 54. Subsections (3) and (4) of section 211.33,	23.41
30	Florida Statutes, 1986 Supplement, are amended; and effective	23.42
31		

1	July 17, 1980, subsection (2) of said section is amended, to	23.43
2	read:	23.44
3	211.33 Administration of the tax; returns, delinquency	23.45
4	penalties and interest; departmental inspections of records.--	23.46
5	(3)(a) Every producer shall keep and preserve suitable	23.48
6	records of production of solid minerals and such other books	23.49
7	and documents as may be necessary to ensure compliance, <u>for a</u>	1:10s
8	period of 3 years from April 1 of the year following the	
9	taxable year or 3 years from the date of filing the annual	23.52
10	return for the taxable year, whichever is later--	23.53
11	(b)-- All such records, books, and documents shall be	1:10s
12	made available to the department or any of its duly authorized	23.54
13	agents for inspection, examination, or audit during business	23.55
14	hours, upon written request.	
15	(4)(a) The department is authorized to audit or	23.56
16	inspect the books, records, documents, and returns of	
17	producers and to correct by credit or refund any overpayment	23.57
18	of tax, or to make assessment of any deficiency revealed, <u>for</u>	23.58
19	the same 3-year period for which producers are required to	23.59
20	keep and preserve records.	23.60
21	(b)-- No audit shall be made after the expiration of 3	1:10s
22	years from the due date for filing the annual return or the	23.61
23	date of filing, whichever is later, except when a producer has	23.62
24	been contacted by written notice of intent to conduct an audit	
25	in the future, delivered either personally by an agent of the	23.63
26	department or by certified letter from the department directed	23.64
27	to the last known address of the producer, before 3 years from	23.65
28	the due date for filing the annual return or the date of	
29	filing, whichever is later,--in this event, the date of	23.67
30	personal contact or the date of the certified letter shall	
31	govern the period subject to audit.	23.68

1	(b)(c) The department shall inform the producer by	23.69
2	written notice of the amount of any overpayment or deficiency	23.70
3	determined by an audit, including the basis for determining	23.71
4	any tax, penalty, interest, or period subject to credit or	
5	refund.	23.72
6	(c)(d) In the event of a deficiency, the department	1:l:us
7	shall make an assessment of the tax, penalty, and interest	23.74
8	determined to be due. Full payment of the total amount	23.75
9	assessed shall be made by the producer to the place and within	
10	the time specified in the written notice of the deficiency.	23.76
11	Section 35. Section 58 of chapter 87-6, Laws of	23.77
12	Florida, is amended to read:	
13	Section 58. Effective July 17, 1988, Subsection (6) of	23.78
14	section 212.14, Florida Statutes, as amended by chapter 85-	23.79
15	342, Laws of Florida, and section 214.09, Florida Statutes, as	23.80
16	amended by chapter 85-342, Laws of Florida, are hereby	
17	repealed.	23.81
18	Section 36. Section 60 of chapter 87-6, Laws of	23.81
19	Florida, is amended to read:	23.82
20	Section 60. Effective July 17, 1988, Section 214.04,	23.82
21	Florida Statutes, is amended to read:	23.83
22	214.04 Limitation on assessment.--No deficiency shall	23.83
23	be assessed with respect to a taxable year for which a return	23.84
24	was filed unless a notice of deficiency for such year was	24.1
25	issued not later than the date prescribed in s. <u>95.091(3)</u>	
26	214.09.	1:l:os
27	Section 37. <u>Sections 50, 61, 62, 63, 64, 65, 66, 67,</u>	24.3
28	<u>68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82,</u>	24.4
29	<u>83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97,</u>	24.5
30	<u>98, 101, 102, 103, 104, 105, 106 and 108 of chapter 87-6, Laws</u>	
31	<u>of Florida, are hereby repealed.</u>	24.7

1	Section 38. <u>There is hereby appropriated from the</u>	24.8
2	<u>General Revenue Fund the sum of \$364,757 to the Division of</u>	24.9
3	<u>Administrative Hearings of the Department of Administration,</u>	
4	<u>for purposes of implementing the provisions of chapter 87-6,</u>	24.10
5	<u>Laws of Florida, and this act.</u>	
6	Section 39. (1) <u>Short title.--Sections 39 through 49</u>	24.11
7	<u>may be cited as the "Fairness in Retail Sales Taxation Act."</u>	24.15
8	(2) <u>This section shall take effect October 1, 1987.</u>	24.16
9	Section 40. <u>Findings and intent.--</u>	24.17
10	<u>(1) The Legislature of the State of Florida finds:</u>	1:lus
11	<u>(a) Millions of dollars of retail sales are made each</u>	24.21
12	<u>year involving the transport of property from outside this</u>	
13	<u>state to purchasers in this state.</u>	24.24
14	<u>(b) Sales and use taxes to this state are not being</u>	1:lus
15	<u>paid on many, if any, of these sales</u>	24.26
16	<u>(c) There is a substantial loss of revenue to this</u>	1:lus
17	<u>state as a result of failure or refusal to collect and remit</u>	24.28
18	<u>to the treasury of this state sales and use taxes on these</u>	
19	<u>sales.</u>	24.29
20	<u>(d) Such failure or refusal is detrimental to the</u>	1:lus
21	<u>residents of and visitors to this state in two respects:</u>	24.31
22	<u>First, the resulting loss of revenue increases the difficulty</u>	
23	<u>of carrying on essential state activities and maintaining and</u>	24.32
24	<u>fostering a high quality of life for residents and visitors;</u>	24.33
25	<u>and, second, retailers who, in compliance with laws of this</u>	
26	<u>state, collect and remit taxes on retail sales suffer from the</u>	24.34
27	<u>unfair competition of those who do not do so, which is harmful</u>	24.35
28	<u>to the business and economic climate of the state.</u>	
29	<u>(e) Retailers who take advantage of the prosperity,</u>	1:lus
30	<u>market, laws, citizens and economy of this state by making</u>	24.37
31	<u>retail sales to purchasers in this state are morally obligated</u>	24.38

1	<u>to assume their fair share of the burden of maintaining this</u>	24.39
2	<u>state's prosperity and quality of life by collecting and</u>	
3	<u>remitting taxes on sales to such purchasers.</u>	24.40
4	<u>(2) It is, therefore, the intent of this act to:</u>	1:1us
5	<u>(a) Assure that those who make retail sales involving</u>	1:1us
6	<u>the transport of property from outside this state to</u>	24.44
7	<u>purchasers in this state bear their fair share of this burden.</u>	
8	<u>(b) Protect from unfair competition retailers who</u>	1:1us
9	<u>comply with the laws of this state by collecting and remitting</u>	24.46
10	<u>tax on retail sales.</u>	
11	<u>(c) Assure that the treasury of this state receives</u>	1:1us
12	<u>revenue needed to carry on essential state activities and to</u>	24.48
13	<u>maintain and foster a high quality of life for its residents</u>	
14	<u>and visitors.</u>	24.49
15	<u>(3) This section shall take effect October 1, 1987.</u>	1:1us
16	Section 41. Effective October 1, 1987, section	24.51
17	212.0596, Florida Statutes, is created to read:	24.52
18	<u>212.0596 Taxation of mail order sales.--</u>	1:1us
19	<u>(1) For purposes of this part, a "mail order sale" is</u>	1:1us
20	<u>a sale of tangible personal property, ordered by mail or other</u>	24.55
21	<u>means as described in paragraph (2)(e), to a purchaser who is</u>	24.56
22	<u>in this state at the time the order is remitted, from a dealer</u>	24.57
23	<u>who receives the order in another state of the United States,</u>	
24	<u>or in a commonwealth, territory, or other area under the</u>	24.59
25	<u>jurisdiction of the United States, and transports the property</u>	24.60
26	<u>or causes the property to be transported, whether or not by</u>	
27	<u>mail, from any jurisdiction of the United States, including</u>	24.62
28	<u>this state, to a person in this state, including the person</u>	
29	<u>who ordered the property. For purposes of this definition, it</u>	24.63
30	<u>will be presumed that every person resident in this state who</u>	24.64
31		

1	<u>remits an order shall have been in this state at the time the</u>	
2	<u>order was remitted.</u>	24.65
3	<u>(2) Every dealer as defined in s. 212 06(2)(c) who</u>	24.67
4	<u>makes a mail order sale is subject to the power of this state</u>	24.68
5	<u>to levy and collect the tax imposed by this part, when</u>	
6	<u>(a) The dealer is a corporation doing business under</u>	1:lus
7	<u>the laws of this state or a person domiciled in, a resident</u>	24.71
8	<u>of, or a citizen of, this state;</u>	
9	<u>(b) The dealer maintains retail establishments or</u>	1:lus
10	<u>offices in this state, whether the mail order sales thus</u>	24.73
11	<u>subject to taxation by this state result from or are related</u>	
12	<u>in any other way to the activities of such establishments or</u>	24.74
13	<u>offices;</u>	
14	<u>(c) The dealer has agents in this state who solicit</u>	1:lus
15	<u>business or transact business on behalf of the dealer, whether</u>	24.76
16	<u>the mail order sales thus subject to taxation by this state</u>	
17	<u>result from or are related in any other way to such</u>	24.77
18	<u>solicitation or transaction of business.</u>	24.78
19	<u>(d) The property was delivered in this state in</u>	1:lus
20	<u>fulfillment of a sales contract that was entered into in this</u>	24.80
21	<u>state, in accordance with applicable conflict of laws rules,</u>	
22	<u>when a person in this state accepted an offer by ordering the</u>	24.81
23	<u>property;</u>	
24	<u>(e) The dealer, by purposefully or systematically</u>	1:lus
25	<u>exploiting the market provided by this state by any media-</u>	24.83
26	<u>assisted, media-facilitated, or media-solicited means,</u>	
27	<u>including but not limited to direct mail advertising,</u>	25.1
28	<u>unsolicited distribution of catalogues, computer-assisted</u>	
29	<u>shopping, television, radio or other electronic media, or</u>	25.2
30	<u>magazine or newspaper advertisements or other media, creates</u>	25.4
31	<u>nexus with this state.</u>	

1	<u>(f) Through compact or reciprocity with another</u>	25.5
2	<u>jurisdiction of the United States, that jurisdiction uses its</u>	25.6
3	<u>taxing power and its jurisdiction over the retailer in support</u>	
4	<u>of this state's taxing power; or</u>	25.7
5	<u>(g) The dealer consents, expressly or by implication,</u>	1:lus
6	<u>to the imposition of the tax imposed by this part.</u>	25.9
7	<u>(3) Every dealer engaged in the business of making</u>	1:lus
8	<u>mail order sales is subject to the requirements of this part</u>	25.11
9	<u>for cooperation of dealers in collection of taxes and in</u>	
10	<u>administration of this part, except that no fee shall be</u>	25.12
11	<u>imposed upon such dealer for carrying out any required</u>	25.13
12	<u>activity.</u>	
13	<u>(4) The department shall, with the consent of another</u>	1:lus
14	<u>jurisdiction of the United States whose cooperation is needed,</u>	25.15
15	<u>enforce this part in that jurisdiction, either directly or, at</u>	
16	<u>the option of that jurisdiction, through its officers or</u>	25.16
17	<u>employees.</u>	
18	<u>(5) The tax required under this section to be</u>	1:lus
19	<u>collected and any amount unreturned to a purchaser that is not</u>	25.18
20	<u>tax but was collected from the purchaser under the</u>	
21	<u>representation that it was tax constitute funds of the State</u>	25.20
22	<u>of Florida from the moment of collection.</u>	
23	Section 42. Effective October 1, 1987, paragraph (c)	25.22
24	of subsection (2) and paragraph (a) of subsection (5) of	
25	section 212.06, Florida Statutes, 1986 Supplement, as amended	25.24
26	by chapter 86-166, Laws of Florida, are amended to read:	25.25
27	212.06 Sales, storage, use tax; collectible from	25.26
28	dealers; "dealer" defined; dealers to collect from purchasers;	25.28
29	legislative intent as to scope of tax.--	25.29
30	(2)	25.29
31		

1	(c) The term "dealer" is further defined to mean every	25 31
2	person, as used in this chapter, who sells at retail, or who	
3	offers for sale at retail, or who has in his possession for	25.32
4	sale at retail, or for use, consumption, or distribution, or	25.33
5	for storage to be used or consumed in this state tangible	25.34
6	personal property as defined <u>herein, including a retailer who</u>	
7	<u>transacts a mail order sale.</u>	25.35
8	(5)(a) <u>1. Except as provided in subparagraph 2., it</u>	25.37
9	is not the intention of this chapter to levy a tax upon	25.38
10	tangible personal property imported, produced, or manufactured	25.39
11	in this state for export, provided that tangible personal	25.40
12	property may not be considered as being imported, produced, or	25.41
13	manufactured for export unless the importer, producer, or	25.42
14	manufacturer delivers the same to a licensed exporter for	
15	exporting or to a common carrier for shipment outside the	25.43
16	state or mails the same by United States mail to a destination	25.44
17	outside the state, or, in the case of aircraft being exported	25.45
18	under their own power to a destination outside the continental	25.46
19	limits of the United States, by submission to the department	
20	of a duly signed and validated United States customs	25.48
21	declaration, showing the departure of the aircraft from the	25.49
22	continental United States; and further with respect to	25.50
23	aircraft, the canceled United States registry of said	25.51
24	aircraft; or in the case of parts and equipment installed on	
25	aircraft of foreign registry, by submission to the department	25.52
26	of documentation, the extent of which shall be provided by	25.53
27	rule, showing the departure of the aircraft from the	
28	continental United States; nor is it the intention of this	25.54
29	chapter to levy a tax on any sale which the state is	25.55
30	prohibited from taxing under the Constitution or laws of the	25.56
31	United States. Every retail sale made to a person physically	25 57

1	present at the time of sale shall be presumed to have been	25.58
2	delivered in this state.	
3	<u>2.a. Notwithstanding subparagraph 1., a tax is levied</u>	1:lus
4	<u>on each sale of tangible personal property to be transported</u>	25.61
5	<u>to a cooperating state as defined in sub-subparagraph c., at</u>	
6	<u>the rate specified in sub-subparagraph d. However, a Florida</u>	25.63
7	<u>dealer will be relieved from the requirements of collecting</u>	25.65
8	<u>taxes pursuant to this subparagraph if the Florida dealer</u>	
9	<u>obtains from the purchaser an affidavit setting forth the</u>	25.66
10	<u>purchaser's name, address, state taxpayer identification</u>	25.67
11	<u>number, and a statement that the purchaser is aware of his</u>	
12	<u>state's use tax laws, is a registered dealer in Florida or</u>	25.68
13	<u>another state, or is purchasing the tangible personal property</u>	
14	<u>for resale or is otherwise not required to pay the tax on the</u>	25.69
15	<u>transaction. The department may, by rule, provide a form to</u>	25.70
16	<u>be used for the purposes set forth herein.</u>	
17	<u>b. For purposes of this subparagraph, "a cooperating</u>	1:lus
18	<u>state" is one determined by the executive director of the</u>	25.72
19	<u>department to cooperate satisfactorily with this state in</u>	
20	<u>collecting taxes on mail order sales. No state shall be so</u>	25 75
21	<u>determined unless it meets all the following minimum</u>	25.76
22	<u>requirements:</u>	25.77
23	<u>(I) It levies and collects taxes on mail order sales</u>	1:lus
24	<u>of property transported from that state to persons in this</u>	25.79
25	<u>state, as described in s. 212.0596, upon request of the</u>	
26	<u>department.</u>	25.80
27	<u>(II) The tax so collected shall be at the rate</u>	1 lus
28	<u>specified in s. 212.05, not including any local option or</u>	25.82
29	<u>tourist or convention development taxes collected pursuant to</u>	
30	<u>s. 125.0104 or this part.</u>	25.83
31		

1	<u>(III) Such state agrees to remit to the department all</u>	25.84
2	<u>taxes so collected no later than 30 days from the last day of</u>	26.2
3	<u>the calendar quarter following their collection.</u>	
4	<u>(IV) Such state authorizes the department to audit</u>	26.3
5	<u>dealers within its jurisdiction who make mail order sales that</u>	26.4
6	<u>are the subject of s. 212.0596, or makes arrangements deemed</u>	
7	<u>adequate by the department for auditing them with its own</u>	26.5
8	<u>personnel.</u>	
9	<u>(V) Such state makes arrangements deemed adequate by</u>	1:lus
10	<u>the department for inspections, upon request of the</u>	26.8
11	<u>department, of that state's records relating to such mail</u>	
12	<u>order sales and for auditing its performance in collecting</u>	26.9
13	<u>such taxes.</u>	
14	<u>(VI) Such state agrees to provide to the department</u>	1:lus
15	<u>records obtained by it from retailers or dealers in such state</u>	26.11
16	<u>showing delivery of tangible personal property into this state</u>	
17	<u>upon which no sales or use tax has been paid in a manner</u>	26.12
18	<u>similar to that provided in sub-subparagraph g.</u>	26.13
19	<u>c. For purposes of this subparagraph, "sales of</u>	26.15
20	<u>tangible personal property to be transported to a cooperating</u>	26.17
21	<u>state" means mail order sales to a person who is in the</u>	26.18
22	<u>cooperating state at the time the order is executed, from a</u>	
23	<u>dealer who receives that order in this state.</u>	26.20
24	<u>d. The tax levied by sub-subparagraph a. shall be at</u>	1:lus
25	<u>the rate at which such a sale would have been taxed pursuant</u>	26.23
26	<u>to the cooperating state's tax laws if consummated in the</u>	
27	<u>cooperating state by a dealer and a purchaser, both of whom</u>	26.25
28	<u>were physically present in that state at the time of the sale.</u>	
29	<u>e. The tax levied by sub-subparagraph a., when</u>	26.26
30	<u>collected, shall be held in the State Treasury in trust for</u>	26.27
31	<u>the benefit of the cooperating state, and shall be paid to it</u>	

1	<u>at a time agreed upon between the department, acting for this</u>	26.28
2	<u>state, and the cooperating state or the department or agency</u>	
3	<u>designated by it to act for it; however, such payment shall,</u>	26.29
4	<u>in no event, be made later than 30 days from the last day of</u>	26.30
5	<u>the calendar quarter after the tax was collected. Funds held</u>	26.31
6	<u>in trust for the benefit of a cooperating state shall not be</u>	
7	<u>subject to the service charge imposed by s. 215.20.</u>	26.32
8	<u>f. The department is authorized to perform such acts</u>	1:1us
9	<u>and to provide such cooperation to a cooperating state with</u>	26.34
10	<u>reference to the tax levied by sub-subparagraph a. as is</u>	
11	<u>required of the cooperating state by sub-subparagraph b.</u>	26.35
12	<u>g. In furtherance of this act, dealers selling</u>	1:1us
13	<u>tangible personal property for delivery in another state shall</u>	26.37
14	<u>make available to the department, upon request of the</u>	
15	<u>department, records of all tangible personal property so sold.</u>	26.38
16	<u>Such records shall include a description of the property, the</u>	26.40
17	<u>name and address of the purchaser, the name and address of the</u>	
18	<u>person to whom the property was sent, the purchase price of</u>	26.41
19	<u>the property, information regarding whether sales tax was paid</u>	26.42
20	<u>in this state on the purchase price, and such other</u>	
21	<u>information as the department may by rule prescribe.</u>	26.43
22	Section 43. Effective October 1, 1987, subsection (1)	26.43
23	of section 212.20, Florida Statutes, is amended, and	26.45
24	subsection (4) is added to said section, to read:	26.46
25	212.20 Funds collected, disposition; additional powers	26.47
26	of department; operational <u>expense; refund of taxes</u>	26.48
27	<u>adjudicated unconstitutionally collected.--</u>	26.49
28	(1) The department shall pay over to the Treasurer of	26.50
29	the state all funds received and collected by it under the	
30	provisions of this chapter, to be credited to the account of	26.51
31	the General Revenue Fund of the state, <u>except that funds</u>	26.52

1	<u>collected under s. 212.06(5)(a)2. shall be held in trust in</u>	26.53
2	<u>the State Treasury, as provided therein.</u>	
3	<u>(4) When there has been a final adjudication that any</u>	1:1us
4	<u>tax pursuant to s. 212.0596 was levied, collected, or both,</u>	26.56
5	<u>contrary to the Constitution of the United States or the State</u>	
6	<u>Constitution, the department shall, in accordance with rules,</u>	26.57
7	<u>determine, based upon claims for refund and other evidence and</u>	26.58
8	<u>information, who paid such tax or taxes, and refund to each</u>	26.59
9	<u>such person the amount of tax paid. For purposes of this</u>	
10	<u>subsection, a "final adjudication" is a decision of a court of</u>	26.60
11	<u>competent jurisdiction from which no appeal can be taken or</u>	26.61
12	<u>from which the official or officials of this state with</u>	
13	<u>authority to make such decisions has or have decided not to</u>	26.62
14	<u>appeal.</u>	
15	Section 44. Effective October 1, 1987, paragraph (e)	26.63
16	is added to subsection (3) of section 212.02, Florida	26.65
17	Statutes, 1986 Supplement, to read:	
18	212.02 Definitions.--The following terms and phrases	26.66
19	when used in this chapter have the meanings ascribed to them	26.67
20	in this section, except where the context clearly indicates a	26.68
21	different meaning:	
22	(3)	26.69
23	<u>(e) The term "retail sale" includes a mail order sale,</u>	1:1us
24	<u>as defined in s. 212.0596(1).</u>	26.70
25	Section 45. Effective October 1, 1987, the	26.70
26	introductory paragraph of section 212.05, Florida Statutes,	26.72
27	1986 Supplement, is amended to read:	
28	212.05 Sales, storage, use tax.--It is hereby declared	26.73
29	to be the legislative intent that every person is exercising a	26.76
30	taxable privilege who engages in the business of selling	
31	tangible personal property at retail in this state, <u>including</u>	26.77

1	<u>the business of making mail order sales</u> , or who rents or	26.78
2	furnishes any of the things or services taxable under this	26.79
3	chapter, or who stores for use or consumption in this state	26.80
4	any item or article of tangible personal property as defined	26.81
5	herein and who leases or rents such property within the state.	
6	Section 46. (1) Effective October 1, 1987, subsection	26.82
7	(1) and paragraph (a) of subsection (5) of section 212.12,	26.84
8	Florida Statutes, 1986 Supplement, are amended to read:	27.2
9	212.12 Dealer's credit for collecting tax; penalties	27.3
10	for noncompliance; powers of Department of Revenue in dealing	27.4
11	with delinquents; brackets applicable to taxable transactions;	27.5
12	records required.--	
13	(1) For the purpose of compensating persons granting	27.7
14	licenses for and the lessors of real and personal property	27.8
15	taxed hereunder, for the purpose of compensating dealers in	27.9
16	tangible personal property, for the purpose of compensating	
17	dealers providing communication services and taxable services,	27.10
18	and for the purpose of compensating owners of places where	27.11
19	admissions are collected, as compensation for the keeping of	
20	prescribed records and the proper accounting and remitting of	27.12
21	taxes by them, such seller, person, lessor, dealer, and owner	27.13
22	<u>(except dealers who make mail order sales)</u> shall be allowed 3	27.14
23	percent of the amount of the tax due and accounted for and	27.16
24	remitted to the department, in the form of a deduction in	27.17
25	submitting his report and paying the amount due by him; and	
26	the department shall allow such deduction of 3 percent of the	27.18
27	amount of the tax to the person paying the same for remitting	27.21
28	the tax in the manner herein provided, for paying the amount	27.22
29	due to be paid by him, and as further compensation to dealers	
30	in tangible personal property for the keeping of prescribed	27.24
31	records and for collection of taxes and remitting the same.	27.25

1	However, if the amount of the tax due and remitted to the	27.26
2	department for the reporting period exceeds \$1,000, the 3-	27.27
3	percent allowance shall be reduced to 1 percent for all	
4	amounts in excess of \$1,000. <u>The executive director of the</u>	1:1us
5	<u>department is authorized to negotiate a collection allowance,</u>	
6	<u>pursuant to rules promulgated by the department, with a dealer</u>	27.30
7	<u>who makes mail order sales. The rules of the department shall</u>	27.31
8	<u>provide guidelines for establishing the collection allowance</u>	
9	<u>based upon the dealer's estimated costs of collecting the tax,</u>	27.32
10	<u>the volume and value of the dealer's mail order sales to</u>	27.33
11	<u>purchasers in this state, and the administrative and legal</u>	
12	<u>costs and likelihood of achieving collection of the tax absent</u>	27.34
13	<u>the cooperation of the dealer. However, in no event shall the</u>	27.35
14	<u>collection allowance negotiated by the executive director</u>	
15	<u>exceed 10 percent of the tax remitted for a reporting period.</u>	27.36
16	(a) The collection allowance may not be granted, nor	27.37
17	may any deduction be permitted, if the tax is delinquent at	27.38
18	the time of payment.	
19	(b) The Department of Revenue may reduce the	27.38
20	collection allowance by 10 percent or \$50, whichever is less,	27.39
21	if a taxpayer files an incomplete return.	
22	1. An "incomplete return" is, for purposes of this	27.40
23	chapter, a return which is lacking such uniformity,	27.41
24	completeness, and arrangement that the physical handling,	
25	verification, or review of the return may not be readily	27.42
26	accomplished.	
27	2. The department shall adopt rules requiring such	27.43
28	information as it may deem necessary to ensure that the tax	27.44
29	levied hereunder is properly collected, reviewed, compiled,	
30	and enforced, including, but not limited to: the amount of	27.46
31	gross sales; the amount of taxable sales; the amount of tax	

1	collected or due; the amount of lawful refunds, deductions, or	27.47
2	credits claimed; the amount claimed as the dealer's collection	27.48
3	allowance; the amount of penalty and interest; the amount due	
4	with the return, and such other information as the Department	27.49
5	of Revenue may specify.	
6	(5)(a) The department is authorized to audit or	27.50
7	inspect the records and accounts of dealers defined herein,	27.51
8	<u>including audits or inspections of dealers who make mail order</u>	
9	<u>sales to the extent permitted by another state, and correct by</u>	27.53
10	credit any overpayment of tax; and, in the event of a	27.54
11	deficiency, an assessment shall be made and collected. No	27.55
12	administrative finding of fact is necessary prior to the	27.56
13	assessment of any tax deficiency.	27.57
14	<u>(2) It is the intent of the Legislature that the</u>	1:lus
15	<u>amendment of s. 212.12, Florida Statutes, by this section is</u>	27.59
16	<u>supplemental to other amendments to said section that may be</u>	
17	<u>enacted at the 1987 Regular Session of the Legislature, unless</u>	27.60
18	<u>a contrary intent is indicated in such other amendments.</u>	27.61
19	Section 47. Effective October 1, 1987, subsection (1)	27.62
20	of section 212.15, Florida Statutes, is amended to read:	27.63
21	212.15 Taxes declared state funds; penalties for	27.64
22	failure to remit taxes; due and delinquent dates; judicial	27.65
23	review.--	
24	(1) The taxes imposed by this chapter <u>shall, except as</u>	27.66
25	<u>provided in s. 212.06(5)(a)2.e.,</u> become state funds at the	27.67
26	moment of collection and shall for each month be due to the	27.69
27	department on the first day of the succeeding month and	27.70
28	delinquent on the 21st day of such month. All returns	27.71
29	postmarked after the 20th day of such month are delinquent.	
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1	Section 48. Effective October 1, 1987, subsection (3)	27.72
2	of section 212.18, Florida Statutes, 1986 Supplement, is	27.73
3	amended to read:	27.74
4	212.18 Administration of law; rules and regulations.--	27.75
5	(3) Every person desiring to engage in or conduct	27.76
6	business in this state as a dealer, as defined in this	27.77
7	chapter, or to lease, rent, or let or grant licenses in living	
8	quarters or sleeping or housekeeping accommodations in hotels,	27.78
9	apartment houses, roominghouses, tourist or trailer camps, or	27.79
10	real property, as defined in this chapter, and every person	27.80
11	who sells or receives anything of value by way of admissions,	27.81
12	shall file with the department an application for a	27.82
13	certificate of registration for each place of business,	27.83
14	showing the names of the persons who have interests in such	
15	business and their residences, the address of the business,	28.1
16	and such other data as the department may reasonably require.	28.2
17	The application shall be made to the department before the	28.4
18	person, firm, copartnership, or corporation may engage in such	
19	business; and it shall be accompanied by a registration fee of	28.5
20	\$5. <u>However, no registration fee is required to accompany an</u>	1:1us
21	<u>application to engage in or conduct business to make mail</u>	28.7
22	<u>order sales.</u> The department, upon receipt of such	28.9
23	application, will grant to the applicant a separate	
24	certificate of registration for each place of business, which	28.10
25	certificate may be canceled by the department or its	28.11
26	designated assistants for any failure by the certificateholder	28.12
27	to comply with any of the provisions of this chapter. The	28.15
28	certificate shall not be assignable and shall be valid only	28.16
29	for the person, firm, copartnership, or corporation to which	
30	issued; and such certificate shall be placed in a conspicuous	28.17
31	place in the business or businesses for which it is issued and	28.18

1	shall be so displayed at all times. No person shall engage in	28.20
2	business as a dealer or in leasing, renting, or letting of or	
3	granting licenses in living quarters or sleeping or	28.21
4	housekeeping accommodations in hotels, apartment houses,	28.22
5	roominghouses, tourist or trailer camps, or real property as	
6	hereinbefore defined, nor shall any person sell or receive	28.25
7	anything of value by way of admissions, without first having	28.26
8	obtained such a certificate or after such certificate has been	
9	canceled; and no person shall receive any license from any	28.27
10	authority within the state to engage in any such business	28.30
11	without first having obtained such a certificate or after such	28.31
12	certificate has been canceled. The engaging in the business	28.33
13	of selling or leasing tangible personal property or as a	
14	dealer, as defined in this chapter, or the engaging in	28.34
15	leasing, renting, or letting of or granting licenses in living	28.35
16	quarters or sleeping or housekeeping accommodations in hotels,	28.36
17	apartment houses, roominghouses, tourist or trailer camps, or	28.37
18	real property as hereinbefore defined, or the engaging in the	28.38
19	business of selling or receiving anything of value by way of	28.39
20	admissions, without such certificate first being obtained or	28.40
21	after such certificate has been canceled by the department is	28.41
22	prohibited. The failure or refusal of any person, firm,	28.43
23	copartnership, or corporation to so qualify when required	28.44
24	hereunder is a misdemeanor of the second degree, punishable as	28.45
25	provided in s. 775.082, s. 775.083, or s. 775.084, or subject	28.46
26	to injunctive proceedings as provided by law.	
27	Section 49. <u>There is hereby appropriated to the</u>	28.47
28	<u>Department of Revenue from the General Revenue Fund the sum of</u>	28.49
29	<u>\$75,000 in order to retain legal consultants to assist in any</u>	
30	<u>litigation arising as a result of the Fairness in Retail Sales</u>	28.50
31	<u>Taxation Act.</u>	

1	Section 50. <u>Severability.--If any provision of this</u>	28.51
2	<u>act or the application thereof to any person or circumstance</u>	28.52
3	<u>is held invalid, the validity shall not affect other</u>	
4	<u>provisions or applications of the act which can be given</u>	28.53
5	<u>effect without the invalid provision or application, and to</u>	28.54
6	<u>this end the provisions of this act are declared severable.</u>	
7	Section 51. Except as otherwise provided herein, this	28.55
8	act shall take effect July 1, 1987.	28.56
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1	*****	1:hbs
2	HOUSE SUMMARY	1:hbs
3	Revises various provisions of chapter 87-6, Laws of Florida, relating to the sales and use tax on services.	28.59
4	Revises provisions relating to computation, collection, and remittance of the tax and registration of dealers as service providers. Requires multistate purchasers that self-accrue the tax to file an annual supplementary tax return.	28.60
5	Revises provisions relating to apportionment of interstate or international transportation services.	28.62
6	Requires applicants for specified environment-related permits to attest that applicable use taxes have been paid.	28.63
7	Revises rules of construction relating to inclusion of a proportion of the sales or cost price under certain circumstances, transactions involving both taxable and exempt services, and determining where the benefit of a service is enjoyed.	28.64
8	Provides legislative intent regarding exemptions from the tax.	28.65
9	Revises exemptions and conditions applicable thereto and provides additional exemptions.	28.66
10	Revises provisions relating to administration of the exemption for services sold in this state for use outside this state, to revise provisions relating to exempt purchase permits and revise the time period for maintenance of dealers' monthly logs and a penalty applicable thereto.	28.67
11	Specifies inapplicability of certain refund provisions.	28.68
12	Revises special provisions applicable to the tax on construction services.	28.70
13	Revises special provisions applicable to the tax on advertising.	28.71
14	Provides special resale rules for construction support services and advertising agency support services.	28.72
15	Specifies conditions under which certain air carriers may elect to be subject to the tax on services and tangible personal property.	28.74
16	Provides basis of the tax applicable to such air carriers.	28.75
17	Specifies application of such tax to air carriers who do not so elect.	28.76
18	Revises definitions applicable to chapter 212, F.S.	28.77
19	Revises an exemption from the tax on rental, lease, or granting a license for use of real property for certain property leased to persons providing food and drink concessionaire services.	28.79
20	Exempts admissions to certain athletic or other events sponsored by schools and other institutions or by governmental entities and certain admissions paid by students to places of sport or recreation.	28.80
21	Provides an exception. Specifies application of a definition of "telecommunication service."	28.82
22	Specifies application of the tax on sales, use and other transactions to sale of newspapers and magazines.	28.83
23	Provides an additional medical exemption from said tax.	29.1
24	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.2
25	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.3
26	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.4
27	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.7
28	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.8
29	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.9
30	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.11
31	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.13
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.14
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.15
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.17
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.18
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.20
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.21
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.22
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.24
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.26
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.27
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.29
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.31
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.33
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.34
	Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce	29.36

1	taxes or fees reported on the same documents utilized for	29.37
	sales and use tax. Renames the State Infrastructure	29.39
2	Trust Fund as the State Infrastructure Fund and	29.41
	establishes the State Infrastructure Fund within the	
3	State Treasury. Revises an exemption from the tax on	29.42
	services for certain improvements to real property.	29.43
4	Revises provisions relating to certain conditions	29.45
	applicable to self-accrual Specifies administrative	29.46
5	provisions applicable to department rules implementing	
	said chapter and this act. Amends provisions relating to	29.48
6	waiver of penalties and interest with respect to the tax	29.49
	on services for a specified period. Revises provisions	29.50
7	relating to application of the tax to certain prepaid	
	services Revises provisions relating to construction of	29.51
8	said chapter with respect to certain client	29.52
9	confidentiality	
	Impo es a tax on persons selling certain special fuel	29.54
10	held in inventory on July 1, 1987, on which the	29.55
	additional tax on such fuel levied under chapter 87-6,	
11	Laws of Florida, has not been paid. Provides penalties.	29.57
	Provides for rules and notice. Provides for distribution	29.60
12	of the proceeds. Revises provisions relating to	29.62
	appointment of a panel to be hearing officer in certain	
13	administrative taxpayer contest proceedings Revises a	29.64
	date for a department study of taxable services. Revises	29.66
14	provisions relating to application of a tax amnesty	
	program. Revises provisions which establish limitations	29.68
15	on actions to collect certain taxes. Removes an	29.69
	amendment relating to delinquency penalties and penalties	29.70
16	for substantial underpayment of tax on severance of solid	
	minerals. Revises the effective date of the repeal of	29.72
17	provisions relating to limitations on assessment of sales	29.73
	tax and on notices of deficiency of designated	
18	nonproperty taxes. Repeals portions of chapter 87-6,	29.75
	Laws of Florida, which provide increased penalties for	29.76
19	certain tax crimes Provides an appropriation to the	29.77
	Division of Administrative Hearings.	29.78
20		
	Creates the Fairness in Retail Sales Taxation Act.	29.80
21	Provides findings and intent. Provides application of	29.82
	tax on sales, use and other transactions to mail order	29.84
22	sales. Specifies conditions under which dealers making	30.1
	such sales are subject to said tax. Provides duties of	30.2
23	such dealers. Provides for enforcement in other	30.3
	jurisdictions. Includes such persons within the	30.4
24	definition of "dealer." Provides for levy of tax on	30.6
	sales of tangible personal property to be transported to	
25	a cooperating state. Specifies requirements applicable	30.8
	to cooperating states. Provides for payment of taxes	30.9
26	collected to cooperating states. Provides duties of	30.11
	dealers selling tangible personal property for delivery	
27	in another state. Provides for refund of certain taxes	30.13
	adjudicated unconstitutionally levied or collected.	30.14
28	Includes mail order sales as a taxable privilege.	30.15
	Excludes dealers making mail order sales from the	30.16
29	dealer's credit. Authorizes the executive director of	30.18
	the Department of Revenue to negotiate a collection	
30	allowance with such dealers. Provides for audits and	30.19
	inspections. Excludes the business of making mail order	30.20
31		

1	sales from registration fees. Provides an appropriation	30.22
2	to the Department of Revenue.	
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CHAPTER 87-101

Committee Substitute for House Bill No. 1506

An act relating to taxation; amending s. 212.059, F.S., relating to the sales and use tax on services; revising provisions relating to computation, collection, and remittance of the tax and registration of dealers as service providers; requiring multistate purchasers that self-accrue the tax to file an annual supplementary tax return; revising provisions relating to apportionment of interstate or international transportation services; requiring applicants for specified permits to attest that applicable use taxes have been paid; amending s. 212.0591, F.S.; revising rules of construction relating to inclusion of a proportion of the sales or cost price under certain circumstances, transactions involving both taxable and exempt services, and determining where the benefit of a service is enjoyed; providing legislative intent regarding exemptions from the tax; amending s. 212.0592, F.S.; revising exemptions and conditions applicable thereto and providing additional exemptions; amending s. 212.0593, F.S., relating to administration of the exemption for services sold in this state for use outside this state; revising provisions relating to exempt purchase permits; revising time period for maintenance of dealers' monthly logs and a penalty applicable thereto; specifying inapplicability of certain refund provisions; repealing section 5 of chapter 87-6, Laws of Florida, and creating s. 212.0594, F.S.; revising special provisions applicable to the tax on construction services; amending s. 212.0595, F.S.; revising special provisions applicable to the tax on advertising; creating s. 212.0598, F.S.; specifying conditions under which certain air carriers may elect to be subject to the tax on services and tangible personal property; providing basis of the tax applicable to such air carriers; specifying application of such tax to air carriers who do not so elect; amending s. 212.02, F.S.; revising definitions applicable to chapter 212, F.S.; amending s. 212.031, F.S.; revising an exemption from the tax on rental, lease, or granting a license for use of real property for certain property leased to persons providing food and drink concessionaire services; amending s. 212.04, F.S.; exempting admissions, dues, and membership fees to certain athletic or other events sponsored by schools and other institutions or by governmental entities and certain admissions paid by students to places of sport or recreation; providing an exception; amending s. 212.05, F.S.; specifying application of a definition of "telecommunication service"; specifying application of the tax on sales, use and other transactions to sale of newspapers and magazines; amending s. 212.08, F.S.; providing a retroactive exemption from said tax for certain beverages; revising the exemptions for sales to political subdivisions and religious, scientific and educational institutions, film rentals, organizations providing special benefits to minors, and vehicles engaged in interstate or foreign commerce; amending s. 212.095, F.S.; removing a prohibition against dealers assisting in preparation of tax refund claims; amending s. 212.11, F.S.; revising provisions which authorize quarterly returns for certain dealers remitting the tax solely for the provision of services; amending section 17 of chapter 87-6, Laws of

Florida; revising the effective date of an amendment relating to application of the dealer's credit to persons who remit taxes or fees reported on the same documents utilized for sales and use tax; amending s. 212.235, F.S., relating to the State Infrastructure Trust Fund; amending section 31 of chapter 87-6, Laws of Florida, revising an exemption from the tax on services for certain improvements to real property; requiring the Department of Revenue to report to the Legislature; amending section 32 of chapter 87-6, Laws of Florida, relating to certain conditions applicable to self-accrual; amending section 33 of chapter 87-6, Laws of Florida; specifying administrative provisions applicable to department rules implementing said chapter and this act; amending section 36 of chapter 87-6, Laws of Florida, relating to waiver of penalties and interest with respect to the tax on services for a specified period; amending section 37 of chapter 87-6, Laws of Florida; revising provisions relating to application of the tax to certain prepaid services; amending section 38 of chapter 87-6, Laws of Florida; revising provisions relating to construction of said chapter with respect to certain client confidentiality; amending ss. 120.575 and 120.65, F.S.; revising provisions relating to appointment of a panel to be hearing officer in certain administrative taxpayer contest proceedings; amending section 47 of chapter 87-6, Laws of Florida; revising a date for a department study of taxable services; amending section 48 of chapter 87-6, Laws of Florida; revising provisions relating to application of a tax amnesty program; providing an appropriation to the Division of Administrative Hearings; amending ss. 95.091, 198.18, 211.33, 214.50, 214.51, 212.08, 125.0104, 198.37, 198.39, 199.282, 201.17, 201.20, 203.01, 203.03, 203.63, 206.18, 206.44, 206.877, 206.9931, 207.007, 211.076, 211.25, 212.0305, 212.05, 212.07, 212.085, 212.10, 212.12, 212.13, 212.14, 212.15, 212.18, 214.40, and 214.60, F.S.; reducing certain penalties; repealing sections 100, 101, 102, and 106 of chapter 87-6, Laws of Florida, relating to priority of tax warrants, seizure of property for collection of taxes, sale of seized property, and freezing of assets and obligations, respectively; amending s. 213.73, F.S.; deleting an inapplicable notice provision; amending s. 213.74, F.S.; correcting cross-references; providing for applicability of certain penalties; providing for severability; repealing section 9 of chapter 86-166, Laws of Florida, which created a commission to review exemptions from the sales tax; providing effective dates.

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

Section 1. Subsections (3), (4) and (5) of section 212.059, Florida Statutes, as created by chapter 87-6, Laws of Florida, are amended, and subsection (6) is added to said section, to read:

212.059 Sales and use tax on services.--It is hereby declared to be the legislative intent to levy an excise tax on the sale of services in this state as hereinafter provided. It is further declared to be the legislative intent to levy a complementary excise tax on the use of services in this state as hereinafter provided.

(3)(a) The sales and use tax on services imposed by this section shall be collected by the dealer as defined in this part and remitted

by him to the state at the time and in the manner as provided in this part.

(b) If the seller-of-the-service-is-a-multistate-business-and-the sale of a service is outside this state, any applicable use tax shall be remitted by the purchaser of the service, if the purchaser of the service has nexus for tax purposes with this state. However, this paragraph shall not apply to interstate or international transportation services. Neither does this paragraph apply if the seller has tax nexus in this state and the service sold either directly relates to real property in this state, directly relates to tangible personal property in this state other than vehicles or vessels in interstate or foreign commerce, or is represented by tangible personal property forwarded to a person in this state.

(4)(a) The sales and use tax on services imposed by this section shall be computed ~~due and payable~~ according to the brackets set forth in s. 212.12 on the sales price or cost price of the service at the time of the sale, and shall be due and payable as provided under s. 212.11, ~~at the time of the sale or use of the service~~ unless the dealer elects to remit the tax pursuant to paragraph (b).

(b) A dealer may ~~register with the department as a service provider~~ and elect to ascertain the amount of ~~remitted~~ tax payable under this section on the basis of cash receipts for all taxable transactions under this section. ~~on a service at the time consideration is paid for such service and on the amount of consideration paid. If such election is made, it shall be applicable to all transactions of such dealer taxed under this section.~~ Such election shall be made and may be changed by the dealer pursuant to procedures established by rule of the department. The department shall provide by rule for the issuance and periodic renewal every 5 years of registrations for dealers registered as service providers. Only those persons primarily engaged in the business of selling services shall be eligible for such registration.

(c) However, if a transaction involves both the sale or use of services and the sale or use of tangible personal property, and the tangible personal property is not an inconsequential element of the transaction, the sales and use tax on services shall be computed and remitted as provided in paragraph (a), and paragraph (b) shall not be ~~applicable due and payable at the time of the sale or use regardless of the time consideration is paid for such services.~~

(d) Each multistate purchaser that self-accrues the taxes due on its purchases of services shall file an annual supplementary tax return summarizing its purchases and sales of services for its prior fiscal year. The return shall include a final calculation of taxes allocated or apportioned under s. 212.0591(9), and such other information as the department may prescribe by rule. The return shall be filed on or before the deadline for filing Florida or federal income tax returns, recognizing any extensions of time granted thereto.

(5) Notwithstanding other provisions of this section to the contrary.

(a) Interstate and international transportation services shall be considered sold or used in this state to the extent that the sales price or cost price of the service is apportioned to this state pursuant to paragraph (b).

(b) The sales price of the sale of interstate or international transportation services, or the cost price of the use of interstate or international transportation services, shall be apportioned to the

state as provided in this paragraph. There shall be included in the measure of the tax imposed by this part on the sale or use of interstate or international transportation services one-half that proportion of the sales price or cost price of the Florida service provider if the point of origin of the transportation service is in Florida, and one-half of said price if the point of termination is in Florida which is equal to the proportion of mileage within Florida to the total United States mileage of the Florida service provider for the service transaction in question. For purposes of this paragraph:

1. "Florida service provider" means the person providing transportation services in Florida regardless of the commercial domicile of such person; and

2. "Point of origin" and "point of termination" mean the physical locations at which the Florida service provider begins or ends movement of the property which is being transported, respectively.

(6) No license as defined in s. 120.52(8) and required pursuant to state law or license or permit required by a municipal or county ordinance shall be issued until the applicant attests, on a form promulgated by the department, that all applicable use taxes have been paid or will be paid in a timely manner on the purchase of services outside of this state that are used in this state in furtherance of securing such license or permit. Completed forms shall be returned to the department by the permitting body on a monthly basis. The department may, by rule, exempt from the provisions of this subsection classes of licenses, including professional licenses, which are not likely to involve the use of services outside of this state in furtherance of securing such license.

Section 2. Subsections (2), (7) and (9) of section 212.0591, Florida Statutes, as created by chapter 87-6, Laws of Florida, are amended, and subsection (10) is added to said section, to read:

212.0591 Rules of construction.--For purposes of the sales and use tax on services, the following rules of construction shall apply:

(2) If the entire sales price of the sale of a service or if the entire cost price of the use of a service cannot be included within the measure of the tax imposed by this part under the Constitution or laws of the United States, there shall be ~~apportioned to the state and~~ included in the measure of the tax imposed by this part on the sale of services that proportion of the sales price ~~which the cost of performing the services within the state bears to the total cost of performing the services,~~ or on the use of services that proportion of the cost price, that may lawfully be included under the laws and Constitution of the United States fairly reflects the benefit of the services enjoyed within the state.

(7) If a transaction involves both the sale or use of a service taxable under this part and the sale or use of a service exempt under this part, the consideration paid shall be separately identified and stated with respect to the taxable and exempt portions of the transaction as a condition of the exemption. However, this subsection shall not apply to sales that are exempt pursuant to s. 212.0592(1).

(9) For purposes of determining ~~where a service is used or consumed and~~ where the benefit of the service is enjoyed, the following provisions shall be applicable:

(a) If the purchaser is an individual not acting as a business, and:

1. If the service directly relates to real property, the benefit of the service shall be presumed to be enjoyed ~~in-the-state~~ where the real property is located; or

2. If subparagraph 1. is not applicable, the benefit of the service shall be presumed to be enjoyed where the purchaser receives tangible personal property representing the service; or

~~3.2-~~ If subparagraphs 1. or 2. are ~~is~~ not applicable, the benefit of the service shall be presumed to be enjoyed ~~in-the-state~~ where the greater proportion of the service is performed, based on costs of performance; or

~~4.3-~~ Notwithstanding subparagraphs 1., and 2., and 3., if the purchaser can demonstrate to the satisfaction of the department that the benefit of the service was enjoyed outside of this state in-a state, the service shall be deemed used or consumed outside of this state in-that-state.

(b) If the purchaser is a business, and:

1. If the service directly relates to real property, the benefit of the service shall be presumed to be enjoyed ~~in-the-state~~ where the real property is located; or

2. If the service directly relates to tangible personal property, the benefit of the service shall be presumed to be enjoyed ~~in--the state~~ where the property has acquired a business situs if the property has acquired such situs; or

3. If the service directly involves sales to a service purchaser's local market, the benefit of the service shall be presumed to be enjoyed in--the--state where the purchaser's local market exists, or

4. If subparagraphs 1., 2., and 3. are not applicable, and the purchaser of the service is doing business in this state and outside of this state in--one--or--more--other--states, the service shall be presumed to be enjoyed in this state to the extent that the purchaser is doing business in this state. For purposes of determining the extent of the purchaser's business in this state, the apportionment formulas set forth in part IV of chapter 214, as modified by s. 220.15(4), shall be utilized. In the case if--the--purchaser--is--a member of an affiliated group, the affiliated group, as defined in s. 212.02, shall be considered the purchaser for purposes of this subsection subparagraph; or

5. If the provisions of subparagraphs 1., 2., 3., and 4. are not applicable, the benefit of the service shall be presumed to be enjoyed ~~in--the--state~~ where the purchaser is exclusively doing business; or

6. Notwithstanding subparagraphs 1., 2., 3., 4. and 5., if the purchaser can demonstrate to the satisfaction of the department that the benefit of the service was enjoyed outside of this state in-a state, the service shall be deemed used or consumed outside of this state in-that-state.

(c) Notwithstanding paragraphs (a) and (b), interstate and international transportation services shall be presumed to be enjoyed in this state to the extent that the sales price or cost price of such services is apportioned to this state pursuant to s. 212.059(5).

(d) Notwithstanding paragraphs (a) and (b), advertising shall be presumed to be enjoyed in this state to the extent that the sales price or cost price of such services is apportioned to this state pursuant to s. 212.0595.

(e) Notwithstanding paragraphs (a) and (b), the benefit of a service provided to the estate of a decedent shall be presumed to be enjoyed where the decedent last established residency.

(10) It is the intent of the Legislature to exempt from the tax on services only those services for which exemptions are expressly provided. Therefore, if any exemption is declared facially unconstitutional by a court of competent jurisdiction, it is the intent of the Legislature that the exemption be deemed inoperative as to all persons and not expanded to encompass services or persons not expressly exempted from the tax.

Section 3. Subsections (1), (4), (5), and (6), paragraph (a) of subsection (7), and subsections (11), (16), (17), (18), (21), (22), (23), (26), (27), (31), (35), and (36) of section 212.0592, Florida Statutes, as created by chapter 87-6, Laws of Florida, are amended, and subsections (42), (43), (44), (45), (46), (47), (48), (49), (50) and (51) are added to said section, to read.

212.0592 Exemptions from sales or use tax on services.--There shall be exempt from the tax on the sale or use of services imposed by ss. 212.059(1) or (2), 212.0594, and 212.0595 the following:

(1)(a) Services sold in this state for use outside of this state.

(b) A service shall be deemed to be purchased for use ~~in the~~ state where the benefit of the service is enjoyed. For purposes of determining where the benefit of the service is enjoyed, s. 212.0591(9) shall apply.

(c) In order to qualify for this exemption, the provisions of s. 212.0593 shall be met

(4) Services that partners who are natural persons render to their partnerships, unless the partner renders his services to the partnership in the capacity of an independent contractor, and services that partners who are professional corporations render exclusively to the partnership.

(5) Services between members of an affiliated group of corporations, as defined in s. 212.02. However, this exemption shall not apply only to the sale or use of any service between any such members who are not included in the affiliated group for purposes of this part. If the exemption provided in this subsection is not applicable, the sales price or cost price of the service between each unincorporated member and any other member shall be based upon the fair market value of the service. The sale or use of services between divisions that may be separate taxpayers within the same corporation shall be exempt. Nothing herein shall be construed to require the filing of a consolidated return under chapter 220 in order to qualify for the exemption granted by this subsection.

(6) Agricultural services enumerated in SIC Major Group 07. However, this exemption shall not apply to landscape and horticultural services (Group Number 078), or to animal specialty services (Industry Number 0752), unless the services relate to agricultural products as defined in s. 618.01(1) ~~er-to-landscape-and horticultural services (Group Number 078).~~

(7)(a) Transportation and warehousing services enumerated in SIC Major Groups ~~407-427~~, 44, 45, and 47 for agricultural commodities that have retained their original identity, phosphate rock as defined in s. 211.30(9), potash as described in SIC Industry Number 1474, sulfur as described in SIC Industry Number 1477, nitrogenous fertilizers as enumerated in SIC Industry Number 2873, and phosphatic fertilizers as enumerated in SIC Industry Number 2874. For purposes of this paragraph, an agricultural commodity retains its original identity unless it is processed, packaged in cans, or frozen. However, produce which is processed but neither canned nor frozen shall be considered an agricultural commodity that has retained its original identity.

(11)(a) Services of a financial nature, of a type customarily performed by a financial institution.

(b) However, unless the service is provided to a nonresident entity or nonresident person as defined in Rule 3C-15.003, Florida Administrative Code, this exemption shall not apply to: charges for use of safety deposit boxes; charges for use of night deposit services; charges for issuing cashier's checks; charges for issuing traveler's checks; charges for issuing money orders; charges for preparation of individual tax returns; charges for copies of documents; stop payment charges; return check charges, unless due to insufficient funds; charges for service as personal representative of estates of decedents; credit information and reporting services; overdraft charges; fees for the collection of coupons, drafts, checks, foreign exchange items, and similar over-the-counter collection items; ~~collection fees~~; hold mail fees; guardianship fees; credit and charge card membership fees; cash vault fees; charges for financial planning; charges for public accounting services of a type not customarily performed in connection with a customer account; or data processing services not otherwise exempt, except check processing and check clearing services.

(c) The tax imposed under s. 212.059 shall not apply to the following services ~~a service~~ by a financial institution:

1. Any service for which the charge ~~for--which~~ is waived or imputed; or

2. Investment advisory services.

(d) For purposes of this subsection, the term "financial institution" means a financial institution as defined in s. 655.005; any subsidiary thereof; any holding company, other than a diversified savings and loan holding company as defined in s. 408 of the National Housing Act, which controls a financial institution; ~~and~~ any subsidiary of such holding company; any Federal Reserve Bank; and any Federal Home Loan Bank.

(16) Maintenance assessments or fees paid by an association member to a homeowners association, ~~residential~~ condominium owners association, ~~residential~~ property owners association, ~~residential~~ mobile homeowners association, or ~~residential~~ cooperative association.

(17) Membership dues or membership fees paid to membership organizations enumerated in SIC Major Group 86, and to arts, historical, and science organizations, provided such organizations are not-for-profit corporations under chapter 617 or a comparable law of another state or are exempt organizations under the Internal Revenue Code, and membership dues or other fees paid to regulatory athletic associations.

(18) Qualified production services performed by any person for a person principally engaged in the business of producing qualified motion pictures or for a person who owns or leases property used primarily for the production of qualified motion pictures. For purposes of this subsection:

(a) "Qualified production services" means any activity or service performed directly in connection with the production of qualified motion pictures, and includes:

1. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation and management), hair and make-up (design, production, and application), acting performing (such as acting, dancing and playing), designing and executing stunts, coaching, consulting, writing, scoring, and composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

2. The design, planning, engineering, construction, alteration, repair and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in subparagraph 1.; and

3. Property management services directly related to property used in connection with the services described in subparagraphs 1. and 2.

(b) "Qualified motion picture" means all or any part of a series of related images, either on film, tape or other embodiment, including, but not limited to, all items comprising part of the original work and film-related products derived therefrom as well as duplicates and prints thereof and all sound recordings created to accompany a motion picture, which is produced, adapted or altered for exploitation in, on or through any medium or device and at any location, primarily for entertainment, industrial or educational purposes.

(21) Water and air transportation services described herein. Water transportation services described in SIC Group Numbers 441 and 442, towing or tugboat services described in SIC Industry Number 4454, marine cargo handling services described in SIC Industry Number 4463, piloting services, ship cleaning, steamship leasing, marine surveyors, and ship repair and maintenance services for vessels used in interstate or international commerce; storage of cargo at port facilities, transportation services enumerated in SIC Industry Numbers 4712 and 4723 regardless of the mode of transportation employed, lighterage services, described in SIC Industry Number 4453, and services related to processing and accessorizing of motor vehicles as defined in s. 320.01 automobiles that are imported through Florida ports and international air transportation services described in SIC Major Group Number 45. International air transportation shall have the same meaning as used in the Federal Aviation Act. The exemption provided by this subsection also applies to services provided in connection with cargo in international trade by any licensed customhouse broker; any customs bonded warehouse, container freight and examination station, or cartman; or freight consolidator or deconsolidator.

(22) Sanitary services enumerated in SIC Group Number 495, garbage, refuse and debris transportation services enumerated in SIC

Industry Number 4212, and septic tank cleaning services enumerated in SIC Industry Number 7699, if such services are sold to residential households or owners of residential models, water supply services enumerated in SIC Group Number 494 and irrigation systems services enumerated in SIC Group Number 497. However, "tipping fees" and other charges for the right to dispose of garbage, refuse and debris shall not be exempt pursuant to this subsection.

(23) Security and commodity brokerage services enumerated in SIC Major Group 62 ~~involving the transfer of securities or commodities.~~ However, this exemption shall not be construed to exempt any financial service taxable under subsection (11) or any accounting or investment advisory services provided by an investment advisor as defined in s. 517.021 (12)(a).

(26) Real estate commissions when the property seller affirmatively demonstrates to the realtor responsible for collecting the tax that at the time of signing the initial listing contract on the real estate offered for sale the property seller resided thereon and was assessed as entitled to the homestead property exemption pursuant to s. 196.031.

(27)(a) Legal services rendered by an attorney to a client to the extent that the right to counsel guaranteed pursuant to either the Sixth Amendment to the United States Constitution or Article I, Section 16 of the Florida Constitution is applicable to such legal services. However, this exemption shall only be applicable if the criminal charges brought in the case are dismissed or the client is ultimately adjudicated not guilty by a court of competent jurisdiction. This exemption shall only be granted pursuant to a refund of taxes previously paid on such services. The provisions of s. 212.095 shall not apply to the refund authorized in this paragraph.

(b) Legal services, provided to a natural person, which relate to child support, ~~child custody, adoption, divorce, guardianship, juvenile cases, landlord/tenant relations, mobile home rentals,~~ enforcement of civil rights or bankruptcy proceedings recovery of past or future medical expenses. However, ~~this exemption shall be limited to \$500 in services per person per calendar year.~~

(31) Religious services provided by religious organizations, religious institutions, or religious leaders. Also included in this exemption shall be the sale of services by any nonprofit religious organization described in SIC Industry Number 866, when provided in carrying out its customary nonprofit religious activity.

(35) Data processing services performed for a financial institution by a service corporation of that a financial institution described in SIC Major Group 62, provided:

(a) The service corporation is organized pursuant to s. 545.74, Rules of the Federal Home Loan Bank Board;

(b) All capital stock of the service corporation may be purchased by only savings and loan associations and savings banks having operations in this state;

(c) No savings and loan association or savings bank owns, or may own, more than 10 percent of such service corporation's outstanding capital stock;

(d) Every eligible savings and loan association or savings bank shall may own an equal amount of capital stock or shall may, on such uniform basis as the service corporation shall may determine, own an

amount of such stock equal to a stated percentage of its assets or savings capital at the time the stock is purchased, or an amount of such stock equal to its pro-rata share of accounts serviced.

(e) As used in this subsection, "financial institution" means any savings and loan association or savings bank organized under the laws of this state, or of another state, or of the United States.

(36) Personal laundry services sold to residents of nursing home facilities, adult congregate living facilities, and hospices licensed under ~~part I of~~ chapter 400.

(42) News services enumerated in SIC Group Number 735.

(43) Amusement and recreation services enumerated in SIC Group Numbers 792, 793, 794 and 799, and museums, art galleries, botanical and zoological garden services enumerated in SIC Major Group 84. However, this exemption shall not be construed to exempt admissions charges or membership fees or dues taxable pursuant to other provisions of this part, or to coin-operated amusement devices described in SIC Industry Number 7993.

(44) Services provided and paid for pursuant to court order in a bankruptcy proceeding.

(45) Household utility services sold to residential households or owners of residential models in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, or by liquefied petroleum gas companies, regardless of whether such sales of services are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the services is used for a nonexempt purpose, the entire sale is taxable.

(46) Convention and conference registration fees.

(47) Transportation services by satellite or launch vehicles.

(48) Impact fees and charges related to idle plant capacity for access to sewage utilities and utilities subject to the gross receipts tax imposed pursuant to chapter 203.

(49) Emergency road services, only when the total consideration for the services is \$10.00 or less.

(50) Construction support services purchased by a provider of construction support services in furtherance of a contract for such services. For purposes of this subsection, "construction support services" means architectural, engineering, drafting, surveying, land planning, landscape design, and interior design services, when such services directly relate to the construction, alteration, improvement, or repair of real property. This exemption shall apply only if:

(a) The purchaser of the service buys the service pursuant to a written contract with the seller and such contract identifies the client or customer for whom the purchaser is buying the service;

(b) The purchaser of the service identifies the seller of the service purchased in his charge for the service on its subsequent sale; and

(c) The service will be taxed under this part in a subsequent sale, unless exempt under other provisions of this part.

(51) Newspaper delivery services provided to the publisher or printer of a newspaper.

Section 4. Subsections (1), (3) and (4) of section 212.0593, Florida Statutes, as created by chapter 87-6, Laws of Florida, are amended to read:

212.0593 Administration of s. 212.0592(1).--

(1) Each multistate business having tax nexus in this state under this part shall obtain from the department an exempt purchase permit prior to claiming an exemption under s. 212.0592(1). Such permit shall be used when purchasing any service sold in this state except advertising, regardless of whether the service is used in this state. Upon purchasing a service from a dealer registered under this part, presentation by said multistate business of a valid exempt purchase permit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service. The purchaser shall self-accrue any taxes which may be due on the service and remit them to the department in the manner and under the requirements applicable to dealers under this part, subject to such additional reporting requirements as the department may prescribe.

(3) Each dealer shall maintain a monthly log showing each transaction for which sales tax was not collected because of the presentation of an exempt purchase permit or exempt purchase affidavit under this section. The log shall identify the purchaser, the exempt purchase permit number if applicable, the service sold, the price of the service and such other information as the department may prescribe. The logs and all affidavits accepted by the dealer shall be retained by the dealer for 5 3 years and made available to the department upon request. Failure to maintain these records or to make them available to the department shall subject the dealer to a \$100 mandatory penalty ~~the penalties provided in s. 212.13.~~

(4) If a purchaser fails to obtain an exempt purchase permit or execute an exempt purchase affidavit, but otherwise qualifies for an exemption pursuant to s. 212.0592(1), the purchaser may apply to the department for a refund of taxes paid on the exempt amount of the purchase. The application for refund shall be accompanied by an exempt purchase affidavit and shall be submitted within 1 year of the purchaser's payment of the tax. A refund recommended by the department pursuant to this subsection shall be reduced by the amount of any applicable dealer collection allowance previously allowed on the transaction. The provisions of s. 212.095 shall not apply to refunds granted pursuant to this subsection.

Section 5. Section 5 of chapter 87-6, Laws of Florida, is hereby repealed.

Section 6. Section 212.0594, Florida Statutes, is created to read:

212.0594 Construction services; special provisions.--

(1) For purposes of this section:

(a) "Prime contractor" means:

1. A person who enters into a contract to construct, improve, alter, or repair realty with the person for whose benefit the realty is being constructed, improved, altered, or repaired;

2. A person who enters into a contract to undertake the primary responsibility for supervising the construction, improvement,

alteration or repair of realty with the person for whose benefit the realty is being constructed, improved, altered, or repaired, in which case, all other persons involved in the construction who would otherwise qualify as prime contractors under subparagraph 1. shall be deemed subcontractors;

3. A person who undertakes, on a speculative basis or for his own use, the construction, improvement or alteration of realty; or

4. A person who manufactures factory-built buildings.

(b) "Subcontractor" means a person who enters into a contract to provide construction services to a prime contractor or to another subcontractor.

(c) "Construction services" means any activity directly involving the construction, alteration, improvement or repair of realty.

(d) "Construction support services" means architectural, engineering, drafting, surveying, land planning, landscape design and interior design services when such services directly relate to the construction, alteration, improvement or repair of realty.

(e) "New construction" means factory-built buildings and any construction, alteration, improvement or repair of realty for which the contract price or cost price, including building materials used, exceeds \$5,000.

(f) "Building materials" means tangible personal property physically incorporated into the affected realty.

(g) "Contract price" means the total consideration paid pursuant to a contract for the construction, alteration, improvement or repair of realty, or in the case of new construction undertaken on a speculative basis, the total consideration paid pursuant to a contract to purchase the improved realty. However, the contract price shall not include the fair market value of land and any improvements to the land existing prior to the contract for the construction, alteration, improvement or repair of the realty, or the value of construction support services provided by other than employees of the prime contractor.

(h) "Fair market value" means 120 percent of the property's assessed value for ad valorem tax purposes, as reflected by the most recent assessment roll for the county prior to the new construction, unless the prime contractor can demonstrate to the satisfaction of the department by proof of comparable sales, actual purchase price, or appraisal, that such assessment understates the value of the property.

(1) "Cost price" means the direct and indirect costs of construction, including but not limited to, the cost of materials used, labor and service costs, interest charged, and overhead expenses, without any deduction whatsoever.

(2) The tax imposed by s. 212.059 shall be applied to the sale of construction services in the following manner:

(a) For new construction undertaken pursuant to a contract, or undertaken on a speculative basis but sold within 6 months of completion of the new construction, the tax shall be imposed upon 50 percent of the contract price.

(b) For new construction undertaken for the prime contractor's own use, or undertaken on a speculative basis and not sold within 6

months of completion, the tax shall be based upon 50 percent of the cost price.

(c) For new construction consisting of factory-built buildings, the tax shall be imposed upon the cost price, less the amount paid for building materials incorporated into such buildings.

(d) For new construction undertaken for the prime contractor's own use or undertaken on a speculative basis, and directly related to real property registered or exempt pursuant to chapter 498, or regulated under chapter 721, the tax shall be imposed upon 50 percent of the cost price.

(e) For construction other than new construction, the tax shall be imposed upon the total contract price, less the amount paid by the prime contractor for building materials incorporated into the realty. However, the deduction for building materials shall only apply if the prime contractor has previously paid the sales tax on such materials, and the written contract or invoice provided by the prime contractor to the person for whom the construction was done specifically itemizes the building materials and the price paid by the prime contractor for such materials.

(f) If new construction is undertaken pursuant to a contract that is not an arm's-length transaction, or if new construction is undertaken on a speculative basis and the realty is then sold within 6 months pursuant to a contract that is not an arm's-length transaction, the tax shall be imposed upon 50 percent of the cost price of the new construction, and not upon the contract price.

(g) For the construction or repair of roads pursuant to or in furtherance of a contract with a governmental entity described in s. 212.08(6), the tax shall not apply

(h) For the construction or repair of property used primarily for public worship, the tax shall not apply.

(i) The tax on construction support services shall be imposed upon the total sales price for such services and shall be due and payable in accordance with the provisions of s. 212.059(4).

(j) Prime contractors for new construction shall be considered the final consumer of construction services consumed in improving realty. The owner of the affected real property shall be considered the final consumer of construction services other than those related to new construction. The prime contractor or subcontractor who purchases or uses building materials shall be considered the final consumer of the building materials.

(k) Notwithstanding other provisions of this subsection, no tax shall be imposed upon construction services or construction support services performed by one's own employees if the services are performed for an employer who is incidentally engaged in improving real property, such improvements are made in the furtherance of the employer's primary business, and the employer is not in the business of providing construction services.

(l) As an alternative method for computing the tax imposed in this subsection, the prime contractor may compute and pay the tax on construction services on new construction, as follows:

1. The tax on construction services purchased by prime contractors shall be due and payable by the prime contractor at the time consideration is paid for such services.

2. The tax on purchases of construction services by prime contractors shall be based on the total consideration paid to the subcontractor. However, if the written proposal, contract, or interim or final invoice of the subcontractor specifically describes, itemizes and states the price paid by the subcontractor for the building materials purchased by the subcontractor and incorporated into the improvement in fulfillment of his responsibilities under the subcontract, the tax shall be based on the total consideration less the price of said building materials.

3. The tax on the construction services any prime contractor provides with respect to new construction for himself or others shall be based upon the cost price to the prime contractor of the services he provides. However, the cost of building materials purchased by the prime contractor and incorporated into the new construction, and amounts paid to subcontractors upon which a sales tax has been paid, shall not be included in the cost price. The tax shall be due and payable as otherwise provided in this part at the time the contract for new construction is fulfilled or within 30 days after the certificate of occupancy is issued, whichever is sooner. The retail sale of new construction for which the prime contractor has paid tax pursuant to this paragraph shall be exempt from the tax imposed by this section.

4. This alternative method for computing the tax shall apply to construction services purchased or provided by a prime contractor for construction projects begun on or after July 1, 1988.

5. A prime contractor shall make the election to compute the tax pursuant to this paragraph on a form prescribed by the department. Any such election shall apply to all construction services purchased or provided by the prime contractor during the term of the election. The department shall promulgate rules regarding the application of the election to construction projects in progress at the time the election is made and construction projects which are in progress at the time the election is terminated. A prime contractor may not change the method for the payment of the tax more than once during any 12-month period.

(3) The tax imposed by s. 212.059 on construction services shall be due and payable in the following manner:

(a) The prime contractor shall be responsible for remitting the tax on construction services performed by himself and by his subcontractors.

(b) Subcontractors shall not be required to collect the tax on construction services they perform.

(c) For new construction undertaken pursuant to a contract, the tax shall be due when the prime contractor receives payments under the contract. If the contract price is paid in draws or installments, the amount of tax to be paid with respect to each such draw or installment, before application of the dealer credit, shall be that proportion of the tax due on the total contract price which the amount of the draw or installment bears to the total contract price.

(d) For new construction undertaken on a speculative basis, or for the prime contractor's own use, partial payment of the tax shall be due at such time payment is made by the prime contractor to the subcontractor based on 50 percent of the amount of such payment. Any tax amounts remaining shall be due 30 days after a certificate of occupancy is issued, or if no certificate of occupancy is required, when the new construction is first put to its intended use.

(e) For new construction undertaken for the prime contractor's own use, the tax shall be due when a certificate of occupancy is issued, or if no certificate of occupancy is required, when the new construction is first put to its intended use.

(f) For construction other than new construction, the tax shall be due when the prime contractor receives payment for the construction services rendered.

(g) Taxes due and payable pursuant to this section shall be remitted in accordance with s. 212.11.

(h) No unit of local government shall issue a certificate of occupancy for new construction until the prime contractor certifies, on a form promulgated by the department and submitted to the local government, that the new construction is substantially complete. Such forms shall be provided to local governments by the department, and completed forms shall be returned monthly to the department by the local governments.

(4) The following provisions of this part shall not apply with regard to the tax on construction services.

(a) Section 212.02(5), the definition of "cost price."

(b) Section 212.02(21), the definition of "sales price."

(c) Section 212.059(3), regarding the collection and remittance of the tax.

(d) Section 212.059(4), regarding the time the tax is due.

(e) Section 212.0591(4), regarding taxation of transactions previously taxed.

(f) Section 212.0591(6), regarding separate statement of services and real property.

(g) Section 212.0591(7), regarding separate statement of taxable and exempt services.

(h) Section 212.0592(3), regarding occasional or isolated sales.

(i) Section 212.0592(4), regarding services sold to partnerships.

(j) Section 212.0592(5), regarding services sold between members of an affiliated group.

Section 7. Section 212.0595, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read

212.0595 Advertising; special provisions.--~~Notwithstanding the provisions of ss. 212.059-212.0593,~~ The following special provisions shall be applicable to the sales and use tax on advertising:

(1) A tax is hereby imposed on advertising sold or used in this state. The tax shall be at the rate of 5 percent of the sales price or cost price of the advertising.

(2) Advertising shall be deemed to have been sold in this state if the greater proportion of the advertising is performed within this state based on costs of performance as defined in s. 212.02.

(3) Advertising shall be deemed to have been used in this state if it was sold outside this state for consumption in this state.

Advertising shall be presumed to be consumed in this state to the extent the cost price is apportioned to this state pursuant to subsection (4).

(4)(a) The sales price of the sale of advertising, or the cost price of the use of advertising, shall be apportioned to the state as provided in this subsection. There shall be included in the measure of the tax imposed by this section that proportion of the sales price or cost price which is equal to the proportion of market coverage within Florida to the total ~~United-States~~ market coverage for the most recently completed accounting year of the service provider. However, in the case of new or restructured service providers, the department may prescribe by rule another time period or proportion that fairly reflects Florida market coverage.

(b) For purposes of this subsection, "market coverage" means average circulation within the geographic area of distribution for the publication in which the advertisement appears, in the case of print media, and means population within the signal reception area of the broadcaster, in the case of broadcast media, measured as prescribed by the department by rule.

(c) For advertising other than print or broadcast media, the department shall establish by rule a method for fairly apportioning advertising sold or used in this state.

(5) If advertising is sold in this state, the sales tax imposed by this section shall be collected and remitted by the advertising media provider, unless the advertising is purchased pursuant to a resale permit, in which case the person reselling the advertising shall collect and remit the tax.

(6) If advertising is not sold in this state, but is used in this state, the advertiser shall self-accrue the use tax imposed by this section and remit the tax directly to the department, if the advertiser has nexus for tax purposes with this state, unless the advertising is sold to a registered dealer for resale, in which case the registered dealer shall collect and remit the tax when the advertising is resold.

(7)(a) When advertising is sold or resold, the seller or reseller shall state the sales price of the advertising and the applicable apportionment factor, if any, separately from any other charges which may be included in the invoice, charge slip or other tangible evidence of sale.

(b) When the tax on advertising is not collected by the seller of the advertising, it is the responsibility of the purchaser to secure the apportionment factor pursuant to subsection (4) from the advertising media. ~~When advertising is purchased and resold, the person reselling the advertising may deduct the consideration paid for the advertising from his charges for purposes of calculating any tax due under this part.~~

(8) Nothing herein shall be construed to require the advertising media to furnish to the department a listing of persons placing advertising with the advertising media.

(9) Consideration paid pursuant to a written contract for a term in excess of two years, entered into prior to April 1, 1987, and which involves a transaction taxable under this section, shall be exempt from the tax imposed by this section until the expiration of such contract. This exemption shall not apply to advertising provided pursuant to any extension or renewal of such contract.

(10) For purposes of this part, the term "advertising" means the service of conveying the advertiser's message, and shall include any mark-up charged by an advertising agency or any other person for the service of brokering the medium. However, the term "advertising" shall not include creative services of a type customarily performed by an advertising agency.

(11) The following provisions of this part shall not apply to the sale or use of advertising.

(a) Section 212.059(3), regarding collection of the tax on services, and

(b) Section 212.0593, regarding administration of s. 212.0592(1).

Section 8. Section 212.0598, Florida Statutes, is created to read:

212.0598 Special provisions; air carriers.--

(1) Notwithstanding other provisions of this part to the contrary, any air carrier required by the United States Department of Transportation to keep records according to said department's standard classification of accounting may elect, upon the conditions prescribed in subsection (4), to be subject to the tax imposed by this part on services and tangible personal property according to the provisions of this section.

(2) The basis of the tax shall be the ratio of Florida mileage to total mileage as determined pursuant to part IV of chapter 214. The ratio shall be determined at the close of the carrier's preceding fiscal year. The ratio shall be applied each month to the carrier's total systemwide gross purchases of tangible personal property and services otherwise taxable in Florida.

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

(4) The election provided for in this section shall not be allowed unless the purchaser makes a written request, in a manner prescribed by the Department of Revenue, to be taxed under the provisions of subsection (2), and such person registers with the Department of Revenue as a dealer and extends to his vendor at the time of purchase, if required to do so, a certificate stating that the item or items to be partially exempted are for the exclusive use designated herein. Otherwise, all purchases of taxable property and services purchased in this state shall be subject to taxation.

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

Section 9. Subsections (2) and (6), paragraph (h) of subsection (14), and paragraph (a) of subsection (19) of section 212.02, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are amended to read:

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

(2) "Affiliated group" means: an affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code, whose members are includable under s. 1504(b), (c), or (d) of the Internal Revenue Code, and are eligible to file a consolidated tax return for Federal corporate income tax purposes; or mutual insurance companies which are members of one insurance holding company system subject to s. 628.801; however, s. 1504(b)(2) shall not apply to this definition. However, the taxpayer may elect, pursuant to rules of the department governing the procedure for making and amending such election, to define its affiliated group in a manner which excludes any member who has no tax nexus in this state and any member whose business activities are unrelated to the business activities of other members of the group. However, in no event shall a parent corporation of an included member be excluded from the affiliated group.

(6) "Costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the type of trade or business in which the service provider taxpayer engages.

(14) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows.

(h) "Real property" means land, improvements thereto, and fixtures, and is synonymous with "realty" and "real estate." ~~any interest in the surface of real property unless the property is:~~

~~1--Assessed as agricultural property under s. 193.461;~~

~~2--Used exclusively as dwelling units;~~

~~3--Property subject to tax on parking, docking, or storage spaces under s. 212.03(6);~~

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

~~5--A public or private street or right-of-way occupied or used by a utility for utility purposes;~~

~~6--A public street or road which is used for transportation purposes;~~

~~7--Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft;~~

~~8--Property used at a port authority as defined in s. 315.02(2) exclusively for the purpose of ocean-going vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels;~~

~~9. Property used as an integral part of the performance of qualified production services as defined in s. 212.0592(10)(a);~~

~~10. Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of an airport, a movie theater, a business operated under a permit issued pursuant to chapter 550 or chapter 551, or any publicly owned arena, sports stadium, convention hall, or exhibition hall;~~

(19)(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services, and includes all such transactions that may be made in lieu of retail sales or sales at retail. "Retail sale" does not include fee-sharing for services described in s. 475.011 by persons licensed under chapter 475 between real-estate-agents-and-real-estate-brokers. A sale of a service shall be considered a sale for resale only if:

1. The purchaser of the service does not use or consume the service but acts as a broker or intermediary in procuring a service for his client or customer;

2. The purchaser of the service buys the service pursuant to a written contract with the seller and such contract identifies the client or customer for whom the purchaser is buying the service;

3. The purchaser of the service separately states the value of the service purchased at the purchase price in his charge for the service on its subsequent sale;

4. The service, with its value separately stated, will be taxed under this part in a subsequent sale, unless otherwise exempt pursuant to s. 212.0592(1); and

5. The service is purchased pursuant to a service resale permit by a dealer person who is primarily engaged in the business of selling services. The department shall provide by rule for the issuance and periodic renewal every 5 years of such resale permits.

However, a sale, to other than an end user, of telecommunication services consisting of a right of access for which an access charge, as defined in s. 203.012(1), is imposed, is a sale for resale.

Section 10. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

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

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

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

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

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the

owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way occupied or used by a utility for utility purposes.

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

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

8. Property used at a port authority as defined in s. 315.02(2) exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels.

9. Property used as an integral part of the performance of qualified production services as defined in s. 212.0592(18)(a).

10. Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of ~~an airport~~, a movie theater, a business operated under a permit issued pursuant to chapter 550 or chapter 551, or any publicly owned arena, sports stadium, convention hall, ~~or exhibition hall, auditorium, or recreational facility.~~ A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

Section 11. Paragraph (a) of subsection (2) of section 212.04, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

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

(2)(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Health and Rehabilitative Services, and state correctional institutions when only student, faculty, or inmate talent is utilized. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and utilized by each institution to support women's athletics as provided in s. 240.533(4)(c).

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

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

4. No tax shall be levied on admissions to the National Football League championship game.

5. No tax shall be levied on admissions to athletic or other events sponsored by governmental entities.

Section 12. Subsection (1) of section 212.05, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.05 Sales, storage, use tax.--It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, or who rents or furnishes any of the things or services taxable under this section, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

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

(a)1.a. At the rate of 5 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, or mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit, signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this sub-subparagraph. For purposes of this sub-subparagraph, an occasional or isolated sale is one in which the seller is not a motor vehicle dealer as defined in s. 320.27(1)(c).

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a

purchaser who removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase. This exemption shall not be allowed unless the seller:

- a. Obtains from the purchaser within 90 days from the date of sale written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;
- b. Requires the purchaser to sign an affidavit that he has read the provisions of this section; and
- c. Makes the affidavit a part of his permanent record.

In the event the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.

(b) At the rate of 5 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state.

(c) At the rate of 5 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, except the lease or rental of a commercial motor vehicle as defined in s. 316.003(67)(a) to one lessee or rentee for a period of not less than 12 months when tax was paid on the acquisition of such vehicle by the lessor, when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

(d) At the rate of 5 percent of the lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible personal property.

(e)1. At the rate of 5 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on charges for telecommunication service as defined in s. 203.012 and for those services described in s. 203.012(2)(a); on recurring charges to regular subscribers for wired television service; on all charges for the installation of telecommunication, wired television, and telegraphic equipment, and on all charges for electrical power or energy. For purposes of this part subparagraph, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, wired television, or telegraph

service or electric power, which tax is collected by the seller from the purchaser.

2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. Fifty percent of the charge imposed for the total channel mileage between the first channel termination point inside this state and the nearest channel termination point outside this state.

3. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

(f) At the rate of 5 percent on the sale, rental, use, consumption, or storage for use in this state of machines and equipment and parts and accessories therefor used in manufacturing, processing, compounding, producing, mining, or quarrying personal property for sale or to be used in furnishing communications, transportation, or public utility services.

(g) At the rate of 5 percent of the price, as determined pursuant to part II, of each gallon of motor fuel or special fuel taxable pursuant to that part, except that motor fuel and special fuel expressly taxable under this part shall be taxed as provided in paragraphs (a) and (b).

(h) Any person who purchases, installs, rents, or leases a telephone system or telecommunication system for his own use to provide himself with telephone service or telecommunication service which is a substitute for any telephone company switched service or a substitute for any dedicated facility by which a telephone company provides a communication path is exercising a taxable privilege and shall register with the Department of Revenue and pay into the State Treasury a yearly amount equal to 5 percent of the actual cost of operating such system, notwithstanding the provisions of s. 212.081(3)(b). "Actual cost" includes, but is not limited to,

depreciation, interest, maintenance, repair, and other expenses directly attributable to the operation of such system. For purposes of this paragraph, the depreciation expense to be included in actual cost shall be the depreciation expense claimed for federal income tax purposes. The total amount of any payment required by a lease or rental contract or agreement shall be included within the actual cost. The provisions of this paragraph do not apply to the use by any local telephone company or any telecommunication carrier of its own telephone system or telecommunication system to conduct a telecommunication service for hire. If a system described in this paragraph is located in more than one state, the actual cost of such system for purposes of this paragraph shall be the actual cost of the system's equipment located in Florida.

(1) At the rate of 5 percent on the retail price of newspapers and magazines sold or used in Florida.

Section 13, Paragraph (b) of subsection (9) of section 212.08, Florida Statutes, 1986 Supplement, is amended, and subsection (6), and paragraphs (e), (n) and (o) of subsection (7) of said section, as amended by chapter 87-6, Laws of Florida, are amended, and paragraph (t) is added to subsection (7) of said section to read:

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

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are also exempt from the tax imposed by this chapter sales made to the United States Government, a the state, or any county, municipality, or political subdivision of a this state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision thereof, except public works in progress or for which bonds or revenue certificates have been validated on or before August 1, 1959. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state except sales, rental, use, consumption, or storage for which bonds or revenue certificates are validated on or before January 1, 1973, for transmission or distribution expansion.

(7) MISCELLANEOUS EXEMPTIONS.--

(e) Film rentals.--Film rentals are exempt when an admission is charged for viewing such film, and license fees and direct charges for films, videotapes, and transcriptions used by television or radio stations or networks are exempt. However, this exemption shall not be construed to exempt the sale or use of advertising.

(n) Organizations providing special educational, cultural, recreational, and social benefits to minors.--There shall be exempt from the tax imposed by this part nonprofit organizations which are

incorporated pursuant to chapter 617 or which hold a current exemption from federal corporate income tax pursuant to s. 501(c)(3) of the Internal Revenue Code the primary purpose of which is providing activities that contribute to the development of good character or good sportsmanship, or to the educational or cultural development, of minors ~~in--this--state~~. This exemption is extended only to that level of the organization ~~located--in--this--state~~ that has a salaried executive officer or an elected nonsalaried executive officer.

(O) Religious, charitable, scientific, educational, and veterans' institutions and organizations.--

1. There are exempt from the tax imposed by part I of this chapter transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property or services by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship ~~in--this--state~~ at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members ~~within--the--state--or--district organization~~.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of, or rehabilitation of persons from, alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer manpower to organizations designated as charitable institutions hereunder.

c. "Scientific organizations" means scientific organizations ~~in this state~~ which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality ~~in this state~~ or the purpose of which is to protect wildlife ~~in this state~~ and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association or the American Dental Association. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities ~~located in this state~~. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members ~~within the state or district organization~~.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., and Jewish War Veterans of the U.S.A. and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or s. 501(c)(19) of the Internal Revenue Code.

(t) Vinous and alcoholic beverages provided by distributors or vendors for the purpose of "wine tasting" and "spirituous beverage tasting" as contemplated under the provisions of Section 564.06 and 565.12 respectively, are exempt from the tax imposed by this part. This exemption shall be effective retroactively to July 1, 1981.

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

(b) Motor vehicles which are licensed as common carriers by the ~~Interstate Commerce Commission or by the United States Department of Transportation~~ and parts thereof used to transport persons or property in interstate or foreign commerce are subject to tax imposed in this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's motor vehicles which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases of such motor vehicles and parts thereof which are used in this state to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Motor vehicles which are licensed as common carriers by the Interstate Commerce Commission ~~or the United States Department of Transportation~~ and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part. Motor vehicles and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

Section 14. Paragraph (a) of subsection (6) of section 212.095, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.095 Refunds.--

(6)(a) Each registered dealer shall, in accordance with the requirements of the department, keep at his principal place of business in this state or at the location where the sale is made a complete record or duplicate sales tickets of all items or services sold by him for which a refund provided in this section may be claimed, which records shall contain the information required in paragraph (3)(a). ~~No licensed dealer or his agent or employee may acknowledge or assist in the preparation of any claim for tax refund; this provision does not apply to attorneys or to certified public accountants licensed pursuant to chapter 473 when acting for or on behalf of a client.~~

Section 15. Paragraph (d) of subsection (1) of section 212.11, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.11 Tax returns and regulations.--

(1)

(d) Beginning October 1, 1987, the department may authorize a quarterly return and payment for dealers registered as service providers and remitting collecting tax solely from the provision of services. Such returns may be authorized only for dealers whose monthly tax collections are less than \$500 in each month for the previous 3 months. Quarterly payments pursuant to this paragraph shall be due and payable in March, June, September, and December of each year.

Section 16. Section 17 of chapter 87-6, Laws of Florida, is amended to read:

Section 17. ~~The---introductory---paragraph---of---subsection---(1);~~ Paragraph (b) of subsection (5), and subsections (7) and (9) of section 212.12, Florida Statutes, 1986 Supplement, are amended, and, effective January 1, 1988, ~~paragraph-(b)-of~~ subsection (1) of said section is amended, to read:

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

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, and for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, and owner and remitter shall be allowed 3 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; and the department shall allow such deduction of 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,000, the 3-percent allowance shall be reduced to 1 percent for all amounts in excess of \$1,000.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the tax is delinquent at the time of payment.

(b) The Department of Revenue may reduce the collection allowance by 10 percent or \$50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of taxable purchases; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that the amounts of gross sales, taxable sales, taxable purchases, and tax collected or due shall be reported by major sales tax source: services; tangible personal property; admissions; transient rentals; commercial leases or licenses; and agricultural equipment.

(5)

(b) In the event any dealer or other person charged herein fails or refuses to make his records available for inspection so that no audit or examination has been made of the books and records of such dealer or person, fails or refuses to register as a dealer, or fails to make a report and pay the tax as provided by this chapter; or makes a grossly incorrect report, or makes a report that is false or fraudulent, then, in such event, it shall be the duty of the department to make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of such dealer, the gross proceeds from rentals, the total admissions received, amounts received from leases of tangible personal property by such dealer, or of the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in this state or of the sales or cost price of all services the sale or use of which is taxable under this part, together with interest, plus penalty, if such have accrued, as the case may be. Then the department shall proceed to collect such taxes, interest, and penalty on the basis of such assessment, which shall be considered prima facie correct; and the burden to show the contrary shall rest upon the dealer, seller, owner, or lessor, as the case may be.

(7) In the event the dealer has imported ~~the~~ tangible personal property or has acquired services outside the state for sale or use in this state and he fails to produce an invoice showing the cost price of the articles or services, as defined in this chapter, which are subject to tax, or the invoice does not reflect the true or actual cost price as defined herein, then the department shall ascertain, in any manner feasible, the true cost price, and assess and collect the tax thereon with interest plus penalties, if such have accrued on the true cost price as assessed by it. The assessment so made shall be considered prima facie correct, and the duty shall be on the dealer to show to the contrary.

(9) Taxes imposed by this chapter upon the privilege of the use, consumption, storage for consumption, or sale of tangible personal property, admissions, license fees, rentals, ~~and~~ communication services, and upon the sale or use of services as herein taxed shall be collected upon the basis of an addition of the tax imposed by this chapter to the total price of such admissions, license fees, rentals, communication or other services, or sale price of such article or articles that are purchased, sold, or leased at any one time by or to a customer or buyer; and the dealer, or person charged herein, is required to pay a privilege tax in the amount of the tax imposed by this chapter or the total of his gross sales of tangible personal property, admissions, license fees, rentals, and communication services or to collect a tax upon the sale or use of services, and such person or dealer shall add the tax imposed by this chapter to the price, license fee, rental, or admissions, and communication or other services and collect the total sum from the purchaser, admittee, licensee, lessee, or consumer. Notwithstanding the rate of taxes imposed upon the privilege of sales, admissions, license fees, rentals, and communication services, or upon the sale or use of services, the following brackets shall be applicable to all transactions taxable at the rate of 5 percent:

(a) On single sales of less than 10 cents, no tax shall be added.

(b) On single sales in amounts from 10 cents to 20 cents, both inclusive, 1 cent shall be added for taxes.

(c) On sales in amounts from 21 cents to 40 cents, both inclusive, 2 cents shall be added for taxes.

(d) On sales in amounts from 41 cents to 60 cents, both inclusive, 3 cents shall be added for taxes.

(e) On sales in amounts from 61 cents to 80 cents, both inclusive, 4 cents shall be added for taxes.

(f) On sales in amounts from 81 cents to \$1, both inclusive, 5 cents shall be added for taxes.

(g) On sales in amounts of more than \$1, 5 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.

Section 17. Section 212.235, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read:

212.235 State Infrastructure Trust Fund, deposits.--

(1) Notwithstanding the provisions of ss. 212.20(1) and 218.61, in fiscal year 1987-1988 an amount equal to 2 percent, and in each fiscal year thereafter an amount equal to 5 percent, of the proceeds remitted pursuant to this part by a dealer, or the sums sufficient to provide the maximum receipts specified herein, shall be transferred deposited into the State Infrastructure Trust Fund, which is created in the State Treasury. "Proceeds" means all funds collected and received by the Department of Revenue, including any interest and penalties. However, any receipts of the trust fund, including those received pursuant to ss. 201.15(5) and 206.875(3) and interest earned, in excess of \$200 million in fiscal year 1987-1988, and \$500 million thereafter, shall revert to the General Revenue Fund.

(2) Subject to an appropriation each year by the Legislature, moneys in the fund shall only be used for the purposes of:

(a) Acquiring the right-of-way for and constructing state highways and bridges,

(b) Constructing public education capital facilities;

(c) Financing state projects for beach restoration or renourishment or lake, ~~or river,~~ or other water body restoration, including the restoration of bays and estuaries;

(d) Constructing state correctional facilities;

(e) Constructing other infrastructure projects, or

(f) Issuing revenue bonds to finance state capital outlay projects authorized by this section. Such bonds shall be payable solely from legislative appropriations from the State Infrastructure Trust Fund and shall not be a debt of the state, and the state shall not be liable thereon. Neither the taxing power, the credit, nor the revenues of the state shall be pledged to pay any obligation issued pursuant to this subsection.

Section 18. Section 31 of chapter 87-6, Laws of Florida, is amended to read:

Section 31. Notwithstanding any other provision of this act, in the case of written contracts which are signed prior to May 1, 1987, or offers submitted prior to such date which are binding on the offeror and are accepted, or contracts which are funded by government bonds sold before May 1, 1987, or contracted prior to such date to be sold, for constructing improvements to real property, prime contractors, as defined in s. 212.0594~~(10)~~, Florida Statutes,

responsible for performing the contract shall not be required to remit any tax on services levied pursuant to s. 212.059 or s. 212.0594, Florida Statutes, provided that:

(1) Pursuant to s. 212.0594, Florida Statutes, it is the responsibility of the prime contractor to remit the tax.;

(2) The purchase of the services for which the tax is not being remitted is necessary to complete the contract and the tax cannot be legally collected from the final purchaser and cannot be included in the price charged the final purchaser under the terms of the contract.;

(3) On the first tax return of the prime contractor in which tax is not remitted pursuant to this section for a specific contract, the prime contractor must submit an application in a manner approved by the Department of Revenue by rule. A complete application shall include proof of the written contract, the amount of tax not being remitted, the anticipated date of completion of the contract, an estimate of the value of services expected to be performed under the contract subsequent to June 30, 1989, and a sworn statement, signed by the applicant or his representative, attesting to the validity of the application. Subsequent taxes not remitted pursuant to a specific contract must be identified as to amount and application authority at the time such taxes are not paid.;

(4) The purchase of the service occurs before June 30, 1989.

(5) On or before March 1, 1988, the Department of Revenue shall provide the Legislature with an estimate of the value of construction services expected to be performed after June 30, 1989, on contracts that qualify for the exemption allowed pursuant to this section.

Any person who fraudulently does not remit taxes pursuant to this section shall, in addition to being liable for the payment of any taxes fraudulently not remitted plus a mandatory penalty of 100 percent of the taxes not remitted, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Section 19. Section 32 of chapter 87-6, Laws of Florida, is amended to read:

Section 32. Rule 12A-1.091(6) of the Department of Revenue is hereby repealed. However, the department is hereby authorized to provide by rule for self-accrual of the sales tax under one or more of the following circumstances:

(1) Where authorized by law for purchasers of services;

(2) Where authorized by law for holders of direct pay permits;

(3) Where tangible personal property is subject to tax on a prorated basis, and the proration factor is based upon characteristics of the purchaser;

(4) Where the taxable status of types of tangible personal property whose taxable status will be known only upon use because the purchaser, by virtue of the normal characteristics of his trade or business, regularly consumes the type of property as a supply as well as sells it for resale; and

(5) For commercial rentals where the purchaser rents from a number of independent property owners who, apart from rentals to the

purchaser in question, would otherwise not be obligated to register as dealers.

(6) Where the purchaser makes purchases in excess of \$10 million per year of tangible personal property in any county.

Section 20. Section 33 of chapter 87-6, Laws of Florida, is amended to read:

Section 33. The Legislature hereby finds that the failure to promptly implement the provisions of this act would present an immediate threat to the welfare of the state because revenues needed for operation of the state would not be collected. Therefore, the executive director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing this act. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of chapter 87-6, Laws of Florida, and this act shall not be subject to a s. 120.54(4), Florida Statutes, rule challenge or a s. 120.54(17), Florida Statutes, drawout proceeding, but, once adopted, shall be subject to a s. 120.56, Florida Statutes, invalidity challenge. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13), Florida Statutes.

Section 21. Section 36 of chapter 87-6, Laws of Florida, is amended to read:

Section 36. Any penalties provided for pursuant to s. 212.12(2), Florida Statutes, shall be waived by the executive director of the Department of Revenue for returns due for the tax on services newly imposed by this act. If the executive director determines that the interest owed pursuant to s. 212.12(3) ~~214-23~~, Florida Statutes, will cause an undue hardship on the taxpayer, he may also waive the interest payment. The waiver for penalties and interest shall apply with respect to returns for taxes due and payable for the period between July 1, 1987, and September 30, 1987.

Section 22. Section 37 of chapter 87-6, Laws of Florida, is amended to read:

Section 37. When a service that is taxable beginning July 1, 1987, is provided prior to that date, it shall not be taxed, notwithstanding that compensation for the service is paid or payable on or after that date. When a service that is taxable beginning July 1, 1987, is provided on or after that date, the service shall be taxed unless it was prepaid in full prior to April 1, 1987. When a service that is taxable beginning on July 1, 1987, is provided over a period of time beginning prior to that date and ending after that date, the service shall be taxed only upon that portion of the service provided on or after July 1, 1987. For purposes of this section, a service shall be deemed prepaid in full if payment for the service is pursuant to a finance agreement and such agreement was sold by the service provider to a third party prior to April 1, 1987.

Section 23. Section 38 of chapter 87-6, Laws of Florida, is amended to read:

Section 38. ~~Except--for--the--purposes--of--s.--212-05937--Florida Statutes;~~ Nothing contained in this act shall be construed to require disclosure of privileged information, the confidentiality of which is protected under the Florida Evidence Code ~~require an attorney or a~~

~~certified-public-accountant-licensed-pursuant-to-chapter-473,-Florida Statutes,-to-reveal-the-identity-of-any-citizen-for-any-reason.~~

Section 24. Paragraph (b) of subsection (1) of section 120.575, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read

120.575 Taxpayer contest proceedings.--

(1)

(b) In any such administrative proceeding brought pursuant to s. 120.57(1) as authorized in s. 72.011(1) to contest the legality of any assessment of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon, or penalty therefor, the following procedures shall apply, any provisions of this chapter to the contrary notwithstanding:

1. The petition shall be filed with the division, which shall forward a copy to the department immediately upon receipt of the petition.

2. The hearing officer or panel provided in s. 120.65(5) shall conduct all proceedings under this paragraph.

3. Within 10 days after receiving the petition, the hearing officer or panel shall accept or deny the petition ~~and, if accepted, shall conduct a hearing thereon, unless the petition is withdrawn.~~

4. Within 30 days after the hearing or receipt of the hearing transcript, whichever is later, the hearing officer or panel shall issue an its order, which shall consist of findings of fact, conclusions of law, interpretation of administrative rules, and any other information required by law or rule to be contained in the final order. Such order shall affirm or deny the assessment, interest, or penalty, and shall determine the amount of any assessment, interest, or penalty

5. The order of the hearing officer or panel shall be final agency action.

Section 25. Subsection (5) of section 120.65, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read:

120.65 Hearing officers.--

(5) The director shall appoint, from among the full-time hearing officers of the division, a panel consisting of one to three members to be the hearing officer in all proceedings brought as provided in s. 120.575(1)(b). The director shall have the discretion to determine the size of the panel based upon the complexity and precedential importance of the issues involved, and the amount of potential revenues in dispute. Such appointments shall be made with due regard to the expertise required for determination of such proceedings. Service as a member of such panel shall be at the pleasure of the director, and such service may be in addition to other duties of employment by the division.

Section 26. Section 47 of chapter 87-6, Laws of Florida, is amended to read:

Section 47. The Department of Revenue is directed to undertake a study of service transactions for the purpose of identifying those transactions not taxable pursuant to the definition of service in s. 212.02, Florida Statutes. On or before March 1, 1989 ~~1988~~, the

department shall report to the Governor and the Legislature all service transactions so identified.

Section 27. Section 48 of chapter 87-6, Laws of Florida, is amended to read:

Section 48. No later than January 1, 1988, the Department of Revenue shall develop and implement a tax amnesty program for taxpayers subject to the tax laws enumerated in s. 72.011(1), Florida Statutes, except those taxes governed by ss. s. 199.032, and--s. 212.0505, 212.059-212.0595, and 212.0598, Florida Statutes. The tax amnesty program shall be a one-time opportunity for eligible taxpayers to satisfy their tax liabilities under the revenue laws of this state and thereby avoid criminal prosecution and any penalties imposed under such laws. Eligible taxpayers shall have no more than a 6-month period during which to file returns or amended returns and to make full payment of the amount of tax and interest due. An eligible taxpayer may participate in the amnesty program whether or not the taxpayer is under audit or investigation; notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the department; and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. However, participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under this amnesty program is barred with respect to the amounts paid except as provided in this section. No refund may be made of any penalty paid prior to the date the amnesty program is implemented, and any refund or credit of amounts paid as a result of participation in the amnesty program shall be strictly limited to amounts determined by the department to have been paid in error. A taxpayer who is under a criminal investigation, indictment, information, or prosecution is not eligible to participate in the amnesty program. The department may prescribe such terms, conditions, and methods of payment as it deems necessary for fair and effective administration of the amnesty program, and may establish procedures and guidelines and adopt forms and rules to implement the program. With or without an audit, the department may issue a notice or demand for payment with respect to any tax or interest which it determines to be due with any return filed under the tax amnesty program; such notice and demand for payment shall be prima facie correct in any administrative, judicial, or quasi-judicial proceeding.

Section 28. There is hereby appropriated from the General Revenue Fund the sum of \$364,757 to the Division of Administrative Hearings of the Department of Administration, for purposes of implementing the provisions of chapter 87-6, Laws of Florida, and this act.

Section 29. Subsection (1) and paragraph (a) of subsection (3) of section 95.091, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are amended to read:

95.091 Limitation on actions to collect taxes.--

(1)(a) Except in the case of taxes for which certificates have been sold or of taxes enumerated in s. 72.011, any tax lien granted by law to the state or any of its political subdivisions, any municipality, any public corporation or body politic, or any other entity having authority to levy and collect taxes shall expire 5 years after the date the tax is assessed or becomes delinquent, whichever is later. No action may be begun to collect any tax after the expiration of the lien securing the payment of the tax.

(b) Any tax lien granted by law to the state or any of its political subdivisions for any tax enumerated in s. 72.011 shall expire 20 years after the last date the tax may be assessed, after the tax becomes delinquent, or after the filing of a tax warrant, whichever is later. An action to collect any tax enumerated in s. 72.011 may not be commenced after the expiration of the lien securing the payment of the tax.

(3)(a) With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to s. 220.23, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011:

1. Within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

2. Within 6 years after the date a taxpayer either makes a substantial underpayment of tax or files a substantially incorrect return;

3. At any time while the right to a refund or credit of the tax is available to the taxpayer;

4. At any time after the taxpayer has fraudulently failed to make any payment of the tax, has fraudulently failed to file a required return, or has filed a grossly false or fraudulent return; or

5. In any case in which there has been an erroneous refund of tax, within 5 years after making such refund, or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

(b) The limitations in this subsection shall be tolled for a period of 2 years if the Department of Revenue has issued a notice of intent to conduct an audit or investigation of the taxpayer's account within the applicable period of time as specified in this subsection.

Section 30. Effective July 1, 1988, subsection (1) of section 198.18, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

198.18 Failure to pay tax; penalties; delinquent or deficient taxes, interest.--

(1) If any part of a deficiency in tax due under the provisions of this chapter is due to negligence or intentional disregard of the provisions of this chapter or the rules and regulations issued pursuant hereto, with knowledge thereof but without intent to defraud, there shall be added as a penalty 5 percent per month of the total amount of the deficiency in tax to a maximum of 25 ~~100~~ percent of the tax due; and, if any part of such deficiency is willfully made with intent to defraud, there shall be added as a penalty 50 percent of the total amount of such deficiency, which penalty shall become due and payable upon notice and demand by the department. The personal representative shall be liable to the state personally and on his official bond, if any, for any loss to the state accruing under the provisions of this section through his negligence or willful neglect. No interest shall be collected upon the amount of any penalty. The department may settle or compromise such penalties pursuant to s. 213.21.

Section 31. Effective July 1, 1988, paragraph (c) of subsection (2) of section 211.33, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

211.33 Administration of the tax; returns; delinquency penalties and interest; departmental inspections of records.--

(2)

(c) If a tax return is not filed by April 1 for any taxes due for the preceding year or if any part of a deficiency in the tax due for the preceding tax year is due to negligence or intentional disregard of this part or the rules promulgated pursuant hereto, the department shall levy a delinquency penalty of 5 percent for each month, or portion thereof, on the amount of tax delinquent, not to exceed 25 ~~100~~ percent of the total tax due

Section 32. Section 214.50, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

214.50 Liens; foreclosure.--In addition to any other remedy provided by the laws of this state, and provided that no hearing or proceedings for review provided by this chapter shall be pending and that the time for the taking of review shall have expired, the department may foreclose in any court of competent jurisdiction any lien on real or personal property for any tax, penalty, ~~or~~ interest to the same extent and in the same manner as in the enforcement of other liens. Any proceeding to foreclose shall be instituted not more than 20 years after the filing, or availability for filing, of the notice of lien under the provisions of s. 214.45.

Section 33. Subsection (1) of section 214.51, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

214.51 Collection procedures --

(1) In addition to any other remedy provided by the laws of this state, if any tax imposed by laws made applicable to this chapter is not paid within the time required by this chapter, the department, or someone designated by it, may cause a demand to be made on the taxpayer for the payment thereof. If such tax remains unpaid for 10 days after such demand has been made and no proceedings have been taken to review the same, the department may issue a warrant directed to any sheriff or other person authorized to serve process, commanding said sheriff or other person to levy upon and sell the real and personal property of the taxpayer found within his jurisdiction for the payment of the amount thereof, including penalties, interest, and the cost of executing the warrant. Such warrant shall be returned to the department together with the money collected by virtue thereof within the time therein specified, which shall not be less than 20 nor more than 90 days from the date of the warrant. The sheriff or other person to whom such a warrant shall be directed shall proceed upon the same in all respects and with like effect as is prescribed by law for executions issued against property upon judgments of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. No proceedings for a levy under this section shall be commenced more than 20 years after the filing of the notice of lien under the provisions of this part.

Section 34. Effective July 1, 1988, paragraph (b) of subsection (5) of section 212.08, Florida Statutes, as amended by section 59 of chapter 87-6, Laws of Florida, is amended to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.--

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

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from any amount of tax imposed by this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

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

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

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

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

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an

affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery, equipment, or services purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property.

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

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

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

Section 35. Effective July 1, 1988, paragraphs (a) and (b) of subsection (8) of section 125.0104, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.--

(8) PROHIBITED ACTS; ENFORCEMENT; PENALTIES.--

(a) Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or through his agents or employees, is, in addition to being personally liable for the payment of the tax, guilty of a ~~misdemeanor felony~~ of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax, that he will relieve the person paying the rental of the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration or, when added, that it or

any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 36. Effective July 1, 1988, section 198.37, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

198.37 Failure to make return; penalty.--Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, is, in addition to other penalties provided by law, guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 37. Effective July 1, 1988, section 198.39, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

198.39 False statement in return; penalty.--Whoever knowingly makes any false statement in any notice or return required to be filed under this chapter is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 38. Effective July 1, 1988, paragraph (a) of subsection (3) and subsection (8) of section 199.282, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are amended to read:

199.282 Penalties for violation of this chapter.--

(3)(a) If any annual or nonrecurring tax is not paid by the due date, a delinquency penalty shall be charged. The delinquency penalty shall be 5 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 25 ±00 percent of the total tax not timely paid.

(8) Any person who fails or refuses to file an annual return, or who fails or refuses to make records available for inspection, when requested to do so by the department is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 39. Effective July 1, 1988, subsection (1) of section 201.17, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

201.17 Penalties for failure to pay tax required.--

(1) Whoever makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever, without the full amount of the tax herein imposed thereon being fully paid, or whoever makes use of any adhesive stamp to denote any tax imposed by this chapter without canceling or obliterating such stamps as herein provided, is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 40. Effective July 1, 1988, section 201.20, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

201.20 Penalties for illegally avoiding tax on notes.--Any person using the provisions of s. 201.09 to avoid the payment of any tax justly due is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 41. Effective July 1, 1988, subsection (7) of section 203.01, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

203.01 Tax on gross receipts for utility services.--

(7) Any person who provides such services and who fails, neglects, or refuses to collect or remit the tax imposed in this part, either by himself or through his agents or employees, is liable for the tax and is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 42. Effective July 1, 1988, section 203.03, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

203.03 Penalties.--

(1) Any officer, agent, or representative of any such person who receives any payment for the furnishing of the things or the services above mentioned without first complying with the provisions of this chapter as required, is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 43. Effective July 1, 1988, subsection (3) of section 203.63, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

203.63 Tax on interstate and international telecommunication services.--

(3) Any person who provides such services and who fails, neglects, or refuses to collect or remit the tax imposed in this part, either by himself or through his agents or employees, is liable for the tax and is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 44. Effective July 1, 1988, subsection (4) of section 206.18, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is renumbered as subsection (5) and amended, and new subsection (4) is added to said section to read:

206.18 Discontinuance or transfer of business; liability of tax, procedure; penalty for violation.--

(4) In the event any dealer is delinquent in the payment of the tax herein provided for, the department may give notice of the amount

of such delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to such dealer or owing any debts to such dealer at the time of receipt by them of such notice. All persons so notified shall within 5 days after receipt of the notice advise the department of all such credits, other personal property, or debts in their possession, under their control, or owing by them. After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the department consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires earlier, except that the credits, other personal property, or debts which exceed the delinquent amount stipulated in the notice shall not be subject to the provisions of this section, wherever held, in any case in which such dealer does not have a prior history of tax delinquencies. All persons notified shall likewise within 5 days advise the department of any subsequent credits or other personal property belonging to such dealer or any debts incurred and owing to such dealer which may come within their possession or under their control during the time prescribed by the notice or until the department consents to a transfer or disposition, whichever expires earlier. If such notice seeks to prevent transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective shall be delivered or mailed to the office of such bank, at which such deposit is carried or at which such credits or personal property is held. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, he shall be liable to the state for any indebtedness due under this chapter from the person with respect to whose obligation the notice was given to the extent of the value of the property or the amount of the debts thus transferred or paid if, solely by reason of such transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. All such credits or other personal property or debts are subject to garnishment by the department for satisfaction of the delinquent tax due.

(5)(4) Any violation of the provisions of this section is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 45. Effective July 1, 1988, subsection (1) of section 206.44, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

206.44 Penalty and interest for failure to report on time; penalty and interest on tax deficiencies.--

(1) If any refiner, importer, or wholesaler fails to make a report or pay the taxes due as required by this chapter, the department shall add a penalty in the amount of 5 percent of any unpaid tax if the failure is for not more than 1 month, with an additional 5 percent of any unpaid tax for each additional month or fraction thereof during which the failure continues. However, such penalty may not exceed 25 ~~100~~ percent in the aggregate of any unpaid tax. Furthermore, in no event may the penalty assessed be less than \$5. The department shall collect the tax, together with the penalty and costs, in the same manner as other delinquent taxes are collected.

Section 46. Effective July 1, 1988, subsection (5) of section 206.877, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

206.877 Motor vehicles fueled by liquefied petroleum gas or compressed natural gas; payment of annual decal fees in lieu of tax.--

(5) Any person who violates the provisions of this section is guilty of a ~~misdemeanor~~ felony of the first ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, any person who is liable for fueling a vehicle which does not have the proper decal affixed is subject to the provisions of this section and the provisions of s. 206.94.

Section 47. Effective July 1, 1988, subsection (1) of section 206.9931, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

206.9931 Administrative provisions.--

(1) Any person producing in, importing into, or causing to be imported into this state taxable pollutants for sale, use, or otherwise and who is not registered or licensed pursuant to other parts of this chapter is hereby required to register and become licensed for the purposes of this part. Such person shall register as either a producer or importer of pollutants and shall be subject to all applicable registration and licensing provisions of this chapter, as if fully set out in this part and made expressly applicable to the taxes imposed herein, including, but not limited to, ss. 206.02, 206.021, 206.022, 206.025, 206.03, 206.04, and 206.05. For the purposes of this section, registrations required exclusively for this part shall be made within 90 days of July 1, 1986, for existing businesses, or prior to the first production or importation of pollutants for businesses created after July 1, 1986. The fee for registration shall be \$30. Failure to timely register is a ~~misdemeanor~~ felony of the first ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 48. Effective July 1, 1988, subsection (1) of section 207.007, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

207.007 Offenses; penalties and interest.--

(1) If any motor carrier fails to file a return and pay any tax liability under this chapter within the time required hereunder, the department shall add a delinquency penalty of 10 5 percent to the amount of the taxes due if the failure is for not more than 30 days, with an additional 10 5 percent penalty for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of 100 percent in the aggregate. However, in no event shall the penalty be less than \$5.

Section 49. Effective July 1, 1988, subsection (2) of section 211.076, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

211.076 Interest and penalties; failure to pay tax or file return; estimated tax underpayments.--

(2) Failure to file any return required by this part by the due date shall require payment of a delinquency penalty. If tax is due with the return, the delinquency penalty shall be 5 percent for each month, or portion thereof, of the amount of tax due with the return,

not to exceed 25 ~~100~~ percent. If no tax is due with the return, the delinquency penalty shall be \$25 for each month, or portion thereof, during which the return was ~~not~~ filed, not to exceed \$150 in aggregate. The amount of tax due with a return shall be reduced by amounts properly creditable against the tax liability shown on the return on the date the return was due.

Section 50. Effective July 1, 1988, subsection (1) of section 211.25, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read

211.25 Tax crimes; punishment for violation of this part.--

(1) Any person who willfully fails to file a return or keep books or records on production of taxable products, or who files a fraudulent return, or who willfully fails or refuses to produce books or records, or who willfully violates any provision of this part or any rule adopted by the department under this part is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 51. Effective July 1, 1988, paragraphs (1) and (j) of subsection (3) of section 212.0305, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are amended to read

212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.--

(3) APPLICATION; ADMINISTRATION; PENALTIES.--

(1) Any person taxable under this section who, either by himself or through his agents or employees, fails or refuses to charge and collect the taxes herein provided from the person paying any rental or lease is, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(j) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax; that he will relieve the person paying the rental of the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration or, if added, that the tax or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this paragraph is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 52 Effective July 1, 1988, paragraph (a) of subsection (1) of section 212.05, Florida Statutes, as amended by section 83 of chapter 87-6, Laws of Florida, is amended to read:

212.05 Sales, storage, use tax.--It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, or who rents or furnishes any of the things or services taxable under this section, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

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

(a)1.a. At the rate of 5 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this sub-subparagraph. For purposes of this sub-subparagraph, an occasional or isolated sale is one in which the seller is not a motor vehicle dealer as defined in s. 320.27(1)(c).

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase. This exemption shall not be allowed unless the seller:

a. Obtains from the purchaser within 90 days from the date of sale written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;

b. Requires the purchaser to sign an affidavit that he has read the provisions of this section; and

c. Makes the affidavit a part of his permanent record.

In the event the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.

Section 53. Effective July 1, 1988, subsections (3) and (4) of section 212.07, Florida Statutes, as amended by section 85 of chapter 87-6, Laws of Florida, are amended to read:

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

(3) Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, is, in addition to the penalty of being liable for and paying the tax himself, guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A dealer engaged in any business or in selling any services taxable under this chapter may not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any part of the tax, or that the tax will not be added to the selling price of the property or services sold or released or, when added, that it or any part thereof will be refunded either directly or indirectly by any method whatsoever. A person who violates this provision with respect to advertising or refund is guilty of a misdemeanor felony of the second third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A second or subsequent offense constitutes a misdemeanor felony of the first second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 54. Effective July 1, 1988, section 212.085, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.085 Fraudulent claim of exemption; penalties.--When any person shall fraudulently knowingly, for the purpose of evading tax, issue to a vendor or to any agent of the state a certificate or statement in writing in which he claims exemption from sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 100 percent of the tax, shall be liable for fine and punishment as provided by law for a conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 55. Effective July 1, 1988, subsections (3) and (4) of section 212.10, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are reenacted, and subsection (5) of said section as amended by said chapter, is amended, to read:

212.10 Sale of business; liability for tax, procedure, penalty for violation.--

(3) In the event any dealer is delinquent in the payment of the tax herein provided for, the department may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to such dealer or owing any debts to such dealer at the time of receipt by them of such notice. All persons so notified shall within 5 days after receipt of the notice advise the department of all such credits, other personal property, or debts in their possession, under their control, or owing by them. After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the department consents to a

transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier, except that the credits, other personal property, or debts which exceed the delinquent amount stipulated in the notice shall not be subject to the provisions of this section, wherever held, in any case in which such dealer does not have a prior history of sales tax delinquencies. All persons notified shall likewise within 5 days advise the department of any subsequent credits or other personal property belonging to such dealer or any debts incurred and owing to such dealer which may come within their possession or under their control during the time prescribed by the notice or until the department consents to a transfer or disposition, whichever expires the earlier. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective shall be delivered or mailed to the office of such bank at which such deposit is carried or at which such credits or personal property is held. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, he shall be liable to the state for any indebtedness due under this chapter from the person with respect to whose obligation the notice was given to the extent of the value of the property or the amount of the debts thus transferred or paid if, solely by reason of such transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. All such credits or other personal property or debts are subject to garnishment by the department for satisfaction of the delinquent tax due.

(4) After notice by the department of a transferee liability under this section, the dealer shall have 60 days within which to file an action as provided in chapter 72.

(5) Any violation of the provisions of this section is a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 56. Effective July 1, 1988, paragraph (a) of subsection (2) and subsection (13) of section 212.12, Florida Statutes, as amended by section 88 of chapter 87-6, Laws of Florida, are amended to read:

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

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax imposed by this chapter fails to timely file such return or fails to pay the tax due within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes, a specific penalty shall be added to the tax in the amount of 5 percent of any unpaid tax if the failure is for not more than 30 days, with an additional 5 percent of any unpaid tax for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed, however, a total penalty of 25 percent, in the aggregate, of any unpaid tax. In no event may the penalty be less than \$5 for failure to timely file a tax return required by s. 212.11. In the case of a false or fraudulent return or a willful intent to evade payment of any tax imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax shall be liable to a specific penalty of 50

percent of the tax bill and for fine and punishment as provided by law for a conviction of a misdemeanor felony of the first third degree.

(13) In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners, property managers, lessors, landlords, hotel, apartment house, and roominghouse operators and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records for a period of not less than 3 years, subject to the inspection of the department and its agents; and, upon the failure by such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, receiver of rent or license fees, or real estate agent is guilty of a misdemeanor felony of the second third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for the first offense; and for subsequent offenses, they are each guilty of a misdemeanor felony of the first second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 57. Effective 1, 1988, subsections (1) and (2) of section 212.13, Florida Statutes, as amended by section 89 of chapter 87-6, Laws of Florida, are amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.--

(1) For the purpose of enforcing the collection of the tax levied by this chapter, the department is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all transportation companies, agencies, or firms that conduct their business by truck, rail, water, aircraft, or otherwise, in order to determine what dealers, or other persons charged with the duty to report or pay a tax under this chapter, are importing or are otherwise shipping in articles or tangible personal property which are liable for said tax. In the event said transportation company, agency, or firm refuses to permit such examination of its books, records, or other documents by the department as aforesaid, it is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The department shall have the right to proceed in any chancery court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such transportation company or carrier.

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep for a period of 3 years a complete record of tangible personal property or services received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; and all such records which are located or maintained in this state shall

be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 58. Effective July 1, 1988, subsection (3) of section 212.14, Florida Statutes, as amended by section 90 of chapter 87-6, Laws of Florida, is amended to read:

212.14 Departmental powers; hearings, subpoena; distress warrants; time for assessments.--

(3) The department may require all reports of taxes to be paid under this chapter to be accompanied with a written statement, of the person or by an officer of any firm or corporation required to pay such taxes setting forth such facts as the department may reasonably require in order to advise the department as to the amount of taxes that are due and payable upon said return. Filing of return not accompanied by payment is prima facie evidence of conversion of the money due. Any person or any duly authorized corporation officer or agent, members of any firm or incorporated society, or organization who refuses to make a return and pay the taxes due, as required by the department and in the manner and in the form that the department may require, or to state in writing that the return is correct to the best of his knowledge and belief, as so required by the department, shall be subject to a penalty of 6 percent per annum of the amount due and shall upon conviction, be guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The signing of a written return shall have the same legal effect as if made under oath without the necessity of appending such oath thereto.

Section 59. Effective July 1, 1988, subsections (2) and (3) of section 212.15, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are amended to read:

212.15 Taxes declared state funds; penalties for failure to remit taxes; due and delinquent dates; judicial review.--

(2) Any person who, with intent to unlawfully deprive or defraud the state of its moneys or the use or benefit thereof, fails to remit taxes collected pursuant to this chapter is guilty of theft of state funds, punishable as follows:

(a) If the total amount of stolen revenue is less than \$100, the offense is a misdemeanor felony of the second third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Upon a second ~~or subsequent~~ conviction within a 3-year period, the offender is guilty of a misdemeanor felony of the first second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Upon a third or subsequent conviction within a 3-year period, the offender is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the total amount of stolen revenue is \$100 or more, the offense is a felony of the third second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the total amount of stolen revenue is \$20,000 or more, the offense is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Prosecution of a misdemeanor under this section shall commence no later than 2 years from the date of the offense. Prosecution of a felony under this section shall commence no later than 5 years from the date of the offense.

Section 60. Effective July 1, 1988, subsection (3) of section 212.18, Florida Statutes, as amended by section 92 of chapter 87-6, Laws of Florida, is amended to read:

212.18 Administration of law; rules and regulations.--

(3) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of \$5. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued; and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. No person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; and no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor felony of the first ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or subject to injunctive proceedings as provided by law.

Section 61. Effective July 1, 1988, subsection (1) of section 214.40, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

214.40 Penalties; failure to file timely returns.--

(1) In case of failure to file any tax return required under laws made applicable to this chapter on the date prescribed therefor, including any extensions thereof, there shall be added as a penalty to the amount of tax due with such return 5 percent of the amount of such tax, if the failure is not for more than 1 month, plus an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 ~~100~~ percent in the aggregate. The department may settle or compromise such penalties pursuant to s. 213.21. For purposes of this section, the amount of tax due with any return shall be reduced by any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which was properly allowable on the date the return was required to be filed.

Section 62. Effective July 1, 1988, section 214.60, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

214.60 Willful and fraudulent acts.--Any taxpayer who is subject to the provisions of this chapter and who willfully fails to file a return or keep required books and records, files a fraudulent return, willfully violates any rule or regulation of the department, or willfully attempts in any other manner to evade or defeat any tax imposed by laws made applicable to this chapter or the payment thereof, is, in addition to other penalties, guilty of a misdemeanor felony of the first ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 63. Sections 100, 101, 102, and 106 of chapter 87-6, Laws of Florida, are hereby repealed.

Section 64. Paragraph (c) of subsection (2) of section 213.73, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read:

213.73 Manner and conditions of sale of property subject of a levy by the Department of Revenue.--Whenever a levy is made as a result of an execution upon a tax warrant or lien:

~~{c}--The extent to which methods additional to those prescribed in s. 213.72, including advertising, may be used in giving notice of the sale.~~

Section 65 Section 213.74, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read:

213.74 Certificate of sale; deed of real property; legal effect.--

(1) In the case of property sold pursuant to a levy by the Department of Revenue as provided in s. 213.72, the executive director or his designee shall give to the purchaser a certificate of sale upon payment in full of the purchase price. Such certificate shall set forth a description of the property purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor.

(2) In the case of any real property sold pursuant to a levy by the Department of Revenue as provided in s. 213.72, and not redeemed

in the manner and within the time provided in s. 213.73, the executive director or his designee shall execute, in accordance with the laws of this state pertaining to the sale of real property under execution, to the purchaser of such real property at such sale, upon his surrender of the certificate of sale, a deed of the real property so purchased by him, reciting the facts set forth in the certificate

(3) If real property is declared purchased for the state at a sale pursuant to a levy by the Department of Revenue s--213.72, the executive director or his designee shall present a certificate of sale and execute a deed therefor to the Board of Trustees of the Internal Improvement Trust Fund, and the board of trustees shall, without delay, cause such deed to be duly recorded in the proper clerk's office in the proper manner

(4) In all cases of sale of tangible or intangible personal property pursuant to a levy by the Department of Revenue s--213.72, the certificate of sale shall be prima facie evidence of the right of the executive director or his designee to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale and shall transfer to the purchaser all right, title, and interest of the party delinquent in and to the property sold. If such property consists of intangibles such as stock and bonds, the certificate constitutes notice, when received, to any corporation, company, or association of such transfer, and constitutes authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the intangibles were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not. If the subject of the sale is securities or other evidences of debt, the certificate constitutes a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt. If such property consists of a motor vehicle, the certificate constitutes notice when received, to any public official charged with the registration of title of motor vehicles, of such transfer and constitutes authority to such official to record the transfer on his books and records in the same manner as if the certificate of title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior certificate of title, which shall be void whether canceled or not.

(5) In the case of the sale of real property pursuant to a levy by the Department of Revenue s--213.72, the deed of sale given pursuant to this section shall be prima facie evidence of the facts stated therein and if the proceedings by the executive director or his designee have been substantially in accordance with the provisions of this chapter and the rules of the department, such deed constitutes a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the Department of Revenue attached thereto.

Section 66. Except for violations for which the period of time for bringing an action or enforcing a lien has expired prior to July 1, 1988, the penalties provided by sections 29 through 62 of this act are applicable to the failure to pay taxes which are due before and remain unpaid on July 1, 1988.

Section 67. Severability.--If any provision of this act or the application thereof to any person or circumstance is held invalid, the validity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 68. Section 9 of chapter 86-166, Laws of Florida, is hereby repealed.

Section 69. Except as otherwise provided herein, this act shall take effect July 1, 1987.

Approved by the Governor June 30, 1987.

Filed in Office Secretary of State June 30, 1987.

* This publication was produced at a base cost of \$19.02 per page *
* for 1500 copies or \$.0126 per single page for the purpose of *
* informing the public of Acts passed by the Legislature. *

By Senator Kiser

This publication was produced at an average cost of 1.5 cents per page for the information of members of the Legislature and the public.

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A bill to be entitled
An act relating to tax amnesty; providing that
the Department of Revenue shall set a period of
tax amnesty and shall thereafter be barred from
commencing certain proceedings; providing an
effective date.

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

Section 1. For a period of time to be set by the
Department of Revenue and whether or not a notice of
deficiency has been issued, any taxpayer may file an amended
tax assessment by filing with the department in such form and
by such method of payment as the department shall prescribe.
Thereafter, the department shall be barred from commencing
proceedings to recover the amount of any taxes, penalties, and
interest due and unpaid for any period of time immediately
preceeding such period of amnesty.

Section 2. This act shall take effect upon becoming a
law.

SENATE SUMMARY

Provides for a period of tax amnesty to be set by the
Department of Revenue.

By the Committee on Finance, Taxation and Claims and
Senator Kiser

This publication was produced at an
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for the information of members of the
legislature and the public.

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A bill to be entitled
An act relating to taxation; amending s.
212.059, F.S., relating to the sales and use
tax on services; revising provisions relating
to computation, collection, and remittance of
the tax and registration of dealers as service
providers; revising provisions relating to
apportionment of interstate or international
transportation services; amending s. 212.0591,
F.S.; revising rules of construction relating
to inclusion of a proportion of the sales or
cost price under certain circumstances,
transactions involving both taxable and exempt
services, and determining where the benefit of
a service is enjoyed; providing legislative
intent regarding exemptions from the tax;
amending s. 212.0592, F.S.; revising exemptions
and conditions applicable thereto and providing
additional exemptions; amending s. 212.0593,
F.S., relating to administration of the
exemption for services sold in this state for
use outside this state; specifying
inapplicability of certain refund provisions;
repealing section 5 of chapter 87-6, Laws of
Florida, and creating s. 212.0594, F.S.;
revising special provisions applicable to the
tax on construction services; amending s.
212.0595, F.S.; revising special provisions
applicable to the tax on advertising; amending
s. 212.02, F.S.; revising definitions
applicable to chapter 212, F.S.; amending s.

1 212.031, F.S.; revising an exemption from the
2 tax on rental, lease, or granting a license for
3 use of real property for certain property
4 leased to persons providing food and drink
5 concessionaire services; amending s. 212.04,
6 F.S.; exempting admissions to certain athletic
7 or other events sponsored by schools and other
8 institutions and certain admissions paid by
9 students to places of sport or recreation;
10 providing an exception; amending s. 212.05,
11 F.S.; specifying application of the tax on
12 sales, use and other transactions to sale of
13 newspapers and magazines, amending s. 212.08,
14 F.S.; revising the exemptions for sales to
15 political subdivisions, film rentals, and
16 vehicles engaged in interstate or foreign
17 commerce, amending s. 212.095, F.S., removing a
18 prohibition against dealers assisting in
19 preparation of tax refund claims; amending
20 section 17 of chapter 87-6, Laws of Florida;
21 revising the effective date of an amendment
22 relating to application of the dealer's credit
23 to persons who remit taxes or fees reported on
24 the same documents utilized for sales and use
25 tax; amending s. 212.235, F.S.; specifying uses
26 of trust fund moneys, amending section 31 of
27 chapter 87-6, Laws of Florida, revising an
28 exemption from the tax on services for certain
29 improvements to real property; requiring the
30 Department of Revenue to report to the
31 Legislature, amending section 32 of chapter 87-

1 6, Laws of Florida, relating to certain
2 conditions applicable to self-accrual; amending
3 section 33 of chapter 87-6, Laws of Florida,
4 specifying administrative provisions applicable
5 to department rules implementing said chapter
6 and this act; amending section 36 of chapter
7 87-6, Laws of Florida, relating to waiver of
8 penalties and interest with respect to the tax
9 on services for a specified period; amending
10 section 38 of chapter 87-6, Laws of Florida;
11 revising provisions relating to construction of
12 said chapter with respect to certain client
13 confidentiality; amending ss. 120.575 and
14 120.65, F.S.; revising provisions relating to
15 appointment of a panel to be hearing officer in
16 certain administrative taxpayer contest
17 proceedings. amending section 47 of chapter 87-
18 6, Laws of Florida, revising a date for a
19 department study of taxable services, amending
20 ss. 95.091, 198.18, 211.33, 214.50, 214.51,
21 212.08, 125.0104, 198.37, 198.39, 199.282,
22 201.17, 201.20, 203.01, 203.03, 203.63, 206.18,
23 206.44, 206.877, 206.9931, 207.007, 211.076,
24 211.25, 212.0305, 212.05, 212.07, 212.085,
25 212.10, 212.12, 212.13, 212.14, 212.15, 212.18,
26 214.40, 214.60, F.S.. reducing certain
27 penalties; repealing sections 100, 101, and 102
28 of chapter 87-6, Laws of Florida, relating to
29 priority of tax warrants, seizure of property
30 for collection of taxes, and sale of seized
31 property, respectively; amending section 103 of

1 chapter 87-6, Laws of Florida; deleting an
2 inapplicable notice provision; amending section
3 104 of chapter 87-6, Laws of Florida;
4 correcting cross-references; amending s.
5 213.76, F.S.; increasing a period of
6 limitation; providing for applicability of
7 certain penalties; repealing section 9 of
8 chapter 86-166, Laws of Florida, relating to
9 the commission established to study sales tax
10 exemptions; providing an appropriation to the
11 Division of Administrative Hearings; providing
12 for severability; providing effective dates.
13

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

15
16 Section 1. Subsections (3) and (4) of section 212.059,
17 Florida Statutes, as created by chapter 87-6, Laws of Florida,
18 are amended to read:

19 212.059 Sales and use tax on services.--It is hereby
20 declared to be the legislative intent to levy an excise tax on
21 the sale of services in this state as hereinafter provided.

22 It is further declared to be the legislative intent to levy a
23 complementary excise tax on the use of services in this state
24 as hereinafter provided.

25 (3)(a) The sales and use tax on services imposed by
26 this section shall be collected by the dealer as defined in
27 this part and remitted by him to the state at the time and in
28 the manner as provided in this part.

29 (b) If the ~~seller of the service is a multistate~~
30 ~~business and the sale of a service~~ is outside this state, any
31 applicable use tax shall be remitted by the purchaser of the

1 service. However, this paragraph shall not apply to
2 interstate or international transportation services

3 (4)(a) The sales and use tax on services imposed by
4 this section shall be computed due-and-payable according to
5 the brackets set forth in s. 212.12 on the sales price or cost
6 price of the service at the time of the sale, and shall be due
7 and payable as provided under s. 212.11, at-the-time-of-the
8 ~~sale-or-use-of-the-service~~ unless the dealer elects to remit
9 the tax pursuant to paragraph (b).

10 (b) A dealer may ~~register-with-the-department-as-a~~
11 ~~service-provider-and~~ elect to ascertain the amount of remitt
12 the tax payable under this section on the basis of cash
13 receipts for all taxable transactions under this section, on
14 ~~a-service-at-the-time-consideration-is-paid-for-such-service~~
15 ~~and-on-the-amount-of-consideration-paid---if-such-election-is~~
16 ~~made,-it-shall-be-applicable-to-all-transactions-of-such~~
17 ~~dealer-taxed-under-this-section.~~ Such election shall be made
18 and may be changed by the dealer pursuant to procedures
19 established by rule of the department. The department shall
20 provide by rule for the issuance and periodic renewal every 5
21 years of registrations for dealers registered as service
22 providers. Only those persons primarily engaged in the
23 business of selling services shall be eligible for such
24 registration.

25 (c) However, if a transaction involves both the sale
26 or use of services and the sale or use of tangible personal
27 property, and the tangible personal property is not an
28 inconsequential element of the transaction, the sales and use
29 tax on services shall be computed and remitted as provided in
30 paragraph (a), and paragraph (b) shall not be applicable due
31

1 ~~and payable at the time of the sale or use regardless of the~~
2 ~~time consideration is paid for such services.~~

3 Section 2. Subsections (2), (7), and (9) of section
4 212.0591, Florida Statutes, as created by chapter 87-6, Laws
5 of Florida, are amended, and subsection (10) is added to said
6 section, to read:

7 212.0591 Rules of construction.--For purposes of the
8 sales and use tax on services, the following rules of
9 construction shall apply:

10 (2) If the entire sales price of the sale of a service
11 or if the entire cost price of the use of a service cannot be
12 included within the measure of the tax imposed by this part
13 under the Constitution or laws of the United States, there
14 shall be ~~apportioned to the state and~~ included in the measure
15 of the tax imposed by this part on the sale of services that
16 proportion of the sales price ~~which the cost of performing the~~
17 ~~services within the state bears to the total cost of~~
18 ~~performing the services~~, or on the use of services that
19 proportion of the cost price, that may lawfully be included
20 under the laws and Constitution of the United States fairly
21 ~~reflects the benefit of the services enjoyed within the state~~

22 (7) If a transaction involves both the sale or use of
23 a service taxable under this part and the sale or use of a
24 service exempt under this part, the consideration paid shall
25 be separately identified and stated with respect to the
26 taxable and exempt portions of the transaction as a condition
27 of the exemption. However, this subsection shall not apply to
28 sales that are exempt pursuant to s. 212.0592(1).

29 (9) For purposes of determining ~~where a service is~~
30 ~~used or consumed and~~ where the benefit of the service is
31 enjoyed, the following provisions shall be applicable.

1 (a) If the purchaser is an individual not acting as a
2 business, and

3 1. If the service directly relates to real property,
4 the benefit of the service shall be presumed to be enjoyed ~~in~~
5 ~~the-state~~ where the real property is located; or

6 2. If subparagraph 1. is not applicable, and if the
7 service is of a type that the benefit of the service is
8 consumed within 90 days of performance of the service, the
9 benefit of the service shall be presumed to be enjoyed ~~in-the~~
10 ~~state~~ where the greater proportion of the service is
11 performed, based on costs of performance, or

12 3. If subparagraphs 1. and 2. are not applicable, the
13 benefit of the service shall be presumed to be enjoyed where
14 the purchaser is domiciled; or

15 4.3. Notwithstanding subparagraphs 1., and 2., and 3.,
16 if the purchaser can demonstrate to the satisfaction of the
17 department that the benefit of the service was enjoyed outside
18 of this state in-a-state, the service shall be deemed used or
19 consumed outside of this state in-that-state.

20 (b) If the purchaser is a business, and:

21 1. If the service directly relates to real property,
22 the benefit of the service shall be presumed to be enjoyed ~~in~~
23 ~~the-state~~ where the real property is located; or

24 2. If the service directly relates to tangible
25 personal property, the benefit of the service shall be
26 presumed to be enjoyed ~~in-the-state~~ where the property has
27 acquired a business situs if the property has acquired such
28 situs; or

29 3. If the service directly involves sales to a service
30 purchaser's local market, the benefit of the service shall be
31

1 presumed to be enjoyed ~~in-the-state~~ where the purchaser's
2 local market exists; or

3 4. If subparagraphs 1., 2., and 3. are not applicable,
4 and the purchaser of the service is doing business in this
5 state and outside of this state ~~in-one-or-more-other-states~~,
6 the service shall be presumed to be enjoyed in this state to
7 the extent that the purchaser is doing business in this state.
8 For purposes of determining the extent of the purchaser's
9 business in this state, the apportionment formulas set forth
10 in part IV of chapter 214, as modified by s. 220.15(4), shall
11 be utilized. In the case ~~if-the-purchaser-is-a-member~~ of an
12 affiliated group, the affiliated group, as defined in s.
13 212.02, shall be considered the purchaser for purposes of this
14 subsection ~~subparagraph~~; or

15 5. If the provisions of subparagraphs 1., 2., 3., and
16 ~~4.~~ are not applicable, the benefit of the service shall be
17 presumed to be enjoyed ~~in-the-state~~ where the purchaser is
18 exclusively doing business, or

19 6. Notwithstanding subparagraphs 1., 2., 3., 4. and
20 5., if the purchaser can demonstrate to the satisfaction of
21 the department that the benefit of the service was enjoyed
22 outside of this state ~~in-a-state~~, the service shall be deemed
23 used or consumed outside of this state ~~in-that-state~~.

24 (c) Notwithstanding paragraphs (a) and (b), interstate
25 and international transportation services shall be presumed to
26 be enjoyed in this state to the extent that the sales price or
27 cost price of such services is apportioned to this state
28 pursuant to s. 212.059(5).

29 (d) Notwithstanding paragraphs (a) and (b),
30 advertising shall be presumed to be enjoyed in this state to
31

1 the extent that the sales price or cost price of such services
 2 is apportioned to this state pursuant to s. 212.0595

3 (e) Notwithstanding paragraphs (a) and (b), the
 4 benefit of a service provided to the estate of a decedent
 5 shall be presumed to be enjoyed where the decedent last
 6 established residency.

7 (10) It is the intent of the Legislature to exempt
 8 from the tax on services only those services for which
 9 exemptions are expressly provided. Therefore, if any
 10 exemption is declared unconstitutional per se by a court of
 11 competent jurisdiction, it is the intent of the Legislature
 12 that the exemption be deemed inoperative as to all persons and
 13 not expanded to encompass services or persons not expressly
 14 exempted from the tax.

15 Section 3. Subsections (1), (4), and (5), paragraph
 16 (a) of subsection (7), and subsections (11), (22), (23), and
 17 (26), and paragraph (a) of subsection (27) of section
 18 212.0592, Florida Statutes, as created by chapter 87-6, Laws
 19 of Florida, are amended, and subsection (42) is added to said
 20 section, to read:

21 212.0592 Exemptions from sales or use tax on
 22 services.--There shall be exempt from the tax on the sale or
 23 use of services imposed by ss. 212 059(1) or (2), 212.0594,
 24 and 212.0595 the following.

25 (1)(a) Services sold in this state for use outside of
 26 this state.

27 (b) A service shall be deemed to be purchased for use
 28 ~~in-the-state~~ where the benefit of the service is enjoyed. For
 29 purposes of determining where the benefit of the service is
 30 enjoyed, s. 212.0591(9) shall apply.

1 (c) In order to qualify for this exemption, the
2 provisions of s. 212.0593 shall be met.

3 (4) Services that partners who are natural persons
4 render to their partnerships, unless the partner renders his
5 services to the partnership in the capacity of an independent
6 contractor, and services that partners who are professional
7 corporations render exclusively to the partnership.

8 (5) Services between members of an affiliated group of
9 corporations, as defined in s. 212.02. However, this
10 exemption shall not apply only to the sale or use of any
11 service between any such members who are not included in the
12 affiliated group for purposes of this part. If the exemption
13 provided in this subsection is not applicable, the sales price
14 or cost price of the service between each unincorporated member
15 and any other member shall be based upon the fair market value
16 of the service. The sale or use of services between divisions
17 that may be separate taxpayers within the same corporation
18 shall be exempt. Nothing herein shall be construed to require
19 the filing of a consolidated return under chapter 220 in order
20 to qualify for the exemption granted by this subsection.

21 (7)(a) Transportation and warehousing services
22 enumerated in SIC Major Groups ~~407-427~~ 44, 45 and 47 for
23 agricultural commodities that have retained their original
24 identity, phosphate rock as defined in s. 211.30(9), potash as
25 described in SIC Industry Number 1474, sulfur as described in
26 SIC Industry Number 1477, nitrogenous fertilizers as
27 enumerated in SIC Industry Number 2873, and phosphatic
28 fertilizers as enumerated in SIC Industry Number 2874. For
29 purposes of this paragraph, an agricultural commodity retains
30 its original identity unless it is processed, packaged in
31 cans, or frozen. However, produce which is processed but

1 neither canned nor frozen shall be considered an agricultural
2 commodity that has retained its original identity.

3 (11)(a) Services of a financial nature, of a type
4 customarily performed by a financial institution.

5 (b) However, this exemption shall not apply to.
6 charges for use of safety deposit boxes; charges for use of
7 night deposit services, charges for issuing cashier's checks,
8 charges for issuing traveler's checks; charges for issuing
9 money orders; charges for preparation of individual tax
10 returns; charges for copies of documents; stop payment
11 charges; return check charges, unless due to insufficient
12 funds; charges for service as personal representative of
13 estates of decedents, credit information and reporting
14 services; overdraft charges, collection fees; hold mail fees,
15 guardianship fees; credit and charge card membership fees,
16 cash vault fees, investment advisory services, except those
17 performed by a trustee; or data processing services not
18 otherwise exempt, except check processing and check clearing
19 services.

20 (c) The tax imposed under s. 212.059 shall not apply
21 to a service by a financial institution the charge for which
22 is waived or imputed.

23 (d) For purposes of this subsection, the term
24 "financial institution" means a financial institution as
25 defined in s. 655.005; any subsidiary thereof; any holding
26 company, other than a diversified savings and loan holding
27 company as defined in s. 408 of the National Housing Act,
28 which controls a financial institution, ~~and~~ any subsidiary of
29 such holding company; and any Federal Reserve Bank.

30 (22) Sanitary services enumerated in SIC Group Number
31 495, garbage, refuse and debris transportation services

1 enumerated in SIC Industry Number 4212, and septic tank
2 cleaning services enumerated in SIC Industry Number 7699, if
3 such services are sold to residential households or owners of
4 residential models. However, "tipping fees" and other charges
5 for the right to dispose of garbage, refuse and debris shall
6 not be exempt pursuant to this subsection.

7 (23) Security and commodity brokerage services
8 enumerated in SIC Major Group 62 involving the transfer of
9 securities or commodities. However, this exemption shall not
10 be construed to exempt any financial service taxable under
11 subsection (11), or any accounting or investment advisory
12 services, except those performed by a trustee.

13 (26) Real estate commissions when the property seller
14 affirmatively demonstrates to the realtor responsible for
15 collecting the tax that at the time of signing the initial
16 listing contract on the real estate offered for sale the
17 property ~~seller resided thereon and~~ was assessed as entitled
18 to the homestead property exemption pursuant to s. 196.031.

19 (27)(a) Legal services rendered by an attorney to a
20 client to the extent that the right to counsel guaranteed
21 pursuant to either the Sixth Amendment to the United States
22 Constitution or Article I, Section 16 of the Florida
23 Constitution is applicable to such legal services. However,
24 this exemption shall only be applicable if the criminal
25 charges brought in the case are dismissed or the client is
26 ultimately adjudicated not guilty by a court of competent
27 jurisdiction. This exemption shall only be granted pursuant
28 to a refund of taxes previously paid on such services. The
29 provisions of s. 212.095 shall not apply to the refund
30 authorized in this paragraph.

1 (42) Household utility services sold to residential
 2 households or owners of residential models in this state by
 3 utility companies who pay the gross receipts tax imposed under
 4 s. 203.01, or by liquified petroleum gas companies, regardless
 5 of whether such sales of services are separately metered and
 6 billed direct to the residents or are metered and billed to
 7 the landlord. If any part of the service is used for a
 8 nonexempt purpose, the entire sale is taxable.

9 (43) Newspaper delivery services provided to the
 10 publisher or printer of a newspaper

11 (44) Construction support services purchased by a
 12 provider of construction support services in furtherance of a
 13 contract for such services. For purposes of this subsection,
 14 "construction support services" means architectural,
 15 engineering, drafting, surveying, land planning, landscape
 16 design, and interior design services, when such services
 17 directly relate to the construction, alteration, improvement,
 18 or repair of real property.

19 Section 4. Subsections (3) and (4) of section
 20 212.0593, Florida Statutes, as created by chapter 87-6, Laws
 21 of Florida, are amended to read:

22 212.0593 Administration of s. 212.0592(1).--

23 (3) Each dealer shall maintain a monthly log showing
 24 each transaction for which sales or use tax was not collected
 25 because of the presentation of an exempt purchase permit or
 26 exempt purchase affidavit under this section. The log shall
 27 identify the purchaser, the service sold, the price of the
 28 service and such other information as the department may
 29 prescribe. The logs and all affidavits accepted by the dealer
 30 shall be retained by the dealer for 5 3 years and made
 31 available to the department upon request. Failure to maintain

1 these records or to make them available to the department
 2 shall subject the dealer to a \$100 mandatory penalty the
 3 ~~penalties provided in s. 212.13.~~

4 (4) If a purchaser fails to obtain an exempt purchase
 5 permit or execute an exempt purchase affidavit, but otherwise
 6 qualifies for an exemption pursuant to s. 212.0592(1), the
 7 purchaser may apply to the department for a refund of taxes
 8 paid on the exempt amount of the purchase. The application
 9 for refund shall be accompanied by an exempt purchase
 10 affidavit and shall be submitted within 1 year of the
 11 purchaser's payment of the tax. A refund recommended by the
 12 department pursuant to this subsection shall be reduced by the
 13 amount of any applicable dealer collection allowance
 14 previously allowed on the transaction. The provisions of s.
 15 212.095 shall not apply to refunds granted pursuant to this
 16 subsection.

17 Section 5. Section 5 of chapter 87-6, Laws of Florida,
 18 is hereby repealed.

19 Section 6. Section 212.0594, Florida Statutes, is
 20 created to read:

21 212.0594 Construction services; special provisions.--

22 (1) For purposes of this section:

23 (a) "Prime contractor" means:

24 1. A person who enters into a contract to construct,
 25 improve, alter, or repair realty with the person for whose
 26 benefit the realty is being constructed, improved, altered, or
 27 repaired;

28 2. A person who enters into a contract to undertake
 29 the primary responsibility for supervising the construction,
 30 improvement, alteration or repair of realty with the person
 31 for whose benefit the realty is being constructed, improved,

1 altered, or repaired, in which case, all other persons
2 involved in the construction who would otherwise qualify as
3 prime contractors under subparagraph 1. shall be deemed
4 subcontractors;

5 3. A person who undertakes, on a speculative basis or
6 for his own use, the construction, improvement or alteration
7 of realty; or

8 4. A person who manufactures factory-built buildings.

9 (b) "Subcontractor" means a person who enters into a
10 contract to provide construction services to a prime
11 contractor or to another subcontractor.

12 (c) "Construction services" means any activity
13 directly involving the construction, alteration, improvement
14 or repair of realty.

15 (d) "New construction" means factory-built buildings
16 and any construction, alteration, improvement or repair of
17 realty for which the contract price, including building
18 materials used in the performance of the contract, exceeds
19 \$1,000.

20 (e) "Building materials" means tangible personal
21 property physically incorporated into the affected realty.

22 (f) "Contract price" means the total consideration
23 paid pursuant to a contract for the construction, alteration,
24 improvement or repair of realty, or in the case of new
25 construction undertaken on a speculative basis, the total
26 consideration paid pursuant to a contract to purchase the
27 improved realty. However, the contract price shall not
28 include the fair market value of land and any improvements to
29 the land existing prior to the contract for the construction,
30 alteration, improvement or repair of the realty.

31

1 (g) "Fair market value" means 120 percent of the
2 property's assessed value for ad valorem tax purposes, as
3 reflected by the most recent assessment roll for the county
4 prior to the new construction, unless the prime contractor can
5 demonstrate to the satisfaction of the department by proof of
6 comparable sales, actual purchase price, or appraisal, that
7 such assessment understates the value of the property.

8 (h) "Cost price" means the direct and indirect costs
9 of construction, including but not limited to the cost of
10 materials used, labor and service costs, interest charged, and
11 overhead expenses, without any deduction whatsoever.

12 (i) "Appraised value" means the actual value of the
13 realty, exclusive of the fair market value of land and any
14 improvements to the land existing prior to the new
15 construction, as established by an independent appraisal of
16 the realty.

17 (2) Prime contractors for new construction shall be
18 considered the final consumer of construction services
19 consumed in improving realty. The owner of the affected real
20 property shall be considered the final consumer of
21 construction services other than those related to new
22 construction. The prime contractor or subcontractor who
23 purchases or uses building materials shall be considered the
24 final consumer thereof.

25 (3) The tax imposed by s 212.059 shall be applied to
26 the sale of construction services in the following manner.

27 (a) For new construction undertaken pursuant to a
28 contract, or undertaken on a speculative basis but sold within
29 6 months of completion of the new construction, the tax shall
30 be imposed upon 50 percent of the contract price.

31

1 (b) For new construction undertaken for the prime
2 contractor's own use, or undertaken on a speculative basis and
3 not sold within 6 months of completion, the tax shall be based
4 upon 50 percent of the appraised value on which the
5 construction loan is based. If such an appraised value is not
6 available, the tax shall be based upon 50 percent of the cost
7 price.

8 (c) For construction other than new construction, the
9 tax shall be imposed upon 50 percent of the contract price,
10 less the amount paid by the prime contractor for building
11 materials incorporated into the realty.

12 (d) For the construction or repair of roads pursuant
13 to or in furtherance of a contract with a governmental entity
14 described in s. 212.08(6), the tax shall not apply

15 (e) For factory-built buildings, the tax shall be
16 imposed upon the cost price, less the amount paid for building
17 materials incorporated into such buildings.

18 (4) The tax imposed by s. 212.059 on construction
19 services shall be due and payable in the following manner:

20 (a) The prime contractor shall be responsible for
21 remitting the tax on construction services performed by
22 himself and by his subcontractors.

23 (b) Subcontractors shall not be required to collect
24 the tax on construction services they perform.

25 (c) For new construction undertaken pursuant to a
26 contract, the tax shall be due when the prime contractor
27 receives payments under the contract. If the contract price
28 is paid in draws or installments, the amount of tax to be paid
29 with respect to each such draw or installment, before
30 application of the dealer credit, shall be that proportion of
31

1 the tax due on the total contract price which the amount of
2 the draw or instalment bears to the total contract price.

3 (d) For new construction undertaken on a speculative
4 basis, or for the prime contractor's own use, partial payment
5 of the tax shall be due at such time payment is made by the
6 prime contractor to the subcontractor based on 50 percent of
7 the amount of such payment. Any tax amounts remaining shall
8 be due 30 days after a certificate of occupancy is issued, or
9 if no certificate of occupancy is required, when the new
10 construction is first put to its intended use.

11 (e) For construction other than new construction, the
12 tax shall be due when the prime contractor receives payment
13 for the construction services rendered.

14 (f) Taxes due and payable pursuant to this section
15 shall be remitted in accordance with s. 212.11.

16 (g) No unit of local government shall issue a
17 certificate of occupancy for new construction until the prime
18 contractor certifies, on a form promulgated by the department
19 and submitted to the local government, that the new
20 construction is substantially complete. Such forms shall be
21 provided to local governments by the department, and completed
22 forms shall be returned monthly to the department by the local
23 governments.

24 (5) The following provisions of this part shall not
25 apply with regard to the tax on construction services:

26 (a) Section 212.02(5), the definition of "cost price."

27 (b) Section 212.02(21), the definition of "sales
28 price."

29 (c) Section 212.059(3), regarding the collection and
30 remittance of the tax.

31

1 (d) Section 212.059(4), regarding the time the tax is
2 due.

3 (e) Section 212.0591(4), regarding taxation of
4 transactions previously taxed.

5 (f) Section 212.0591(6), regarding separate statement
6 of services and real property.

7 (g) Section 212.0591(7), regarding separate statement
8 of taxable and exempt services.

9 (h) Section 212.0592(2), regarding employee services,
10 shall not apply for purposes of determining the cost price of
11 new construction.

12 (i) Section 212.0592(3), regarding occasional or
13 isolated sales.

14 (j) Section 212.0592(4), regarding services sold to
15 partnerships.

16 (k) Section 212.0592(5), regarding services sold
17 between members of an affiliated group.

18 Section 7. Section 212.0595, Florida Statutes, as
19 created by chapter 87-6, Laws of Florida, is amended to read:

20 212.0595 Advertising; special provisions.--

21 ~~Notwithstanding the provisions of ss. 212.059-212.0593,~~ The
22 following special provisions shall be applicable to the sales
23 and use tax on advertising:

24 (1) A tax is hereby imposed on advertising sold or
25 used in this state. The tax shall be at the rate of 5 percent
26 of the sales price or cost price of the advertising.

27 (2) Advertising shall be deemed to have been sold in
28 this state if the greater proportion of the advertising is
29 performed within this state based on costs of performance as
30 defined in s. 212.02.

31

1 (3) Advertising shall be deemed to have been used in
2 this state if it was sold outside this state for consumption
3 in this state. Advertising shall be presumed to be consumed
4 in this state to the extent the cost price is apportioned to
5 this state pursuant to subsection (4).

6 (4)(a) The sales price of the sale of advertising, or
7 the cost price of the use of advertising, shall be apportioned
8 to the state as provided in this subsection. There shall be
9 included in the measure of the tax imposed by this section
10 that proportion of the sales price or cost price which is
11 equal to the proportion of market coverage within Florida to
12 the total United States market coverage for the most recently
13 completed accounting year of the service provider. However,
14 in the case of new or restructured service providers, the
15 department may prescribe by rule another time period or
16 proportion that fairly reflects Florida market coverage.

17 (b) For purposes of this subsection, "market coverage"
18 means average circulation within the geographic area of
19 distribution for the publication in which the advertisement
20 appears, in the case of print media, and means population
21 within the signal reception area of the broadcaster, in the
22 case of broadcast media, measured as prescribed by the
23 department by rule.

24 (c) For advertising other than print or broadcast
25 media, the department shall establish by rule a method for
26 fairly apportioning advertising sold or used in this state.

27 (5) If advertising is sold in this state, the sales
28 tax imposed by this section shall be collected and remitted by
29 the advertising media provider, unless the advertising is
30 purchased pursuant to a resale permit, in which case the
31

1 person reselling the advertising shall collect and remit the
 2 tax

3 (6) If advertising is not sold in this state, but is
 4 used in this state, the advertiser shall self-accrue the use
 5 tax imposed by this section and remit the tax directly to the
 6 department, unless the advertising is sold to a registered
 7 dealer for resale, in which case the registered dealer shall
 8 collect and remit the tax when the advertising is resold

9 (7)(a) When advertising is sold or resold, the seller
 10 or reseller shall state the sales price of the advertising and
 11 the applicable apportionment factor, if any, separately from
 12 any other charges which may be included in the invoice, charge
 13 slip or other tangible evidence of sale

14 (b) When the tax on advertising is not collected by
 15 the seller of the advertising, it is the responsibility of the
 16 purchaser to secure the apportionment factor pursuant to
 17 subsection (4) from the advertising media. ~~When advertising~~
 18 ~~is purchased and resold, the person reselling the advertising~~
 19 ~~may deduct the consideration paid for the advertising from his~~
 20 ~~charges for purposes of calculating any tax due under this~~
 21 ~~part.~~

22 (8) Nothing herein shall be construed to require the
 23 advertising media to furnish to the department a listing of
 24 persons placing advertising with the advertising media.

25 (9) Consideration paid pursuant to a written contract
 26 for a term in excess of two years, entered into prior to April
 27 1, 1987, and which involves a transaction taxable under this
 28 section, shall be exempt from the tax imposed by this section
 29 until the expiration of such contract. This exemption shall
 30 not apply to advertising provided pursuant to any extension or
 31 renewal of such contract.

1 (10) For purposes of this part, the term "advertising"
 2 means the medium used to convey the advertiser's message, and
 3 shall include any mark-up charged by an advertising agency or
 4 any other person for the service of brokering the medium.
 5 However, the term "advertising" shall not include creative
 6 services of a type customarily performed by an advertising
 7 agency.

8 (11) The following provisions of this part shall not
 9 apply to the sale or use of advertising:

10 (a) Section 212.059(3), regarding collection of the
 11 tax on services; and

12 (b) Section 212.0593, regarding administration of s.
 13 212.0592(1).

14 Section 8. Subsections (2) and (6), paragraph (h) of
 15 subsection (14), and paragraph (a) of subsection (19) of
 16 section 212.02, Florida Statutes, as amended by chapter 87-6,
 17 Laws of Florida, are amended to read:

18 212.02 Definitions.--The following terms and phrases
 19 when used in this chapter have the meanings ascribed to them
 20 in this section, except where the context clearly indicates a
 21 different meaning:

22 (2) "Affiliated group" means an affiliated group of
 23 corporations, as defined in s. 1504(a) of the Internal Revenue
 24 Code, whose members are includable under s. 1504(b), (c), or
 25 (d) of the Internal Revenue Code, and are eligible to file a
 26 consolidated tax return for Federal corporate income tax
 27 purposes. However, the taxpayer may elect, pursuant to rules
 28 of the department governing the procedure for making and
 29 amending such election, to define its affiliated group in a
 30 manner which excludes any member who has no tax nexus in this
 31 state and any member whose business activities are unrelated

1 to the business activities of other members of the group.
 2 However, in no event shall parent corporations be excluded
 3 from the affiliated group.

4 (6) "Costs of performance" means direct costs
 5 determined in a manner consistent with generally accepted
 6 accounting principles and in accordance with accepted
 7 conditions or practices in the type of trade or business in
 8 which the service provider taxpayer engages

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

14 (h) "Real property" means land, improvements thereto,
 15 and fixtures, and is synonymous with "realty" and "real
 16 estate." any interest in the surface of real property unless
 17 the property is:

18 ~~1.--Assessed as agricultural property under s. 193.461;~~

19 ~~2.--Used exclusively as dwelling units;~~

20 ~~3.--Property subject to tax on parking, docking, or~~
 21 ~~storage spaces under s. 212.036;~~

22 ~~4.--Recreational property or the common elements of a~~
 23 ~~condominium when subject to a lease between the developer or~~
 24 ~~owner thereof and the condominium association in its own right~~
 25 ~~or as agent for the owners of individual condominium units or~~
 26 ~~the owners of individual condominium units. --However, only the~~
 27 ~~lease payments on such property shall be exempt from the tax~~
 28 ~~imposed by this chapter, and any other use made by the owner~~
 29 ~~or the condominium association shall be fully taxable under~~
 30 ~~this chapter.~~

31

1 5. ~~A public or private street or right-of-way occupied~~
2 ~~or used by a utility for utility purposes.~~

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

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

10 8. ~~Property used at a port authority as defined in s.~~
11 ~~315.02(2) exclusively for the purpose of ocean-going vessels~~
12 ~~or tugs docking, or such vessels mooring on property used by a~~
13 ~~port authority for the purpose of loading or unloading~~
14 ~~passengers or cargo onto or from such a vessel, or property~~
15 ~~used at a port authority for fueling such vessels.~~

16 9. ~~Property used as an integral part of the~~
17 ~~performance of qualified production services as defined in s.~~
18 ~~212.0592(18)(a).~~

19 10. ~~Leased, subleased, or rented to a person providing~~
20 ~~food and drink concessionaire services within the premises of~~
21 ~~an airport, a movie theater, a business operated under a~~
22 ~~permit issued pursuant to chapter 550 or chapter 551, or any~~
23 ~~publicly owned arena, sports stadium, convention hall, or~~
24 ~~exhibition hall.~~

25 (19)(a) "Retail sale" or a "sale at retail" means a
26 sale to a consumer or to any person for any purpose other than
27 for resale in the form of tangible personal property or
28 services, and includes all such transactions that may be made
29 in lieu of retail sales or sales at retail. "Retail sale"
30 does not include fee-sharing between real estate agents and
31

1 real estate brokers. A sale of a service shall be considered
2 a sale for resale only if

3 1. The purchaser of the service does not use or
4 consume the service but acts as a broker or intermediary in
5 procuring a service for his client or customer,

6 2. The purchaser of the service buys the service
7 pursuant to a written contract with the seller and such
8 contract identifies the client or customer for whom the
9 purchaser is buying the service;

10 3. The purchaser of the service separately states the
11 value of the service purchased at the purchase price in his
12 charge for the service on its subsequent sale;

13 4. The service, with its value separately stated, will
14 be taxed under this part in a subsequent sale, and

15 5. The service is purchased pursuant to a service
16 resale permit by a dealer person who is primarily engaged in
17 the business of selling services. The department shall
18 provide by rule for the issuance and periodic renewal every 5
19 years of such resale permits

20

21 However, a sale, to other than an end user, of
22 telecommunication services consisting of a right of access for
23 which an access charge, as defined in s. 203.012(1), is
24 imposed, is a sale for resale.

25 Section 9. Paragraph (a) of subsection (1) of section
26 212.031, Florida Statutes, as amended by chapter 87-6, Laws of
27 Florida, is amended to read

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

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

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

4 1. Assessed as agricultural property under s. 193.461.

5 2. Used exclusively as dwelling units.

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

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

17 5. A public or private street or right-of-way occupied
18 or used by a utility for utility purposes.

19 6. A public street or road which is used for
20 transportation purposes.

21 7. Property used at an airport exclusively for the
22 purpose of aircraft landing or aircraft taxiing or property
23 used by an airline for the purpose of loading or unloading
24 passengers or property onto or from aircraft or for fueling
25 aircraft.

26 8. Property used at a port authority as defined in s.
27 315.02(2) exclusively for the purpose of oceangoing vessels or
28 tugs docking, or such vessels mooring on property used by a
29 port authority for the purpose of loading or unloading
30 passengers or cargo onto or from such a vessel, or property
31 used at a port authority for fueling such vessels.

1 9. Property used as an integral part of the
2 performance of qualified production services as defined in s.
3 212.0592(18)(a).

4 10. Leased, subleased, or rented to a person providing
5 food and drink concessionaire services within the premises of
6 ~~an airport~~, a movie theater, a business operated under a
7 permit issued pursuant to chapter 550 or chapter 551, or any
8 publicly owned arena, sports stadium, convention hall, or
9 exhibition hall, auditorium, or recreational facility.

10 Section 10. Paragraph (a) of subsection (2) of section
11 212.04, Florida Statutes, as amended by chapter 87-6, Laws of
12 Florida, is amended to read:

13 212.04 Admissions tax; rate, procedure, enforcement.--
14 (2)(a)1. No tax shall be levied on admissions to
15 athletic or other events sponsored by elementary schools,
16 junior high schools, middle schools, high schools, community
17 colleges, public or private colleges and universities, deaf
18 and blind schools, facilities of the youth services programs
19 of the Department of Health and Rehabilitative Services, and
20 state correctional institutions when only student, faculty, or
21 inmate talent is utilized. However, this exemption shall not
22 apply to admission to athletic events sponsored by an
23 institution within the State University System, and the
24 proceeds of the tax collected on such admissions shall be
25 retained and utilized by each institution to support women's
26 athletics as provided in s. 240.533(4)(c).

27 2. No tax shall be levied on dues, membership fees,
28 and admission charges imposed by not-for-profit religious
29 sponsoring organizations. To receive this exemption, the
30 religious sponsoring organization must qualify as a not-for-
31

1 profit entity under the provisions of s. 501(c)(3) of the
2 United States Internal Revenue Code of 1954, as amended.

3 3. No tax shall be levied on an admission paid by a
4 student, or on his behalf, to any required place of sport or
5 recreation if the student's participation in the sport or
6 recreational activity is required as a part of a program or
7 activity sponsored by, and under the jurisdiction of, the
8 student's educational institution, provided his attendance is
9 as a participant and not as a spectator.

10 4. No tax shall be levied on admissions to the
11 National Football League championship game.

12 Section 11. Paragraph (1) is added to subsection (1)
13 of section 212.05, Florida Statutes, as amended by chapter 87-
14 6, Laws of Florida, to read.

15 212.05 Sales, storage, use tax.--It is hereby declared
16 to be the legislative intent that every person is exercising a
17 taxable privilege who engages in the business of selling
18 tangible personal property at retail in this state, or who
19 rents or furnishes any of the things or services taxable under
20 this section, or who stores for use or consumption in this
21 state any item or article of tangible personal property as
22 defined herein and who leases or rents such property within
23 the state.

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

27 (1) At the rate of 5 percent on the retail price of
28 newspapers and magazines sold or used in Florida.
29 Notwithstanding other provisions of this part, the seller
30 shall not be required to separately state the tax on
31 newspapers. The tax on newspapers shall be remitted by the

1 publisher pursuant to s. 212.11 and s. 212.12. However, if
 2 the publisher is not within the jurisdiction of Florida, the
 3 tax shall be remitted by the distributor.

4 Section 12. Paragraph (b) of subsection (9) of section
 5 212 08, Florida Statutes, 1986 Supplement, is amended, and
 6 subsection (6) and paragraph (e) of subsection (7) of said
 7 section, as amended by chapter 87-6, Laws of Florida, are
 8 amended, to read:

9 212.08 Sales, rental, use, consumption, distribution,
 10 and storage tax; specified exemptions.--The sale at retail,
 11 the rental, the use, the consumption, the distribution, and
 12 the storage to be used or consumed in this state of the
 13 following are hereby specifically exempt from the tax imposed
 14 by part I of this chapter.

15 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are
 16 also exempt from the tax imposed by this chapter sales made to
 17 the United States Government, a the state, or any county,
 18 municipality, or political subdivision of a this state when
 19 payment is made directly to the dealer by the governmental
 20 entity. This exemption shall not inure to any transaction
 21 otherwise taxable under this chapter when payment is made by a
 22 government employee by any means, including, but not limited
 23 to, cash, check, or credit card when that employee is
 24 subsequently reimbursed by the governmental entity. This
 25 exemption does not include sales of tangible personal property
 26 or services made to contractors employed either directly or as
 27 agents of any such government or political subdivision thereof
 28 when such tangible personal property or service goes into or
 29 becomes a part of public works owned by such government or
 30 political subdivision thereof, except public works in progress
 31 or for which bonds or revenue certificates have been validated

1 on or before August 1, 1959. This exemption does not include
2 sales, rental, use, consumption, or storage for use in any
3 political subdivision or municipality in this state of
4 machines and equipment and parts and accessories therefor used
5 in the generation, transmission, or distribution of electrical
6 energy by systems owned and operated by a political
7 subdivision in this state except sales, rental, use,
8 consumption, or storage for which bonds or revenue
9 certificates are validated on or before January 1, 1973, for
10 transmission or distribution expansion.

11 (7) MISCELLANEOUS EXEMPTIONS.--

12 (e) Film rentals.--Film rentals are exempt when an
13 admission is charged for viewing such film, and license fees
14 and direct charges for films, videotapes, and transcriptions
15 used by television or radio stations or networks are exempt.
16 However, this exemption shall not be construed to exempt the
17 sale or use of advertising.

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

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

1 to the total purchases of such motor vehicles and parts
2 thereof which are used in this state to establish that portion
3 of the total used and consumed in intrastate movement and
4 subject to tax under this part Motor vehicles which are
5 licensed as common carriers by the Interstate Commerce
6 ~~Commission or the United States Department of Transportation~~
7 and parts thereof used to transport persons or property in
8 interstate and foreign commerce are hereby determined to be
9 susceptible to a distinct and separate classification for
10 taxation under the provisions of this part. Motor vehicles
11 and parts thereof used exclusively in intrastate commerce do
12 not qualify for the proration of tax.

13 Section 13. Paragraph (a) of subsection (6) of section
14 212.095, Florida Statutes, as amended by chapter 87-6, Laws of
15 Florida, is amended to read:

16 212.095 Refunds.--

17 (6)(a) Each registered dealer shall, in accordance
18 with the requirements of the department, keep at his principal
19 place of business in this state or at the location where the
20 sale is made a complete record or duplicate sales tickets of
21 all items or services sold by him for which a refund provided
22 in this section may be claimed, which records shall contain
23 the information required in paragraph (3)(a). ~~No licensed~~
24 ~~dealer or his agent or employee may acknowledge or assist in~~
25 ~~the preparation of any claim for tax refund; this provision~~
26 ~~does not apply to attorneys or to certified public accountants~~
27 ~~licensed pursuant to chapter 473 when acting for or on behalf~~
28 ~~of a client.~~

29 Section 14. Section 17 of chapter 87-6, Laws of
30 Florida, is amended to read:

31

1 Section 17. ~~The introductory paragraph of subsection~~
 2 ~~†††~~ Paragraph (b) of subsection (5)† and subsections (7) and
 3 (9) of section 212.12, Florida Statutes, 1986 Supplement, are
 4 amended, and, effective January 1, 1988, ~~paragraph-†b†~~ of
 5 subsection (1) of said section is amended, to read.

6 212.12 Dealer's credit for collecting tax; penalties
 7 for noncompliance; powers of Department of Revenue in dealing
 8 with delinquents; brackets applicable to taxable transactions;
 9 records required.--

10 (1) Notwithstanding any other provision of law and for
 11 the purpose of compensating persons granting licenses for and
 12 the lessors of real and personal property taxed hereunder, for
 13 the purpose of compensating dealers in tangible personal
 14 property, for the purpose of compensating dealers providing
 15 communication services and taxable services, and for the
 16 purpose of compensating owners of places where admissions are
 17 collected, and for the purpose of compensating remitters of
 18 any taxes or fees reported on the same documents utilized for
 19 the sales and use tax, as compensation for the keeping of
 20 prescribed records and the proper accounting and remitting of
 21 taxes by them, such seller, person, lessor, dealer, ~~and owner~~
 22 and remitter shall be allowed 3 percent of the amount of the
 23 tax due and accounted for and remitted to the department, in
 24 the form of a deduction in submitting his report and paying
 25 the amount due by him; and the department shall allow such
 26 deduction of 3 percent of the amount of the tax to the person
 27 paying the same for remitting the tax in the manner herein
 28 provided, for paying the amount due to be paid by him, and as
 29 further compensation to dealers in tangible personal property
 30 for the keeping of prescribed records and for collection of
 31 taxes and remitting the same. However, if the amount of the

1 tax due and remitted to the department for the reporting
2 period exceeds \$1,000, the 3-percent allowance shall be
3 reduced to 1 percent for all amounts in excess of \$1,000.

4 (a) The collection allowance may not be granted, nor
5 may any deduction be permitted, if the tax is delinquent at
6 the time of payment.

7 (b) The Department of Revenue may reduce the
8 collection allowance by 10 percent or \$50, whichever is less,
9 if a taxpayer files an incomplete return.

10 1. An "incomplete return" is, for purposes of this
11 chapter, a return which is lacking such uniformity,
12 completeness, and arrangement that the physical handling,
13 verification, or review of the return may not be readily
14 accomplished.

15 2. The department shall adopt rules requiring such
16 information as it may deem necessary to ensure that the tax
17 levied hereunder is properly collected, reviewed, compiled,
18 and enforced, including, but not limited to: the amount of
19 gross sales, the amount of taxable sales; the amount of
20 taxable purchases, the amount of tax collected or due, the
21 amount of lawful refunds, deductions, or credits claimed; the
22 amount claimed as the dealer's collection allowance, the
23 amount of penalty and interest, the amount due with the
24 return; and such other information as the Department of
25 Revenue may specify. The department shall require that the
26 amounts of gross sales, taxable sales, taxable purchases, and
27 tax collected or due shall be reported by major sales tax
28 source: services; tangible personal property; admissions;
29 transient rentals; commercial leases or licenses; and
30 agricultural equipment.

31 (5)

1 (b) In the event any dealer or other person charged
2 herein fails or refuses to make his records available for
3 inspection so that no audit or examination has been made of
4 the books and records of such dealer or person, fails or
5 refuses to register as a dealer, or fails to make a report and
6 pay the tax as provided by this chapter; or makes a grossly
7 incorrect report, or makes a report that is false or
8 fraudulent, then, in such event, it shall be the duty of the
9 department to make an assessment from an estimate based upon
10 the best information then available to it for the taxable
11 period of retail sales of such dealer, the gross proceeds from
12 rentals, the total admissions received, amounts received from
13 leases of tangible personal property by such dealer, or of the
14 cost price of all articles of tangible personal property
15 imported by the dealer for use or consumption or distribution
16 or storage to be used or consumed in this state or of the
17 sales or cost price of all services the sale or use of which
18 is taxable under this part, together with interest, plus
19 penalty, if such have accrued, as the case may be. Then the
20 department shall proceed to collect such taxes, interest, and
21 penalty on the basis of such assessment, which shall be
22 considered prima facie correct, and the burden to show the
23 contrary shall rest upon the dealer, seller, owner, or lessor,
24 as the case may be.

25 (7) In the event the dealer has imported the tangible
26 personal property or has acquired services outside the state
27 for sale or use in this state and he fails to produce an
28 invoice showing the cost price of the articles or services, as
29 defined in this chapter, which are subject to tax, or the
30 invoice does not reflect the true or actual cost price as
31 defined herein, then the department shall ascertain, in any

1 manner feasible, the true cost price, and assess and collect
2 the tax thereon with interest plus penalties, if such have
3 accrued on the true cost price as assessed by it. The
4 assessment so made shall be considered prima facie correct,
5 and the duty shall be on the dealer to show to the contrary

6 (9) Taxes imposed by this chapter upon the privilege
7 of the use, consumption, storage for consumption, or sale of
8 tangible personal property, admissions, license fees, rentals,
9 and communication services, and upon the sale or use of
10 services as herein taxed shall be collected upon the basis of
11 an addition of the tax imposed by this chapter to the total
12 price of such admissions, license fees, rentals, communication
13 or other services, or sale price of such article or articles
14 that are purchased, sold, or leased at any one time by or to a
15 customer or buyer; and the dealer, or person charged herein,
16 is required to pay a privilege tax in the amount of the tax
17 imposed by this chapter on the total of his gross sales of
18 tangible personal property, admissions, license fees, rentals,
19 and communication services or to collect a tax upon the sale
20 or use of services, and such person or dealer shall add the
21 tax imposed by this chapter to the price, license fee, rental,
22 or admissions, and communication or other services and collect
23 the total sum from the purchaser, admittee, licensee, lessee,
24 or consumer. Notwithstanding the rate of taxes imposed upon
25 the privilege of sales, admissions, license fees, rentals, and
26 communication services, or upon the sale or use of services,
27 the following brackets shall be applicable to all transactions
28 taxable at the rate of 5 percent:

29 (a) On single sales of less than 10 cents, no tax
30 shall be added.

31

1 (b) On single sales in amounts from 10 cents to 20
2 cents, both inclusive, 1 cent shall be added for taxes.

3 (c) On sales in amounts from 21 cents to 40 cents,
4 both inclusive, 2 cents shall be added for taxes.

5 (d) On sales in amounts from 41 cents to 60 cents,
6 both inclusive, 3 cents shall be added for taxes.

7 (e) On sales in amounts from 61 cents to 80 cents,
8 both inclusive, 4 cents shall be added for taxes.

9 (f) On sales in amounts from 81 cents to \$1, both
10 inclusive, 5 cents shall be added for taxes.

11 (g) On sales in amounts of more than \$1, 5 percent
12 shall be charged upon each dollar of price, plus the
13 appropriate bracket charge upon any fractional part of a
14 dollar.

15 Section 15. Section 212.235, Florida Statutes, as
16 created by chapter 87-6, Laws of Florida, is amended to read:

17 212.235 State Infrastructure Trust Fund, deposits.--

18 (1) Notwithstanding the provisions of ss. 212.20(1)
19 and 218.61, in fiscal year 1987-1988 an amount equal to 2
20 percent, and in each fiscal year thereafter an amount equal to
21 5 percent, of the proceeds remitted pursuant to this part by a
22 dealer, or the sums sufficient to provide the maximum receipts
23 specified herein, shall be transferred ~~deposited~~ into the
24 State Infrastructure Trust Fund, which is created in the State
25 Treasury. "Proceeds" means all funds collected and received
26 by the Department of Revenue, including any interest and
27 penalties. However, any receipts of the trust fund, including
28 those received pursuant to ss. 201.15(5) and 206.875(3) and
29 interest earned, in excess of \$200 million in fiscal year
30 1987-1988, and \$500 million thereafter, shall revert to the
31 General Revenue Fund.

1 (2) Subject to an appropriation each year by the
2 Legislature, moneys in the fund shall only be used for the
3 purposes of:

4 (a) Acquiring the right-of-way for and constructing
5 state highways and bridges,

6 (b) Constructing public education capital facilities;

7 (c) Financing state projects for beach restoration or
8 renourishment or lake, or river, or other water body
9 restoration, including the restoration of bays and estuaries;

10 (d) Constructing state correctional facilities;

11 (e) Constructing other infrastructure projects; or

12 (f) Issuing revenue bonds to finance state capital
13 outlay projects authorized by this section. Such bonds shall
14 be payable solely from legislative appropriations from the
15 State Infrastructure Trust Fund and shall not be a debt of the
16 state, and the state shall not be liable thereon. Neither the
17 taxing power, the credit, nor the revenues of the state shall
18 be pledged to pay any obligation issued pursuant to this
19 subsection.

20 Section 16. Section 31 of chapter 87-6, Laws of
21 Florida, is amended to read:

22 Section 31. Notwithstanding any other provision of
23 this act, in the case of written contracts which are signed
24 prior to May 1, 1987, offers which are submitted prior to such
25 date which are binding on the offeror and are accepted, or
26 contracts which are funded by government bonds sold before May
27 1, 1987 or contracted prior to such date to be sold, for
28 constructing improvements to real property, prime contractors,
29 as defined in s. 212.0594~~107~~, Florida Statutes, responsible
30 for performing the contract shall not be required to remit any
31

1 tax on services levied pursuant to s. 212.059 or s. 212.0594,
2 Florida Statutes, provided that:

3 (1) Pursuant to s. 212.0594, Florida Statutes, it is
4 the responsibility of the prime contractor to remit the tax,†

5 (2) The purchase of the services for which the tax is
6 not being remitted is necessary to complete the contract and
7 the tax cannot be legally collected from the final purchaser
8 and cannot be included in the price charged the final
9 purchaser under the terms of the contract.†

10 (3) On the first tax return of the prime contractor in
11 which tax is not remitted pursuant to this section for a
12 specific contract, the prime contractor must submit an
13 application in a manner approved by the Department of Revenue
14 by rule. A complete application shall include proof of the
15 written contract, the amount of tax not being remitted, the
16 anticipated date of completion of the contract, an estimate of
17 the value of services expected to be performed under the
18 contract subsequent to June 30, 1989, and a sworn statement,
19 signed by the applicant or his representative, attesting to
20 the validity of the application. Subsequent taxes not
21 remitted pursuant to a specific contract must be identified as
22 to amount and application authority at the time such taxes are
23 not paid.†~~and~~

24 (4) The purchase of the service occurs before June 30,
25 1988. However, if the department determines pursuant to the
26 information submitted by the prime contractor under subsection
27 (3) that the construction will not be completed before June
28 30, 1988, the exemption will apply to purchases of services
29 occurring before June 30, 1989.

30 (5) On or before March 1, 1988, the Department of
31 Revenue shall provide the Legislature with an estimate of the

1 value of construction services expected to be performed after
2 June 30, 1989, on contracts that qualify for the exemption
3 allowed pursuant to this section.

4
5 Any person who fraudulently does not remit taxes pursuant to
6 this section shall, in addition to being liable for the
7 payment of any taxes fraudulently not remitted plus a
8 mandatory penalty of 100 percent of the taxes not remitted, be
9 guilty of a misdemeanor of the second degree, punishable as
10 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
11 Statutes.

12 Section 17. Section 32 of chapter 87-6, Laws of
13 Florida, is amended to read

14 Section 32. Rule 12A-1.091(6) of the Department of
15 Revenue is hereby repealed. However, the department is hereby
16 authorized to provide by rule for self-accrual of the sales
17 tax under one or more of the following circumstances

18 (1) Where authorized by law for purchasers of
19 services;

20 (2) Where authorized by law for holders of direct pay
21 permits;

22 (3) Where tangible personal property is subject to tax
23 on a prorated basis, and the proration factor is based upon
24 characteristics of the purchaser,

25 (4) Where the taxable status of types of tangible
26 personal property ~~whose-taxable-status~~ will be known only upon
27 use because the purchaser, by virtue of the normal
28 characteristics of his trade or business, regularly consumes
29 the type of property as a supply as well as sells it for
30 resale; and
31

1 (5) For commercial rentals where the purchaser rents
2 from a number of independent property owners who, apart from
3 rentals to the purchaser in question, would otherwise not be
4 obligated to register as dealers.

5 Section 18. Section 33 of chapter 87-6, Laws of
6 Florida, is amended to read:

7 Section 33. The Legislature hereby finds that the
8 failure to promptly implement the provisions of this act would
9 present an immediate threat to the welfare of the state
10 because revenues needed for operation of the state would not
11 be collected. Therefore, the executive director of the
12 Department of Revenue is hereby authorized to adopt emergency
13 rules pursuant to s. 120.54(9), Florida Statutes, for purposes
14 of implementing this act. Notwithstanding any other provision
15 of law, such emergency rules shall remain effective for 6
16 months from the date of adoption. Other rules required by the
17 Department of Revenue for the orderly implementation of
18 chapter 87-6, Laws of Florida, and this act shall not be
19 subject to a s. 120.54(4), Florida Statutes, rule challenge or
20 a s. 120.54(17), Florida Statutes, drawout proceeding, but,
21 once adopted, shall be subject to a s. 120.56, Florida
22 Statutes, invalidity challenge. Such rules shall be adopted
23 by the Governor and Cabinet and shall become effective upon
24 filing with the Department of State, notwithstanding the
25 provisions of s. 120.54(13), Florida Statutes.

26 Section 19 Section 36 of chapter 87-6, Laws of
27 Florida, is amended to read:

28 Section 36. Any penalties provided for pursuant to s.
29 212.12(2), Florida Statutes, shall be waived by the executive
30 director of the Department of Revenue for returns due for the
31 tax on services newly imposed by this act. If the executive

1 director determines that the interest owed pursuant to s.
 2 212.12(3) ~~214-23~~, Florida Statutes, will cause an undue
 3 hardship on the taxpayer, he may also waive the interest
 4 payment. The waiver for penalties and interest shall apply
 5 with respect to returns for taxes due and payable for the
 6 period between July 1, 1987, and September 30, 1987.

7 Section 20. Section 38 of chapter 87-6, Laws of
 8 Florida, is amended to read

9 Section 38. ~~Except for the purposes of s. 212.0593,~~
 10 ~~Florida Statutes,~~ Nothing contained in this act shall be
 11 construed to require disclosure of privileged information, the
 12 confidentiality of which is protected under the Florida
 13 Evidence Code require an attorney or a certified public
 14 ~~accountant licensed pursuant to chapter 473, Florida Statutes,~~
 15 ~~to reveal the identity of any client for any reason.~~

16 Section 21. Paragraph (b) of subsection (1) of section
 17 120.575, Florida Statutes, as created by chapter 87-6, Laws of
 18 Florida, is amended to read:

19 120.575 Taxpayer contest proceedings.--

20 (1)

21 (b) In any such administrative proceeding brought
 22 pursuant to s. 120.57(1) as authorized in s. 72.011(1) to
 23 contest the legality of any assessment of tax imposed for the
 24 sale or use of services as provided in chapter 212, or
 25 interest thereon, or penalty therefor, the following
 26 procedures shall apply, any provisions of this chapter to the
 27 contrary notwithstanding:

28 1. The petition shall be filed with the division,
 29 which shall forward a copy to the department immediately upon
 30 receipt of the petition.

31

1 2. The hearing officer or panel provided in s.
2 120.65(5) shall conduct all proceedings under this paragraph.

3 3. Within 10 days after receiving the petition, the
4 hearing officer or panel shall accept or deny the petition
5 and, if accepted, shall conduct a hearing thereon, unless the
6 petition is withdrawn.

7 4. Within 30 days after the hearing or receipt of the
8 hearing transcript, whichever is later, the hearing officer or
9 panel shall issue an ~~its~~ order, which shall consist of
10 findings of fact, conclusions of law, interpretation of
11 administrative rules, and any other information required by
12 law or rule to be contained in the final order. Such order
13 shall affirm or deny the assessment, interest, or penalty, and
14 shall determine the amount of any assessment, interest, or
15 penalty.

16 5. The order of the hearing officer or panel shall be
17 final agency action.

18 Section 22. Subsection (5) of section 120.65, Florida
19 Statutes, as created by chapter 87-6, Laws of Florida, is
20 amended to read:

21 120.65 Hearing officers.--

22 (5) The director shall appoint, from among the full-
23 time hearing officers of the division, a panel consisting of
24 one to three members to be the hearing officer in all
25 proceedings brought as provided in s. 120.575(1)(b). The
26 director shall have the discretion to determine the size of
27 the panel based upon the complexity and precedential
28 importance of the issues involved, and the amount of potential
29 revenues in dispute. Such appointments shall be made with due
30 regard to the expertise required for determination of such
31 proceedings. Service as a member of such panel shall be at

1 the pleasure of the director, and such service may be in
2 addition to other duties of employment by the division.

3 Section 23. Section 47 of chapter 87-6, Laws of
4 Florida, is amended to read:

5 Section 47. The Department of Revenue is directed to
6 undertake a study of service transactions for the purpose of
7 identifying those transactions not taxable pursuant to the
8 definition of service in s. 212.02, Florida Statutes. On or
9 before March 1, 1989 ~~1988~~, the department shall report to the
10 Governor and the Legislature all service transactions so
11 identified.

12 Section 24. There is hereby appropriated from the
13 Administrative Trust Fund of the Department of Revenue the sum
14 of \$364,757 to the Division of Administrative Hearings of the
15 Department of Administration, for purposes of implementing the
16 provisions of chapter 87-6, Laws of Florida, and this act.

17 Section 25. Subsection (1) and paragraph (a) of
18 subsection (3) of section 95 091, Florida Statutes, as amended
19 by chapter 87-6, Laws of Florida, are amended to read:

20 95.091 Limitation on actions to collect taxes.--

21 (1) ~~(a)~~ Except in the case of taxes for which
22 certificates have been sold or of taxes levied under chapters
23 198 and 220 ~~enumerated in s. 72-011~~, any tax lien granted by
24 law to the state or any of its political subdivisions, any
25 municipality, any public corporation or body politic, or any
26 other entity having authority to levy and collect taxes shall
27 expire 5 years after the date the tax is assessed or becomes
28 delinquent, whichever is later. No action may be begun to
29 collect any tax after the expiration of the lien securing the
30 payment of the tax.

1 ~~(b)--Any tax lien granted by law to the state or any of~~
 2 ~~its political subdivisions for any tax enumerated in s. 72.011~~
 3 ~~shall expire 20 years after the last date the tax may be~~
 4 ~~assessed, after the tax becomes delinquent, or after the~~
 5 ~~filing of a tax warrant, whichever is later.--An action to~~
 6 ~~collect any tax enumerated in s. 72.011 may not be commenced~~
 7 ~~after the expiration of the lien securing the payment of the~~
 8 ~~tax.~~

9 (3)(a) With the exception of taxes levied under
 10 chapter 198 and tax adjustments made pursuant to s. 220.23,
 11 the Department of Revenue may determine and assess the amount
 12 of any tax, penalty, or interest due under any tax enumerated
 13 in s. 72.011:

14 1. Within 3 5 years after the date the tax is due, any
 15 return with respect to the tax is due, or such return is
 16 filed, whichever occurs later;

17 2. Within 6 years after the date a taxpayer either
 18 makes a substantial underpayment of tax or files a
 19 substantially incorrect return,

20 3. At any time while the right to a refund or credit
 21 of the tax is available to the taxpayer;

22 4. At any time after the taxpayer has failed to make
 23 any payment of the tax, has failed to file a required return,
 24 or has filed a grossly false or fraudulent return; or

25 5. In any case in which there has been an erroneous
 26 refund of tax, within 5 years after making such refund, or at
 27 any time after making such refund if it appears that any part
 28 of the refund was induced by fraud or the misrepresentation of
 29 a material fact.

30 (b) The limitations in this subsection shall be tolled
 31 for a period of 2 years if the Department of Revenue has

1 issued a notice of intent to conduct an audit or investigation
2 of the taxpayer's account within the applicable period of time
3 as specified in this subsection.

4 Section 26. Effective July 1, 1988, subsection (1) of
5 section 198.18, Florida Statutes, as amended by chapter 87-6,
6 Laws of Florida, is amended to read:

7 198.18 Failure to pay tax; penalties; delinquent or
8 deficient taxes, interest.--

9 (1) If any part of a deficiency in tax due under the
10 provisions of this chapter is due to negligence or intentional
11 disregard of the provisions of this chapter or the rules and
12 regulations issued pursuant hereto, with knowledge thereof but
13 without intent to defraud, there shall be added as a penalty 5
14 percent per month of the total amount of the deficiency in tax
15 to a maximum of 25 ~~100~~ percent of the tax due; and, if any
16 part of such deficiency is willfully made with intent to
17 defraud, there shall be added as a penalty 50 percent of the
18 total amount of such deficiency, which penalty shall become
19 due and payable upon notice and demand by the department. The
20 personal representative shall be liable to the state
21 personally and on his official bond, if any, for any loss to
22 the state accruing under the provisions of this section
23 through his negligence or willful neglect. No interest shall
24 be collected upon the amount of any penalty. The department
25 may settle or compromise such penalties pursuant to s. 213.21.

26 Section 27. Effective July 1, 1988, paragraph (c) of
27 subsection (2) of section 211.33, Florida Statutes, as amended
28 by chapter 87-6, Laws of Florida, is amended to read:

29 211.33 Administration of the tax, returns; delinquency
30 penalties and interest, departmental inspections of records.--

31 (2)

1 (c) If a tax return is not filed by April 1 for any
2 taxes due for the preceding year or if any part of a
3 deficiency in the tax due for the preceding tax year is due to
4 negligence or intentional disregard of this part or the rules
5 promulgated pursuant hereto, the department shall levy a
6 delinquency penalty of 5 percent for each month, or portion
7 thereof, on the amount of tax delinquent, not to exceed 25 ~~100~~
8 percent of the total tax due.

9 Section 28. Section 214.50, Florida Statutes, as
10 amended by chapter 87-6, Laws of Florida, is amended to read:

11 214.50 Liens; foreclosure.--In addition to any other
12 remedy provided by the laws of this state, and provided that
13 no hearing or proceedings for review provided by this chapter
14 shall be pending and that the time for the taking of review
15 shall have expired, the department may foreclose in any court
16 of competent jurisdiction any lien on real or personal
17 property for any tax, penalty, or interest to the same extent
18 and in the same manner as in the enforcement of other liens.
19 Any proceeding to foreclose shall be instituted not more than
20 5 ~~20~~ years after the filing, or availability for filing, of
21 the notice of lien under the provisions of s. 214.45.

22 Section 29. Subsection (1) of section 214.51, Florida
23 Statutes, as amended by chapter 87-6, Laws of Florida, is
24 amended to read:

25 214.51 Collection procedures.--

26 (1) In addition to any other remedy provided by the
27 laws of this state, if any tax imposed by laws made applicable
28 to this chapter is not paid within the time required by this
29 chapter, the department, or someone designated by it, may
30 cause a demand to be made on the taxpayer for the payment
31 thereof. If such tax remains unpaid for 10 days after such

1 demand has been made and no proceedings have been taken to
2 review the same, the department may issue a warrant directed
3 to any sheriff or other person authorized to serve process,
4 commanding said sheriff or other person to levy upon and sell
5 the real and personal property of the taxpayer found within
6 his jurisdiction for the payment of the amount thereof,
7 including penalties, interest, and the cost of executing the
8 warrant. Such warrant shall be returned to the department
9 together with the money collected by virtue thereof within the
10 time therein specified, which shall not be less than 20 nor
11 more than 90 days from the date of the warrant. The sheriff
12 or other person to whom such a warrant shall be directed shall
13 proceed upon the same in all respects and with like effect as
14 is prescribed by law for executions issued against property
15 upon judgments of record, and shall be entitled to the same
16 fees for his services in executing the warrant, to be
17 collected in the same manner. No proceedings for a levy under
18 this section shall be commenced more than 5 ~~20~~ years after the
19 filing of the notice of lien under the provisions of this
20 part.

21 Section 30. Effective July 1, 1988, paragraph (b) of
22 subsection (5) of section 212.08, Florida Statutes, as amended
23 by section 59 of chapter 87-6, Laws of Florida, is amended to
24 read:

25 212.08 Sales, rental, use, consumption, distribution,
26 and storage tax: specified exemptions.--The sale at retail,
27 the rental, the use, the consumption, the distribution, and
28 the storage to be used or consumed in this state of the
29 following are hereby specifically exempt from the tax imposed
30 by part I of this chapter

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

1 (b) Machinery and equipment used to increase
2 productive output.--

3 1. Industrial machinery and equipment purchased for
4 use in new businesses which manufacture, process, compound, or
5 produce for sale items of tangible personal property at fixed
6 locations and services directly related to the installation of
7 such machinery and equipment, excluding construction services,
8 are exempt from the tax imposed by this chapter upon an
9 affirmative showing by the taxpayer to the satisfaction of the
10 department that such items are used in a new business in this
11 state. Such purchases must be made prior to the date the
12 business first begins its productive operations, and delivery
13 of the purchased item must be made within 12 months of that
14 date.

15 2. Industrial machinery and equipment purchased for
16 use in expanding manufacturing facilities or plant units which
17 manufacture, process, compound, or produce for sale items of
18 tangible personal property at fixed locations in this state
19 and services directly related to the installation of such
20 machinery and equipment, excluding construction services, are
21 exempt from any amount of tax imposed by this chapter in
22 excess of \$100,000 per calendar year upon an affirmative
23 showing by the taxpayer to the satisfaction of the department
24 that such items are used to increase the productive output of
25 such expanded business by not less than 10 percent.

26 3.a. To receive an exemption provided by subparagraph
27 1. or subparagraph 2., a qualifying business entity shall
28 apply to the department for a temporary tax exemption permit.
29 The application shall state that a new business exemption or
30 expanded business exemption is being sought. Upon a tentative
31 affirmative determination by the department pursuant to

1 subparagraph 1. or subparagraph 2., the department shall issue
2 such permit.

3 b. The applicant shall be required to maintain all
4 necessary books and records to support the exemption. Upon
5 completion of purchases of qualified machinery, equipment, or
6 services pursuant to subparagraph 1 or subparagraph 2., the
7 temporary tax permit shall be delivered to the department or
8 returned to the department by certified or registered mail.
9 The department shall have 4 years from the date of delivery or
10 date of receipt to perform an audit of such purchases,
11 notwithstanding the provisions of s. 95.091(3).

12 c. If, in a subsequent audit conducted by the
13 department, it is determined that the machinery, equipment, or
14 services purchased as exempt under subparagraph 1. or
15 subparagraph 2. did not meet the criteria mandated by this
16 paragraph or if commencement of production did not occur, the
17 amount of taxes exempted at the time of purchase shall
18 immediately be due and payable to the department by the
19 business entity, together with the appropriate interest and
20 penalty, computed from the date of purchase, in the manner
21 prescribed by this chapter.

22 d. In the event a qualifying business entity fails to
23 apply for a temporary exemption permit or if the tentative
24 determination by the department required to obtain a temporary
25 exemption permit is negative, a qualifying business entity
26 shall receive the exemption provided in subparagraph 1. or
27 subparagraph 2. through a refund of previously paid taxes. No
28 refund may be made for such taxes unless the criteria mandated
29 by subparagraph 1. or subparagraph 2. have been met and
30 commencement of production has occurred.

1 4. The department shall promulgate rules governing
2 applications for, issuance of, and the form of temporary tax
3 exemption permits; provisions for recapture of taxes; and the
4 manner and form of refund applications and may establish
5 guidelines as to the requisites for an affirmative showing of
6 increased productive output, commencement of production, and
7 qualification for exemption.

8 5. The exemptions provided in subparagraphs 1. and 2.
9 do not apply to machinery, equipment, or services purchased or
10 used by electric utility companies, communications companies,
11 phosphate or other solid minerals severance, mining, or
12 processing operations, oil or gas exploration or production
13 operations, printing or publishing firms, any firm subject to
14 regulation by the Division of Hotels and Restaurants of the
15 Department of Business Regulation, or any firm which does not
16 manufacture, process, compound, or produce for sale items of
17 tangible personal property.

18 6. For the purposes of the exemptions provided in
19 subparagraphs 1. and 2., these terms have the following
20 meanings:

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

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

20 Section 31. Effective July 1, 1988, paragraphs (a) and
 21 (b) of subsection (8) of section 125.0104, Florida Statutes,
 22 as amended by chapter 87-6, Laws of Florida, are amended to
 23 read:

24 125.0104 Tourist development tax; procedure for
 25 levying; authorized uses; referendum; enforcement.--

26 (8) PROHIBITED ACTS; ENFORCEMENT; PENALTIES --

27 (a) Any person who is taxable hereunder who fails or
 28 refuses to charge and collect from the person paying any
 29 rental or lease the taxes herein provided, either by himself
 30 or through his agents or employees, is, in addition to being
 31 personally liable for the payment of the tax, guilty of a

1 misdemeanor felony of the first third degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084.

3 (b) No person shall advertise or hold out to the
4 public in any manner, directly or indirectly, that he will
5 absorb all or any part of the tax, that he will relieve the
6 person paying the rental of the payment of all or any part of
7 the tax, or that the tax will not be added to the rental or
8 lease consideration or, when added, that it or any part
9 thereof will be refunded or refused, either directly or
10 indirectly, by any method whatsoever. Any person who
11 willfully violates any provision of this subsection is guilty
12 of a misdemeanor felony of the first third degree, punishable
13 as provided in s. 775.082, s. 775.083, or s. 775.084.

14 Section 32. Effective July 1, 1988, section 198.37,
15 Florida Statutes, as amended by chapter 87-6, Laws of Florida,
16 is amended to read:

17 198.37 Failure to make return; penalty.--Any person
18 required under this chapter to pay any tax, or required by law
19 or regulations made under authority thereof to make a return,
20 keep any records, or supply any information for the purposes
21 of the computation, assessment, or collection of any tax
22 imposed by this chapter, who willfully fails to pay such tax,
23 make such return, keep such records, or supply such
24 information, at the time or times required by law or
25 regulations, is, in addition to other penalties provided by
26 law, guilty of a misdemeanor felony of the first third degree,
27 punishable as provided in s. 775.082, s. 775.083, or s.
28 775.084.

29 Section 33. Effective July 1, 1988, section 198.39,
30 Florida Statutes, as amended by chapter 87-6, Laws of Florida,
31 is amended to read:

1 198.39 False statement in return, penalty.--Whoever
2 knowingly makes any false statement in any notice or return
3 required to be filed under this chapter is guilty of a
4 misdemeanor felony of the first third degree, punishable as
5 provided in s. 775.082, s. 775.083, or s. 775.084

6 Section 34. Effective July 1, 1988, paragraph (a) of
7 subsection (3) and subsection (8) of section 199.282, Florida
8 Statutes, as amended by chapter 87-6, Laws of Florida, are
9 amended to read

10 199.282 Penalties for violation of this chapter.--

11 (3)(a) If any annual or nonrecurring tax is not paid
12 by the due date, a delinquency penalty shall be charged. The
13 delinquency penalty shall be 5 percent of the delinquent tax
14 for each calendar month or portion thereof from the due date
15 until paid, up to a limit of 25 ~~100~~ percent of the total tax
16 not timely paid.

17 (8) Any person who fails or refuses to file an annual
18 return, or who fails or refuses to make records available for
19 inspection, when requested to do so by the department is
20 guilty of a misdemeanor felony of the first third degree,
21 punishable as provided in s. 775.082, s. 775.083, or s.
22 775.084.

23 Section 35. Effective July 1, 1988, subsection (1) of
24 section 201.17, Florida Statutes, as amended by chapter 87-6,
25 Laws of Florida, is amended to read:

26 201.17 Penalties for failure to pay tax required.--

27 (1) Whoever makes, signs, issues, or accepts, or
28 causes to be made, signed, issued, or accepted, any
29 instrument, document, or paper of any kind or description
30 whatsoever, without the full amount of the tax herein imposed
31 thereon being fully paid, or whoever makes use of any adhesive

1 stamp to denote any tax imposed by this chapter without
2 canceling or obliterating such stamps as herein provided, is
3 guilty of a misdemeanor felony of the first third degree,
4 punishable as provided in s. 775.082, s. 775.083, or s.
5 775.084.

6 Section 36. Effective July 1, 1988, section 201.20,
7 Florida Statutes, as amended by chapter 87-6, Laws of Florida,
8 is amended to read:

9 201.20 Penalties for illegally avoiding tax on
10 notes.--Any person using the provisions of s. 201.09 to avoid
11 the payment of any tax justly due is guilty of a misdemeanor
12 felony of the first third degree, punishable as provided in s.
13 775.082, s. 775.083, or s. 775.084.

14 Section 37. Effective July 1, 1988, subsection (7) of
15 section 203.01, Florida Statutes, as amended by chapter 87-6,
16 Laws of Florida, is amended to read:

17 203.01 Tax on gross receipts for utility services.--

18 (7) Any person who provides such services and who
19 fails, neglects, or refuses to collect or remit the tax
20 imposed in this part, either by himself or through his agents
21 or employees, is liable for the tax and is guilty of a
22 misdemeanor felony of the first third degree, punishable as
23 provided in s. 775.082, s. 775.083, or s. 775.084.

24 Section 38. Effective July 1, 1988, section 203.03,
25 Florida Statutes, as amended by chapter 87-6, Laws of Florida,
26 is amended to read:

27 203.03 Penalties.--

28 (1) Any officer, agent, or representative of any such
29 person who receives any payment for the furnishing of the
30 things or the services above mentioned without first complying
31 with the provisions of this chapter as required, is guilty of

1 a misdemeanor felony of the first third degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084.

3 (2) Any person who willfully violates or fails to
4 comply with any of the provisions of this chapter is guilty of
5 a misdemeanor felony of the first third degree, punishable as
6 provided in s. 775.082, s. 775.083, or s. 775.084.

7 Section 39. Effective July 1, 1988, subsection (3) of
8 section 203.63, Florida Statutes, as amended by chapter 87-6,
9 Laws of Florida, is amended to read:

10 203.63 Tax on interstate and international
11 telecommunication services.--

12 (3) Any person who provides such services and who
13 fails, neglects, or refuses to collect or remit the tax
14 imposed in this part, either by himself or through his agents
15 or employees, is liable for the tax and is guilty of a
16 misdemeanor felony of the first third degree, punishable as
17 provided in s. 775.082, s. 775.083, or s. 775.084.

18 Section 40. Effective July 1, 1988, subsection (4) of
19 section 206.18, Florida Statutes, as amended by chapter 87-6,
20 Laws of Florida, is renumbered as subsection (5) and amended,
21 and new subsection (4) is added to said section to read

22 206.18 Discontinuance or transfer of business,
23 liability of tax, procedure; penalty for violation.--

24 (4) In the event any dealer is delinquent in the
25 payment of the tax herein provided for, the department may
26 give notice of the amount of such delinquency by registered
27 mail to all persons having in their possession or under their
28 control any credits or other personal property belonging to
29 such dealer or owing any debts to such dealer at the time of
30 receipt by them of such notice. All persons so notified shall
31 within 5 days after receipt of the notice advise the

1 department of all such credits, other personal property, or
2 debts in their possession, under their control, or owing by
3 them. After receiving the notice, the persons so notified
4 shall neither transfer nor make any other disposition of the
5 credits, other personal property, or debts in their possession
6 or under their control at the time they receive the notice
7 until the department consents to a transfer or disposition or
8 until 60 days elapse after the receipt of the notice,
9 whichever period expires earlier, except that the credits,
10 other personal property, or debts which exceed the delinquent
11 amount stipulated in the notice shall not be subject to the
12 provisions of this section, wherever held, in any case in
13 which such dealer does not have a prior history of tax
14 delinquencies. All persons notified shall likewise within 5
15 days advise the department of any subsequent credits or other
16 personal property belonging to such dealer or any debts
17 incurred and owing to such dealer which may come within their
18 possession or under their control during the time prescribed
19 by the notice or until the department consents to a transfer
20 or disposition, whichever expires earlier. If such notice
21 seeks to prevent transfer or other disposition of a deposit in
22 a bank or other credits or personal property in the possession
23 or under the control of a bank, the notice to be effective
24 shall be delivered or mailed to the office of such bank, at
25 which such deposit is carried or at which such credits or
26 personal property is held. If, during the effective period of
27 the notice to withhold, any person so notified makes any
28 transfer or disposition of the property or debts required to
29 be withheld hereunder, he shall be liable to the state for any
30 indebtedness due under this chapter from the person with
31 respect to whose obligation the notice was given to the extent

1 of the value of the property or the amount of the debts thus
2 transferred or paid if, solely by reason of such transfer or
3 disposition, the state is unable to recover the indebtedness
4 of the person with respect to whose obligation the notice was
5 given. All such credits or other personal property or debts
6 are subject to garnishment by the department for satisfaction
7 of the delinquent tax due.

8 ~~(5)~~⁽⁴⁾ Any violation of the provisions of this section
9 is a felony of the third degree, punishable as provided in s.
10 775.082, s. 775.083, or s. 775.084.

11 Section 41. Effective July 1, 1988, subsection (1) of
12 section 206.44, Florida Statutes, as amended by chapter 87-6,
13 Laws of Florida, is amended to read:

14 206.44 Penalty and interest for failure to report on
15 time; penalty and interest on tax deficiencies.--

16 (1) If any refiner, importer, or wholesaler fails to
17 make a report or pay the taxes due as required by this
18 chapter, the department shall add a penalty in the amount of 5
19 percent of any unpaid tax if the failure is for not more than
20 1 month, with an additional 5 percent of any unpaid tax for
21 each additional month or fraction thereof during which the
22 failure continues. However, such penalty may not exceed 25
23 ~~100~~ percent in the aggregate of any unpaid tax. Furthermore,
24 in no event may the penalty assessed be less than \$5. The
25 department shall collect the tax, together with the penalty
26 and costs, in the same manner as other delinquent taxes are
27 collected.

28 Section 42. Effective July 1, 1988, subsection (5) of
29 section 206.877, Florida Statutes, as amended by chapter 87-6,
30 Laws of Florida, is amended to read:

1 206.877 Motor vehicles fueled by liquefied petroleum
2 gas or compressed natural gas, payment of annual decal fees in
3 lieu of tax.--

4 (5) Any person who violates the provisions of this
5 section is guilty of a misdemeanor felony of the first third
6 degree, punishable as provided in s. 775.082, s. 775.083, or
7 s. 775.084. In addition, any person who is liable for fueling
8 a vehicle which does not have the proper decal affixed is
9 subject to the provisions of this section and the provisions
10 of s. 206.94.

11 Section 43. Effective July 1, 1988, subsection (1) of
12 section 206.9931, Florida Statutes, as amended by chapter 87-
13 6, Laws of Florida, is amended to read:

14 206.9931 Administrative provisions.--

15 (1) Any person producing in, importing into, or
16 causing to be imported into this state taxable pollutants for
17 sale, use, or otherwise and who is not registered or licensed
18 pursuant to other parts of this chapter is hereby required to
19 register and become licensed for the purposes of this part.
20 Such person shall register as either a producer or importer of
21 pollutants and shall be subject to all applicable registration
22 and licensing provisions of this chapter, as if fully set out
23 in this part and made expressly applicable to the taxes
24 imposed herein, including, but not limited to, ss. 206.02,
25 206.021, 206.022, 206.025, 206.03, 206.04, and 206.05. For
26 the purposes of this section, registrations required
27 exclusively for this part shall be made within 90 days of July
28 1, 1986, for existing businesses, or prior to the first
29 production or importation of pollutants for businesses created
30 after July 1, 1986. The fee for registration shall be \$30.
31 Failure to timely register is a misdemeanor felony of the

1 first third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084.

3 Section 44. Effective July 1, 1988, subsection (1) of
4 section 207.007, Florida Statutes, as amended by chapter 87-6,
5 Laws of Florida, is amended to read:

6 207.007 Offenses; penalties and interest.--

7 (1) If any motor carrier fails to file a return and
8 pay any tax liability under this chapter within the time
9 required hereunder, the department shall add a delinquency
10 penalty of 10 5 percent to the amount of the taxes due if the
11 failure is for not more than 30 days, with an additional 10 5
12 percent penalty for each additional 30 days, or fraction
13 thereof, during the time which the failure continues, not to
14 exceed a total penalty of 100 percent in the aggregate.
15 However, in no event shall the penalty be less than \$5.

16 Section 45. Effective July 1, 1988, subsection (2) of
17 section 211.076, Florida Statutes, as amended by chapter 87-6,
18 Laws of Florida, is amended to read

19 211.076 Interest and penalties; failure to pay tax or
20 file return; estimated tax underpayments.--

21 (2) Failure to file any return required by this part
22 by the due date shall require payment of a delinquency
23 penalty. If tax is due with the return, the delinquency
24 penalty shall be 5 percent for each month, or portion thereof,
25 of the amount of tax due with the return, not to exceed 25 100
26 percent. If no tax is due with the return, the delinquency
27 penalty shall be \$25 for each month, or portion thereof,
28 during which the return was not filed, not to exceed \$150 in
29 aggregate. The amount of tax due with a return shall be
30 reduced by amounts properly creditable against the tax
31

1 liability shown on the return on the date the return was due.

2 Section 46. Effective July 1, 1988, subsection (1) of
3 section 211.25, Florida Statutes, as amended by chapter 87-6,
4 Laws of Florida, is amended to read:

5 211.25 Tax crimes; punishment for violation of this
6 part.--

7 (1) Any person who willfully fails to file a return or
8 keep books or records on production of taxable products, or
9 who files a fraudulent return, or who willfully fails or
10 refuses to produce books or records, or who willfully violates
11 any provision of this part or any rule adopted by the
12 department under this part is guilty of a misdemeanor felony
13 of the first third degree, punishable as provided in s.
14 775.082, s. 775.083, or s. 775.084.

15 Section 47. Effective July 1, 1988, paragraphs (1) and
16 (j) of subsection (3) of section 212.0305, Florida Statutes,
17 as amended by chapter 87-6, Laws of Florida, are amended to
18 read:

19 212.0305 Convention development taxes, intent,
20 administration; authorization, use of proceeds.--

21 (3) APPLICATION; ADMINISTRATION; PENALTIES.--

22 (1) Any person taxable under this section who, either
23 by himself or through his agents or employees, fails or
24 refuses to charge and collect the taxes herein provided from
25 the person paying any rental or lease is, in addition to being
26 personally liable for the payment of the tax, guilty of a
27 misdemeanor felony of the first third degree, punishable as
28 provided in s. 775.082, s. 775.083, or s. 775.084.

29 (j) No person shall advertise or hold out to the
30 public in any manner, directly or indirectly, that he will
31 absorb all or any part of the tax; that he will relieve the

1 person paying the rental of the payment of all or any part of
2 the tax; or that the tax will not be added to the rental or
3 lease consideration or, if added, that the tax or any part
4 thereof will be refunded or refused, either directly or
5 indirectly, by any method whatsoever. Any person who
6 willfully violates any provision of this paragraph is guilty
7 of a misdemeanor felony of the first ~~third~~ degree, punishable
8 as provided in s. 775.082, s. 775.083, or s. 775.084.

9 Section 48. Effective July 1, 1988, paragraph (a) of
10 subsection (1) of section 212.05, Florida Statutes, as amended
11 by section 83 of chapter 87-6, Laws of Florida, is amended to
12 read:

13 212.05 Sales, storage, use tax.--It is hereby declared
14 to be the legislative intent that every person is exercising a
15 taxable privilege who engages in the business of selling
16 tangible personal property at retail in this state, or who
17 rents or furnishes any of the things or services taxable under
18 this section, or who stores for use or consumption in this
19 state any item or article of tangible personal property as
20 defined herein and who leases or rents such property within
21 the state.

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

25 (a)1.a. At the rate of 5 percent of the sales price of
26 each item or article of tangible personal property when sold
27 at retail in this state, computed on each taxable sale for the
28 purpose of remitting the amount of tax due the state, and
29 including each and every retail sale.

30 b. Each occasional or isolated sale of an aircraft,
31 boat, mobile home, or motor vehicle of a class or type which

1 is required to be registered, licensed, titled, or documented
2 in this state or by the United States Government shall be
3 subject to tax at the rate provided in this paragraph. The
4 department shall, by rule, adopt the NADA Official Used Car
5 Guide as the reference price list for any used motor vehicle
6 which is required to be licensed pursuant to s. 320.08(1),
7 (2), (3)(a), (b), (c), or (f), or (9). If any party to an
8 occasional or isolated sale of such a vehicle reports to the
9 tax collector a sales price which is less than 80 percent of
10 the average loan price for the specified model and year of
11 such vehicle as listed in the most recent reference price
12 list, the tax levied under this paragraph shall be computed by
13 the department on such average loan price unless the parties
14 to the sale have provided to the tax collector an affidavit
15 signed by each party, or other substantial proof, stating the
16 actual sales price. Any party to such sale who reports a
17 sales price less than the actual sales price is guilty of a
18 misdemeanor felony of the first third degree, punishable as
19 provided in s. 775.082, s. 775.083, or s. 775.084. The
20 department shall collect or attempt to collect from such party
21 any delinquent sales taxes. In addition, such party shall pay
22 any tax due and any penalty and interest assessed, plus a
23 penalty equal to twice the amount of the additional tax owed.
24 Notwithstanding any other provision of law, the Department of
25 Revenue may waive or compromise any penalty imposed after July
26 1, 1985, pursuant to this sub-subparagraph. For purposes of
27 this sub-subparagraph, an occasional or isolated sale is one
28 in which the seller is not a motor vehicle dealer as defined
29 in s. 320.27(1)(c).

30 2. This paragraph does not apply to the sale of a boat
31 or airplane by or through a registered dealer under this

1 chapter to a purchaser who removes such boat or airplane from
2 this state within 10 days after the date of purchase or, when
3 the boat or airplane is repaired or altered, within 10 days
4 after completion of such repairs or alterations. In no event
5 shall the boat or airplane remain in this state more than 90
6 days after the date of purchase. This exemption shall not be
7 allowed unless the seller:

8 a. Obtains from the purchaser within 90 days from the
9 date of sale written proof that the purchaser licensed,
10 registered, or documented the boat or airplane outside the
11 state;

12 b. Requires the purchaser to sign an affidavit that he
13 has read the provisions of this section; and

14 c. Makes the affidavit a part of his permanent record.
15

16 In the event the purchaser fails to remove the boat or
17 airplane from this state within 10 days after purchase or,
18 when the boat or airplane is repaired or altered, within 10
19 days after completion of such repairs or alterations, or
20 permits the boat or airplane to return to this state within 6
21 months from the date of departure, the purchaser shall be
22 liable for use tax on the cost price of the boat or airplane
23 and, in addition thereto, payment of a penalty to the
24 Department of Revenue equal to the tax payable. This penalty
25 shall be in lieu of the penalty imposed by s. 212 12(2) and is
26 mandatory and shall not be waived by the department.

27 Section 49. Effective July 1, 1988, subsections (3)
28 and (4) of section 212.07, Florida Statutes, as amended by
29 section 85 of chapter 87-6, Laws of Florida, are amended to
30 read:
31

1 212.07 Sales, storage, use tax, tax added to purchase
2 price; dealer not to absorb; liability of purchasers who
3 cannot prove payment of the tax; penalties; general
4 exemptions.--

5 (3) Any dealer who fails, neglects, or refuses to
6 collect the tax herein provided, either by himself or through
7 his agents or employees, is, in addition to the penalty of
8 being liable for and paying the tax himself, guilty of a
9 misdemeanor felony of the first third degree, punishable as
10 provided in s. 775.082, s. 775.083, or s. 775.084.

11 (4) A dealer engaged in any business or in selling any
12 services taxable under this chapter may not advertise or hold
13 out to the public, in any manner, directly or indirectly, that
14 he will absorb all or any part of the tax, or that he will
15 relieve the purchaser of the payment of all or any part of the
16 tax, or that the tax will not be added to the selling price of
17 the property or services sold or released or, when added, that
18 it or any part thereof will be refunded either directly or
19 indirectly by any method whatsoever. A person who violates
20 this provision with respect to advertising or refund is guilty
21 of a misdemeanor felony of the second third degree, punishable
22 as provided in s. 775.082, s. 775.083, or s. 775.084. A
23 second or subsequent offense constitutes a misdemeanor felony
24 of the first second degree, punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084.

26 Section 50. Effective July 1, 1988, section 212.085,
27 Florida Statutes, as amended by chapter 87-6, Laws of Florida,
28 is amended to read:

29 212.085 Fraudulent claim of exemption; penalties.--
30 When any person shall fraudulently knowingly, for the purpose
31 of evading tax, issue to a vendor or to any agent of the state

1 a certificate or statement in writing in which he claims
 2 exemption from sales tax, such person, in addition to being
 3 liable for payment of the tax plus a mandatory penalty of 100
 4 percent of the tax, shall be liable for fine and punishment as
 5 provided by law for a conviction of a felony of the third
 6 degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

7 Section 51. Effective July 1, 1988, subsections (3)
 8 and (4) of section 212.10, Florida Statutes, as amended by
 9 chapter 87-6, Laws of Florida, are reenacted, and subsection
 10 (5) of said section as amended by said chapter, is amended, to
 11 read:

12 212.10 Sale of business; liability for tax, procedure,
 13 penalty for violation.--

14 (3) In the event any dealer is delinquent in the
 15 payment of the tax herein provided for, the department may
 16 give notice of the amount of such delinquency by registered
 17 mail to all persons having in their possession or under their
 18 control any credits or other personal property belonging to
 19 such dealer or owing any debts to such dealer at the time of
 20 receipt by them of such notice. All persons so notified shall
 21 within 5 days after receipt of the notice advise the
 22 department of all such credits, other personal property, or
 23 debts in their possession, under their control, or owing by
 24 them. After receiving the notice, the persons so notified
 25 shall neither transfer nor make any other disposition of the
 26 credits, other personal property, or debts in their possession
 27 or under their control at the time they receive the notice
 28 until the department consents to a transfer or disposition or
 29 until 60 days elapse after the receipt of the notice,
 30 whichever period expires the earlier, except that the credits,
 31 other personal property, or debts which exceed the delinquent

1 amount stipulated in the notice shall not be subject to the
2 provisions of this section, wherever held, in any case in
3 which such dealer does not have a prior history of sales tax
4 delinquencies. All persons notified shall likewise within 5
5 days advise the department of any subsequent credits or other
6 personal property belonging to such dealer or any debts
7 incurred and owing to such dealer which may come within their
8 possession or under their control during the time prescribed
9 by the notice or until the department consents to a transfer
10 or disposition, whichever expires the earlier. If such notice
11 seeks to prevent the transfer or other disposition of a
12 deposit in a bank or other credits or personal property in the
13 possession or under the control of a bank, the notice to be
14 effective shall be delivered or mailed to the office of such
15 bank at which such deposit is carried or at which such credits
16 or personal property is held. If, during the effective period
17 of the notice to withhold, any person so notified makes any
18 transfer or disposition of the property or debts required to
19 be withheld hereunder, he shall be liable to the state for any
20 indebtedness due under this chapter from the person with
21 respect to whose obligation the notice was given to the extent
22 of the value of the property or the amount of the debts thus
23 transferred or paid if, solely by reason of such transfer or
24 disposition, the state is unable to recover the indebtedness
25 of the person with respect to whose obligation the notice was
26 given. All such credits or other personal property or debts
27 are subject to garnishment by the department for satisfaction
28 of the delinquent tax due.

29 (4) After notice by the department of a transferee
30 liability under this section, the dealer shall have 60 days
31 within which to file an action as provided in chapter 72.

1 (5)~~(3)~~ Any violation of the provisions of this section
 2 is a misdemeanor felony of the first third degree, punishable
 3 as provided in s. 775.082, s. 775.083, or s. 775.084.

4 Section 52. Effective July 1, 1988, paragraph (a) of
 5 subsection (2) and subsection (13) of section 212.12, Florida
 6 Statutes, as amended by section 88 of chapter 87-6, Laws of
 7 Florida, are amended to read:

8 212.12 Dealer's credit for collecting tax; penalties
 9 for noncompliance; powers of Department of Revenue in dealing
 10 with delinquents; brackets applicable to taxable transactions;
 11 records required.--

12 (2)(a) When any person, firm, or corporation required
 13 hereunder to make any return or to pay any tax imposed by this
 14 chapter fails to timely file such return or fails to pay the
 15 tax due within the time required hereunder, in addition to all
 16 other penalties provided herein and by the laws of this state
 17 in respect to such taxes, a specific penalty shall be added to
 18 the tax in the amount of 5 percent of any unpaid tax if the
 19 failure is for not more than 30 days, with an additional 5
 20 percent of any unpaid tax for each additional 30 days, or
 21 fraction thereof, during the time which the failure continues,
 22 not to exceed, however, a total penalty of 25 ~~100~~ percent, in
 23 the aggregate, of any unpaid tax. In no event may the penalty
 24 be less than \$5 for failure to timely file a tax return
 25 required by s. 212.11. In the case of a false or fraudulent
 26 return or a willful intent to evade payment of any tax imposed
 27 under this chapter, in addition to the other penalties
 28 provided by law, the person making such false or fraudulent
 29 return or willfully attempting to evade the payment of such a
 30 tax shall be liable to a specific penalty of 50 percent of the
 31

1 tax bill and for fine and punishment as provided by law for a
2 conviction of a misdemeanor felony of the first ~~third~~ degree.

3 (13) In order to aid the administration and
4 enforcement of the provisions of this chapter with respect to
5 the rentals and license fees, each lessor or person granting
6 the use of any hotel, apartment house, roominghouse, tourist
7 or trailer camp, real property, or any interest therein, or
8 any portion thereof, inclusive of owners, property managers,
9 lessors, landlords, hotel, apartment house, and roominghouse
10 operators and all licensed real estate agents within the state
11 leasing, granting the use of, or renting such property, shall
12 be required to keep a record of each and every such lease,
13 license, or rental transaction which is taxable under this
14 chapter, in such a manner and upon such forms as the
15 department may prescribe, and to report such transaction to
16 the department or its designated agents, and to maintain such
17 records for a period of not less than 3 years, subject to the
18 inspection of the department and its agents; and, upon the
19 failure by such owner, property manager, lessor, landlord,
20 hotel, apartment house, roominghouse, tourist or trailer camp
21 operator, or real estate agent to keep and maintain such
22 records and to make such reports upon the forms and in the
23 manner prescribed, such owner, property manager, lessor,
24 landlord, hotel, apartment house, roominghouse, tourist or
25 trailer camp operator, receiver of rent or license fees, or
26 real estate agent is guilty of a misdemeanor felony of the
27 second ~~third~~ degree, punishable as provided in s. 775.082, s.
28 775 083, or s. 775.084, for the first offense, and for
29 subsequent offenses, they are each guilty of a misdemeanor
30 felony of the first ~~second~~ degree, punishable as provided in
31 s. 775 082, s. 775.083, or s. 775.084.

1 Section 53. Effective 1, 1988, subsections (1) and (2)
2 of section 212.13, Florida Statutes, as amended by section 89
3 of chapter 87-6, Laws of Florida, are amended to read:

4 212.13 Records required to be kept; power to inspect;
5 audit procedure.--

6 (1) For the purpose of enforcing the collection of the
7 tax levied by this chapter, the department is hereby
8 specifically authorized and empowered to examine at all
9 reasonable hours the books, records, and other documents of
10 all transportation companies, agencies, or firms that conduct
11 their business by truck, rail, water, aircraft, or otherwise,
12 in order to determine what dealers, or other persons charged
13 with the duty to report or pay a tax under this chapter, are
14 importing or are otherwise shipping in articles or tangible
15 personal property which are liable for said tax. In the event
16 said transportation company, agency, or firm refuses to permit
17 such examination of its books, records, or other documents by
18 the department as aforesaid, it is guilty of a misdemeanor
19 felony of the first third degree, punishable as provided in s.
20 775.082, s. 775.083, or s. 775.084. The department shall have
21 the right to proceed in any chancery court to seek a mandatory
22 injunction or other appropriate remedy to enforce its right
23 against the offender, as granted by this section, to require
24 an examination of the books and records of such transportation
25 company or carrier.

26 (2) Each dealer, as defined in this chapter, shall
27 secure, maintain, and keep for a period of 3 years a complete
28 record of tangible personal property or services received,
29 used, sold at retail, distributed or stored, leased or rented
30 by said dealer, together with invoices, bills of lading, gross
31 receipts from such sales, and other pertinent records and

1 papers as may be required by the department for the reasonable
2 administration of this chapter; and all such records which are
3 located or maintained in this state shall be open for
4 inspection by the department at all reasonable hours at such
5 dealer's store, sales office, general office, warehouse, or
6 place of business located in this state. Any dealer who
7 maintains such books and records at a point outside this state
8 must make such books and records available for inspection by
9 the department where the general records are kept. Any dealer
10 subject to the provisions of this chapter who violates these
11 provisions is guilty of a misdemeanor felony of the first
12 ~~third~~ degree, punishable as provided in s. 775.082, s.
13 775.083, or s. 775.084.

14 Section 54. Effective July 1, 1988, subsection (3) of
15 section 212.14, Florida Statutes, as amended by section 90 of
16 chapter 87-6, Laws of Florida, is amended to read:

17 212.14 Departmental powers; hearings, subpoena,
18 distress warrants; time for assessments.--

19 (3) The department may require all reports of taxes to
20 be paid under this chapter to be accompanied with a written
21 statement, of the person or by an officer of any firm or
22 corporation required to pay such taxes setting forth such
23 facts as the department may reasonably require in order to
24 advise the department as to the amount of taxes that are due
25 and payable upon said return. Filing of return not
26 accompanied by payment is prima facie evidence of conversion
27 of the money due. Any person or any duly authorized
28 corporation officer or agent, members of any firm or
29 incorporated society, or organization who refuses to make a
30 return and pay the taxes due, as required by the department
31 and in the manner and in the form that the department may

1 require, or to state in writing that the return is correct to
 2 the best of his knowledge and belief, as so required by the
 3 department, shall be subject to a penalty of 6 percent per
 4 annum of the amount due and shall upon conviction, be guilty
 5 of a misdemeanor felony of the first third degree, punishable
 6 as provided in s. 775.082, s. 775.083, or s. 775.084. The
 7 signing of a written return shall have the same legal effect
 8 as if made under oath without the necessity of appending such
 9 oath thereto.

10 Section 55. Effective July 1, 1988, subsections (2)
 11 and (3) of section 212.15, Florida Statutes, as amended by
 12 chapter 87-6, Laws of Florida, are amended to read:

13 212.15 Taxes declared state funds; penalties for
 14 failure to remit taxes, due and delinquent dates; judicial
 15 review.--

16 (2) Any person who, with intent to unlawfully deprive
 17 or defraud the state of its moneys or the use or benefit
 18 thereof, fails to remit taxes collected pursuant to this
 19 chapter is guilty of theft of state funds, punishable as
 20 follows:

21 (a) If the total amount of stolen revenue is less than
 22 \$100, the offense is a misdemeanor felony of the second third
 23 degree, punishable as provided in s. 775.082, s. 775.083, or
 24 s. 775.084. Upon a second ~~or subsequent~~ conviction within a
 25 3-year period, the offender is guilty of a misdemeanor felony
 26 of the first second degree, punishable as provided in s.
 27 775.082, s. 775.083, or s. 775.084. Upon a third or
 28 subsequent conviction within a 3-year period, the offender is
 29 guilty of a felony of the third degree, punishable as provided
 30 in s. 775.082, s. 775.083, or s. 775.084.

1 (b) If the total amount of stolen revenue is \$100 or
 2 more, the offense is a felony of the third ~~second~~ degree,
 3 punishable as provided in s. 775.082, s. 775.083, or s.
 4 775.084.

5 (c) If the total amount of stolen revenue is \$20,000
 6 or more, the offense is a felony of the second degree,
 7 punishable as provided in s. 775.082, s. 775.083, or s.
 8 775.084.

9 (3) Prosecution of a misdemeanor under this section
 10 shall commence no later than 2 years from the date of the
 11 offense. Prosecution of a felony under this section shall
 12 commence no later than 5 years from the date of the offense

13 Section 56. Effective July 1, 1988, subsection (3) of
 14 section 212.18, Florida Statutes, as amended by section 92 of
 15 chapter 87-6, Laws of Florida, is amended to read:

16 212.18 Administration of law; rules and regulations.--

17 (3) Every person desiring to engage in or conduct
 18 business in this state as a dealer, as defined in this
 19 chapter, or to lease, rent, or let or grant licenses in living
 20 quarters or sleeping or housekeeping accommodations in hotels,
 21 apartment houses, roominghouses, tourist or trailer camps, or
 22 real property, as defined in this chapter, and every person
 23 who sells or receives anything of value by way of admissions,
 24 shall file with the department an application for a
 25 certificate of registration for each place of business,
 26 showing the names of the persons who have interests in such
 27 business and their residences, the address of the business,
 28 and such other data as the department may reasonably require.
 29 The application shall be made to the department before the
 30 person, firm, copartnership, or corporation may engage in such
 31 business; and it shall be accompanied by a registration fee of

1 §5. The department, upon receipt of such application, will
2 grant to the applicant a separate certificate of registration
3 for each place of business, which certificate may be canceled
4 by the department or its designated assistants for any failure
5 by the certificateholder to comply with any of the provisions
6 of this chapter. The certificate shall not be assignable and
7 shall be valid only for the person, firm, copartnership, or
8 corporation to which issued; and such certificate shall be
9 placed in a conspicuous place in the business or businesses
10 for which it is issued and shall be so displayed at all times.
11 No person shall engage in business as a dealer or in leasing,
12 renting, or letting of or granting licenses in living quarters
13 or sleeping or housekeeping accommodations in hotels,
14 apartment houses, roominghouses, tourist or trailer camps, or
15 real property as hereinbefore defined, nor shall any person
16 sell or receive anything of value by way of admissions,
17 without first having obtained such a certificate or after such
18 certificate has been canceled, and no person shall receive any
19 license from any authority within the state to engage in any
20 such business without first having obtained such a certificate
21 or after such certificate has been canceled. The engaging in
22 the business of selling or leasing tangible personal property
23 or services or as a dealer, as defined in this chapter, or the
24 engaging in leasing, renting, or letting of or granting
25 licenses in living quarters or sleeping or housekeeping
26 accommodations in hotels, apartment houses, roominghouses,
27 tourist or trailer camps, or real property as hereinbefore
28 defined, or the engaging in the business of selling or
29 receiving anything of value by way of admissions, without such
30 certificate first being obtained or after such certificate has
31 been canceled by the department is prohibited. The failure or

1 refusal of any person, firm, copartnership, or corporation to
2 so qualify when required hereunder is a misdemeanor felony of
3 the first third degree, punishable as provided in s. 775.082,
4 s. 775.083, or s. 775.084, or subject to injunctive
5 proceedings as provided by law.

6 Section 57. Effective July 1, 1988, subsection (1) of
7 section 214.40, Florida Statutes, as amended by chapter 87-6,
8 Laws of Florida, is amended to read:

9 214.40 Penalties; failure to file timely returns.--

10 (1) In case of failure to file any tax return required
11 under laws made applicable to this chapter on the date
12 prescribed therefor, including any extensions thereof, there
13 shall be added as a penalty to the amount of tax due with such
14 return 5 percent of the amount of such tax, if the failure is
15 not for more than 1 month, plus an additional 5 percent for
16 each additional month or fraction thereof during which such
17 failure continues, not exceeding 25 ~~100~~ percent in the
18 aggregate. The department may settle or compromise such
19 penalties pursuant to s. 213.21. For purposes of this
20 section, the amount of tax due with any return shall be
21 reduced by any part of the tax which is paid on or before the
22 date prescribed for payment of the tax and by the amount of
23 any credit against the tax which was properly allowable on the
24 date the return was required to be filed.

25 Section 58. Effective July 1, 1988, section 214.60,
26 Florida Statutes, as amended by chapter 87-6, Laws of Florida,
27 is amended to read

28 214.60 Willful and fraudulent acts.--Any taxpayer who
29 is subject to the provisions of this chapter and who willfully
30 fails to file a return or keep required books and records,
31 files a fraudulent return, willfully violates any rule or

1 regulation of the department, or willfully attempts in any
 2 other manner to evade or defeat any tax imposed by laws made
 3 applicable to this chapter or the payment thereof, is, in
 4 addition to other penalties, guilty of a misdemeanor felony of
 5 the first third degree, punishable as provided in s. 775.082,
 6 s. 775.083, or s. 775.084.

7 Section 59. Sections 100, 101, and 102 of chapter 87-
 8 6, Laws of Florida, are hereby repealed.

9 Section 60. Paragraph (c) of subsection (2) of section
 10 213.73, Florida Statutes, as created by chapter 87-6, Laws of
 11 Florida, is amended to read:

12 213 73 Manner and conditions of sale of property
 13 subject of a levy by the Department of Revenue.--Whenever a
 14 levy is made as a result of an execution upon a tax warrant or
 15 lien:

16 ~~(c)--The extent to which methods additional to those~~
 17 ~~prescribed in s. 213.72, including advertising, may be used in~~
 18 ~~giving notice of the sale.~~

19 Section 61. Section 213 74, Florida Statutes, as
 20 created by chapter 87-6, Laws of Florida, is amended to read.

21 213.74 Certificate of sale; deed of real property;
 22 legal effect.--

23 (1) In the case of property sold pursuant to a levy by
 24 the Department of Revenue as provided in s. 213.72, the
 25 executive director or his designee shall give to the purchaser
 26 a certificate of sale upon payment in full of the purchase
 27 price. Such certificate shall set forth a description of the
 28 property purchased, for whose taxes the same was sold, the
 29 name of the purchaser, and the price paid therefor.

30 (2) In the case of any real property sold pursuant to
 31 a levy by the Department of Revenue as provided in s. 213.72,

1 and not redeemed, in the manner and within the time provided in
2 s. 213.73, the executive director or his designee shall
3 execute, in accordance with the laws of this state pertaining
4 to the sale of real property under execution, to the purchaser
5 of such real property at such sale, upon his surrender of the
6 certificate of sale, a deed of the real property so purchased
7 by him, reciting the facts set forth in the certificate.

8 (3) If real property is declared purchased for the
9 state at a sale pursuant to a levy by the Department of
10 Revenue s--213.72, the executive director or his designee
11 shall present a certificate of sale and execute a deed
12 therefor to the Board of Trustees of the Internal Improvement
13 Trust Fund, and the board of trustees shall, without delay,
14 cause such deed to be duly recorded in the proper clerk's
15 office in the proper manner.

16 (4) In all cases of sale of tangible or intangible
17 personal property pursuant to a levy by the Department of
18 Revenue s--213.72, the certificate of sale shall be prima
19 facie evidence of the right of the executive director or his
20 designee to make such sale, and conclusive evidence of the
21 regularity of his proceedings in making the sale and shall
22 transfer to the purchaser all right, title, and interest of
23 the party delinquent in and to the property sold. If such
24 property consists of intangibles such as stock and bonds, the
25 certificate constitutes notice, when received, to any
26 corporation, company, or association of such transfer, and
27 constitutes authority to such corporation, company, or
28 association to record the transfer on its books and records in
29 the same manner as if the intangibles were transferred or
30 assigned by the party holding the same, in lieu of any
31 original or prior certificate, which shall be void, whether

1 canceled or not. If the subject of the sale is securities or
2 other evidences of debt, the certificate constitutes a good
3 and valid receipt to the person holding the same, as against
4 any person holding or claiming to hold possession of such
5 securities or other evidences of debt. If such property
6 consists of a motor vehicle, the certificate constitutes
7 notice when received, to any public official charged with the
8 registration of title of motor vehicles, of such transfer and
9 constitutes authority to such official to record the transfer
10 on his books and records in the same manner as if the
11 certificate of title to such motor vehicle were transferred or
12 assigned by the party holding the same, in lieu of any
13 original or prior certificate of title, which shall be void
14 whether canceled or not.

15 (5) In the case of the sale of real property pursuant
16 to a levy by the Department of Revenue 87-213-72, the deed of
17 sale given pursuant to this section shall be prima facie
18 evidence of the facts stated therein and if the proceedings by
19 the executive director or his designee have been substantially
20 in accordance with the provisions of this chapter and the
21 rules of the department, such deed constitutes a conveyance of
22 all the right, title, and interest the party delinquent had in
23 and to the real property thus sold at the time the lien of the
24 Department of Revenue attached thereto.

25 Section 62. Subsection (1) of section 213.76, Florida
26 Statutes, as created by chapter 87-6, Laws of Florida, is
27 amended to read:

28 213.76 Freezing of assets and obligations.--

29 (1) If any person who is obligated to pay a tax is
30 delinquent in the payment of any of the taxes specified in s.
31 72.011(1), the department may give notice of the amount of

1 such delinquency by registered mail to all persons having in
2 their possession or under their control any credits or other
3 personal property belonging to such person or owing any debts
4 to such person at the time of receipt by them of such notice
5 All persons so notified shall, within 15 5 days after receipt
6 of the notice, advise the department of all such credits,
7 other personal property, or debts in their possession, under
8 their control, or owing by them. After receiving the notice,
9 the persons so notified may not transfer or make any other
10 disposition of the credits, other personal property, or debts
11 in their possession or under their control at the time they
12 receive such notice unless the department consents to a
13 transfer or disposition or until 120 days elapse after the
14 receipt of the notice, whichever period expires sooner, except
15 that the credits, other personal property, or debts which
16 exceed the delinquent amount stipulated in the notice are not
17 subject to this section, wherever held, in any case in which
18 such dealer does not have a prior history of sales tax
19 delinquencies. All persons notified shall likewise within 5
20 days advise the department of any subsequent credits or other
21 personal property belonging to such person or any debts
22 incurred and owing to such person which may come within their
23 possession or under their control during the time prescribed
24 by the notice or until the department consents to a transfer
25 or disposition, whichever expires sooner. If such notice
26 seeks to prevent the transfer or other disposition of a
27 deposit in a bank or other credits or personal property in the
28 possession or under the control of a bank, the notice, to be
29 effective, must be delivered or mailed to the office of such
30 bank at which the deposit is carried or at which the credits
31 or personal property is held. If, during the effective period

1 of the notice to withhold, any person so notified makes any
2 transfer or disposition of the property or debts required to
3 be withheld under this section, such person is liable to the
4 state for any indebtedness due from the person with respect to
5 whose obligation such notice was given to the extent of the
6 value of the property or the amount of the debts thus
7 transferred or paid if, solely by reason of such transfer or
8 disposition, the state is unable to recover the indebtedness
9 of the person with respect to whose obligation the notice was
10 given. All such credits or other personal property or debts
11 are subject to garnishment by the department for satisfaction
12 of the delinquent tax due.

13 Section 63. Except for violations for which the period
14 of time for bringing an action or enforcing a lien has expired
15 prior to July 1, 1988, the penalties provided by sections 25
16 through 58 of this act are applicable to the failure to pay
17 taxes which are due before and remain unpaid on July 1, 1988.

18 Section 64. Section 9 of chapter 86-166, Laws of
19 Florida, is hereby repealed.

20 Section 65. If any provision of this act or the
21 application thereof to any person or circumstance is held
22 invalid, the invalidity shall not affect other provisions or
23 applications of the act which can be given effect without the
24 invalid provision or application, and to this end the
25 provisions of this act are declared severable

26 Section 66. Except as otherwise provided herein, this
27 act shall take effect July 1, 1987

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2

The Committee Substitute broadens and adds specifics to the amnesty provisions of SB 2.

The Committee Substitute adds numerous provisions amending CS/SB 777 as passed by the Legislature, the bill which imposed the sales tax on services.

By the Committees on Appropriations and Finance & Taxation and Representative Gardner

This publication was produced at an average cost of 1.5 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

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A bill to be entitled

An act relating to taxation; amending s. 212.059, F.S., relating to the sales and use tax on services; revising provisions relating to computation, collection, and remittance of the tax and registration of dealers as service providers; requiring multistate purchasers that self-accrue the tax to file an annual supplementary tax return; revising provisions relating to apportionment of interstate or international transportation services; requiring applicants for specified environment-related permits to attest that applicabls use taxes have been paid; amending s. 212.0591, F.S.; revising rules of construction relating to inclusion of a proportion of the sales or cost price under certain circumstances, transactions involving both taxable and exempt services, and determining where the benefit of a service is enjoyed; providing legislative intent regarding exemptions from the tax; amending s. 212.0592, F.S.; revising exemptions and conditions applicable thereto and providing additional exemptions; amending s. 212.0593, F.S., relating to administration of the exemption for services sold in this state for use outside this state; revising provisions relating to exempt purchase permits; revising time period for maintenance of dealers' monthly logs and a penalty applicable thereto; specifying inapplicability of certain refund

1	provisions; repealing section 5 of chapter 87-	1.19
2	6, Laws of Florida, and creating s. 212.0594,	
3	F.S.; revising special provisions applicable to	1.20
4	the tax on construction services; amending s.	
5	212.0595, F.S.; revising special provisions	1.21
6	applicable to the tax on advertising; creating	1.22
7	s. 212.0597, F.S.; providing special resale	
8	rules for construction support services and	
9	advertising agency support services; creating	1.23
10	s. 212.0598, F.S.; specifying conditions under	1.24
11	which certain air carriers may elect to be	1.25
12	subject to the tax on services and tangible	
13	personal property; providing basis of the tax	1.26
14	applicable to such air carriers; specifying	
15	application of such tax to air carriers who do	1.27
16	not so elect; amending s. 212.02, F.S.;	
17	revising definitions applicable to chapter 212,	1.28
18	F.S.; amending s. 212.031, F.S.; revising an	
19	exemption from the tax on rental, lease, or	1.29
20	granting a license for use of real property for	
21	certain property leased to persons providing	
22	food and drink concessionaire services;	1.30
23	amending s. 212.04, F.S.; exempting admissions	
24	to certain athletic or other events sponsored	1.31
25	by schools and other institutions or by	
26	governmental entities and certain admissions	1.32
27	paid by students to places of sport or	1.33
28	recreation; providing an exception; amending s.	
29	212.053 4 F.S.; specifying application of a	
30	definition of "telecommunication service";	
31	specifying application of the tax on sales, use	1.35

1	and other transactions to sale of newspapers	
2	and magazines; amending s. 212.08, F.S.;	1.36
3	providing an additional medical exemption from	1.37
4	said tax; revising the exemptions for sales to	1.38
5	political subdivisions and educational	
6	institutions, film rentals, and vehicles	1.39
7	engaged in interstate or foreign commerce;	1.40
8	amending s. 212.095, F.S.; removing a	
9	prohibition against dealers assisting in	
10	preparation of tax refund claims; amending s.	1.41
11	212.11, F.S.; revising provisions which	
12	authorize quarterly returns for certain dealers	1.42
13	remitting the tax solely for the provision of	
14	services; amending section 17 of chapter 87-6,	1.43
15	Laws of Florida; revising the effective date of	
16	an amendment relating to application of the	1.44
17	dealer's credit to persons who remit taxes or	
18	fees reported on the same documents utilized	1.45
19	for sales and use tax; amending ss. 212.235,	1.46
20	201.15, and 206.875, F.S.; renaming the State	
21	Infrastructure Trust Fund as the State	1.47
22	Infrastructure Fund; amending s. 215.32, F.S.;	1.48
23	establishing the State Infrastructure Fund	
24	within the State Treasury; amending section 31	1.49
25	of chapter 87-6, Laws of Florida, revising an	
26	exemption from the tax on services for certain	1.50
27	improvements to real property; requiring the	
28	Department of Revenue to report to the	1.51
29	Legislature; amending section 32 of chapter 87-	
30	6, Laws of Florida, relating to certain	
31	conditions applicable to self-accrual; amending	1.52

1	section 33 of chapter 87-6, Laws of Florida;	
2	specifying administrative provisions applicable	1.53
3	to department rules implementing said chapter	
4	and this act; amending section 36 of chapter	1.54
5	87-6, Laws of Florida, relating to waiver of	
6	penalties and interest with respect to the tax	1.55
7	on services for a specified period; amending	
8	section 37 of chapter 87-6, Laws of Florida;	1.56
9	revising provisions relating to application of	
10	the tax to certain prepaid services; amending	1.57
11	section 38 of chapter 87-6, Laws of Florida;	1.58
12	revising provisions relating to construction of	
13	said chapter with respect to certain client	1.59
14	confidentiality; imposing a tax on persons	
15	selling certain special fuel held in inventory	1.60
16	on July 1, 1987, on which the additional tax on	
17	such fuel levied under chapter 87-6, Laws of	1.61
18	Florida, has not been paid; providing	
19	penalties; providing for rules and notice;	
20	providing for distribution of the proceeds;	1.62
21	amending ss. 120.575 and 120.65, F.S.; revising	
22	provisions relating to appointment of a panel	1.63
23	to be hearing officer in certain administrative	
24	taxpayer contest proceedings; amending section	1.64
25	47 of chapter 87-6, Laws of Florida; revising a	
26	date for a department study of taxable	1.65
27	services; amending section 48 of chapter 87-6,	
28	Laws of Florida; revising provisions relating	1.66
29	to application of a tax amnesty program;	
30	amending s. 95.091, F.S.; revising provisions	1.67
31	which establish limitations on actions to	1.68

1	collect certain taxes; amending section 54 of	
2	chapter 87-6, Laws of Florida; removing an	1.69
3	amendment to s. 211.33(2), F.S., relating to	
4	delinquency penalties and penalties for	1.70
5	substantial underpayment of tax on severance of	
6	solid minerals; amending sections 58 and 60 of	1.71
7	chapter 87-6, Laws of Florida; revising the	
8	effective date of the repeal of ss. 212.14(6)	1.72
9	and 214.09, F.S., and the amendment of 214.04,	
10	F.S., relating to limitations on assessment of	1.73
11	sales tax and on notices of deficiency of	
12	designated nonproperty taxes; repealing	1.74
13	sections 50, 61-98, 101-106, and 108 of chapter	
14	87-6, Laws of Florida, which provide increased	1.75
15	penalties for certain tax crimes; providing an	
16	appropriation to the Division of Administrative	1.76
17	Hearings; creating the Fairness in Retail Sales	1.77
18	Taxation Act; providing findings and intent;	1.78
19	creating s. 212.0596, F.S.; providing	
20	application of the tax on sales, use and other	1.79
21	transactions to mail order sales; specifying	1.81
22	conditions under which dealers making such	
23	sales are subject to said tax; providing duties	1.82
24	of such dealers; providing for enforcement in	
25	other jurisdictions; amending s. 212.06, F.S.;	1.83
26	including such persons within the definition of	
27	"dealer"; providing for levy of tax on sales of	1.84
28	tangible personal property to be transported to	
29	a cooperating state; specifying requirements	2.1
30	applicable to cooperating states; providing for	
31	payment of taxes collected to cooperating	2.2

1	states; providing duties of dealers selling	
2	tangible personal property for delivery in	
3	another state; amending s. 212.20, F.S.;	2.3
4	providing for refund of certain taxes	
5	adjudicated unconstitutionally levied or	2.4
6	collected; amending s. 212.02, F.S.; providing	
7	definitions; amending s. 212.05, F.S.;	2.5
8	including mail order sales as a taxable	
9	privilege; amending s. 212.12, F.S.; excluding	2.6
10	dealers making mail order sales from the	
11	dealer's credit; authorizing the executive	
12	director of the Department of Revenue to	2.7
13	negotiate a collection allowance with such	
14	dealers; providing for audits and inspections;	2.8
15	amending s. 212.15, F.S., relating to	
16	collection of taxes, to conform; amending s.	2.9
17	212.18, F.S.; excluding the business of making	
18	mail order sales from registration fees;	2.10
19	providing an appropriation to the Department of	
20	Revenue; providing for severability; providing	2.11
21	effective dates.	2.12
22		
23	Be It Enacted by the Legislature of the State of Florida:	1:enc
24		
25	Section 1. Subsections (3), (4) and (5) of section	2.14
26	212.059, Florida Statutes, as created by chapter 87-6, Laws of	2.15
27	Florida, are amended, and subsection (6) is added to said	
28	section, to read:	2.16
29	212.059 Sales and use tax on services.--It is hereby	2.17
30	declared to be the legislative intent to levy an excise tax on	2.18
31	the sale of services in this State as hereinafter provided.	2.19

1	It is further declared to be the legislative intent to levy a	2.21
2	complementary excise tax on the use of services in this state	
3	as hereinafter provided.	2.22
4	(3)(a) The sales and use tax on services imposed by	2.23
5	this section shall be collected by the dealer as defined in	2.24
6	this part and remitted by him to the state at the time and in	2.25
7	the manner as provided in this part.	
8	(b) If the seller-of-the-service-is-a-multistate	2.26
9	business-and-the sale of a service is outside this state, any	2.28
10	applicable use tax shall be remitted by the purchaser of the	2.30
11	<u>service, if the purchaser of the service has nexus for tax</u>	
12	<u>purposes with this state.</u> However, this paragraph shall not	2.32
13	apply to interstate or international transportation services.	
14	<u>Neither does this paragraph apply if the seller has tax nexus</u>	2.34
15	<u>in this state and the service sold either directly relates to</u>	
16	<u>real property in this state, directly relates to tangible</u>	2.35
17	<u>personal property in this state other than vehicles or vessels</u>	
18	<u>in interstate or foreign commerce, or is represented by</u>	2.36
19	<u>tangible personal property forwarded to a person in this</u>	2.37
20	<u>state.</u>	
21	(4)(a) The sales and use tax on services imposed by	2.38
22	this section shall be <u>computed due-and-payable</u> according to	2.40
23	the brackets set forth in s. 212.12 <u>on the sales price or cost</u>	
24	<u>price of the service at the time of the sale, and shall be due</u>	2.41
25	<u>and payable as provided under s. 212.11, at-the-time-of-the</u>	2.42
26	sale-or-use-of-the-service unless the dealer elects to remit	2.44
27	the tax pursuant to paragraph (b).	2.45
28	(b) A dealer may register-with-the-department-as-a	2.45
29	service-provider-and elect to <u>ascertain the amount of remit</u>	2.46
30	the tax <u>payable under this section on the basis of cash</u>	1:1us
31	<u>receipts for all taxable transactions under this section, on</u>	1:1os

1	a service at the time consideration is paid for such service	2.50
2	and on the amount of consideration paid. If such election is	2.51
3	made, it shall be applicable to all transactions of such	
4	dealer taxed under this section. Such election shall be made	2.53
5	and may be changed by the dealer pursuant to procedures	
6	established by rule of the department. <u>The department shall</u>	1:lus
7	<u>provide by rule for the issuance and periodic renewal every 5</u>	
8	<u>years of registrations for dealers registered as service</u>	2.56
9	<u>providers. Only those persons primarily engaged in the</u>	2.57
10	<u>business of selling services shall be eligible for such</u>	
11	<u>registration.</u>	2.58
12	(c) However, if a transaction involves both the sale	2.58
13	or use of services and the sale or use of tangible personal	2.60
14	property, and the tangible personal property is not an	
15	inconsequential element of the transaction, the sales and use	2.61
16	tax on services shall be <u>computed and remitted as provided in</u>	1:lus
17	<u>paragraph (a), and paragraph (b) shall not be applicable, due</u>	2.63
18	and payable at the time of the sale or use regardless of the	
19	time consideration is paid for such services. <u>Each multistate</u>	1:lus
20	<u>purchaser that self-accrues the taxes due on its purchases of</u>	
21	<u>services shall file an annual supplementary tax return</u>	2.67
22	<u>summarizing its purchases and sales of services for its prior</u>	2.68
23	<u>fiscal year. The return shall include a final calculation of</u>	
24	<u>taxes allocated or apportioned under s. 212.0591(9), and such</u>	2.69
25	<u>other information as the department may prescribe by rule.</u>	2.70
26	<u>The return shall be filed on or before the deadline for filing</u>	2.71
27	<u>Florida or federal income tax returns, recognizing any</u>	2.72
28	<u>extensions of time granted thereto.</u>	
29	(5) Notwithstanding other provisions of this section	2.74
30	to the contrary:	
31		

1	(a) Interstate and international transportation	2.74
2	services shall be considered sold or used in this state to the	2.76
3	extent that the sales price or cost price of the service is	
4	apportioned to this state pursuant to paragraph (b).	2.77
5	(b) The sales price of the sale of interstate or	2.78
6	international transportation services, or the cost price of	2.79
7	the use of interstate or international transportation	
8	services, shall be apportioned to the state as provided in	2.81
9	this paragraph. There shall be included in the measure of the	2.82
10	tax imposed by this part on the sale or use of interstate or	2.84
11	international transportation services that proportion of the	3.1
12	sales price or cost price of the Florida service provider	3.2
13	which is equal to the proportion of mileage within Florida to	3.3
14	the total <u>direct</u> United-States mileage of the Florida service	3.4
15	provider for the service transaction in question. <u>If the</u>	1:1us
16	<u>transportation service of the Florida service provider</u>	
17	<u>originates and terminates at points within the United States,</u>	3.6
18	<u>the "total direct mileage of the Florida service provider"</u>	
19	<u>shall be limited to total United States direct mileage.</u> For	3.9
20	purposes of this paragraph, "Florida service provider" means	
21	the person providing transportation services in Florida	3.11
22	regardless of the commercial domicile of such person.	
23	<u>(6) No permit required pursuant to chapters 161, 298,</u>	1:1us
24	<u>373, 376, 380, or 403 shall be issued until the applicant</u>	3.13
25	<u>attests, on a form promulgated by the department, that all</u>	3.14
26	<u>applicable use taxes have been paid on the purchase of</u>	
27	<u>services outside of this state that are used in this state in</u>	3.15
28	<u>furtherance of such permit. Completed forms shall be returned</u>	3.16
29	<u>to the department by the permitting body on a monthly basis.</u>	3.17
30	Section 2. Subsections (2), (7) and (9) of section	3.18
31	212.0591, Florida Statutes, as created by chapter 87-6, Laws	3.20

1	of Florida, are amended, and subsection (10) is added to said	
2	section, to read:	
3	212.0591 Rules of construction.--For purposes of the	3.21
4	sales and use tax on services, the following rules of	3.22
5	construction shall apply:	
6	(2) If the entire sales price of the sale of a service	1:10s
7	or if the entire cost price of the use of a service cannot be	1:10s
8	included within the measure of the tax imposed by this part	3.26
9	under the Constitution or laws of the United States, there	
10	shall be apportioned to the state and included in the measure	3.29
11	of the tax imposed by this part on the sale of services that	3.30
12	proportion of the sales price which the cost of performing the	1:10s
13	services within the state bears to the total cost of	
14	performing the services, or on the use of services that	3.34
15	proportion of the cost price, <u>that may lawfully be included</u>	
16	<u>under the laws and Constitution of the United States</u> fairly	3.35
17	reflects the benefit of the services enjoyed within the state.	3.38
18	(7) If a transaction involves both the sale or use of	3.39
19	a service taxable under this part and the sale or use of a	3.40
20	service exempt under this part, the consideration paid shall	3.41
21	be separately identified and stated with respect to the	
22	taxable and exempt portions of the transaction as a condition	3.42
23	of the exemption. <u>However, this subsection shall not apply to</u>	1:10s
24	<u>sales that are exempt pursuant to s. 212.0592(1).</u>	3.44
25	(9) For purposes of determining where a service is	1:10s
26	used or consumed and where the benefit of the service is	
27	enjoyed, the following provisions shall be applicable:	3.48
28	(a) If the purchaser is an individual <u>not acting as a</u>	3.48
29	<u>business, and:</u>	3.49
30		
31		

1	1. If the service directly relates to real property,	3.50
2	the benefit of the service shall be presumed to be enjoyed in	1:10s
3	the-state where the real property is located; or	3.52
4	2. If subparagraph 1. is not applicable, <u>and if the</u>	3.52
5	<u>service is of a type that the benefit of the service is</u>	3.53
6	<u>consumed within 90 days of performance of the service,</u> the	3.54
7	benefit of the service shall be presumed to be enjoyed in-the	3.56
8	state where the greater proportion of the service is	
9	performed, based on costs of performance; or	3.58
10	3. If subparagraphs 1. and 2. are not applicable, <u>the</u>	1:1us
11	<u>benefit of the service shall be presumed to be enjoyed where</u>	3.59
12	<u>the purchaser is domiciled; or</u>	
13	<u>4.3r</u> Notwithstanding subparagraphs 1., <u>and 2., and 3.,</u>	3.60
14	if the purchaser can demonstrate to the satisfaction of the	3.62
15	department that the benefit of the service was enjoyed <u>outside</u>	
16	<u>of this state</u> in-a-state , the service shall be deemed used or	3.64
17	consumed <u>outside of this state</u> in-that-state .	
18	(b) If the purchaser is a business, and:	3.64
19	1. If the service directly relates to real property,	3.66
20	the benefit of the service shall be presumed to be enjoyed in	3.67
21	the-state where the real property is located; or	3.68
22	2. If the service directly relates to tangible	3.69
23	personal property, the benefit of the service shall be	3.70
24	presumed to be enjoyed in-the-state where the property has	3.71
25	acquired a business situs if the property has acquired such	3.72
26	situs; or	
27	3. If the service directly involves sales to a <u>service</u>	3.74
28	<u>purchaser's</u> local market, the benefit of the service shall be	
29	presumed to be enjoyed in-the-state where the purchaser's	3.76
30	local market exists; or	
31		

1	4. If subparagraphs 1., 2., and 3. are not applicable,	3.76
2	and the purchaser of the service is doing business in this	3.79
3	state and <u>outside of this state</u> in-one-or-more-other-states,	3.80
4	the service shall be presumed to be enjoyed in this state to	3.81
5	the extent that the purchaser is doing business in this state.	
6	For purposes of determining the extent of the purchaser's	3.82
7	business in this state, the apportionment formulas set forth	3.83
8	in part IV of chapter 214, as modified by s. 220.15(4), shall	3.84
9	be utilized. <u>In the case if-the-purchaser-is-a-member</u> of an	1:lus
10	affiliated group, the affiliated group, as defined in s.	4.2
11	212.02, shall be considered the purchaser for purposes of this	4.3
12	<u>subsection</u> subparagraph; or	
13	5. If the provisions of subparagraphs 1., 2., 3., and	4.4
14	4. are not applicable, the benefit of the service shall be	4.5
15	presumed to be enjoyed in-the-state where the purchaser is	4.7
16	exclusively doing business; or	
17	6. Notwithstanding subparagraphs 1., 2., 3., 4. and	4.8
18	5., if the purchaser can demonstrate to the satisfaction of	4.9
19	the department that the benefit of the service was enjoyed	4.10
20	<u>outside of this state</u> in-a-state, the service shall be deemed	4.11
21	used or consumed <u>outside of this state</u> in-that-state.	4.13
22	(c) Notwithstanding paragraphs (a) and (b), interstate	4.15
23	and international transportation services shall be presumed to	
24	be enjoyed in this state to the extent that the sales price or	4.17
25	cost price of such services is apportioned to this state	
26	pursuant to s. 212.059(5).	4.18
27	<u>(d) Notwithstanding paragraphs (a) and (b),</u>	1:lus
28	<u>advertising shall be presumed to be enjoyed in this state to</u>	4.19
29	<u>the extent that the sales price or cost price of such services</u>	4.20
30	<u>is apportioned to this state pursuant to s. 212.0595.</u>	4.21
31		

1	<u>(e) Notwithstanding paragraphs (a) and (b), the</u>	1:1us
2	<u>benefit of a service provided to the estate of a decedent</u>	4.22
3	<u>shall be presumed to be enjoyed where the decedent last</u>	4.23
4	<u>established residency.</u>	
5	<u>(10) It is the intent of the Legislature to exempt</u>	4.24
6	<u>from the tax on services only those services for which</u>	
7	<u>exemptions are expressly provided. Therefore, if any</u>	4.25
8	<u>exemption is declared unconstitutional per se by a court of</u>	
9	<u>competent jurisdiction, it is the intent of the Legislature</u>	4.26
10	<u>that the exemption be deemed inoperative as to all persons and</u>	4.27
11	<u>not expanded to encompass services or persons not expressly</u>	
12	<u>exempted from the tax.</u>	4.28
13	Section 3. Subsections (1), (4), (5), and (6),	4.28
14	paragraph (a) of subsection (7), and subsections (11), (16),	4.29
15	(17), (18), (21), (22), (23), (26), (27), (31), (35), and (36)	4.30
16	of section 212.0592, Florida Statutes, as created by chapter	
17	87-6, Laws of Florida, are amended, and subsections (42),	4.33
18	(43), (44), (45), (46), (47), and (48) are added to said	
19	section, to read:	4.35
20	212.0592 Exemptions from sales or use tax on	4.35
21	services.--Thrs shall be exempt from the tax on the sale or	4.36
22	use of services imposed by ss. 212.059(1) or (2), 212.0594,	4.37
23	and 212.0595 the following:	
24	(1)(a) Services sold in this state for use outside of	4.38
25	this state.	4.39
26	(b) A service shall be deemed to be purchased for use	4.39
27	in-the-state where the benefit of the service is enjoyed. For	4.41
28	purposes of determining where the benefit of the service is	
29	enjoyed, s. 212.0591(9) shall apply.	4.42
30	(c) In order to qualify for this exemption, the	4.42
31	provisions of s. 212.0593 shall be met.	4.43

1	(4) Services that partners who are natural persons	4.43
2	render to their partnerships, unless the partner renders his	4.46
3	services to the partnership in the capacity of an independent	
4	<u>contractor, and services that partners who are professional</u>	4.47
5	<u>corporations render exclusively to the partnership.</u>	4.48
6	(5) Services between members of an affiliated group of	4.49
7	corporations, as defined in s. 212.02. However, this	4.52
8	exemption shall not apply <u>only</u> to the sale or use of any	4.53
9	service between any such members who are not included in the	
10	affiliated group for purposes of this part. If the exemption	4.56
11	provided in this subsection is not applicable, the sales price	4.57
12	or cost price of the service <u>between each unincorporated member</u>	
13	<u>and any other member</u> shall be based upon the fair market value	4.58
14	of the service. The sale or use of services between divisions	4.60
15	that may be separate taxpayers within the same corporation	4.62
16	shall be exempt. Nothing herein shall be construed to require	4.63
17	the filing of a consolidated return under chapter 220 in order	4.64
18	to qualify for the exemption granted by this subsection.	
19	(6) Agricultural services enumerated in SIC Major	4.66
20	Group 07. However, this exemption shall not apply to	4.67
21	<u>landscape and horticultural services (Group Number 078), or to</u>	4.68
22	<u>animal specialty services (Industry Number 0752), unless the</u>	4.69
23	services relate to agricultural products as defined in s.	4.70
24	618.01(1), or <u>relate to greyhounds for participation in pari-</u>	4.71
25	<u>mutuel events landscape-and-horticultural-services-(Group</u>	4.73
26	<u>Number-078).</u>	4.74
27	(7)(a) Transportation and warehousing services	4.75
28	enumerated in SIC Major Groups 407-427 44, 45 and 47 for	1:108
29	agricultural commodities that have retained their original	
30	identity, phosphate rock as defined in s. 211.30(9), potash as	4.77
31	described in SIC Industry Number 1474, sulfur as described in	4.78

1	SIC Industry Number 1477, nitrogenous fertilizers as	
2	enumerated in SIC Industry Number 2873, and phosphatic	4.79
3	fertilizers as enumerated in SIC Industry Number 2874. For	4.80
4	purposes of this paragraph, an agricultural commodity retains	
5	its original identity unless it is processed, packaged in	4.81
6	cans, or frozen. However, produce which is processed but	4.82
7	neither canned nor frozen shall be considered an agricultural	4.83
8	commodity that has retained its original identity.	
9	(11)(a) Services of a financial nature, of a type	4.83
10	customarily performed by a financial institution.	4.84
11	(b) <u>However, unless the service is provided to a</u>	4.84
12	<u>nonresident entity or nonresident person as defined in Rule</u>	5.1
13	<u>3C-15.003, Florida Administrative Code, this exemption shall</u>	5.2
14	not apply to: charges for use of safety deposit boxes;	5.3
15	charges for use of night deposit services; charges for issuing	5.4
16	cashier's checks; charges for issuing traveler's checks;	
17	charges for issuing money orders; charges for preparation of	5.5
18	individual tax returns; charges for copies of documents; stop	5.6
19	payment charges; return check charges, unless due to	5.7
20	insufficient funds; charges for service as personal	
21	representative of estates of decedents; credit information and	5.8
22	reporting services; overdraft charges; <u>fees for the collection</u>	5.9
23	<u>of coupons, drafts, checks, foreign exchange items, and</u>	
24	<u>similar over-the-counter collection items; collection fees;</u>	5.10
25	hold mail fees; guardianship fees; credit and charge card	5.11
26	membership fees; cash vault fees; <u>investment advisory</u>	5.12
27	<u>services, except those performed by a trustee;</u> or data	5.13
28	processing services not otherwise exempt, except check	5.14
29	processing and check clearing services.	5.15
30		
31		

1	(c) The tax imposed under s. 212.059 shall not apply	5.15
2	to a service by a financial institution the charge for which	5.16
3	is waived or imputed.	5.17
4	(d) For purposes of this subsection, the term	5.17
5	"financial institution" means a financial institution as	5.18
6	defined in s. 655.005; any subsidiary thereof; any holding	5.19
7	company, other than a diversified savings and loan holding	
8	company as defined in s. 408 of the National Housing Act,	5.20
9	which controls a financial institution; and any subsidiary of	5.21
10	such holding <u>company; any Federal Reserve Bank; and any</u>	5.22
11	<u>Federal Home Loan Bank.</u>	
12	(16) Maintenance assessments or fees paid by an	5.24
13	association member to a homeowners association, residential	5.25
14	condominium owners association, residential property owners	5.27
15	association, residential mobile homeowners association, or	
16	residential cooperative association.	5.29
17	(17) Membership dues or membership fees paid to	5.30
18	membership organizations enumerated in SIC Major Group 86, and	5.32
19	to arts, historical, and science organizations, provided such	5.33
20	organizations are not-for-profit corporations under chapter	
21	617 or a comparable law of another state or are exempt	5.34
22	organizations under the Internal Revenue Code, and membership	
23	dues or other fees paid to regulatory athletic associations.	5.35
24	<u>However, no exemption shall be available for dues or fees paid</u>	11:15
25	<u>to any membership organization that discriminates in its</u>	5.37
26	<u>membership based on race, sex, creed, national origin, or</u>	
27	<u>religion.</u>	5.38
28	(18) Qualified production services performed by any	5.40
29	person for a person principally engaged in the business of	5.41
30	producing qualified motion pictures or for a person who owns	5.42
31		

1	or leases property used primarily for the production of	
2	qualified motion pictures. For purposes of this subsection:	5.43
3	(a) "Qualified production services" means any activity	5.43
4	or service performed directly in connection with the	5.44
5	production of qualified motion pictures, and includes:	5.45
6	1. Photography, recording, casting, shooting, creation	5.45
7	of special effects, animation, adaptation (language, media,	5.46
8	electronic or otherwise), technological modifications,	
9	computer graphics, set and stage support, wardrobe, acting,	5.47
10	consulting, writing, directing, dubbing, mixing, editing,	5.48
11	cutting, looping, printing, processing, duplicating, storing	
12	and distributing;	5.49
13	2. The design, planning, engineering, construction,	5.49
14	alteration, repair and maintenance of real or personal	5.50
15	property including stages, sets, props, models, paintings, and	
16	facilities principally required for the performance of those	5.51
17	services listed in subparagraph 1.; and	5.52
18	3. Property management services directly related to	5.52
19	property used in connection with the services described in	5.54
20	subparagraphs 1. and 2.	
21	(b) "Qualified motion picture" means all or any part	5.56
22	of a series of related images, either on film, tape or other	
23	embodiment, including, but not limited to, all items	5.57
24	comprising part of the original work and film-related products	
25	derived therefrom as well as duplicates and prints thereof and	5.58
26	all sound recordings created to accompany a motion picture,	5.59
27	which is produced, adapted or altered for exploitation in, on	
28	or through any medium or device and at any location, primarily	5.61
29	for entertainment, <u>industrial, commercial</u> or educational	5.62
30	purposes.	
31		

1	(21) Water transportation services described in SIC	5.63
2	Group Numbers 441 and 442, towing or tugboat services	5.64
3	described in SIC Industry Number 4454, marine cargo handling	5.65
4	services described in SIC Industry Number 4463, piloting	5.66
5	services, ship cleaning, steamship leasing, marine surveyors,	5.67
6	and ship repair and maintenance services <u>for vessels used in</u>	5.68
7	<u>interstate or international commerce; storage of cargo at port</u>	5.70
8	<u>facilities; transportation services enumerated in SIC Industry</u>	
9	<u>Numbers 4712 and 4723, lighterage services, described in SIC</u>	5.72
10	<u>Industry Number 4453, and services related to processing and</u>	
11	<u>accessorizing of motor vehicles as defined in s. 320.01</u>	1:1us
12	automobiles that are imported through Florida ports. The	5.76
13	exemption provided by this subsection also applies to services	
14	provided in connection with cargo in international trade by	5.78
15	any licensed customhouse broker; any customs bonded warehouse,	
16	container freight and examination station, or cartman; or	5.79
17	freight consolidator or deconsolidator.	5.80
18	(22) Sanitary services enumerated in SIC Group Number	5.82
19	495, garbage, refuse and debris transportation services	
20	enumerated in SIC Industry Number 4212, and septic tank	5.83
21	cleaning services enumerated in SIC Industry Number 7699, if	6.1
22	such services are sold to residential households or owners of	6.2
23	residential <u>models, water supply services enumerated in SIC</u>	
24	<u>Group Number 494 and irrigation systems services enumerated in</u>	6.4
25	<u>SIC Group Number 497. However, "tipping fees" and other</u>	1:1us
26	<u>charges for the right to dispose of garbage, refuse and debris</u>	6.6
27	<u>shall not be exempt pursuant to this subsection.</u>	
28	(23) Security and commodity brokerage services	6.7
29	enumerated in SIC Major Group 62 involving the transfer of	6.8
30	securities or commodities. However, this exemption shall not	6.10
31	be construed to exempt any financial service taxable under	

1	subsection (11), or any accounting or investment <u>advisory</u>	6.12
2	<u>services, except those performed by a trustee.</u>	6.13
3	(26) Real estate commissions when the property seller	6.14
4	affirmatively demonstrates to the realtor responsible for	6.15
5	collecting the tax that at the time of signing the <u>initial</u>	1:lus
6	listing contract on the real estate offered for sale the	6.18
7	property seller-resided-thereon-and was <u>assessed as</u> entitled	1:10s
8	to-the homestead <u>property exemption</u> pursuant to s. 196.031.	6.21
9	(27)(a) Legal services rendered by an attorney to a	6.22
10	client to the extent that the right to counsel guaranteed	6.23
11	pursuant to either the Sixth Amendment to the United States	6.24
12	Constitution or Article I, Section 16 of the Florida	
13	Constitution is applicable to such legal services. However,	6.26
14	this exemption shall only be applicable if the criminal	
15	charges brought in the case are dismissed or the client is	6.27
16	ultimately adjudicated not guilty by a court of competent	
17	jurisdiction. This exemption shall only be granted pursuant	6.28
18	to a refund of taxes previously paid on such services. <u>The</u>	1:lus
19	<u>provisions of s. 212.095 shall not apply to the refund</u>	
20	<u>authorized in this paragraph.</u>	6.31
21	(b) Legal services, provided to a natural person,	6.32
22	which relate to child support, child-custody, adoption,	6.34
23	divorce, guardianship, juvenile cases, landlord/tenant	
24	relations, mobile-home-rental, enforcement of civil rights or	6.36
25	<u>bankruptcy proceedings</u> recovery-of-past-or-future-medical	6.37
26	expenses. However, this exemption shall be limited to \$500 in	1:10s
27	services-per-person-per-calendar-year.	6.39
28	(31) Religious services provided by religious	6.41
29	organizations, religious institutions, or religious leaders.	6.43
30	<u>Also included in this exemption shall be the sale of services</u>	6.44
31	<u>by any nonprofit religious organization described in SIC</u>	

1	<u>Industry Number 866, when provided in carrying out its</u>	6.45
2	<u>customary nonprofit religious activity.</u>	
3	(35) Data processing services performed for a	6.46
4	financial institution by a service corporation of <u>that a</u>	6.47
5	financial institution described in SIC Major Group 63,	6.48
6	provided:	
7	(a) The service corporation is organized pursuant to	6.48
8	s. 545.74, Rules of the Federal Home Loan Bank Board;	6.49
9	(b) All capital stock of the service corporation may	6.50
10	be purchased by only savings and loan associations <u>and savings</u>	
11	<u>banks</u> having operations in this state;	6.51
12	(c) No savings and loan association or savings bank	6.52
13	owns, or may own, more than 10 percent of such service	
14	corporation's outstanding capital stock;	6.53
15	(d) Every eligible savings and loan association or	6.53
16	savings bank <u>shall</u> may own an equal amount of capital stock or	1:1us
17	<u>shall</u> may, on such uniform basis as the service corporation	1:1us
18	<u>shall</u> may determine, own an amount of such stock equal to a	1:1us
19	stated percentage of its assets or savings capital at the time	6.57
20	the stock is purchased, or an amount of such stock equal to	6.58
21	its pro-rata share of accounts serviced.	
22	(e) <u>As used in this subsection, "financial</u>	6.59
23	<u>institution" means any savings and loan association or savings</u>	
24	<u>bank organized under the laws of this state, or of another</u>	6.60
25	<u>state, or of the United States.</u>	
26	(36) Personal laundry services sold to residents of	6.61
27	nursing home <u>facilities, adult congregate living facilities,</u>	6.63
28	<u>and hospices</u> licensed under part 3 of chapter 400.	6.64
29	(42) <u>News services enumerated in SIC Group Number 735.</u>	1:1us
30	(43) <u>Amusement and recreation services enumerated in</u>	1:1us
31	<u>SIC Group Numbers 792, 793, 794 and 799, and museums, art</u>	6.66

1	<u>galleries, botanical and zoological garden services enumerated</u>	
2	<u>in SIC Major Group 84. However, this exemption shall not be</u>	6.68
3	<u>construed to exempt admissions charges or membership fees or</u>	
4	<u>dues taxable pursuant to other provisions of this part, or to</u>	6.69
5	<u>coin-operated amusement devices described in SIC Industry</u>	6.70
6	<u>Number 7993.</u>	
7	<u>(44) Services provided and paid for pursuant to court</u>	1:lus
8	<u>order in a bankruptcy proceeding.</u>	6.72
9	<u>(45) Household utility services sold to residential</u>	1:lus
10	<u>households or owners of residential models in this state by</u>	6.74
11	<u>utility companies who pay the gross receipts tax imposed under</u>	
12	<u>s. 203.01, or by liquefied petroleum gas companies, regardless</u>	6.75
13	<u>or whether such sales of services are separately metered and</u>	6.76
14	<u>billed direct to the residents or are metered and billed to</u>	
15	<u>the landlord. If any part of the services is used for a</u>	6.78
16	<u>nonexempt purpose, the entire sale is taxable.</u>	
17	<u>(46) Convention and conference registration fees.</u>	6.79
18	<u>(47) Transportation services by satellite or launch</u>	6.80
19	<u>vehicles.</u>	
20	<u>(48) Impact fees and charges related to idle plant</u>	1:lus
21	<u>capacity for access to sewage utilities and utilities subject</u>	6.81
22	<u>to the gross receipts tax imposed pursuant to chapter 203,</u>	
23	Section 4. Subsections (1), (3) and (4) of section	6.82
24	212.0593, Florida Statutes, as created by chapter 87-6, Laws	6.84
25	of Florida, are amended to read:	
26	212.0593 Administration of s. 212.0592(1).--	7.1
27	(1) Each multistate business having tax nexus in this	7.2
28	state under this part shall obtain from the department an	7.3
29	exempt purchase permit prior to claiming an exemption under s.	7.4
30	212.0592(1). <u>Such permit shall be used when purchasing any</u>	
31	<u>service sold in this state except advertising, regardless of</u>	7.5

1	<u>whether the service is used in this state.</u> Upon purchasing a	7.6
2	service from a dealer registered under this part, presentation	
3	by said multistate business of a valid exempt purchase permit	7.7
4	shall absolve the selling dealer from the responsibility of	7.8
5	collecting any sales tax which may be due on the service. The	
6	purchaser shall self-accrue any taxes which may be due on the	7.9
7	service and remit them to the department in the manner and	
8	under the requirements applicable to dealers under this part,	7.10
9	subject to such additional reporting requirements as the	7.11
10	department may prescribe.	
11	(3) Each dealer shall maintain a monthly log showing	7.12
12	each transaction for which sales tax was not collected because	7.13
13	of the presentation of an exempt purchase permit or exempt	7.14
14	purchase affidavit under this section. The log shall identify	7.15
15	the purchaser, the exempt purchase permit number if	
16	applicable, the service sold, the price of the service and	7.16
17	such other information as the department may prescribe. The	7.17
18	logs and all affidavits accepted by the dealer shall be	7.19
19	retained by the dealer for <u>5</u> 3 years and made available to the	7.18
20	department upon request. Failure to maintain these records or	7.22
21	to make them available to the department shall subject the	
22	dealer to a <u>\$100 mandatory penalty</u> the penalties provided in	7.24
23	sv-212-13.	
24	(4) If a purchaser fails to obtain an exempt purchase	7.25
25	permit or execute an exempt purchase affidavit, but otherwise	7.27
26	qualifies for an exemption pursuant to s. 212.0592(1), the	
27	purchaser may apply to the department for a refund of taxes	7.28
28	paid on the exempt amount of the purchase. The application	7.30
29	for refund shall be accompanied by an exempt purchase	
30	affidavit and shall be submitted within 1 year of the	7.31
31	purchaser's payment of the tax. A refund recommended by the	7.32

1	department pursuant to this subsection shall be reduced by the	
2	amount of any applicable dealer collection allowance	7.34
3	previously allowed on the transaction. <u>The provisions of s.</u>	1:1us
4	<u>212.095 shall not apply to refunds granted pursuant to this</u>	
5	<u>subsection.</u>	7.36
6	Section 5. <u>Section 5 of chapter 87-6, Laws of Florida,</u>	7.37
7	<u>is hereby repealed.</u>	7.38
8	Section 6. Section 212.0594, Florida Statutes, is	7.39
9	created to read:	
10	<u>212.0594 Construction services; special provisions.--</u>	7.40
11	<u>(1) For purposes of this section:</u>	7.41
12	<u>(a) "Prime contractor" means:</u>	1:1us
13	<u>1. A person who enters into a contract to construct,</u>	1:1us
14	<u>improve, alter, or repair realty with the person for whose</u>	7.43
15	<u>benefit the realty is being constructed, improved, altered, or</u>	7.44
16	<u>repaired;</u>	
17	<u>2. A person who enters into a contract to undertake</u>	1:1us
18	<u>the primary responsibility for supervising the construction,</u>	7.46
19	<u>improvement, alteration or repair of realty with the person</u>	
20	<u>for whose benefit the realty is being constructed, improved,</u>	7.47
21	<u>altered, or repaired, in which case, all other persons</u>	7.48
22	<u>involved in the construction who would otherwise qualify as</u>	
23	<u>prime contractors under subparagraph 1. shall be deemed</u>	7.49
24	<u>subcontractors;</u>	
25	<u>3. A person who undertakes, on a speculative basis or</u>	1:1us
26	<u>for his own use, the construction, improvement or alteration</u>	7.51
27	<u>of realty; or</u>	
28	<u>4. A person who manufactures factory-built buildings.</u>	1:1us
29	<u>(b) "Subcontractor" means a person who enters into a</u>	1:1us
30	<u>contract to provide construction services to a prime</u>	7.54
31	<u>contractor or to another subcontractor.</u>	

1	<u>(c) "Construction services" means any activity</u>	1:1us
2	<u>directly involving the construction, alteration, improvement</u>	7.56
3	<u>or repair of realty.</u>	
4	<u>(d) "Construction support services" means</u>	1:1us
5	<u>architectural, engineering, drafting, surveying, land</u>	7.57
6	<u>planning, landscape design and interior design services when</u>	
7	<u>such services directly relate to the construction, alteration,</u>	7.58
8	<u>improvement or repair of realty.</u>	7.59
9	<u>(e) "New construction" means factory-built buildings</u>	1:1us
10	<u>and any construction, alteration, improvement or repair of</u>	7.61
11	<u>realty for which the contract price, including building</u>	
12	<u>materials used in the performance of the contract, exceeds</u>	7.62
13	<u>\$5,000.</u>	
14	<u>(f) "Building materials" means tangible personal</u>	1:1us
15	<u>property physically incorporated into the affected realty.</u>	7.64
16	<u>(g) "Contract price" means the total consideration</u>	1:1us
17	<u>paid to the prime contractor pursuant to a contract for the</u>	7.67
18	<u>construction, alteration, improvement or repair of realty, or</u>	
19	<u>in the case of new construction undertaken on a speculative</u>	7.68
20	<u>basis, the total consideration paid pursuant to a contract to</u>	7.69
21	<u>purchase the improved realty. However, the contract price</u>	7.70
22	<u>shall not include the fair market value of land and any</u>	
23	<u>improvements to the land existing prior to the contract for</u>	7.71
24	<u>the construction, alteration, improvement or repair of the</u>	7.72
25	<u>realty, or the value of construction support services.</u>	7.73
26	<u>(h) "Fair market value" means 120 percent of the</u>	1:1us
27	<u>property's assessed value for ad valorem tax purposes, as</u>	7.75
28	<u>reflected by the most recent assessment roll for the county</u>	
29	<u>prior to the new construction, unless the prime contractor can</u>	7.77
30	<u>demonstrate to the satisfaction of the department by proof of</u>	
31		

1	<u>comparable sales, actual purchase price, or appraisal, that</u>	7.78
2	<u>such assessment understates the value of the property,</u>	7.79
3	<u>(1) "Appraised value" means the actual value of the</u>	1:lus
4	<u>realty, exclusive of the fair market value of land and any</u>	7.81
5	<u>improvements to the land existing prior to the new</u>	
6	<u>construction, as established by an independent appraisal of</u>	7.82
7	<u>the realty.</u>	
8	<u>(2) The tax imposed by s. 212.059 shall be applied to</u>	1:lus
9	<u>the sale of construction services in the following manner:</u>	7.84
10	<u>(a) For new construction undertaken pursuant to a</u>	1:lus
11	<u>contract, or undertaken on a speculative basis but sold within</u>	8.2
12	<u>6 months of completion of the new construction, the tax shall</u>	
13	<u>be imposed upon 50 percent of the contract price.</u>	8.4
14	<u>(b) For new construction undertaken for the prime</u>	1:lus
15	<u>contractor's own use, or undertaken on a speculative basis and</u>	8.6
16	<u>not sold within 6 months of completion, the tax shall be based</u>	8.7
17	<u>upon 50 percent of the appraised value.</u>	
18	<u>(c) However, for contracts signed or new construction</u>	1:lus
19	<u>begun on or after July 1, 1988, for new construction of</u>	8.9
20	<u>single-family homes, the tax shall be based upon 40 percent of</u>	
21	<u>the contract price or appraised value, whichever is applicable</u>	8.10
22	<u>pursuant to paragraphs (a) and (b).</u>	8.11
23	<u>(d) For new construction consisting of factory-built</u>	1:lus
24	<u>buildings, the tax shall be imposed upon the cost of physical</u>	8.13
25	<u>labor expended for the new construction and shall not include</u>	
26	<u>administrative overhead costs, transportation costs, or other</u>	8.14
27	<u>direct or indirect costs of the manufacturer of factory-built</u>	8.15
28	<u>buildings.</u>	
29	<u>(e) For construction other than new construction, the</u>	1:lus
30	<u>tax shall be imposed upon the total contract price, less the</u>	8.17
31	<u>amount paid by the prime contractor for building materials</u>	

1	<u>incorporated into the realty. However, the deduction for</u>	8.19
2	<u>building materials shall only apply if the prime contractor</u>	
3	<u>has previously paid the sales tax on such materials, and the</u>	8.20
4	<u>written contract or invoice provided by the prime contractor</u>	8.21
5	<u>to the person for whom the construction was done specifically</u>	
6	<u>itemizes the building materials and the price paid by the</u>	8.22
7	<u>prime contractor for such materials.</u>	8.23
8	<u>(f) If new construction is undertaken pursuant to a</u>	1:1us
9	<u>contract that is not an arm's-length transaction, or if new</u>	8.25
10	<u>construction is undertaken on a speculative basis and the</u>	
11	<u>realty is then sold within 6 months pursuant to a contract</u>	8.27
12	<u>that is not an arm's-length transaction, the tax shall be</u>	8.28
13	<u>imposed upon 50 percent of the appraised value of the new</u>	8.29
14	<u>construction, and not upon the contract price.</u>	8.30
15	<u>(g) Construction services performed pursuant to or in</u>	1:1us
16	<u>furtherance of a contract with a governmental entity described</u>	8.33
17	<u>in s. 212.08(6) or a nonprofit entity described in s.</u>	
18	<u>212.08(7)(c) shall be exempt from the tax on construction</u>	8.34
19	<u>services.</u>	
20	<u>(h) The tax on construction support services shall be</u>	1:1us
21	<u>imposed upon the total sales price for such services and shall</u>	8.36
22	<u>be due and payable in accordance with the provisions of s.</u>	8.37
23	<u>212.059(4).</u>	
24	<u>(3) The tax imposed by s. 212.059 on construction</u>	1:1us
25	<u>services shall be due and payable in the following manner:</u>	8.39
26	<u>(a) The prime contractor shall be responsible for</u>	1:1us
27	<u>remitting the tax on construction services performed by</u>	8.41
28	<u>himself and by his subcontractors.</u>	
29	<u>(b) Subcontractors shall not be required to collect</u>	1:1us
30	<u>the tax on construction services they perform.</u>	8.43
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1	<u>(c) For new construction undertaken pursuant to a</u>	1:lus
2	<u>contract, the tax shall be due when the prime contractor</u>	8.45
3	<u>receives payments under the contract. If the contract price</u>	8.46
4	<u>is paid in draws or installments, the amount of tax to be paid</u>	
5	<u>with respect to each such draw or installment, before</u>	8.47
6	<u>application of the dealer credit, shall be that proportion of</u>	8.48
7	<u>the tax due on the total contract price which the amount of</u>	
8	<u>the draw or installment bears to the total contract price.</u>	8.49
9	<u>(d) For new construction undertaken on a speculative</u>	1:lus
10	<u>basis, the tax shall be due when title to the property is</u>	8.51
11	<u>first transferred, or within 6 months of completion of the</u>	
12	<u>construction, whichever occurs first.</u>	8.53
13	<u>(e) For new construction undertaken for the prime</u>	1:lus
14	<u>contractor's own use, the tax shall be due when a certificate</u>	8.55
15	<u>of occupancy is issued, or if no certificate of occupancy is</u>	
16	<u>required, when the new construction is first put to its</u>	8.57
17	<u>intended use.</u>	
18	<u>(f) For construction other than new construction, the</u>	1:lus
19	<u>tax shall be due when the prime contractor receives payment</u>	8.59
20	<u>for the construction services rendered.</u>	
21	<u>(g) Taxes due and payable pursuant to this section</u>	1:lus
22	<u>shall be remitted in accordance with s. 212.11.</u>	8.61
23	<u>(h) No unit of local government shall issue a</u>	1:lus
24	<u>certificate of occupancy for new construction until the prime</u>	8.63
25	<u>contractor certifies, on a form promulgated by the department</u>	
26	<u>and submitted to the local government, that the new</u>	8.64
27	<u>construction is substantially complete. Such forms shall be</u>	8.65
28	<u>provided to local governments by the department, and completed</u>	
29	<u>forms shall be returned monthly to the department by the local</u>	8.66
30	<u>governments.</u>	
31		

1	<u>(4) The following provisions of this part shall not</u>	1:1us
2	<u>apply with regard to the tax on construction services:</u>	8.68
3	<u>(a) Section 212.02(5), the definition of "cost price."</u>	1:1us
4	<u>(b) Section 212.02(21), the definition of "sales</u>	1:1us
5	<u>price."</u>	
6	<u>(c) Section 212.059(3), regarding the collection and</u>	1:1us
7	<u>remittance of the tax.</u>	8.72
8	<u>(d) Section 212.059(4), regarding the time the tax is</u>	1:1us
9	<u>due.</u>	
10	<u>(e) Section 212.0591(4), regarding taxation of</u>	1:1us
11	<u>transactions previously taxed.</u>	8.75
12	<u>(f) Section 212.0591(6), regarding separate statement</u>	1:1us
13	<u>of services and real property.</u>	8.77
14	<u>(g) Section 212.0591(7), regarding separate statement</u>	1:1us
15	<u>of taxable and exempt services.</u>	8.79
16	<u>(h) Section 212.0592(2), regarding employee services,</u>	1:1us
17	<u>shall not apply for purposes of determining the cost price of</u>	8.81
18	<u>new construction.</u>	
19	<u>(i) Section 212.0592(3), regarding occasional or</u>	1:1us
20	<u>isolated sales.</u>	
21	<u>(j) Section 212.0592(4), regarding services sold to</u>	1:1us
22	<u>partnerships.</u>	
23	<u>(k) Section 212.0592(5), regarding services sold</u>	1:1us
24	<u>between members of an affiliated group.</u>	9.1
25	Section 7. Section 212.0595, Florida Statutes, as	9.2
26	created by chapter 87-6, Laws of Florida, is amended to read:	9.3
27	212.0595 Advertising; special provisions.--	9.4
28	Notwithstanding the provisions of sss-212-059-212-0593, The	9.5
29	following special provisions shall be applicable to the sales	
30	and use tax on advertising:	9.7
31		

1	(1) A tax is hereby imposed on advertising sold or	9.8
2	used in this state. The tax shall be at the rate of 5 percent	9.9
3	of the sales price or cost price of the advertising.	
4	(2) Advertising shall be deemed to have been sold in	9.10
5	this state if the greater proportion of the advertising is	9.11
6	performed within this state based on costs of performance as	
7	defined in s. 212.02.	9.12
8	(3) Advertising shall be deemed to have been used in	9.12
9	this state if it was sold outside this state for consumption	9.13
10	in this state. Advertising shall be presumed to be consumed	9.14
11	in this state to the extent the cost price is apportioned to	9.15
12	this state pursuant to subsection (4).	
13	(4)(a) The sales price of the sale of advertising, or	9.17
14	the cost price of the use of advertising, shall be apportioned	
15	to the state as provided in this subsection. There shall be	9.19
16	included in the measure of the tax imposed by this section	
17	that proportion of the sales price or cost price which is	9.20
18	equal to the proportion of market coverage within Florida to	
19	the total United-States market coverage for the most recently	9.21
20	completed accounting year of the service provider. However,	9.24
21	in the case of new or restructured service providers, the	
22	department may prescribe by rule another time period or	9.25
23	proportion that fairly reflects Florida market coverage.	9.26
24	(b) For purposes of this subsection, "market coverage"	9.26
25	means average circulation <u>within the geographic area of</u>	9.27
26	<u>distribution for the publication</u> , in the case of print media,	9.28
27	and means population within the signal reception area of the	9.30
28	broadcaster, in the case of broadcast media, measured as	
29	prescribed by the department by rule.	9.31
30		
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1	(c) For advertising other than print or broadcast	9.31
2	media, the department shall establish by rule a method for	9.32
3	fairly apportioning advertising sold or used in this state.	9.33
4	(5) If advertising is sold in this state, the sales	9.33
5	tax imposed by this section shall be collected and remitted by	9.34
6	the advertising media provider, <u>unless the advertising is</u>	9.35
7	<u>purchased pursuant to a resale permit, in which case the</u>	
8	<u>person reselling the advertising shall collect and remit the</u>	9.36
9	<u>tax.</u>	
10	(6) If advertising is not sold in this state, but is	9.37
11	used in this state, the advertiser shall self-accrue the use	9.38
12	tax imposed by this section and remit the tax directly to the	
13	<u>department, if the advertiser has nexus for tax purposes with</u>	9.39
14	<u>this state, unless the advertising is sold to a registered</u>	9.40
15	<u>dealer for resale, in which case the registered dealer shall</u>	9.41
16	<u>collect and remit the tax when the advertising is resold.</u>	
17	(7)(a) <u>When advertising is sold or resold, the seller</u>	9.42
18	<u>or reseller shall state the sales price of the advertising and</u>	9.44
19	<u>the applicable apportionment factor, if any, separately from</u>	
20	<u>any other charges which may be included in the invoice, charge</u>	9.45
21	<u>slip or other tangible evidence of sale.</u>	
22	(b) <u>When the tax on advertising is not collected by</u>	1:lus
23	<u>the seller of the advertising, it is the responsibility of the</u>	9.47
24	<u>purchaser to secure the apportionment factor pursuant to</u>	
25	<u>subsection (4) from the advertising media. When advertising</u>	9.50
26	is purchased and resold, the person reselling the advertising	9.51
27	may deduct the consideration paid for the advertising from his	
28	charges for purposes of calculating any tax due under this	9.52
29	part.	
30		
31		

1	(8) Nothing herein shall be construed to require the	9.53
2	advertising media to furnish to the department a listing of	9.54
3	persons placing advertising with the advertising media.	9.55
4	(9) Consideration paid pursuant to a written contract	9.56
5	for a term in excess of two years, entered into prior to April	9.57
6	1, 1987, and which involves a transaction taxable under this	
7	section, shall be exempt from the tax imposed by this section	9.58
8	until the expiration of such contract. This exemption shall	9.60
9	not apply to advertising provided pursuant to any extension or	
10	renewal of such contract.	9.61
11	<u>(10) For purposes of this part, the term "advertising"</u>	1:lus
12	<u>means the medium used to convey the advertiser's message, and</u>	9.63
13	<u>shall include any mark-up charged by an advertising agency or</u>	9.64
14	<u>any other person for the service of brokering the medium.</u>	
15	<u>However, the term "advertising" shall not include creative</u>	9.65
16	<u>services of a type customarily performed by an advertising</u>	9.66
17	<u>agency.</u>	
18	<u>(11) The following provisions of this part shall not</u>	1:lus
19	<u>apply to the sale or use of advertising:</u>	9.68
20	<u>(a) Section 212.059(3), regarding collection of the</u>	1:lus
21	<u>tax on services; and</u>	9.70
22	<u>(b) Section 212.0593, regarding administration of s.</u>	9.71
23	<u>212.0592(1).</u>	
24	Section 8. Section 212.0597, Florida Statutes, is	9.72
25	created to read:	9.73
26	<u>212.0597 Special resale rules; construction support</u>	1:lus
27	<u>services and advertising agency support services.--</u>	9.74
28	<u>(1) The Legislature hereby recognizes that certain</u>	9.75
29	<u>service industries utilize subcontract labor more extensively</u>	
30	<u>than other service industries, and that the application of the</u>	9.76
31	<u>general rules regarding resale would result in excessive</u>	9.77

1	<u>pyramiding of the tax on services. Therefore, it is the</u>	9.78
2	<u>intent of the Legislature that special resale rules apply to</u>	
3	<u>these industries as herein provided.</u>	9.79
4	<u>(2) Notwithstanding the provisions of s. 212.02(19),</u>	1:1us
5	<u>construction support services and advertising agency support</u>	9.81
6	<u>services may be purchased for resale if:</u>	9.82
7	<u>(a) The service provides a direct and identifiable</u>	1:1us
8	<u>benefit to a single client or customer of the purchaser;</u>	9.83
9	<u>(b) The purchaser of the service buys the service</u>	9.84
10	<u>pursuant to a written contract with the seller and such</u>	
11	<u>contract identifies the client or customer for whom the</u>	10.1
12	<u>purchaser is buying the service;</u>	
13	<u>(c) The purchaser of the service identifies the seller</u>	10.2
14	<u>of the service purchased in his charge for the service on its</u>	
15	<u>subsequent sale;</u>	10.3
16	<u>(d) The service will be taxed under this part in a</u>	1:1us
17	<u>subsequent sale, unless exempt under other provisions of this</u>	10.4
18	<u>part; and</u>	
19	<u>(e) The service, if a construction support service, is</u>	10.5
20	<u>purchased by a person who is primarily engaged in the business</u>	
21	<u>of selling construction support services, or, if an</u>	10.6
22	<u>advertising agency support service, is purchased by a person</u>	10.7
23	<u>primarily engaged in the business of selling advertising</u>	
24	<u>agency services or advertising agency support services.</u>	10.8
25	<u>(3) For purposes of this section:</u>	1:1us
26	<u>(a) "Advertising agency support services" means</u>	10.9
27	<u>creative services used to produce advertising campaigns, such</u>	
28	<u>as photography, filming, copywriting, editing, printing,</u>	10.10
29	<u>modeling, and art production.</u>	10.11
30		
31		

1	<u>(b) "Construction support services" means</u>	1:lus
2	<u>architectural, engineering, drafting, surveying, land</u>	10.12
3	<u>planning, landscape design, and interior design services.</u>	10.13
4	Section 9. Section 212.0598, Florida Statutes, is	10.13
5	created to read:	10.14
6	<u>212.0598 Special provisions; air carriers.--</u>	1:lus
7	<u>(1) Notwithstanding other provisions of this part to</u>	10.15
8	<u>the contrary, any air carrier required by the United States</u>	10.16
9	<u>Department of Transportation to keep records according to said</u>	
10	<u>department's standard classification of accounting may elect,</u>	10.18
11	<u>upon the conditions prescribed in subsection (4), to be</u>	
12	<u>subject to the tax imposed by this part on services and</u>	10.19
13	<u>tangible personal property according to the provisions of this</u>	
14	<u>section.</u>	10.20
15	<u>(2) The basis of the tax shall be the ratio of Florida</u>	10.23
16	<u>mileage to total mileage traveled by the carrier's aircraft</u>	
17	<u>during the previous fiscal year as determined pursuant to part</u>	10.24
18	<u>IV of chapter 214. The ratio shall be determined at the close</u>	10.26
19	<u>of the carrier's preceding fiscal year. The ratio shall be</u>	10.27
20	<u>applied each month to the carrier's total systemwide gross</u>	10.28
21	<u>purchases of tangible personal property and services otherwise</u>	10.29
22	<u>taxable in Florida.</u>	
23	<u>(3) It is the legislative intent that air carriers are</u>	10.31
24	<u>hereby determined to be susceptible to a distinct and separate</u>	
25	<u>classification for taxation under the provisions of this part,</u>	10.32
26	<u>if the provisions of this section are met.</u>	10.33
27	<u>(4) The election provided for in this section shall</u>	1:lus
28	<u>not be allowed unless the purchaser makes a written request,</u>	10.35
29	<u>in a manner prescribed by the Department of Revenue, to be</u>	10.36
30	<u>taxed under the provisions of subsection (2), and such person</u>	
31	<u>registers with the Department of Revenue as a dealer and</u>	10.38

1 extends to his vendor at the time of purchase, if required to
 2 do so, a certificate stating that the item or items to be 10.39
 3 partially exempted are for the exclusive use designated 10.40
 4 herein. Otherwise, all purchases of taxable property and
 5 services purchased in this state shall be subject to taxation. 10.41
 6 (5) Notwithstanding other provisions of this part to 10.43
 7 the contrary, any air carrier eligible for the election
 8 provided in subsection (1) which does not so elect shall be 10.45
 9 subject to the tax imposed by this part on the purchase or use
 10 of services and tangible personal property purchased or used 10.47
 11 in this state, as well as other taxes imposed herein. 10.48
 12 Section 10. Subsections (2) and (6), paragraph (h) of 10.49
 13 subsection (14), and paragraph (a) of subsection (19) of 10.51
 14 section 212.02, Florida Statutes, as amended by chapter 87-6, 10.52
 15 Laws of Florida, are amended to read: 10.54
 16 212.02 Definitions.--The following terms and phrases 10.55
 17 when used in this chapter have the meanings ascribed to them 10.56
 18 in this section, except where the context clearly indicates a 10.57
 19 different meaning:
 20 (2) "Affiliated group" means an affiliated group of 10.58
 21 corporations, as defined in s. 1504(a) of the Internal Revenue 10.59
 22 Code, whose members are includable under s. 1504(b), (c), or 10.60
 23 (d) of the Internal Revenue Code, and are eligible to file a 10.63
 24 consolidated tax return for Federal corporate income tax
 25 purposes; however, s. 1504(b)(2) shall not apply to this 10.64
 26 definition. However, the taxpayer may elect, pursuant to 11.1us
 27 rules of the department governing the procedure for making and 10.66
 28 amending such election, to define its affiliated group in a
 29 manner which excludes any member who has no tax nexus in this 10.67
 30 state and any member whose business activities are unrelated 10.68
 31 to the business activities of other members of the group.

CODING: Words stricken are deletions; words underlined are additions.

1	<u>However, in no event shall the parent corporation be excluded</u>	10.69
2	<u>from the affiliated group.</u>	10.70
3	(6) "Costs of performance" means direct costs	10.71
4	determined in a manner consistent with generally accepted	10.73
5	accounting principles and in accordance with accepted	
6	conditions or practices in the type of trade or business in	10.74
7	which the <u>service provider</u> taxpayer engages.	10.75
8	(14) "Lease," "let," or "rental" means leasing or	1:qq
9	renting of living quarters or sleeping or housekeeping	10.78
10	accommodations in hotels, apartment houses, roominghouses,	
11	tourist or trailer camps and real property, the same being	10.79
12	defined as follows:	
13	(h) "Real property" means <u>land, improvements thereto,</u>	10.80
14	<u>and fixtures, and is synonymous with "realty" and "real</u>	1:qq
15	<u>estate."</u> any interest in the surface of real property unless	10.83
16	the property is:	
17	1-- Assessed as agricultural property under s-193+461r	11.1
18	2-- Used exclusively as dwelling units,	1:10a
19	3-- Property subject to tax on parking, docking, or	11.4
20	storage spaces under s-212+83+6)r	11.5
21	4-- Recreational property or the common elements of a	1:10a
22	condominium when subject to a lease between the developer or	11.7
23	owner thereof and the condominium association in its own right	11.8
24	or as agent for the owners of individual condominium units or	11.9
25	the owners of individual condominium units--However, only the	11.11
26	lease payments on such property shall be exempt from the tax	
27	imposed by this chapter, and any other use made by the owner	11.13
28	or the condominium association shall be fully taxable under	11.14
29	this chapter;	
30	5-- A public or private street or right of way occupied	1:10a
31	or used by a utility for utility purposes.	11.17

1	6r--A public street or road which is used for	1:108
2	transportation purposes.	11.19
3	7r--Property used at an airport exclusively for the	1:108
4	purpose of aircraft landing or aircraft taxiing or property	11.22
5	used by an airline for the purpose of loading or unloading	
6	passengers or property onto or from aircraft or for fueling	11.23
7	aircraft.	11.24
8	6r--Property used at a port authority as defined in s.	11.26
9	315.02(2) exclusively for the purpose of ocean-going vessels	11.27
10	or tugs docking, or such vessels mooring on property used by a	
11	port authority for the purpose of loading or unloading	11.28
12	passengers or cargo onto or from such a vessel, or property	11.29
13	used at a port authority for fueling such vessels.	
14	9r--Property used as an integral part of the	1:108
15	performance of qualified production services as defined in s.	11.31
16	212.0592(18)(a).	
17	10r--Leased, subleased, or rented to a person providing	1:108
18	food and drink concessionaire services within the premises of	11.34
19	an airport, a movie theater, a business operated under a	
20	permit issued pursuant to chapter 550 or chapter 551, or any	11.36
21	publicly owned arena, sports stadium, convention hall, or	
22	exhibition hall.	
23	(19)(a) "Retail sale" or a "sale at retail" means a	1:09
24	sale to a consumer or to any person for any purpose other than	11.41
25	for resale in the form of tangible personal property or	
26	services, and includes all such transactions that may be made	11.43
27	in lieu of retail sales or sales at retail. "Retail sale"	1:09
28	does not include fee-sharing for services described in s.	
29	<u>475.011 by persons licensed under chapter 475 between real</u>	11.46
30	estate agents and real estate brokers. A sale of a service	11.48
31	shall be considered a sale for resale only if:	11.49

1	1. The purchaser of the service does not use or	11.49
2	consume the service but acts as a broker or intermediary in	11.51
3	procuring a service for his client or customer;	
4	2. The purchaser of the service buys the service	11.52
5	pursuant to a written contract with the seller and such	11.54
6	contract identifies the client or customer for whom the	
7	purchaser is buying the service;	
8	3. The purchaser of the service separately states the	11.56
9	value of the service purchased at the purchase price in his	
10	charge for the service on its subsequent sale;	11.58
11	4. The service, with its value separately stated, will	11.59
12	be taxed under this part in a subsequent <u>sale, unless</u>	11.60
13	<u>otherwise exempt pursuant to s. 212.0592(1);</u> and	11.61
14	5. The service is purchased pursuant to a service	11.62
15	resale permit by a <u>dealer</u> person who is primarily engaged in	11.65
16	the business of selling services. The department shall	11.66
17	provide by rule for the issuance and periodic renewal every 5	
18	years of such resale permits.	11.68
19		
20	However, a sale, to other than an end user, of	11.69
21	telecommunication services consisting of a right of access for	11.70
22	which an access charge, as defined in s. 203.012(1), is	11.71
23	imposed, is a sale for resale.	
24	Section 11. Paragraph (a) of subsection (1) of section	11.72
25	212.031, Florida Statutes, as amended by chapter 87-6, Laws of	11.73
26	Florida, is amended to read:	
27	212.031 Lease or rental of or license in real	11.74
28	property.--	
29	(1)(a) It is declared to be the legislative intent	11.77
30	that every person is exercising a taxable privilege who	11.78
31	engages in the business of renting, leasing, letting, or	11.79

1	granting a license for the use of any real property unless	11.80
2	such property is:	
3	1. Assessed as agricultural property under s. 193.461.	11.82
4	2. Used exclusively as dwelling units.	11.83
5	3. Property subject to tax on parking, docking, or	12.1
6	storage spaces under s. 212.03(6).	12.2
7	4. Recreational property or the common elements of a	12.3
8	condominium when subject to a lease between the developer or	12.4
9	owner thereof and the condominium association in its own right	12.5
10	or as agent for the owners of individual condominium units or	12.6
11	the owners of individual condominium units. However, only the	12.8
12	lease payments on such property shall be exempt from the tax	
13	imposed by this chapter, and any other use made by the owner	12.9
14	or the condominium association shall be fully taxable under	12.10
15	this chapter.	
16	5. A public or private street or right-of-way occupied	12.11
17	or used by a utility for utility purposes.	12.13
18	6. A public street or road which is used for	12.14
19	transportation purposes.	12.15
20	7. Property used at an airport exclusively for the	12.16
21	purpose of aircraft landing or aircraft taxiing or property	12.19
22	used by an airline for the purpose of loading or unloading	
23	passengers or property onto or from aircraft or for fueling	12.20
24	aircraft.	12.21
25	8. Property used at a port authority as defined in s.	12.23
26	315.02(2) exclusively for the purpose of oceangoing vessels or	12.24
27	tugs docking, or such vessels mooring on property used by a	
28	port authority for the purpose of loading or unloading	12.25
29	passengers or cargo onto or from such a vessel, or property	12.26
30	used at a port authority for fueling such vessels.	
31		

1	9. Property used as an integral part of the	12.27
2	performance of qualified production services as defined in s.	12.28
3	212.0592(18)(a).	
4	10. Leased, subleased, or rented to a person providing	12.29
5	food and drink concessionaire services within the premises of	12.31
6	an-airport, a movie theater, a business operated under a	
7	permit issued pursuant to chapter 550 or chapter 551, or any	12.33
8	publicly owned arena, sports stadium, convention hall, or	
9	exhibition hall, auditorium or recreational facility. A	12.34
10	<u>person providing food and drink concessionaire services within</u>	
11	<u>the premises of an airport shall be subject to tax on the</u>	12.36
12	<u>rental of real property used for that purpose, but shall not</u>	
13	<u>be subject to the tax on any license to use the property.</u>	12.37
14	Section 12. Paragraph (a) of subsection (2) of section	12.38
15	212.04, Florida Statutes, as amended by chapter 87-6, Laws of	12.39
16	Florida, is amended to read:	
17	212.04 Admissions tax; rate, procedure, enforcement.--	12.40
18	<u>(2)(a)1. No tax shall be levied on admissions to</u>	12.41
19	<u>athletic or other events sponsored by elementary schools,</u>	12.42
20	<u>junior high schools, middle schools, high schools, community</u>	12.44
21	<u>colleges, public or private colleges and universities, deaf</u>	
22	<u>and blind schools, facilities of the youth services programs</u>	12.45
23	<u>of the Department of Health and Rehabilitative Services, and</u>	12.47
24	<u>state correctional institutions when only student, faculty, or</u>	
25	<u>inmate talent is utilized. However, this exemption shall not</u>	12.49
26	<u>apply to admission to athletic events sponsored by an</u>	
27	<u>institution within the State University System, and the</u>	12.50
28	<u>proceeds of the tax collected on such admissions shall be</u>	12.51
29	<u>retained and utilized by each institution to support women's</u>	
30	<u>athletics as provided in s. 240.533(4)(c).</u>	12.52
31		

1	<u>2. No tax shall be levied on an admission paid by a</u>	12.54
2	<u>student, or on his behalf, to any required place of sport or</u>	12.56
3	<u>recreation if the student's participation in the sport or</u>	
4	<u>recreational activity is required as a part of a program or</u>	12.59
5	<u>activity sponsored by, and under the jurisdiction of, the</u>	12.61
6	<u>student's educational institution, provided his attendance is</u>	
7	<u>as a participant and not as a spectator.</u>	12.62
8	<u>3. No tax shall be levied on admissions to the</u>	1:1us
9	National Football League championship game.	12.67
10	<u>4. No tax shall be levied on admissions to athletic or</u>	1:1us
11	<u>other events sponsored by governmental entities.</u>	12.69
12	Section 13. Subsection (1) of section 212.05, Florida	12.69
13	Statutes, as amended by chapter 87-6, Laws of Florida, is	12.70
14	amended to read:	
15	212.05 Sales, storage, use tax.--It is hereby declared	12.70
16	to be the legislative intent that every person is exercising a	12.73
17	taxable privilege who engages in the business of selling	
18	tangible personal property at retail in this state, or who	12.74
19	rents or furnishes any of the things or services taxable under	12.75
20	this section, or who stores for use or consumption in this	12.78
21	state any item or article of tangible personal property as	
22	defined herein and who leases or rents such property within	12.79
23	the state.	
24	(1) For the exercise of such privilege, a tax is	12.81
25	levied on each taxable transaction or incident, which tax is	12.82
26	due and payable as follows:	
27	(a)1.a. At the rate of 5 percent of the sales price of	13.1
28	each item or article of tangible personal property when sold	
29	at retail in this state, computed on each taxable sale for the	13.2
30	purpose of remitting the amount of tax due the state, and	13.3
31	including each and every retail sale.	13.4

1	b. Each occasional or isolated sale of an aircraft,	13.5
2	boat, or mobile home, or motor vehicle of a class or type	13.9
3	which is required to be registered, licensed, titled, or	13.11
4	documented in this state or by the United States Government	13.12
5	shall be subject to tax at the rate provided in this	13.13
6	paragraph. The department shall, by rule, adopt the NADA	13.14
7	Official Used Car Guide as the reference price list for any	13.15
8	used motor vehicle which is required to be licensed pursuant	
9	to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If	13.17
10	any party to an occasional or isolated sale of such a vehicle	
11	reports to the tax collector a sales price which is less than	13.18
12	80 percent of the average loan price for the specified model	
13	and year of such vehicle as listed in the most recent	13.19
14	reference price list, the tax levied under this paragraph	13.20
15	shall be computed by the department on such average loan price	
16	unless the parties to the sale have provided to the tax	13.21
17	collector an affidavit, signed by each party, or other	
18	substantial proof, stating the actual sales price. Any party	13.24
19	to such sale who reports a sales price less than the actual	
20	sales price is guilty of a misdemeanor of the second degree,	13.25
21	punishable as provided in s. 775.083. The department shall	13.26
22	collect or attempt to collect from such party any delinquent	
23	sales taxes. In addition, such party shall pay any tax due	13.27
24	and any penalty and interest assessed, plus a penalty equal to	13.28
25	twice the amount of the additional tax owed. Notwithstanding	13.30
26	any other provision of law, the Department of Revenue may	
27	waive or compromise any penalty imposed after July 1, 1985,	13.31
28	pursuant to this sub-subparagraph. For purposes of this sub-	13.32
29	subparagraph, an occasional or isolated sale is one in which	13.33
30	the seller is not a motor vehicle dealer as defined in s.	13.34
31	320.27(1)(c).	

1	2. This paragraph does not apply to the sale of a boat	13.36
2	or airplane by or through a registered dealer under this	13.37
3	chapter to a purchaser who removes such boat or airplane from	13.38
4	this state within 10 days after the date of purchase or, when	13.39
5	the boat or airplane is repaired or altered, within 10 days	
6	after completion of such repairs or alterations. In no event	13.42
7	shall the boat or airplane remain in this state more than 90	
8	days after the date of purchase. This exemption shall not be	13.45
9	allowed unless the seller:	13.46
10	a. Obtains from the purchaser within 90 days from the	13.47
11	date of sale written proof that the purchaser licensed,	13.49
12	registered, or documented the boat or airplane outside the	13.50
13	state;	
14	b. Requires the purchaser to sign an affidavit that he	13.51
15	has read the provisions of this section; and	13.53
16	c. Makes the affidavit a part of his permanent record.	13.56
17		
18	In the event the purchaser fails to remove the boat or	13.57
19	airplane from this state within 10 days after purchase or,	13.59
20	when the boat or airplane is repaired or altered, within 10	13.61
21	days after completion of such repairs or alterations, or	13.62
22	permits the boat or airplane to return to this state within 6	13.63
23	months from the date of departure, the purchaser shall be	13.65
24	liable for use tax on the cost price of the boat or airplane	13.66
25	and, in addition thereto, payment of a penalty to the	
26	Department of Revenue equal to the tax payable. This penalty	13.68
27	shall be in lieu of the penalty imposed by s. 212.12(2) and is	
28	mandatory and shall not be waived by the department.	13.69
29	(b) At the rate of 5 percent of the cost price of each	13.70
30	item or article of tangible personal property when the same is	13.72
31		

1	not sold but is used, consumed, distributed, or stored for use	13.73
2	or consumption in this state.	
3	(c) At the rate of 5 percent of the gross proceeds	13.76
4	derived from the lease or rental of tangible personal	13.77
5	property, as defined herein, except the lease or rental of a	
6	commercial motor vehicle as defined in s. 316.003(67)(a) to	13.79
7	one lessee or rentee for a period of not less than 12 months	
8	when tax was paid on the acquisition of such vehicle by the	13.81
9	lessor, when the lease or rental of such property is an	
10	established business or part of an established business or the	13.83
11	same is incidental or germane to such business.	
12	(d) At the rate of 5 percent of the lease or rental	14.2
13	price paid by a lessee or rentee, or contracted or agreed to	
14	be paid by a lessee or rentee, to the owner of the tangible	14.3
15	personal property.	
16	(e)1. At the rate of 5 percent on charges for all	14.5
17	telegraph messages and long distance telephone calls beginning	14.6
18	and terminating in this state; on charges for	
19	telecommunication service as defined in s. 203.012 and for	14.7
20	those services described in s. 203.012(2)(a); on recurring	14.8
21	charges to regular subscribers for wired television service;	14.10
22	on all charges for the installation of telecommunication,	
23	wired television, and telegraphic equipment; and on all	14.11
24	charges for electrical power or energy. For purposes of this	14.13
25	<u>part</u> subparagraph, the term "telecommunication service" does	1:qq
26	not include local service provided through a pay telephone.	14.15
27	The provisions of s. 212.17(3), regarding credit for tax paid	14.17
28	on charges subsequently found to be worthless, shall be	14.19
29	equally applicable to any tax paid under the provisions of	14.20
30	this section on charges for telecommunication or telegraph	14.21
31	services or electric power subsequently found to be	14.22

1	uncollectible. The word "charges" in this paragraph does not	14.25
2	include any excise or similar tax levied by the Federal	14.26
3	Government, any political subdivision of the state, or any	14.27
4	municipality upon the purchase or sale of telecommunication,	14.29
5	wired television, or telegraph service or electric power,	14.29
6	which tax is collected by the seller from the purchaser.	14.30
7	2. Telegraph messages and telecommunication services	14.32
8	which originate or terminate in this state, other than	14.33
9	interstate private communication services, and are billed to a	14.35
10	customer, telephone number, or device located within this	14.36
11	state are taxable under this paragraph. Interstate private	14.37
12	communication services are taxable under this paragraph as	14.38
13	follows:	14.39
14	a. One hundred percent of the charge imposed at each	14.40
15	channel termination point within this state;	14.41
16	b. One hundred percent of the charge imposed for the	14.42
17	total channel mileage between each channel termination point	14.43
18	within this state; and	14.44
19	c. Fifty percent of the charge imposed for the total	14.45
20	channel mileage between the first channel termination point	14.46
21	inside this state and the nearest channel termination point	14.47
22	outside this state.	14.48
23	3. The tax imposed pursuant to this paragraph shall	14.50
24	not exceed \$50,000 per calendar year on charges to any person	14.52
25	for interstate telecommunications services defined in a.	14.53
26	203.012(4) and (7)(b), if the majority of such services used	
27	by such person are for communications originating outside of	
28	this state and terminating in this state. This exemption	
29	shall only be granted to holders of a direct pay permit issued	
30	pursuant to this subparagraph. No refunds shall be given for	
31	taxes paid prior to receiving a direct pay permit. Upon	

1	application, the department may issue a direct pay permit to	
2	the purchaser of tele com munications services authorizing such	14.54
3	purchaser to pay tax on such services directly to the	
4	department. Any vendor furnishing telecommunications services	14.56
5	to the holder of a valid direct pay permit shall be relieved	14.57
6	of the obligation to collect and remit the tax on such	
7	service. Tax payments and returns pursuant to a direct pay	14.58
8	permit shall be monthly. For purposes of this subparagraph,	14.59
9	the term "person" shall be limited to a single legal entity	
10	and shall not be construed as meaning a group or combination	14.61
11	of affiliated entities or entities controlled by one person or	14.62
12	group of persons. For purposes of this subparagraph, for	14.63
13	calendar year 1986, the term "calendar year" means the last 6	14.64
14	months of 1986.	
15	(f) At the rate of 5 percent on the sale, rental, use,	14.65
16	consumption, or storage for use in this state of machines and	14.66
17	equipment and parts and accessories therefor used in	14.67
18	manufacturing, processing, compounding, producing, mining, or	14.68
19	quarrying personal property for sale or to be used in	
20	furnishing communications, transportation, or public utility	14.69
21	services.	
22	(g) At the rate of 5 percent of the price, as	14.70
23	determined pursuant to part II, of each gallon of motor fuel	14.72
24	or special fuel taxable pursuant to that part, except that	
25	motor fuel and special fuel expressly taxable under this part	14.73
26	shall be taxed as provided in paragraphs (a) and (b).	
27	(h) Any person who purchases, installs, rents, or	14.74
28	leases a telephone system or telecommunication system for his	14.75
29	own use to provide himself with telephone service or	
30	telecommunication service which is a substitute for any	14.76
31	telephone company switched service or a substitute for any	14.78

1	dedicated facility by which a telephone company provides a	14.79
2	communication path is exercising a taxable privilege and shall	
3	register with the Department of Revenue and pay into the State	14.80
4	Treasury a yearly amount equal to 5 percent of the actual cost	14.81
5	of operating such system, notwithstanding the provisions of s.	
6	212.081 (3) (b). "Actual cost" includes, but is not limited to,	14.82
7	depreciation, interest, maintenance, repair, and other	14.83
8	expenses directly attributable to the operation of such	14.84
9	system. For purpose of this paragraph, the depreciation	15.1
10	expense to be included in actual cost shall be the	
11	depreciation expense claimed for federal income tax purposes.	15.2
12	The total amount of any payment required by a lease or rental	15.3
13	contract or agreement shall be included within the actual	15.4
14	cost. The provisions of this paragraph do not apply to the	15.5
15	use by any local telephone company or any telecommunication	15.6
16	carrier of its own telephone system or telecommunication	
17	system to conduct a telecommunication service for hire. If a	15.8
18	system described in this paragraph is located in more than one	
19	state, the actual cost of such system for purposes of this	15.9
20	paragraph shall be the actual cost of the system's equipment	15.10
21	located in Florida.	
22	<u>(1) At the rate of 5 percent on the retail price of</u>	15.11
23	<u>newspapers and magazines sold or used in Florida.</u>	15.12
24	Section 14. Paragraph (b) of subsection (9) of section	15.13
25	212.08, Florida Statutes, 1986 Supplement, is amended, and	15.14
26	paragraph (a) of subsection (2), subsection (6), and	
27	paragraphs (e) and (o) of subsection (7) of said section, as	15.16
28	amended by chapter 87-6, Laws of Florida, are amended, to	
29	read:	
30	212.08 Sales, rental, use, consumption, distribution,	15.16
31	and storage tax; specified exemptions.--The sale at retail,	15.17

1	the rental, the use, the consumption, the distribution, and	15.19
2	the storage to be used or consumed in this state of the	
3	following are hereby specifically exempt from the tax imposed	15.22
4	by part I of this chapter.	
5	(2) EXEMPTIONS; MEDICAL.--	15.23
6	(a) There shall be exempt from the tax imposed by this	15.23
7	chapter any product, supply, or medicine dispensed in a retail	15.24
8	establishment by a pharmacist licensed by the state, according	15.26
9	to an individual prescription or prescriptions written by a	
10	prescriber authorized by law to prescribe medicinal drugs;	15.27
11	hypodermic needles; hypodermic syringes; chemical compounds	15.29
12	and test kits used for the diagnosis or treatment of human	
13	disease, illness, or injury; and common household remedies	15.31
14	recommended and generally sold for internal or external use in	
15	the cure, mitigation, treatment, or prevention of illness or	15.32
16	disease in human beings, but not including cosmetics or toilet	15.33
17	articles, notwithstanding the presence of medicinal	
18	ingredients therein, according to a list prescribed and	15.34
19	approved by the Department of Health and Rehabilitative	15.36
20	Services, which list shall be certified to the Department of	15.37
21	Revenue from time to time and included in the rules	
22	promulgated by the Department of Revenue. There shall also be	15.39
23	exempt from the tax imposed by this chapter artificial eyes	15.40
24	and limbs; orthopedic shoes; prescription eyeglasses and items	15.41
25	incidental thereto or which become a part thereof; dentures;	15.42
26	hearing aids; <u>batteries specifically designed and identified</u>	15.43
27	<u>as hearing aid batteries</u> ; crutches; prosthetic and orthopedic	15.45
28	appliances; and funerals. Funeral directors shall pay tax on	15.46
29	all tangible personal property used by them in their business.	15.47
30	(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are	15.50
31	also exempt from the tax imposed by this chapter sales made to	15.51

1	the United States Government, <u>a</u> the state, or any county,	15.53
2	municipality, or political subdivision of <u>a</u> this state when	15.54
3	payment is made directly to the dealer by the governmental	15.55
4	entity. This exemption shall not inure to any transaction	15.56
5	otherwise taxable under this chapter when payment is made by a	15.57
6	government employee by any means, including, but not limited	
7	to, cash, check, or credit card when that employee is	15.59
8	subsequently reimbursed by the governmental entity. This	15.61
9	exemption does not include sales of tangible personal property	
10	made to contractors employed either directly or as agents of	15.62
11	any such government or political subdivision thereof when such	15.63
12	tangible personal property goes into or becomes a part of	15.65
13	public works owned by such government or political subdivision	15.66
14	thereof, except public works in progress or for which bonds or	
15	revenue certificates have been validated on or before August	15.67
16	1, 1959. This exemption does not include sales, rental, use,	15.68
17	consumption, or storage for use in any political subdivision	15.69
18	or municipality in this state of machines and equipment and	15.70
19	parts and accessories therefor used in the generation,	15.71
20	transmission, or distribution of electrical energy by systems	
21	owned and operated by a political subdivision in this state	15.72
22	except sales, rental, use, consumption, or storage for which	15.73
23	bonds or revenue certificates are validated on or before	15.74
24	January 1, 1973, for transmission or distribution expansion.	15.75
25	(7) MISCELLANEOUS EXEMPTIONS.--	15.76
26	(e) Film rentals.--Film rentals are exempt when an	15.78
27	admission is charged for viewing such film, and license fees	
28	and direct charges for films, videotapes, and transcriptions	15.80
29	used by television or radio stations or networks <u>are exempt.</u>	15.81
30	However, this exemption shall not be construed to exempt the	15.82
31	sale or use of advertising.	

1	(o) Religious, charitable, scientific, educational,	15.84
2	and veterans' institutions and organizations.--	16.1
3	1. There are exempt from the tax imposed by part I of	16.3
4	this chapter transactions involving:	
5	a. Sales or leases directly to churches or sales or	16.4
6	leases of tangible personal property or services by churches;	16.7
7	b. Sales or leases to nonprofit religious, nonprofit	16.8
8	charitable, nonprofit scientific, or nonprofit educational	16.9
9	institutions when used in carrying on their customary	16.13
10	nonprofit religious, nonprofit charitable, nonprofit	16.14
11	scientific, or nonprofit educational activities, including	16.16
12	church cemeteries; and	
13	c. Sales or leases to the state headquarters of	16.18
14	qualified veterans' organizations and the state headquarters	16.19
15	of their auxiliaries when used in carrying on their customary	16.20
16	veterans' organization activities. If a qualified veterans'	16.21
17	organization or its auxiliary does not maintain a permanent	
18	state headquarters, then transactions involving sales or	16.22
19	leases to such organization and used to maintain the office of	16.23
20	the highest ranking state official are exempt from the tax	
21	imposed by this part.	16.24
22	2. The provisions of this section authorizing	16.25
23	exemptions from tax shall be strictly defined, limited, and	16.28
24	applied in each category as follows:	
25	a. "Religious institutions" means churches,	16.30
26	synagogues, and established physical places for worship in	16.31
27	this state at which nonprofit religious services and	16.32
28	activities are regularly conducted and carried on. The term	16.34
29	"religious institutions" includes nonprofit corporations the	
30	sole purpose of which is to provide free transportation	16.35
31	services to church members, their families, and other church	

1	attendees. The term "religious institutions" also includes	16.37
2	state, district, or other governing or administrative offices	16.38
3	the function of which is to assist or regulate the customary	
4	activities of religious organizations or members within the	16.39
5	state or district organization.	
6	b. "Charitable institutions" means only nonprofit	16.41
7	corporations qualified as nonprofit pursuant to s. 501(c)(3),	16.42
8	United States Internal Revenue Code, 1954, as amended, and	16.43
9	other nonprofit entities, the sole or primary function of	16.44
10	which is to provide, or to raise funds for organizations which	
11	provide, one or more of the following services if a reasonable	16.46
12	percentage of such service is provided free of charge, or at a	
13	substantially reduced cost, to persons, animals, or	16.47
14	organizations that are unable to pay for such service:	16.48
15	(I) Medical aid for the relief of disease, injury, or	16.49
16	disability;	16.50
17	(II) Regular provision of physical necessities such as	16.51
18	food, clothing, or shelter;	16.52
19	(III) Services for the prevention of, or	16.53
20	rehabilitation of persons from, alcoholism or drug abuse; the	16.54
21	prevention of suicide; or the alleviation of mental, physical,	16.56
22	or sensory health problems;	
23	(IV) Social welfare services including adoption	16.57
24	placement, child care, community care for the elderly, and	16.58
25	other social welfare services which clearly and substantially	16.59
26	benefit a client population which is disadvantaged or suffers	
27	a hardship;	
28	(V) Medical research for the relief of disease,	16.62
29	injury, or disability;	
30	(VI) Legal services; or	16.63
31		

1	(VII) Food, shelter, or medical care for animals or	16.64
2	adoption services, cruelty investigations, or education	16.65
3	programs concerning animals;	
4		
5	and the term includes groups providing volunteer manpower to	16.66
6	organizations designated as charitable institutions hereunder.	16.67
7	c. "Scientific organizations" means scientific	16.68
8	organizations in this state which hold current exemptions from	16.71
9	federal income tax under s. 501(c)(3) of the Internal Revenue	
10	Code and also means organizations the purpose of which is to	16.72
11	protect air and water quality in this state or the purpose of	16.73
12	which is to protect wildlife in this state and which hold	
13	current exemptions from the federal income tax under s.	16.75
14	501(c)(3) of the Internal Revenue Code.	
15	d. "Educational institutions" means state tax-	16.77
16	supported or parochial, church and nonprofit private schools,	16.78
17	colleges, or universities which conduct regular classes and	16.79
18	courses of study required for accreditation by, or membership	
19	in, the Southern Association of Colleges and Schools, the	16.80
20	Department of Education, the Florida Council of Independent	16.81
21	Schools, or the Florida Association of Christian Colleges and	16.82
22	Schools, Inc., or which conduct regular classes and courses of	
23	study accepted for continuing education credit by the American	16.84
24	Medical Association or the American Dental Association.	
25	Nonprofit libraries, art galleries, and museums open to the	17.1
26	public are defined as educational institutions and are	17.2
27	eligible for exemption. The term "educational institutions"	17.3
28	includes private nonprofit organizations the purpose of which	17.6
29	is to raise funds for schools teaching grades kindergarten	17.7
30	through high school, colleges, and universities located in	17.8
31	this state. The term "educational institutions" includes <u>any</u>	17.10

1	<u>nonprofit newspaper of free or paid circulation primarily on</u>	17.11
2	<u>university or college campuses which holds a current exemption</u>	
3	<u>from federal income tax under s. 501(c)(3) of the Internal</u>	17.13
4	<u>Revenue Code, and any educational television or radio network</u>	
5	or system established pursuant to s. 229.805 or s. 229.8051	17.14
6	and any nonprofit television or radio station which is a part	17.15
7	of such network or system and which holds a current exemption	
8	from federal income tax under s. 501(c)(3) of the Internal	17.16
9	Revenue Code. The term "educational institutions" also	17.17
10	includes state, district, or other governing or administrative	17.19
11	offices the function of which is to assist or regulate the	
12	customary activities of educational organizations or members	17.20
13	within the state or district organization.	
14	e. "Veterans' organizations" means nationally	17.22
15	chartered or recognized veterans' organizations, including,	
16	but not limited to, Florida chapters of the Paralyzed Veterans	17.23
17	of America, Catholic War Veterans of the U.S.A., and Jewish	17.24
18	War Veterans of the U.S.A. and the Disabled American Veterans,	17.26
19	Department of Florida, Inc., which hold current exemptions	17.27
20	from federal income tax under s. 501(c)(4) or s. 501(c)(19) of	17.28
21	the Internal Revenue Code.	17.29
22	(9) <u>PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES</u>	17.30
23	<u>ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.--</u>	17.33
24	(b) <u>Motor</u> vehicles which are licensed as common	17.34
25	carriers by the Interstate Commerce Commission or-by-the	17.35
26	United-States-Department-of-Transportation and parts thereof	17.36
27	used to transport persons or property in interstate or foreign	17.38
28	commerce are subject to tax imposed in this chapter only to	17.39
29	the extent provided herein. The basis of the tax shall be the	17.40
30	ratio of intrastate mileage to interstate or foreign mileage	
31	traveled by the carrier's <u>motor</u> vehicles which were used in	17.41

1	interstate or foreign commerce and which had at least some	17.43
2	Florida mileage during the previous fiscal year of the	
3	carrier. Such ratio is to be determined at the close of the	17.44
4	carrier's fiscal year. This ratio shall be applied each month	17.45
5	to the total purchases of such <u>motor</u> vehicles and parts	17.46
6	thereof which are used in this state to establish that portion	17.47
7	of the total used and consumed in intrastate movement and	17.48
8	subject to tax under this part. <u>Motor</u> vehicles which are	11:1us
9	licensed as common carriers by the Interstate Commerce	
10	Commission or the United States Department of Transportation	17.51
11	and parts thereof used to transport persons or property in	17.53
12	interstate and foreign commerce are hereby determined to be	17.54
13	susceptible to a distinct and separate classification for	17.55
14	taxation under the provisions of this part. <u>Motor</u> vehicles	1:1:us
15	and parts thereof used exclusively in intrastate commerce do	
16	not qualify for the proration of tax.	17.58
17	Section 15. Paragraph (a) of subsection (6) of section	17.59
18	212.095, Florida Statutes, as amended by chapter 87-6, Laws of	17.60
19	Florida, is amended to read:	
20	212.095 Refunds.--	17.61
21	(6)(a) Each registered dealer shall, in accordance	17.62
22	with the requirements of the department, keep at his principal	17.63
23	place of business in this state or at the location where the	17.64
24	sale is made a complete record or duplicate sales tickets of	
25	all items or services sold by him for which a refund provided	17.66
26	in this section may be claimed, which records shall contain	
27	the information required in paragraph (3)(a). No licensed	1:1:os
28	dealer or his agent or employee may acknowledge or assist in	17.70
29	the preparation of any claim for tax refund; this provision	
30	does not apply to attorneys or to certified public accountants	17.71
31		

1	licensed pursuant to chapter 473 when acting for or on behalf	17.73
2	of a client.	
3	Section 16. Paragraph (d) of subsection (1) of section	17.74
4	212.11, Florida Statutes, as amended by chapter 87-6, Laws of	17.75
5	Florida, is amended to read:	
6	212.11 Tax returns and regulations.--	17.77
7	(1)	17.78
8	(d) Beginning October 1, 1987, the department may	17.79
9	authorize a quarterly return and payment for dealers	17.80
10	registered as service providers and remitting collecting tax	18.18
11	solely from the provision of services. Such returns may be	17.84
12	authorized only for dealers whose monthly tax collections are	
13	less than \$500 in each month for the previous 3 months.	18.2
14	Quarterly payments pursuant to this paragraph shall be due and	18.108
15	payable in March, June, September, and December of each year.	18.5
16	Section 17. Section 17 of chapter 87-6, Laws of	18.6
17	Florida, is amended to read:	
18	Section 17. The introductory paragraph of subsection	18.7
19	(b) Paragraph (b) of subsection (5), and subsections (7) and	18.10
20	(8) of section 212.12, Florida Statutes, 1986 Supplement, are	18.11
21	amended, and, effective January 1, 1988, paragraph (b) of	18.13
22	subsection (1) of said section is amended, to read:	18.14
23	212.12 Dealer's credit for collecting tax; penalties	18.15
24	for noncompliance; powers of Department of Revenue in dealing	18.16
25	with delinquents; brackets applicable to taxable transactions;	18.17
26	records required.--	
27	(1) <u>Notwithstanding any other provision of law and for</u>	18.18
28	the purpose of compensating persons granting licenses for and	18.19
29	the lessors of real and personal property taxed hereunder, for	18.20
30	the purpose of compensating dealers in tangible personal	18.21
31	property, for the purpose of compensating dealers providing	

1	communication services and taxable services, and for the	18.22
2	purpose of compensating owners of places where admissions are	18.23
3	collected, <u>and for the purpose of compensating remitters of</u>	
4	<u>any taxes or fees reported on the same documents utilized for</u>	18.24
5	<u>the sales and use tax</u> , as compensation for the keeping of	
6	prescribed records and the proper accounting and remitting of	18.25
7	taxes by them, such seller, person, lessor, dealer, and owner	18.26
8	<u>and remitter</u> shall be allowed 3 percent of the amount of the	18.28
9	tax due and accounted for and remitted to the department, in	
10	the form of a deduction in submitting his report and paying	18.29
11	the amount due by him; and the department shall allow such	18.30
12	deduction of 3 percent of the amount of the tax to the person	18.33
13	paying the same for remitting the tax in the manner herein	
14	provided, for paying the amount due to be paid by him, and as	18.34
15	further compensation to dealers in tangible personal property	18.35
16	for the keeping of prescribed records and for collection of	18.36
17	taxes and remitting the same. However, if the amount of the	18.38
18	tax due and remitted to the department for the reporting	
19	period exceeds \$1,000, the 3-percent allowance shall be	18.39
20	reduced to 1 percent for all amounts in excess of \$1,000.	18.40
21	(a) The collection allowance may not be granted, nor	18.41
22	may any deduction be permitted, if the tax is delinquent at	
23	the time of payment.	18.42
24	(b) The Department of Revenue may reduce the	18.42
25	collection allowance by 10 percent or \$50, whichever is less,	18.43
26	if a taxpayer files an incomplete return.	
27	1. An "incomplete return" is, for purposes of this	18.45
28	chapter, a return which is lacking such uniformity,	18.46
29	completeness, and arrangement that the physical handling,	
30	verification, or review of the return may not be readily	18.47
31	accomplished.	

1	2. The department shall adopt rules requiring such	18.49
2	information as it may deem necessary to ensure that the tax	18.50
3	levied hereunder is properly collected, reviewed, compiled,	
4	and enforced, including, but not limited to: the amount of	18.52
5	gross sales; the amount of taxable sales; <u>the amount of</u>	
6	<u>taxable purchases;</u> the amount of tax collected or due; the	18.53
7	amount of lawful refunds, deductions, or credits claimed; the	18.54
8	amount claimed as the dealer's collection allowance; the	18.55
9	amount of penalty and interest; the amount due with the	
10	return; and such other information as the Department of	18.56
11	Revenue may specify. <u>The department shall require that the</u>	18.58
12	<u>amounts of gross sales, taxable sales, taxable purchases, and</u>	
13	<u>tax collected or due shall be reported by major sales tax</u>	18.59
14	<u>source: services; tangible personal property; admissions;</u>	18.60
15	<u>transient rentals; commercial leases or licenses; and</u>	
16	<u>agricultural equipment.</u>	18.61
17	(5)	18.62
18	(b) In the event any dealer or other person charged	18.62
19	herein fails or refuses to make his records available for	18.63
20	inspection so that no audit or examination has been made of	18.64
21	the books and records of such dealer or person, fails or	18.65
22	refuses to register as a dealer, or fails to make a report and	
23	pay the tax as provided by this chapter; or makes a grossly	18.66
24	incorrect report, or makes a report that is false or	18.67
25	fraudulent, then, in such event, it shall be the duty of the	18.68
26	department to make an assessment from an estimate based upon	
27	the best information then available to it for the taxable	18.69
28	period of retail sales of such dealer, the gross proceeds from	18.70
29	rentals, the total admissions received, amounts received from	18.71
30	leases of tangible personal property by such dealer, or of the	
31	cost price of all articles of tangible personal property	18.72

1	imported by the dealer for use or consumption or distribution	18.73
2	or storage to be used or consumed in this state <u>or of the</u>	18.74
3	<u>sales or cost price of all services the sale or use of which</u>	
4	<u>is taxable under this part,</u> together with interest, plus	18.75
5	penalty, if such have accrued, as the case may be. Then the	18.77
6	department shall proceed to collect such taxes, interest, and	18.78
7	penalty on the basis of such assessment, which shall be	
8	considered prima facie correct; and the burden to show the	18.79
9	contrary shall rest upon the dealer, seller, owner, or lessor,	18.80
10	as the case may be.	
11	(7) In the event the dealer has imported the tangible	18.81
12	personal property <u>or has acquired services outside the state</u>	18.81
13	<u>for sale or use in this state</u> and he fails to produce an	18.83
14	invoice showing the cost price of the articles <u>or services,</u> as	18.84
15	defined in this chapter, which are subject to tax, or the	19.1
16	invoice does not reflect the true or actual cost price as	19.2
17	defined herein, then the department shall ascertain, in any	19.3
18	manner feasible, the true cost price, and assess and collect	19.4
19	the tax thereon with interest plus penalties, if such have	
20	accrued on the true cost price as assessed by it. The	19.6
21	assessment so made shall be considered prima facie correct,	19.7
22	and the duty shall be on the dealer to show to the contrary.	19.9
23	(9) Taxes imposed by this chapter upon the privilege	19.9
24	of the use, consumption, storage for consumption, or sale of	19.11
25	tangible personal property, admissions, license fees, rentals,	
26	<u>and communication services,</u> and upon the sale or use of	19.13
27	<u>services</u> as herein taxed shall be collected upon the basis of	19.15
28	an addition of the tax imposed by this chapter to the total	
29	price of such admissions, license fees, rentals, communication	19.16
30	<u>or other</u> services, or sale price of such article or articles	19.18
31	that are purchased, sold, or leased at any one time by or to a	19.19

1	customer or buyer; and the dealer, or person charged herein,	
2	is required to pay a privilege tax in the amount of the tax	19.20
3	imposed by this chapter on the total of his gross sales of	19.21
4	tangible personal property, admissions, license fees, rentals,	
5	and communication services <u>or to collect a tax upon the sale</u>	19.22
6	<u>or use of services</u> , and such person or dealer shall add the	19.23
7	tax imposed by this chapter to the price, license fee, rental,	19.24
8	or admissions, and communication <u>or other</u> services and collect	19.26
9	the total sum from the purchaser, admittee, licensee, lessee,	
10	or consumer. Notwithstanding the rate of taxes imposed upon	19.28
11	the privilege of sales, admissions, license fees, rentals, and	19.29
12	communication services , <u>or upon the sale or use of services</u> ,	19.30
13	the following brackets shall be applicable to all transactions	19.31
14	taxable at the rate of 5 percent:	
15	(a) On single sales of less than 10 cents, no tax	19.32
16	shall be added.	
17	(b) On single sales in amounts from 10 cents to 20	19.33
18	cents, both inclusive, 1 cent shall be added for taxes.	19.34
19	(c) On sales in amounts from 21 cents to 40 cents,	19.35
20	both inclusive, 2 cents shall be added for taxes.	
21	(d) On sales in amounts from 41 cents to 60 cents,	19.36
22	both inclusive, 3 cents shall be added for taxes.	19.37
23	(e) On sales in amounts from 61 cents to 80 cents,	19.37
24	both inclusive, 4 cents shall be added for taxes.	19.38
25	(f) On sales in amounts from 81 cents to \$1, both	19.39
26	inclusive, 5 cents shall be added for taxes.	19.40
27	(g) On sales in amounts of more than \$1, 5 percent	19.41
28	shall be charged upon each dollar of price, plus the	19.42
29	appropriate bracket charge upon any fractional part of a	
30	dollar.	19.43
31		

1	Section 18. Section 212.235, Florida Statutes, as	19.44
2	created by chapter 87-6, Laws of Florida, is amended to read:	19.45
3	212.235 State Infrastructure Trust Fund; deposits.--	19.47
4	(1) Notwithstanding the provisions of ss. 212.20(1)	19.49
5	and 218.61, in fiscal year 1987-1988 an amount equal to 2	19.50
6	percent, and in each fiscal year thereafter an amount equal to	19.51
7	5 percent, of the proceeds remitted pursuant to this part by a	19.52
8	dealer, or the sums sufficient to provide the maximum receipts	19.53
9	specified herein, shall be <u>transferred</u> deposited into the	1:1us
10	State Infrastructure Trust Fund, which is created in the State	1:1os
11	Treasury. "Proceeds" means all funds collected and received	1:1qq
12	by the Department of Revenue, including any interest and	19.58
13	penalties. However, any receipts of the trust fund, including	19.59
14	those received pursuant to ss. 201.15(5) and 206.875(3) and	19.61
15	interest earned, in excess of \$200 million in fiscal year	19.62
16	1987-1988, and \$500 million thereafter, shall revert to the	19.65
17	General Revenue Fund.	19.66
18	(2) Subject to an appropriation each year by the	19.67
19	Legislature, moneys in the fund shall only be used for the	19.68
20	purposes of:	19.69
21	(a) Acquiring the right-of-way for and constructing	19.69
22	state highways and bridges;	19.70
23	(b) Constructing public education capital facilities;	19.70
24	(c) Financing state projects for beach restoration or	19.72
25	renourishment or lake or river restoration;	
26	(d) Constructing state correctional facilities;	19.74
27	(e) Constructing other infrastructure projects; or	19.75
28	(f) Issuing revenue bonds to finance state capital	19.77
29	outlay projects authorized by this section. Such bonds shall	19.79
30	be payable solely from legislative appropriations from the	
31	State Infrastructure Trust Fund and shall not be a debt of the	19.81

1	state, and the state shall not be liable thereon. Neither the	19.82
2	taxing power, the credit, nor the revenues of the state shall	
3	be pledged to pay any obligation issued pursuant to this	19.84
4	subsection.	
5	Section 19. Effective August 1, 1987, subsection (5)	20.1
6	of section 201.15, Florida Statutes, as created by chapter 87-	20.5
7	6, Laws of Florida, is amended to read:	
8	201.15 Distribution of taxes collected.--All taxes	20.6
9	collected under the provisions of this chapter shall be	20.8
10	distributed as follows:	
11	(5) Six percent of the total taxes collected under the	20.9
12	provisions of this chapter shall be paid into the State	20.10
13	Treasury to the credit of the State Infrastructure Trust Fund.	11.105
14	Section 20. Subsection (3) of section 206.875, Florida	20.12
15	Statutes, as created by chapter 87-6, Laws of Florida, is	20.13
16	amended to read:	
17	206.875 Allocation of tax.--	20.14
18	(3) Notwithstanding the provisions of subsections (1)	20.15
19	and (2), the department shall pay over to the State Treasurer	20.16
20	all funds received and collected by it under the provisions of	
21	s. 206.87(1)(b) to be credited to the account of the State	20.17
22	Infrastructure Trust Fund established pursuant to s. 212.235.	20.19
23	Section 21. Subsection (1) of section 215.32, Florida	20.20
24	Statutes, is amended, and paragraph (d) is added to subsection	20.21
25	(2) of said section, to read:	
26	215.32 State funds; segregation.--	20.22
27	(1) All moneys received by the state shall be	20.24
28	deposited in the State Treasury unless specifically provided	20.25
29	otherwise by law and shall be deposited in and accounted for	20.26
30	by the Treasurer and the Department of Banking and Finance	20.27
31		

1	within the following funds, which funds are hereby created and	20.28
2	established:	
3	(a) General Revenue Fund;	20.29
4	(b) Trust funds; and	20.30
5	(c) Working Capital Fund; and	20.31
6	(d) <u>State Infrastructure Fund.</u>	1:1us
7	(2) The source and use of each of these funds shall be	20.33
8	as follows:	
9	<u>(d) The State Infrastructure Fund shall consist of all</u>	1:1us
10	<u>moneys received from proceeds earmarked for this fund pursuant</u>	20.35
11	<u>to ss. 201.15, 206.875, and 212.235. Such moneys shall only</u>	20.36
12	<u>be expended pursuant to legislative appropriations for</u>	
13	<u>infrastructure facilities listed in s. 212.235(2).</u>	20.37
14	Section 22. Section 31 of chapter 87-6, Laws of	20.38
15	Florida, is amended to read:	
16	Section 31. Notwithstanding any other provision of	20.39
17	this act, in the case of written contracts which are signed	20.41
18	prior to May 1, 1987, or offers submitted prior to such date	
19	<u>which are binding on the offeror and are accepted, for</u>	20.42
20	constructing improvements to real property, prime contractors,	20.44
21	as defined in s. 212.0594 (10) , Florida Statutes, responsible	
22	for performing the contract shall not be required to remit any	20.48
23	tax on services levied pursuant to s. 212.059 or s. 212.0594,	
24	Florida Statutes, provided that:	
25	(1) Pursuant to s. 212.0594, Florida Statutes, it is	20.49
26	the responsibility of the prime contractor to remit the tax.	20.51
27	(2) The purchase of the services for which the tax is	20.52
28	not being remitted is necessary to complete the contract and	20.53
29	the tax cannot be legally collected from the final purchaser	
30	and cannot be included in the price charged the final	20.54
31	purchaser under the terms of the contract.	20.55

1	(3) On the first tax return of the prime contractor in	20.56
2	which tax is not remitted pursuant to this section for a	20.57
3	specific contract, the prime contractor must submit an	
4	application in a manner approved by the Department of Revenue	20.58
5	by rule. A complete application shall include proof of the	20.59
6	written contract, the amount of tax not being remitted, <u>the</u>	20.60
7	<u>anticipated date of completion of the contract, an estimate of</u>	
8	<u>the value of services expected to be performed under the</u>	20.61
9	<u>contract subsequent to June 30, 1989,</u> and a sworn statement,	20.62
10	signed by the applicant or his representative, attesting to	20.63
11	the validity of the application. Subsequent taxes not	20.65
12	remitted pursuant to a specific contract must be identified as	
13	to amount and application authority at the time such taxes are	20.66
14	not paid, and	
15	(4) The purchase of the service occur s before June 30,	20.67
16	<u>1989 1988.</u>	1:10a
17	<u>(5) On or before March 1, 1988, the Department of</u>	1:1us
18	<u>Revenue shall provide the Legislature with an estimate of the</u>	20.69
19	<u>value of construction services expected to be performed after</u>	20.70
20	<u>June 30, 1989, on contracts that qualify for the exemption</u>	
21	<u>allowed pursuant to this section.</u>	20.71
22		
23	Any person who fraudulently does not remit taxes pursuant to	20.73
24	this section shall, in addition to being liable for the	20.74
25	payment of any taxes fraudulently not remitted plus a	
26	mandatory penalty of 100 percent of the taxes not remitted, be	20.75
27	guilty of a misdemeanor of the second degree, punishable as	20.76
28	provided in s. 775.082, s. 775.083, or s. 775.084, Florida	20.77
29	Statutes.	
30	Section 23. Section 32 of chapter 87-6, Laws of	20.78
31	Florida, is amended to read:	

1	Section 32. Rule 12A-1.091(6) of the Department of	20.80
2	Revenue is hereby repealed. However, the department is hereby	20.81
3	authorized to provide by rule for self-accrual of the sales	
4	tax under one or more of the following circumstances:	20.83
5	(1) Where authorized by law for purchasers of	20.83
6	services;	20.84
7	(2) Where authorized by law for holders of direct pay	20.84
8	permits;	
9	(3) Where tangible personal property is subject to tax	21.2
10	on a prorated basis, and the proration factor is based upon	
11	characteristics of the purchaser;	21.4
12	(4) Where <u>the taxable status of</u> types of tangible	21.4
13	personal property whose taxable status will be known only upon	21.6
14	use because the purchaser, by virtue of the normal	1:10a
15	characteristics of his trade or business, regularly consumes	21.9
16	the type of property as a supply as well as sells it for	21.10
17	resale; and	
18	(5) For commercial rentals where the purchaser rents	21.12
19	from a number of independent property owners who, apart from	
20	rentals to the purchaser in question, would otherwise not be	21.14
21	obligated to register as dealers.	
22	Section 24. Section 33 of chapter 87-6, Laws of	21.15
23	Florida, is amended to read:	
24	Section 33. The Legislature hereby finds that the	21.17
25	failure to promptly implement the provisions of this act would	
26	present an immediate threat to the welfare of the state	21.18
27	because revenues needed for operation of the state would not	21.19
28	be collected. Therefore, the executive director of the	21.20
29	Department of Revenue is hereby authorized to adopt emergency	21.21
30	rules pursuant to s. 120.54(9), Florida Statutes, for purposes	
31	of implementing this act. Notwithstanding any other provision	21.23

1	of law, such emergency rules shall remain effective for 6	
2	months from the date of adoption. <u>Other rules required by the</u>	1:1us
3	<u>Department of Revenue for the orderly implementation of</u>	
4	<u>chapter 87-6, Laws of Florida, and this act shall not be</u>	21.26
5	<u>subject to a s. 120.54(4), Florida Statutes, rule challenge or</u>	21.27
6	<u>a s. 120.54(17), Florida Statutes, drawout proceeding, but,</u>	
7	<u>once adopted, shall be subject to a s. 120.56, Florida</u>	21.28
8	<u>Statutes, invalidity challenge. Such rules shall be adopted</u>	21.29
9	<u>by the Governor and Cabinet and shall become effective upon</u>	
10	<u>filing with the Department of State, notwithstanding the</u>	21.30
11	<u>provisions of s. 120.54(13), Florida Statutes.</u>	
12	Section 25. Section 36 of chapter 87-6, Laws of	21.31
13	Florida, is amended to read:	
14	Section 36. Any penalties provided for pursuant to s.	21.33
15	212.12(2), Florida Statutes, shall be waived by the executive	
16	director of the Department of Revenue for returns due for the	21.34
17	tax on services newly imposed by this act. If the executive	21.35
18	director determines that the interest owed pursuant to s.	21.36
19	<u>212.12(3) 214.23</u> , Florida Statutes, will cause an undue	21.38
20	hardship on the taxpayer, he may also waive the interest	
21	payment. The waiver for penalties and interest shall apply	21.39
22	with respect to returns for taxes due and payable for the	21.40
23	period between July 1, 1987, and September 30, 1987.	21.41
24	Section 26. Section 37 of chapter 87-6, Laws of	21.41
25	Florida, is amended to read:	21.42
26	Section 37. When a service that is taxable beginning	21.44
27	July 1, 1987, is provided prior to that date, it shall not be	
28	taxed, notwithstanding that compensation for the service is	21.45
29	paid or payable on or after that date. When a service that is	21.46
30	taxable beginning July 1, 1987, is provided on or after that	
31	date, the service shall be taxed unless it was prepaid in full	21.47

1	prior to April 1, 1987. When a service that is taxable	21.48
2	beginning on July 1, 1987, is provided over a period of time	
3	beginning prior to that date and ending after that date, the	21.49
4	service shall be taxed only upon that portion of the service	21.50
5	provided on or after July 1, 1987. <u>For purposes of this</u>	1:lus
6	<u>section, a service shall be deemed prepaid in full if payment</u>	
7	<u>for the service is pursuant to a finance agreement and such</u>	21.52
8	<u>agreement was sold by the service provider to a third party</u>	21.53
9	<u>prior to April 1, 1987.</u>	
10	Section 27. Section 38 of chapter 87-6, Laws of	21.54
11	Florida, is amended to read:	21.55
12	Section 38. Except-for-the-purposes-of-sr-222-0593,	21.56
13	Florida-Statutes, Nothing contained in this act shall <u>be</u>	1:lus
14	<u>construed to require disclosure of privileged information, the</u>	
15	<u>confidentiality of which is protected under the Florida</u>	21.58
16	<u>Evidence Code require-an-attorney-or-a-certified-public</u>	21.60
17	<u>accountant-licensed-pursuant-to-chapter-4737-Florida-Statutes,</u>	
18	<u>to-reveal-the-identity-of-any-client-for-any-reason.</u>	21.62
19	Section 28. <u>Transition taxes.--</u>	21.63
20	(1) <u>There is hereby levied a tax on every person</u>	21.64
21	<u>selling special fuel in this state at the rate of 5 cents per</u>	
22	<u>gallon on special fuel upon which the tax imposed pursuant to</u>	21.66
23	<u>s. 206.87(1)(a), Florida Statutes, has been paid, which is</u>	
24	<u>held in inventory on July 1, 1987, and upon which the tax</u>	21.68
25	<u>imposed pursuant to s. 206.87(1)(b), Florida Statutes, has not</u>	
26	<u>been paid.</u>	21.69
27	(2) <u>"Special fuel" is defined as provided in s.</u>	1:lus
28	<u>206.86(1), Florida Statutes.</u>	21.71
29	(3) <u>The tax levied under this section shall be due and</u>	1:lus
30	<u>payable on July 1, 1987, and shall be remitted to the</u>	21.73
31		

1	<u>Department of Revenue on or before August 20, 1987, on forms</u>	
2	<u>prescribed by the department.</u>	21.74
3	<u>(4) If any person fails to make a report or pay the</u>	1:1us
4	<u>taxes due as required by this section, the department shall</u>	21.76
5	<u>add a penalty in the amount of 5 percent of any unpaid tax if</u>	
6	<u>the failure is for not more than 1 month, with an additional 5</u>	21.77
7	<u>percent of any unpaid tax for each additional month or</u>	21.78
8	<u>fraction thereof during which the failure continues. However,</u>	21.79
9	<u>such penalty may not exceed 100 percent in the aggregate of</u>	
10	<u>any unpaid tax. Furthermore, in no event may the penalty</u>	21.80
11	<u>assessed be less than \$5. The department shall collect the</u>	21.81
12	<u>tax, together with the penalty and costs, in the same manner</u>	
13	<u>as other delinquent taxes are collected. In addition,</u>	21.83
14	<u>interest at the rate of 1 percent per month shall be paid on</u>	21.84
15	<u>the delinquent tax.</u>	
16	<u>(5) The Department of Revenue may promulgate rules and</u>	1:1us
17	<u>conduct audits necessary for the implementation of this</u>	22.2
18	<u>section, and shall provide reasonable notice of the provisions</u>	
19	<u>of this section.</u>	22.3
20	<u>(6) Moneys collected pursuant to this section shall be</u>	1:1us
21	<u>distributed to the State Infrastructure Fund established</u>	22.5
22	<u>pursuant to s. 212.235, Florida Statutes.</u>	
23	Section 29. Paragraph (b) of subsection (1) of section	22.6
24	120.575, Florida Statutes, as created by chapter 87-6, Laws of	22.7
25	Florida, is amended to read:	
26	120.575 Taxpayer contest proceedings.--	22.8
27	(1)	22.8
28	(b) In any such administrative proceeding brought	22.9
29	pursuant to s. 120.57(1) as authorized in s. 72.011(1) to	
30	contest the legality of any assessment of tax imposed for the	22.10
31	sale or use of services as provided in chapter 212, or	22.11

1	interest thereon, or penalty therefor, the following	
2	procedures shall apply, any provisions of this chapter to the	22.12
3	contrary notwithstanding:	
4	1. The petition shall be filed with the division,	22.13
5	which shall forward a copy to the department immediately upon	
6	receipt of the petition.	22.14
7	2. The <u>hearing officer or panel</u> provided in s.	22.16
8	120.65(5) shall conduct all proceedings under this paragraph.	22.17
9	3. Within 10 days after receiving the petition, the	22.19
10	<u>hearing officer or panel</u> shall accept or deny the petition	
11	and, if accepted, shall conduct a hearing thereon, unless the	22.24
12	petition is withdrawn.	
13	4. Within 30 days after the hearing or receipt of the	22.26
14	hearing transcript, whichever is later, the <u>hearing officer or</u>	22.27
15	panel shall issue <u>an</u> its order, which shall consist of	22.29
16	findings of fact, conclusions of law, interpretation of	
17	administrative rules, and any other information required by	22.31
18	law or rule to be contained in the final order. Such order	22.32
19	shall affirm or deny the assessment, interest, or penalty, and	
20	shall determine the amount of any assessment, interest, or	22.33
21	penalty.	
22	5. The order of the <u>hearing officer or panel</u> shall be	22.36
23	final agency action.	
24	Section 30. Subsection (5) of section 120.65, Florida	22.37
25	Statutes, as created by chapter 87-6, Laws of Florida, is	22.38
26	amended to read:	
27	120.65 Hearing officers.--	22.38
28	(5) The director shall appoint, from among the full-	22.39
29	time hearing officers of the division, a panel consisting of	22.40
30	<u>one to three members</u> to be the hearing officer in all	
31	proceedings brought as provided in s. 120.575(1)(b). <u>The</u>	1:lus

1	<u>director shall have the discretion to determine the size of</u>	
2	<u>the panel based upon the complexity and precedential</u>	22.46
3	<u>importance of the issues involved, and the amount of potential</u>	
4	<u>revenues in dispute.</u> Such appointments shall be made with due	22.48
5	regard to the expertise required for determination of such	22.49
6	proceedings. Service as a member of such panel shall be at	22.51
7	the pleasure of the director, and such service may be in	22.52
8	addition to other duties of employment by the division.	
9	Section 31. Section 47 of chapter 87-6, Laws of	22.53
10	Florida, is amended to read:	
11	Section 47. The Department of Revenue is directed to	22.55
12	undertake a study of service transactions for the purpose of	22.56
13	identifying those transactions not taxable pursuant to the	
14	definition of service in s. 212.02, Florida Statutes. On or	22.58
15	before March 1, 1989 1988, the department shall report to the	
16	Governor and the Legislature all service transactions so	22.60
17	identified.	
18	Section 32. Section 48 of chapter 87-6, Laws of	22.61
19	Florida, is amended to read:	
20	Section 48. No later than January 1, 1988, the	22.61
21	Department of Revenue shall develop and implement a tax	22.63
22	amnesty program for taxpayers subject to the tax laws	
23	enumerated in s. 72.011(1), Florida Statutes, except those	22.64
24	taxes governed by ss. s- 199.032, and-s- 212.0505, 212.059-	1:lus
25	<u>212.0595, and 212.0598,</u> Florida Statutes. The tax amnesty	22.68
26	program shall be a one-time opportunity for eligible taxpayers	
27	to satisfy their tax liabilities under the revenue laws of	22.69
28	this state and thereby avoid criminal prosecution and any	
29	penalties imposed under such laws. Eligible taxpayers shall	22.71
30	have no more than a 6-month period during which to file	
31	returns or amended returns and to make full payment of the	22.72

1	amount of tax and interest due. An eligible taxpayer may	22.73
2	participate in the amnesty program whether or not the taxpayer	
3	is under audit or investigation; notwithstanding the fact that	22.74
4	the amount due is included in a proposed assessment or an	22.75
5	assessment, bill, notice, or demand for payment issued by the	
6	department; and without regard to whether the amount due is	22.76
7	subject to a pending administrative or judicial proceeding.	22.77
8	However, participation in the program shall be conditioned	22.78
9	upon the taxpayer's agreement that the right to protest or	22.79
10	initiate an administrative or judicial proceeding or to claim	
11	any refund of moneys paid under this amnesty program is barred	22.80
12	with respect to the amounts paid except as provided in this	22.81
13	section. No refund may be made of any penalty paid prior to	22.82
14	the date the amnesty program is implemented, and any refund or	22.83
15	credit of amounts paid as a result of participation in the	
16	amnesty program shall be strictly limited to amounts	22.84
17	determined by the department to have been paid in error. A	23.1
18	taxpayer who is under a criminal investigation, indictment,	
19	information, or prosecution is not eligible to participate in	23.2
20	the amnesty program. The department may prescribe such terms,	23.3
21	conditions, and methods of payment as it deems necessary for	23.4
22	fair and effective administration of the amnesty program, and	23.5
23	may establish procedures and guidelines and adopt forms and	
24	rules to implement the program. With or without an audit, the	23.7
25	department may issue a notice or demand for payment with	
26	respect to any tax or interest which it determines to be due	23.8
27	with any return filed under the tax amnesty program; such	23.9
28	notice and demand for payment shall be prima facie correct in	
29	any administrative, judicial, or quasi-judicial proceeding.	23.10
30		
31		

1	Section 33. Paragraph (a) of subsection (3) of section	23.11
2	95.091, Florida Statutes, as created by chapter 87-6, Laws of	
3	Florida, is amended to read:	23.12
4	95.091 Limitation on actions to collect taxes.--	23.13
5	(3)(a) With the exception of taxes levied under	23.14
6	chapter 198 and tax adjustments made pursuant to s. 220.23,	23.16
7	the Department of Revenue may determine and assess the amount	
8	of any tax, penalty, or interest due under any tax enumerated	23.17
9	in s. 72.011:	
10	1. Within 5 years after the date the tax is due, any	23.18
11	return with respect to the tax is due, or such return is	23.19
12	filed, whichever occurs later;	
13	2. Within 6 years after the date a taxpayer either	23.20
14	makes a substantial underpayment of tax or files a	23.21
15	substantially incorrect return;	
16	3. At any time while the right to a refund or credit	23.22
17	of the tax is available to the taxpayer;	23.23
18	4. At any time after the taxpayer has <u>fraudulently</u>	23.24
19	failed to make any payment of the tax, has <u>fraudulently</u> failed	23.25
20	to file a required return, or has filed a grossly false or	23.26
21	fraudulent return; or	23.28
22	5. In any case in which there has been an erroneous	23.29
23	refund of tax, within 5 years after making such refund, or at	23.30
24	any time after making such refund if it appears that any part	
25	of the refund was induced by fraud or the <u>intentional</u>	23.31
26	misrepresentation of a material fact.	23.32
27	Section 34. Section 54 of chapter 87-6, Laws of	23.33
28	Florida, is amended to read:	23.34
29	Section 54. Subsections (3) and (4) of section 211.33,	23.35
30	Florida Statutes, 1986 Supplement, are amended--and-effective	23.36
31		

1	July 1, 1980, subsection (2) of said section is amended to	23.37
2	read:	23.38
3	211.33 Administration of the tax; returns; delinquency	23.39
4	penalties and interest; departmental inspections of records.--	23.40
5	(3) (e) Every producer shall keep and preserve suitable	23.42
6	records of production of solid minerals and such other books	23.43
7	and documents as may be necessary to ensure compliance, <u>for a</u>	1:los
8	period of 3 years from April 1 of the year following the	
9	taxable year or 3 years from the date of filing the annual	23.46
10	return for the taxable year, whichever is later.	23.47
11	(b)--All such records, books, and documents shall be	1:los
12	made available to the department or any of its duly authorized	23.48
13	agents for inspection, examination or audit during business	23.49
14	hours, upon written request.	
15	(4)(a) The department is authorized to audit or	23.50
16	inspect the books, records, documents, and returns of	
17	producers and to correct by credit or refund any overpayment	23.51
18	of tax, or to make assessment of any deficiency revealed, <u>for</u>	23.52
19	the same 3-year period for which producers are required to	23.53
20	keep and preserve records.	23.54
21	(b)--No audit shall be made after the expiration of 3	1:los
22	years from the due date for filing the annual return or the	23.55
23	date of filing, whichever is later, except when a producer has	23.56
24	been contacted by written notice of intent to conduct an audit	
25	in the future, delivered either personally by an agent of the	23.57
26	department or by certified letter from the department directed	23.58
27	to the last known address of the producer, before 3 years from	23.59
28	the due date for filing the annual return or the date of	
29	filing, whichever is later.--In this event, the date of	23.61
30	personal contact or the date of the certified letter shall	
31	govern the period subject to audit.	23.62

1	(b) (c) The department shall inform the producer by	23.63
2	written notice of the amount of any overpayment or deficiency	23.64
3	determined by an audit, including the basis for determining	23.65
4	any tax, penalty, interest, or period subject to credit or	
5	refund.	23.66
6	(c) (d) In the event of a deficiency, the department	1:1us
7	shall make an assessment of the tax, penalty, and interest	23.68
8	determined to be due. Full payment of the total amount	23.69
9	assessed shall be made by the producer to the place and within	
10	the time specified in the written notice of the deficiency.	23.70
11	Section 35. Section 58 of chapter 87-6, Laws of	23.71
12	Florida, is amended to read:	
13	Section 58. Effective-July-17-1988 Subsection (6) of	23.72
14	section 212.14, Florida Statutes, as amended by chapter 85-	23.73
15	342, Laws of Florida, and section 214.09, Florida Statutes, as	23.74
16	amended by chapter 85-342, Laws of Florida, are hereby	
17	repealed.	23.75
18	Section 36. Section 60 of chapter 87-6, Laws of	23.75
19	Florida, is amended to read:	23.76
20	Section 60. Effective-July-17-1988 Section 214.04,	23.76
21	Florida Statutes, is amended to read:	23.77
22	214.04 Limitation on assessment.--No deficiency shall	23.77
23	be assessed with respect to a taxable year for which a return	23.78
24	was filed unless a notice of deficiency for such year was	23.79
25	issued not later than the date prescribed in s. <u>95.091(3)</u>	
26	214.09 .	1:1os
27	Section 37. <u>Sections 50, 61, 62, 63, 64, 65, 66, 67,</u>	23.81
28	<u>68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82,</u>	23.82
29	<u>83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97,</u>	23.83
30	<u>98, 101, 102, 103, 104, 105, 106 and 108 of chapter 87-6, Laws</u>	
31	<u>of Florida, are hereby repealed.</u>	24.1

1	<u>Section 38. There is hereby appropriated from the</u>	24.2
2	<u>General Revenue Fund the sum of \$364,757 to the Division of</u>	24.3
3	<u>Administrative Hearings of the Department of Administration,</u>	
4	<u>for purposes of implementing the provisions of chapter 27-6,</u>	24.4
5	<u>Laws of Florida, and this act.</u>	
6	Section 39. (1) <u>Short title.--Sections 39 through 49</u>	24.5
7	<u>may be cited as the "Fairness in Retail Sales Taxation Act."</u>	24.9
8	(2) <u>This section shall take effect October 1, 1987.</u>	24.10
9	Section 40. <u>Findings and intent.--</u>	24.11
10	(1) <u>The Legislature of the State of Florida finds:</u>	1:1us
11	(a) <u>Millions of dollars of retail sales are made each</u>	24.15
12	<u>year involving the transport of property from outside this</u>	
13	<u>state to purchasers in this state.</u>	24.18
14	(b) <u>Sales and use taxes to this state are not being</u>	1:1us
15	<u>paid on many, if any, of these sales.</u>	24.20
16	(c) <u>There is a substantial loss of revenue to this</u>	1:1us
17	<u>state as a result of failure or refusal to collect and remit</u>	24.22
18	<u>to the treasury of this state sales and use taxes on these</u>	
19	<u>sales.</u>	24.23
20	(d) <u>Such failure or refusal is detrimental to the</u>	1:1us
21	<u>residents of and visitors to this state in two respects:</u>	24.25
22	<u>First, the resulting loss of revenue increases the difficulty</u>	
23	<u>of carrying on essential state activities and maintaining and</u>	24.26
24	<u>fostering a high quality of life for residents and visitors;</u>	24.27
25	<u>and, second, retailers who, in compliance with laws of this</u>	
26	<u>state, collect and remit taxes on retail sales suffer from the</u>	24.28
27	<u>unfair competition of those who do not do so, which is harmful</u>	24.29
28	<u>to the business and economic climate of the state.</u>	
29	(e) <u>Retailers who take advantage of the prosperity,</u>	1:1us
30	<u>market, laws, citizens and economy of this state by making</u>	24.31
31	<u>retail sales to purchasers in this state are morally obligated</u>	24.32

1	<u>to assume their fair share of the burden of maintaining this</u>	24.33
2	<u>state's prosperity and quality of life by collecting and</u>	
3	<u>remitting taxes on sales to such purchasers.</u>	24.34
4	<u>(2) It is, therefore, the intent of this act to:</u>	1:lus
5	<u>(a) Assure that those who make retail sales involving</u>	1:lus
6	<u>the transport of property from outside this state to</u>	24.38
7	<u>purchasers in this state bear their fair share of this burden.</u>	
8	<u>(b) Protect from unfair competition retailers who</u>	1:lus
9	<u>comply with the laws of this state by collecting and remitting</u>	24.40
10	<u>tax on retail sales.</u>	
11	<u>(c) Assure that the treasury of this state receives</u>	1:lus
12	<u>revenue needed to carry on essential state activities and to</u>	24.42
13	<u>maintain and foster a high quality of life for its residents</u>	
14	<u>and visitors.</u>	24.43
15	<u>(3) This section shall take effect October 1, 1987.</u>	1:lus
16	Section 41. Effective October 1, 1987, section	24.45
17	212.0596, Florida Statutes, is created to read:	24.46
18	<u>212.0596 Taxation of mail order sales.--</u>	1:lus
19	<u>(1) For purposes of this part, a "mail order sale" is</u>	1:lus
20	<u>a sale of tangible personal property, ordered by mail or other</u>	24.49
21	<u>means as described in paragraph (2)(e), to a purchaser who is</u>	24.50
22	<u>in this state at the time the order is remitted, from a dealer</u>	24.51
23	<u>who receives the order in another state of the United States,</u>	
24	<u>or in a commonwealth, territory, or other area under the</u>	24.53
25	<u>jurisdiction of the United States, and transports the property</u>	24.54
26	<u>or causes the property to be transported, whether or not by</u>	
27	<u>mail, from any jurisdiction of the United States, including</u>	24.56
28	<u>this state, to a person in this state, including the person</u>	
29	<u>who ordered the property. For purposes of this definition, it</u>	24.57
30	<u>will be presumed that every person resident in this state who</u>	24.58
31		

1	<u>remits an order shall have been in this state at the time the</u>	
2	<u>order was remitted.</u>	24.59
3	<u>(2) Every dealer as defined in s. 212.06(2)(c) who</u>	24.61
4	<u>makes a mail order sale is subject to the power of this state</u>	24.62
5	<u>to levy and collect the tax imposed by this part, when:</u>	
6	<u>(a) The dealer is a corporation doing business under</u>	1:lus
7	<u>the laws of this state or a person domiciled in, a resident</u>	24.65
8	<u>of, or a citizen of, this state;</u>	
9	<u>(b) The dealer maintains retail establishments or</u>	1:lus
10	<u>offices in this state, whether the mail order sales thus</u>	24.67
11	<u>subject to taxation by this state result from or are related</u>	
12	<u>in any other way to the activities of such establishments or</u>	24.68
13	<u>offices;</u>	
14	<u>(c) The dealer has agents in this state who solicit</u>	1:lus
15	<u>business or transact business on behalf of the dealer, whether</u>	24.70
16	<u>the mail order sales thus subject to taxation by this state</u>	
17	<u>result from or are related in any other way to such</u>	24.71
18	<u>solicitation or transaction of business;</u>	24.72
19	<u>(d) The property was delivered in this state in</u>	1:lus
20	<u>fulfillment of a sales contract that was entered into in this</u>	24.74
21	<u>state, in accordance with applicable conflict of laws rules,</u>	
22	<u>when a person in this state accepted an offer by ordering the</u>	24.75
23	<u>property;</u>	
24	<u>(e) The dealer, by purposefully or systematically</u>	1:lus
25	<u>exploiting the market provided by this state by any media-</u>	24.77
26	<u>assisted, media-facilitated, or media-solicited means,</u>	
27	<u>including but not limited to direct mail advertising,</u>	24.79
28	<u>unsolicited distribution of catalogues, computer-assisted</u>	
29	<u>shopping, television, radio or other electronic media, or</u>	24.80
30	<u>magazine or newspaper advertisements or other media, creates</u>	24.82
31	<u>nexus with this state;</u>	

1	<u>(f) Through compact or reciprocity with another</u>	24.83
2	<u>jurisdiction of the United States, that jurisdiction uses its</u>	24.84
3	<u>taxing power and its jurisdiction over the retailer in support</u>	
4	<u>of this state's taxing power; or</u>	25.1
5	<u>(g) The dealer consents, expressly or by implication,</u>	1:lus
6	<u>to the imposition of the tax imposed by this part.</u>	25.3
7	<u>(3) Every dealer engaged in the business of making</u>	1:lus
8	<u>mail order sales is subject to the requirements of this part</u>	25.5
9	<u>for cooperation of dealers in collection of taxes and in</u>	
10	<u>administration of this part, except that no fee shall be</u>	25.6
11	<u>imposed upon such dealer for carrying out any required</u>	25.7
12	<u>activity.</u>	
13	<u>(4) The department shall, with the consent of another</u>	1:lus
14	<u>jurisdiction of the United States whose cooperation is needed,</u>	25.9
15	<u>enforce this part in that jurisdiction, either directly or, at</u>	
16	<u>the option of that jurisdiction, through its officers or</u>	25.10
17	<u>employees.</u>	
18	<u>(5) The tax required under this section to be</u>	1:lus
19	<u>collected and any amount unreturned to a purchaser that is not</u>	25.12
20	<u>tax but was collected from the purchaser under the</u>	
21	<u>representation that it was tax constitute funds of the State</u>	25.14
22	<u>of Florida from the moment of collection.</u>	
23	Section 42. Effective October 1, 1987, paragraph (c)	25.16
24	of subsection (2) and paragraph (a) of subsection (5) of	
25	section 212.06, Florida Statutes, 1986 Supplement, as amended	25.18
26	by chapter 86-166, Laws of Florida, are amended to read:	25.19
27	212.06 Sales, storage, use tax; collectible from	25.20
28	dealers; "dealer" defined; dealers to collect from purchasers;	25.22
29	legislative intent as to scope of tax.--	25.23
30	(2)	25.23
31		

1	(c) The term "dealer" is further defined to mean every	25.25
2	person, as used in this chapter, who sells at retail, or who	
3	offers for sale at retail, or who has in his possession for	25.26
4	sale at retail, or for use, consumption, or distribution, or	25.27
5	for storage to be used or consumed in this state tangible	25.28
6	personal property as defined <u>herein, including a retailer who</u>	
7	<u>transacts a mail order sale.</u>	25.29
8	(5)(a) <u>1. Except as provided in subparagraph 2., it</u>	25.31
9	is not the intention of this chapter to levy a tax upon	25.32
10	tangible personal property imported, produced, or manufactured	25.33
11	in this state for export, provided that tangible personal	25.34
12	property may not be considered as being imported, produced, or	25.35
13	manufactured for export unless the importer, producer, or	25.36
14	manufacturer delivers the same to a licensed exporter for	
15	exporting or to a common carrier for shipment outside the	25.37
16	state or mails the same by United States mail to a destination	25.38
17	outside the state; or, in the case of aircraft being exported	25.39
18	under their own power to a destination outside the continental	25.40
19	limits of the United States, by submission to the department	
20	of a duly signed and validated United States customs	25.42
21	declaration, showing the departure of the aircraft from the	25.43
22	continental United States; and further with respect to	25.44
23	aircraft, the canceled United States registry of said	25.45
24	aircraft; or in the case of parts and equipment installed on	
25	aircraft of foreign registry, by submission to the department	25.46
26	of documentation, the extent of which shall be provided by	25.47
27	rule, showing the departure of the aircraft from the	
28	continental United States; nor is it the intention of this	25.48
29	chapter to levy a tax on any sale which the state is	25.49
30	prohibited from taxing under the Constitution or laws of the	25.50
31	United States. Every retail sale made to a person physically	25.51

1	present at the time of sale shall be presumed to have been	25.52
2	delivered in this state.	
3	<u>2.a. Notwithstanding subparagraph 1., a tax is levied</u>	1:1us
4	<u>on each sale of tangible personal property to be transported</u>	25.55
5	<u>to a cooperating state as defined in sub-subparagraph c., at</u>	
6	<u>the rate specified in sub-subparagraph d. However, a Florida</u>	25.57
7	<u>dealer will be relieved from the requirements of collecting</u>	25.59
8	<u>taxes pursuant to this subparagraph if the Florida dealer</u>	
9	<u>obtains from the purchaser an affidavit setting forth the</u>	25.60
10	<u>purchaser's name, address, state taxpayer identification</u>	25.61
11	<u>number, and a statement that the purchaser is aware of his</u>	
12	<u>state's use tax laws, is a registered dealer in Florida or</u>	25.62
13	<u>another state, or is purchasing the tangible personal property</u>	
14	<u>for resale or is otherwise not required to pay the tax on the</u>	25.63
15	<u>transaction. The department may, by rule, provide a form to</u>	25.64
16	<u>be used for the purposes set forth herein.</u>	
17	<u>b. for purposes of this subparagraph, "a cooperating</u>	1:1us
18	<u>state" is one determined by the executive director of the</u>	25.66
19	<u>department to cooperate satisfactorily with this state in</u>	
20	<u>collecting taxes on mail order sales. No state shall be so</u>	25.69
21	<u>determined unless it meets all the following minimum</u>	25.70
22	<u>requirements:</u>	25.71
23	<u>(I) It levies and collects taxes on mail order sales</u>	1:1us
24	<u>of property transported from that state to persons in this</u>	25.73
25	<u>state, as described in s. 212.0596, upon request of the</u>	
26	<u>department.</u>	25.74
27	<u>(II) The tax so collected shall be at the rate</u>	1:1us
28	<u>specified in s. 212.05, not including any local option or</u>	25.76
29	<u>tourist or convention development taxes collected pursuant to</u>	
30	<u>s. 125.0104 or this part.</u>	25.77
31		

1	<u>(III) Such state agrees to remit to the department all</u>	25.78
2	<u>taxes so collected no later than 30 days from the last day of</u>	25.80
3	<u>the calendar quarter following their collection.</u>	
4	<u>(IV) Such state authorizes the department to audit</u>	25.81
5	<u>dealers within its jurisdiction who make mail order sales that</u>	25.82
6	<u>are the subject of s. 212.0596, or makes arrangements deemed</u>	
7	<u>adequate by the department for auditing them with its own</u>	25.83
8	<u>personnel.</u>	
9	<u>(V) Such state makes arrangements deemed adequate by</u>	1:lus
10	<u>the department for inspections, upon request of the</u>	26.2
11	<u>department, of that state's records relating to such mail</u>	
12	<u>order sales and for auditing its performance in collecting</u>	26.3
13	<u>such taxes.</u>	
14	<u>(VI) Such state agrees to provide to the department</u>	1:lus
15	<u>records obtained by it from retailers or dealers in such state</u>	26.5
16	<u>showing delivery of tangible personal property into this state</u>	
17	<u>upon which no sales or use tax has been paid in a manner</u>	26.6
18	<u>similar to that provided in sub-subparagraph g.</u>	26.7
19	<u>c. For purposes of this subparagraph, "sales of</u>	26.9
20	<u>tangible personal property to be transported to a cooperating</u>	26.11
21	<u>state" means mail order sales to a person who is in the</u>	26.12
22	<u>cooperating state at the time the order is executed, from a</u>	
23	<u>dealer who receives that order in this state.</u>	26.14
24	<u>d. The tax levied by sub-subparagraph a. shall be at</u>	1:lus
25	<u>the rate at which such a sale would have been taxed pursuant</u>	26.17
26	<u>to the cooperating state's tax laws if consummated in the</u>	
27	<u>cooperating state by a dealer and a purchaser, both of whom</u>	26.19
28	<u>were physically present in that state at the time of the sale.</u>	
29	<u>e. The tax levied by sub-subparagraph a., when</u>	26.20
30	<u>collected, shall be held in the State Treasury in trust for</u>	26.21
31	<u>the benefit of the cooperating state, and shall be paid to it</u>	

1	<u>at a time agreed upon between the department, acting for this</u>	26.22
2	<u>state, and the cooperating state or the department or agency</u>	
3	<u>designated by it to act for it; however, such payment shall,</u>	26.23
4	<u>in no event, be made later than 30 days from the last day of</u>	26.24
5	<u>the calendar quarter after the tax was collected. Funds held</u>	26.25
6	<u>in trust for the benefit of a cooperating state shall not be</u>	
7	<u>subject to the service charge imposed by s. 215.20.</u>	26.26
8	<u>f. The department is authorized to perform such acts</u>	1:1us
9	<u>and to provide such cooperation to a cooperating state with</u>	26.28
10	<u>reference to the tax levied by sub-subparagraph a. as is</u>	
11	<u>required of the cooperating state by sub-subparagraph b.</u>	26.29
12	<u>g. In furtherance of this act, dealers selling</u>	1:1us
13	<u>tangible personal property for delivery in another state shall</u>	26.31
14	<u>make available to the department, upon request of the</u>	
15	<u>department, records of all tangible personal property so sold.</u>	26.32
16	<u>Such records shall include a description of the property, the</u>	26.34
17	<u>name and address of the purchaser, the name and address of the</u>	
18	<u>person to whom the property was sent, the purchase price of</u>	26.35
19	<u>the property, information regarding whether sales tax was paid</u>	26.36
20	<u>in this state on the purchase price, and such other</u>	
21	<u>information as the department may by rule prescribe.</u>	26.37
22	Section 43. Effective October 1, 1987, subsection (1)	26.37
23	of section 212.20, Florida Statutes, is amended, and	26.39
24	subsection (4) is added to said section, to read:	26.40
25	212.20 Funds collected, disposition; additional powers	26.41
26	of department; operational <u>expense; refund of taxes</u>	26.42
27	<u>adjudicated unconstitutionally collected.--</u>	26.43
28	(1) The department shall pay over to the Treasurer of	26.44
29	the state all funds received and collected by it under the	
30	provisions of this chapter, to be credited to the account of	26.45
31	the General Revenue Fund of the <u>state, except that funds</u>	26.46

1	<u>collected under s. 212.06(5)(a)2. shall be held in trust in</u>	26.47
2	<u>the State Treasury, as provided therein.</u>	
3	<u>(4) When there has been a final adjudication that any</u>	1:lus
4	<u>tax pursuant to s. 212.0596 was levied, collected, or both,</u>	26.50
5	<u>contrary to the Constitution of the United States or the State</u>	
6	<u>Constitution, the department shall, in accordance with rules,</u>	26.51
7	<u>determine, based upon claims for refund and other evidence and</u>	26.52
8	<u>information, who paid such tax or taxes, and refund to each</u>	26.53
9	<u>such person the amount of tax paid. For purposes of this</u>	
10	<u>subsection, a "final adjudication" is a decision of a court of</u>	26.54
11	<u>competent jurisdiction from which no appeal can be taken or</u>	26.55
12	<u>from which the official or officials of this state with</u>	
13	<u>authority to make such decisions has or have decided not to</u>	26.56
14	<u>appeal.</u>	
15	Section 44. Effective October 1, 1987, paragraph (e)	26.57
16	is added to subsection (3) of section 212.02, Florida	26.59
17	Statutes, 1986 Supplement, to read:	
18	212.02 Definitions.--The following terms and phrases	26.60
19	when used in this chapter have the meanings ascribed to them	26.61
20	in this section, except where the context clearly indicates a	26.62
21	different meaning:	
22	(3)	26.63
23	<u>(e) The term "retail sale" includes a mail order sale,</u>	1:lus
24	<u>as defined in s. 212.0596(1).</u>	26.64
25	Section 45. Effective October 1, 1987, the	26.64
26	introductory paragraph of section 212.05, Florida Statutes,	26.66
27	1986 Supplement, is amended to read:	
28	212.05 Sales, storage, use tax.--It is hereby declared	26.67
29	to be the legislative intent that every person is exercising a	26.70
30	taxable privilege who engages in the business of selling	
31	tangible personal property at retail in this state, <u>including</u>	26.71

1	<u>the business of making mail order sales,</u> or who rents or	26.72
2	furnishes any of the things or services taxable under this	26.73
3	chapter, or who stores for use or consumption in this state	26.74
4	any item or article of tangible personal property as defined	26.75
5	herein and who leases or rents such property within the state.	
6	Section 46. (1) Effective October 1, 1987, subsection	26.76
7	(1) and paragraph (a) of subsection (5) of section 212.12,	26.78
8	Florida Statutes, 1986 Supplement, are amended to read:	26.80
9	212.12 Dealer's credit for collecting tax; penalties	26.81
10	for noncompliance; powers of Department of Revenue in dealing	26.82
11	with delinquents; brackets applicable to taxable transactions;	26.83
12	records required.--	
13	(1) For the purpose of compensating persons granting	27.1
14	licenses for and the lessors of real and personal property	27.2
15	taxed hereunder, for the purpose of compensating dealers in	27.3
16	tangible personal property, for the purpose of compensating	
17	dealers providing communication services and taxable services,	27.4
18	and for the purpose of compensating owners of places where	27.5
19	admissions are collected, as compensation for the keeping of	
20	prescribed records and the proper accounting and remitting of	27.6
21	taxes by them, such seller, person, lessor, dealer, and owner	27.7
22	<u>(except dealers who make mail order sales)</u> shall be allowed 3	27.8
23	percent of the amount of the tax due and accounted for and	27.10
24	remitted to the department, in the form of a deduction in	27.11
25	submitting his report and paying the amount due by him; and	
26	the department shall allow such deduction of 3 percent of the	27.12
27	amount of the tax to the person paying the same for remitting	27.15
28	the tax in the manner herein provided, for paying the amount	27.16
29	due to be paid by him, and as further compensation to dealers	
30	in tangible personal property for the keeping of prescribed	27.18
31	records and for collection of taxes and remitting the same.	27.19

1	However, if the amount of the tax due and remitted to the	27.20
2	department for the reporting period exceeds \$1,000, the 3-	27.21
3	percent allowance shall be reduced to 1 percent for all	
4	amounts in excess of \$1,000. <u>The executive director of the</u>	1:1us
5	<u>department is authorized to negotiate a collection allowance,</u>	
6	<u>pursuant to rules promulgated by the department, with a dealer</u>	27.24
7	<u>who makes mail order sales. The rules of the department shall</u>	27.25
8	<u>provide guidelines for establishing the collection allowance</u>	
9	<u>based upon the dealer's estimated costs of collecting the tax,</u>	27.26
10	<u>the volume and value of the dealer's mail order sales to</u>	27.27
11	<u>purchasers in this state, and the administrative and legal</u>	
12	<u>costs and likelihood of achieving collection of the tax absent</u>	27.28
13	<u>the cooperation of the dealer. However, in no event shall the</u>	27.29
14	<u>collection allowance negotiated by the executive director</u>	
15	<u>exceed 10 percent of the tax remitted for a reporting period.</u>	27.30
16	(a) The collection allowance may not be granted, nor	27.31
17	may any deduction be permitted, if the tax is delinquent at	27.32
18	the time of payment.	
19	(b) The Department of Revenue may reduce the	27.32
20	collection allowance by 10 percent or \$50, whichever is less,	27.33
21	if a taxpayer files an incomplete return.	
22	1. An "incomplete return" is, for purposes of this	27.34
23	chapter, a return which is lacking such uniformity,	27.35
24	completeness, and arrangement that the physical handling,	
25	verification, or review of the return may not be readily	27.36
26	accomplished.	
27	2. The department shall adopt rules requiring such	27.37
28	information as it may deem necessary to ensure that the tax	27.38
29	levied hereunder is properly collected, reviewed, compiled,	
30	and enforced, including, but not limited to: the amount of	27.40
31	gross sales; the amount of taxable sales; the amount of tax	

1	collected or due; the amount of lawful refunds, deductions, or	27.41
2	credits claimed; the amount claimed as the dealer's collection	27.42
3	allowance; the amount of penalty and interest; the amount due	
4	with the return; and such other information as the Department	27.43
5	of Revenue may specify.	
6	(5)(a) The department is authorized to audit or	27.44
7	inspect the records and accounts of dealers defined herein,	27.45
8	<u>including audits or inspections of dealers who make mail order</u>	
9	<u>sales to the extent permitted by another state, and correct by</u>	27.47
10	credit any overpayment of tax; and, in the event of a	27.48
11	deficiency, an assessment shall be made and collected. No	27.49
12	administrative finding of fact is necessary prior to the	27.50
13	assessment of any tax deficiency.	27.51
14	<u>(2) It is the intent of the Legislature that the</u>	1:1us
15	<u>amendment of s. 212.12, Florida Statutes, by this section is</u>	27.53
16	<u>supplemental to other amendments to said section that may be</u>	
17	<u>enacted at the 1987 Regular Session of the Legislature, unless</u>	27.54
18	<u>a contrary intent is indicated in such other amendments.</u>	27.55
19	Section 47. Effective October 1, 1987, subsection (1)	27.56
20	of section 212.15, Florida Statutes, is amended to read:	27.57
21	212.15 Taxes declared state funds; penalties for	27.58
22	failure to remit taxes; due and delinquent dates; judicial	27.59
23	review.--	
24	(1) The taxes imposed by this chapter <u>shall, except as</u>	27.60
25	<u>provided in s. 212.06(5)(a)2.e.,</u> become state funds at the	27.61
26	moment of collection and shall for each month be due to the	27.63
27	department on the first day of the succeeding month and	27.64
28	delinquent on the 21st day of such month. All returns	27.65
29	postmarked after the 20th day of such month are delinquent.	
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1	Section 48. Effective October 1, 1987, subsection (3)	27.66
2	of section 212.18, Florida Statutes, 1986 Supplement, is	27.67
3	amended to read:	27.68
4	212.18 Administration of law; rules and regulations.--	27.69
5	(3) Every person desiring to engage in or conduct	27.70
6	business in this state as a dealer, as defined in this	27.71
7	chapter, or to lease, rent, or let or grant licenses in living	
8	quarters or sleeping or housekeeping accommodations in hotels,	27.72
9	apartment houses, roominghouses, tourist or trailer camps, or	27.73
10	real property, as defined in this chapter, and every person	27.74
11	who sells or receives anything of value by way of admissions,	27.75
12	shall file with the department an application for a	27.76
13	certificate of registration for each place of business,	27.77
14	showing the names of the persons who have interests in such	
15	business and their residences, the address of the business,	27.79
16	and such other data as the department may reasonably require.	27.80
17	The application shall be made to the department before the	27.82
18	person, firm, copartnership, or corporation may engage in such	
19	business; and it shall be accompanied by a registration fee of	27.83
20	<u>\$5. However, no registration fee is required to accompany an</u>	1:1us
21	<u>application to engage in or conduct business to make mail</u>	28.1
22	<u>order sales.</u> The department, upon receipt of such	28.3
23	application, will grant to the applicant a separate	
24	certificate of registration for each place of business, which	28.4
25	certificate may be canceled by the department or its	28.5
26	designated assistants for any failure by the certificateholder	28.6
27	to comply with any of the provisions of this chapter. The	28.9
28	certificate shall not be assignable and shall be valid only	28.10
29	for the person, firm, copartnership, or corporation to which	
30	issued; and such certificate shall be placed in a conspicuous	28.11
31	place in the business or businesses for which it is issued and	28.12

1	shall be so displayed at all times. No person shall engage in	28.14
2	business as a dealer or in leasing, renting, or letting of or	
3	granting licenses in living quarters or sleeping or	28.15
4	housekeeping accommodations in hotels, apartment houses,	28.16
5	roominghouses, tourist or trailer camps, or real property as	
6	hereinbefore defined, nor shall any person sell or receive	28.19
7	anything of value by way of admissions, without first having	28.20
8	obtained such a certificate or after such certificate has been	
9	canceled; and no person shall receive any license from any	28.21
10	authority within the state to engage in any such business	28.24
11	without first having obtained such a certificats or after such	28.25
12	certificate has been canceled. The engaging in the business	28.27
13	of selling or leasing tangible personal property or as a	
14	dealer, as defined in this chapter, or the engaging in	28.28
15	leasing, renting, or letting of or granting licenses in living	28.29
16	quarters or sleeping or housekeeping accommodations in hotels,	28.30
17	apartment houses, roominghouses, tourist or trailer camps, or	28.31
18	real property as hereinbefore defined, or the engaging in the	28.32
19	business of selling or receiving anything of value by way of	28.33
20	admissions, without such certificate first being obtained or	28.34
21	after such certificate has been canceled by the department is	28.35
22	prohibited. The failure or refusal of any person, firm,	28.37
23	copartnership, or corporation to so qualify when required	28.38
24	hereunder is a misdemeanor of the second degree, punishable as	28.39
25	provided in s. 775.082, s. 775.083, or s. 775.084, or subject	28.40
26	to injunctive proceedings as provided by law.	
27	Section 49. <u>There is hereby appropriated to the</u>	28.41
28	<u>Department of Revenue from the General Revenue Fund the sum of</u>	28.43
29	<u>\$75,000 in order to retain legal consultants to assist in any</u>	
30	<u>litigation arising as a result of the Fairness in Retail Sales</u>	28.44
31	<u>Taxation Act,</u>	

1	Section 50. <u>Severability.--If any provision of this</u>	28.45
2	<u>act or the application thereof to any person or circumstance</u>	28.46
3	<u>is held invalid, the validity shall not affect other</u>	
4	<u>provisions or applications of the act which can be given</u>	28.47
5	<u>effect without the invalid provision or application, and to</u>	28.48
6	<u>this end the provisions of this act are declared severable.</u>	
7	Section 51. Except as otherwise provided herein, this	28.49
8	act shall take effect July 1, 1987.	28.50
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1	*****	1:hbs
2	HOUSE SUMMARY	1:hbs
3	Revises various provisions of chapter 87-6, Laws of	28.53
4	Florida, relating to the sales and use tax on services.	28.54
5	Revises provisions relating to computation, collection,	28.56
6	and remittance of the tax and registration of dealers as	28.57
7	service providers. Requires multistate purchasers that	28.58
8	self-accrue the tax to file an annual supplementary tax	
9	return. Revises provisions relating to apportionment of	28.59
10	interstate or international transportation services.	28.60
11	Requires applicants for specified environment-related	28.61
12	permits to attest that applicable use taxes have been	28.62
13	paid. Revises rules of construction relating to	28.64
14	inclusion of a proportion of the sales or cost price	
15	under certain circumstances, transactions involving both	28.65
16	taxable and exempt services, and determining where the	
17	benefit of a service is enjoyed. Provides legislative	28.68
18	intent regarding exemptions from the tax. Revises	28.69
19	exemptions and conditions applicable thereto and provides	28.70
20	additional exemptions. Revises provisions relating to	28.71
21	administration of the exemption for services sold in this	
22	state for use outside this state, to revise provisions	28.73
23	relating to exempt purchase permits and revise the time	
24	period for maintenance of dealers' monthly logs and a	28.74
25	penalty applicable thereto. Specifies inapplicability of	28.76
26	certain refund provisions. Revises special provisions	28.77
27	applicable to the tax on construction services. Revises	28.79
28	special provisions applicable to the tax on advertising.	28.80
29	Provides special resale rules for construction support	28.81
30	services and advertising agency support services.	28.82
31		
1	Specifies conditions under which certain air carriers may	29.1
2	elect to be subject to the tax on services and tangible	
3	personal property. Provides basis of the tax applicable	29.2
4	to such air carriers. Specifies application of such tax	29.3
5	to air carriers who do not so elect. Revises definitions	29.5
6	applicable to chapter 212, F.S. Revises an exemption	29.7
7	from the tax on rental, lease, or granting a license for	29.8
8	use of real property for certain property leased to	
9	persons providing food and drink concessionaire services.	29.9
10	Exempts admissions to certain athletic or other events	29.11
11	sponsored by schools and other institutions or by	
12	governmental entities and certain admissions paid by	29.12
13	students to places of sport or recreation. Provides an	29.14
14	exception. Specifies application of a definition of	29.15
15	"telecommunication service." Specifies application of	29.16
16	the tax on sales, use and other transactions to sale of	
17	newspapers and magazines. Provides an additional medical	29.18
18	exemption from said tax. Revises the exemptions for	29.20
19	sales to political subdivisions and educational	
20	institutions, film rentals, and vehicles engaged in	29.21
21	interstate or foreign commerce.	29.23
22		
23	Removes a prohibition against dealers assisting in	29.25
24	preparation of tax refund claims. Revises provisions	29.27
25	which authorize quarterly returns for certain dealers	29.28
26	remitting the tax solely for the provision of services.	
27	Revises the effective date of an amendment relating to	29.30
28	application of the dealer's credit to persons who remit	

1	taxes or fees reported on the same documents utilized for sales and use tax. Renames the State Infrastructure Trust Fund as the State Infrastructure Fund and establishes the State Infrastructure Fund within the State Treasury. Revises an exemption from the tax on services for certain improvements to real property.	29.31 29.33 29.35
2		
3	Revises provisions relating to certain conditions applicable to self-accrual. Specifies administrative provisions applicable to department rules implementing said chapter and this act. Amends provisions relating to waiver of penalties and interest with respect to the tax on services for a specified period. Revises provisions relating to application of the tax to certain prepaid services. Revises provisions relating to construction of said chapter with respect to certain client confidentiality.	29.36 29.37 29.39 29.40
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6		29.42 29.43 29.44
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8		29.45 29.46
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10	Imposes a tax on persons selling certain special fuel held in inventory on July 1, 1987, on which the additional tax on such fuel levied under chapter 87-6, Laws of Florida, has not been paid. Provides penalties. Provides for rules and notice. Provides for distribution of the proceeds. Revises provisions relating to appointment of a panel to be hearing officer in certain administrative taxpayer contest proceedings. Revises a date for a department study of taxable services. Revises provisions relating to application of a tax amnesty program. Revises provisions which establish limitations on actions to collect certain taxes. Removes an amendment relating to delinquency penalties and penalties for substantial underpayment of tax on severance of solid minerals. Revises the effective date of the repeal of provisions relating to limitations on assessment of sales tax and on notices of deficiency of designated nonproperty taxes. Repeals portions of chapter 87-6, Laws of Florida, which provide increased penalties for certain tax crimes. Provides an appropriation to the Division of Administrative Hearings.	29.48 29.49
11		29.51 29.54 29.56
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13		29.58 29.60
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15		29.62 29.63 29.64
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17		29.66 29.67
18		29.69 29.70 29.71 29.72
19		
20	Creates the Fairness in Retail Sales Taxation Act. Provides findings and intent. Provides application of tax on sales, use and other transactions to mail order sales. Specifies conditions under which dealers making such sales are subject to said tax. Provides duties of such dealers. Provides for enforcement in other jurisdictions. Includes such persons within the definition of "dealer." Provides for levy of tax on sales of tangible personal property to be transported to a cooperating state. Specifies requirements applicable to cooperating states. Provides for payment of taxes collected to cooperating states. Provides duties of dealers selling tangible personal property for delivery in another state. Provides for refund of certain taxes adjudicated unconstitutionally levied or collected. Includes mail order sales as a taxable privilege. Excludes dealers making mail order sales from the dealer's credit. Authorizes the executive director of the Department of Revenue to negotiate a collection allowance with such dealers. Provides for audits and inspections. Excludes the business of making mail order	29.74 29.76 29.78 29.79 29.80 29.81 29.82 29.84
21		30.2 30.3 30.5
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23		30.7 30.8 30.9 30.10 30.12
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1	sales from registration fees. Provides an appropriation	30.16
2	to the Department of Revenue.	
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