

1987

## Session Law 87-548

Florida Senate & House of Representatives

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ENROLLED

CS for CS for SB 5D & CS for SB 6D

Second Engrossed

1                                   A bill to be entitled  
2           An act relating to taxation; creating s.  
3           216.175, F.S., relating to State Infrastructure  
4           Fund Appropriations; amending ss. 212.02,  
5           212.03, 212.031, 212.04, 212.05, 212.054,  
6           212.055, 212.0598, 212.06, 212.07, 212.08,  
7           212.11, 212.12, 212.21, 212.61, F.S.; repealing  
8           ss. 212.059, 212.0591, 212.0592, 212.0593,  
9           212.0594, 212.0595, F.S.; amending s. 32, ch.  
10          87-86, Laws of Florida, as amended; repealing  
11          ss. 31, 37, 47, ch. 87-6, Laws of Florida, as  
12          amended; repealing the sales tax on specified  
13          services and conforming various statutes to  
14          that repeal; providing exemptions from the tax  
15          on sales, use, and other transactions;  
16          providing for attribution of taxes by air  
17          carriers; increasing the tax on transient  
18          rentals, the lease or rental of or license in  
19          real property, admissions, and sales, storage,  
20          and use; providing for administration and rates  
21          of local option surtaxes, creating s. 212.065,  
22          F.S.; providing for taxes levied with respect  
23          to road construction; providing for retention  
24          of records relating to the sales tax on  
25          services for a certain period; amending s.  
26          212 235, F.S.; revising the percentage of the  
27          sales tax proceeds to be transferred to the  
28          State Infrastructure Fund and providing for  
29          allocation and use of moneys in the fund;  
30          amending s. 218.61, F.S.; revising the  
31          percentage of the sales tax proceeds to be

1 transferred to the Local Government Half-cent  
2 Sales Tax Clearing Trust Fund; amending s.  
3 215.32, F.S.; specifying moneys in the State  
4 Infrastructure Fund; repealing ss.  
5 206.87(1)(b), 206.875(3), F.S.; repealing the  
6 increase in diesel fuel taxes; amending s  
7 207.026, F.S.; providing for redistribution of  
8 taxes; providing for application of the  
9 additional sales or use tax to certain utility  
10 services; providing for refund of additional  
11 taxes paid by certain contractors; providing  
12 penalties; providing transition rules for the  
13 repeal of the services tax; providing for  
14 additional positions and funding to be placed  
15 in reserve, authorizing additional positions  
16 for the Division of Administrative Hearings of  
17 the Department of Administration; providing for  
18 emergency rules of the Department of Revenue;  
19 exempting the Department of Revenue from  
20 provisions of chapter 287, F.S., relating to  
21 purchase or lease of goods or services; saving  
22 certain actions from abatement; eliminating  
23 requirement for certain data to be reported to  
24 the Department of Revenue; amending ss.  
25 216.011, 216.046, 216.081, 216.121, 216.167,  
26 216.181, 216.292, 216.301, 235.41, F.S.;

27 defining the term "proviso"; providing for  
28 Governor's supplemental recommendations;  
29 providing for data on legislative expenses;  
30 changing provisions relating to information to  
31 be furnished to the Governor; providing for

1 Governor's recommendations; providing for  
2 appropriation committee statements of intent,  
3 providing for transferability and transfer of  
4 appropriations; providing for legislative  
5 capital outlay budget request; repealing s.  
6 216.031(7), F.S., as amended, relating to  
7 information required in legislative budget  
8 requests; providing effective dates.

9  
10 Be It Enacted by the Legislature of the State of Florida.

11  
12 Section 1. Section 212.02, Florida Statutes, as  
13 amended by section 7 of chapter 87-6, section 12 of chapter  
14 87-87, section 9 of chapter 87-101, and section 6 of chapter  
15 87-402, Laws of Florida, is amended to read.

16 212.02 Definitions.--The following terms and phrases  
17 when used in this chapter have the meanings ascribed to them  
18 in this section, except where the context clearly indicates a  
19 different meaning:

20 (1) The term "admissions" means and includes the net  
21 sum of money after deduction of any federal taxes for  
22 admitting a person or vehicle or persons to any place of  
23 amusement, sport, or recreation or for the privilege of  
24 entering or staying in any place of amusement, sport, or  
25 recreation, including, but not limited to, theaters, outdoor  
26 theaters, shows, exhibitions, games, races, or any place where  
27 charge is made by way of sale of tickets, gate charges, seat  
28 charges, box charges, season pass charges, cover charges,  
29 greens fees, participation fees, entrance fees, or other fees  
30 or receipts of anything of value measured on an admission or  
31 entrance or length of stay or seat box accommodations in any

1 place where there is any exhibition, amusement, sport, or  
 2 recreation, and all dues paid to private clubs providing  
 3 recreational facilities, including but not limited to golf,  
 4 tennis, swimming, yachting, and boating facilities.

5 ~~(2) "Affiliated group" means an affiliated group of~~  
 6 ~~corporations, as defined in s. 1504(a) of the Internal Revenue~~  
 7 ~~Code, whose members are includable under s. 1504(b), (c), or~~  
 8 ~~(d) of the Internal Revenue Code, and are eligible to file a~~  
 9 ~~consolidated tax return for Federal corporate income tax~~  
 10 ~~purposes, or mutual insurance companies which are members of~~  
 11 ~~one insurance holding company system subject to s. 620.801;~~  
 12 ~~however, s. 1504(b)(2) shall not apply to this definition.~~  
 13 ~~However, the taxpayer may elect, pursuant to rules of the~~  
 14 ~~department governing the procedure for making and amending~~  
 15 ~~such election, to define its affiliated group in a manner~~  
 16 ~~which excludes any member who has no tax nexus in this state~~  
 17 ~~and any member whose business activities are unrelated to the~~  
 18 ~~business activities of other members of the group. However,~~  
 19 ~~in no event shall a parent corporation of an included member~~  
 20 ~~be excluded from the affiliated group.~~

21 (2)(3) "Business" means any activity engaged in by any  
 22 person, or caused to be engaged in by him, with the object of  
 23 private or public gain, benefit, or advantage, either direct  
 24 or indirect. Except for the sales of any aircraft, boat,  
 25 mobile home, or motor vehicle, the term "business" shall not  
 26 be construed in this chapter to include occasional or isolated  
 27 sales or transactions involving tangible personal property or  
 28 services by a person who does not hold himself out as engaged  
 29 in business, but includes other charges for the sale or rental  
 30 of tangible personal property, sales of services taxable under  
 31 this part, sales of or charges of admission, communication

1 | services, all rentals and leases of living quarters, other  
2 | than low-rent housing operated under chapter 421, sleeping or  
3 | housekeeping accommodations in hotels, apartment houses,  
4 | roominghouses, tourist or trailer camps, and all rentals of or  
5 | licenses in real property, other than low-rent housing  
6 | operated under chapter 421, all leases or rentals of or  
7 | licenses in parking lots or garages for motor vehicles,  
8 | docking or storage spaces for boats in boat docks or marinas  
9 | as defined in this chapter and made subject to a tax imposed  
10 | by this chapter. Any tax on such sales, charges, rentals,  
11 | admissions, or other transactions made subject to the tax  
12 | imposed by this chapter shall be collected by the state,  
13 | county, municipality, any political subdivision, agency,  
14 | bureau, or department, or other state or local governmental  
15 | instrumentality in the same manner as other dealers, unless  
16 | specifically exempted by this chapter.

17 |       (3)(4) The terms "cigarettes," "tobacco," or "tobacco  
18 | products" referred to in this chapter include all such  
19 | products as are defined or may be hereafter defined by the  
20 | laws of the state.

21 |       (4)(5) "Cost price" means the actual cost of articles  
22 | of tangible personal property ~~or services~~ without any  
23 | deductions therefrom on account of the cost of materials used,  
24 | labor or service costs, transportation charges, or any  
25 | expenses whatsoever.

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

31 |

1           (5)~~(7)~~ The term "department" means the Department of  
2 Revenue.

3           ~~(8)~~--"Employee"--means-any-person-who-is-not-an  
4 independent-contractor-and-whose-wages-or-remuneration-are  
5 subject-to-tax-under-the-Federal-Insurance-Contributions-Act  
6 or-under-the-Federal-Unemployment-Tax-Act-or-whose-wages-or  
7 remuneration-are-subject-to-withholding-for-federal-income-tax  
8 purposes:

9           ~~(9)~~--"Employer"--means-any-person-who-must-pay-taxes-on  
10 wages-under-the-Federal-Insurance-Contributions-Act-or-under  
11 the-Federal-Unemployment-Tax-Act-or-who-must-withhold-taxes  
12 from-wages-for-federal-income-tax-purposes:

13           (6)~~(10)~~ "Enterprise zone" means an area of the state  
14 authorized to be an enterprise zone pursuant to s. 290.0055  
15 and approved by the secretary of the Department of Community  
16 Affairs pursuant to s. 290.0065. This subsection shall expire  
17 and be void on December 31, 1994.

18           (7)~~(11)~~ "Factory-built building" means a structure  
19 manufactured in a manufacturing facility for installation or  
20 erection as a finished building; "factory-built building"  
21 includes, but is not limited to, residential, commercial,  
22 institutional, storage, and industrial structures.

23           (8)~~(12)~~ "In this state" or "in the state" means within  
24 the state boundaries of Florida as defined in s. 1, Art. II of  
25 the Constitution of the State of Florida and includes all  
26 territory within these limits owned by or ceded to the United  
27 States.

28           (9)~~(13)~~ The term "intoxicating beverages" or  
29 "alcoholic beverages" referred to in this chapter includes all  
30 such beverages as are so defined or may be hereafter defined  
31 by the laws of the state.

1           ~~(10)~~<sup>(14)</sup> "Lease," "let," or "rental" means leasing or  
2 renting of living quarters or sleeping or housekeeping  
3 accommodations in hotels, apartment houses, roominghouses,  
4 tourist or trailer camps and real property, the same being  
5 defined as follows:

6           (a) Every building or other structure kept, used,  
7 maintained, or advertised as, or held out to the public to be,  
8 a place where sleeping accommodations are supplied for pay to  
9 transient or permanent guests or tenants, in which 10 or more  
10 rooms are furnished for the accommodation of such guests, and  
11 having one or more dining rooms or cafes where meals or  
12 lunches are served to such transient or permanent guests, such  
13 sleeping accommodations and dining rooms or cafes being  
14 conducted in the same building or buildings in connection  
15 therewith, shall, for the purpose of this chapter, be deemed a  
16 hotel.

17           (b) Any building, or part thereof, where separate  
18 accommodations for two or more families living independently  
19 of each other are supplied to transient or permanent guests or  
20 tenants shall for the purpose of this chapter be deemed an  
21 apartment house.

22           (c) Every house, boat, vehicle, motor court, trailer  
23 court, or other structure or any place or location kept, used,  
24 maintained, or advertised as, or held out to the public to be,  
25 a place where living quarters or sleeping or housekeeping  
26 accommodations are supplied for pay to transient or permanent  
27 guests or tenants, whether in one or adjoining buildings,  
28 shall for the purpose of this chapter be deemed a  
29 roominghouse.

30           (d) In all hotels, apartment houses, and roominghouses  
31 within the meaning of this chapter, the parlor, dining room,



1 sleeping porches, kitchen, office, and sample rooms shall be  
2 construed to mean "rooms."

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

9 (f) A "trailer camp," "mobile home park," or  
10 "recreational vehicle park" is a place where space is offered,  
11 with or without service facilities, by any persons or  
12 municipality to the public for the parking and accommodation  
13 of two or more automobile trailers, mobile homes, or  
14 recreational vehicles which are used for lodging, for either a  
15 direct money consideration or an indirect benefit to the  
16 lessor or owner in connection with a related business, such  
17 space being hereby defined as living quarters, and the rental  
18 price thereof shall include all service charges paid to the  
19 lessor.

20 (g) "Lease," "let," or "rental" also means the leasing  
21 or rental of tangible personal property and the possession or  
22 use thereof by the lessee or rentee for a consideration,  
23 without transfer of the title of such property, except as  
24 expressly provided to the contrary herein. The term "lease,"  
25 "let," or "rental" or ~~"service"~~ does not mean hourly, daily,  
26 or mileage charges, to the extent that such charges are  
27 subject to the jurisdiction of the United States Interstate  
28 Commerce Commission, when such charges are paid by reason of  
29 the presence of railroad cars owned by another on the tracks  
30 of the taxpayer, or charges made pursuant to car service  
31 agreements. However, where two taxpayers, in connection with

1 the interchange of facilities, rent or lease property, each to  
2 the other, for use in providing or furnishing any of the  
3 services mentioned in s. 166.231, the term "lease or rental"  
4 means only the net amount of rental involved.

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

8 (i) "License," as used in this chapter with reference  
9 to the use of real property, means the granting of a privilege  
10 to use or occupy a building or a parcel of real property for  
11 any purpose.

12 ~~(11)~~~~(15)~~ "Motor fuel" means and includes what is  
13 commonly known and sold as gasoline and fuels containing a  
14 mixture of gasoline and other products.

15 ~~(12)~~~~(16)~~ "Nurseryman" or "grower" means any person  
16 engaged in the production of nursery stock or horticultural  
17 plants.

18 ~~(13)~~~~(17)~~ "Person" includes any individual, firm,  
19 copartnership, joint adventure, association, corporation,  
20 estate, trust, business trust, receiver, syndicate, or other  
21 group or combination acting as a unit and includes any  
22 political subdivision, municipality, state agency, bureau, or  
23 department and the plural as well as the singular number

24 ~~(14)~~~~(18)~~ "Retailer" means and includes every person  
25 engaged in the business of making sales at retail, or for  
26 distribution, or use, or consumption, or storage to be used or  
27 consumed in this state.

28 ~~(15)~~~~(19)~~(a) "Retail sale" or a "sale at retail" means  
29 a sale to a consumer or to any person for any purpose other  
30 than for resale in the form of tangible personal property or  
31 services taxable under this part, and includes all such

1 transactions that may be made in lieu of retail sales or sales  
2 at retail. ~~"Retail sale" does not include fee sharing for~~  
3 ~~services described in S-475.011 by persons licensed under~~  
4 ~~chapter 475. A sale of a service shall be considered a sale~~  
5 ~~for resale only if:~~

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

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

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

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

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

24  
25 ~~However, a sale, to other than an end user, of~~  
26 ~~telecommunication services consisting of a right of access for~~  
27 ~~which an access charge, as defined in S-203.012(1), is~~  
28 ~~imposed, is a sale for resale.~~

29 (b) The terms "retail sales," "sales at retail,"  
30 "use," "storage," and "consumption" include the sale, use,  
31 storage, or consumption of all tangible advertising materials

1 imported or caused to be imported into this state. Tangible  
2 advertising material includes displays, display containers,  
3 brochures, catalogs, pricelists, point-of-sale advertising,  
4 and technical manuals or any tangible personal property which  
5 does not accompany the product to the ultimate consumer.

6 (c) "Retail sales," "sale at retail," "use,"  
7 "storage," and "consumption" do not include materials,  
8 containers, labels, sacks, or bags intended to be used one  
9 time only for packaging tangible personal property for sale or  
10 for packaging in the process of providing a service taxable  
11 under this part and do not include the sale, use, storage, or  
12 consumption of industrial materials, including chemicals and  
13 fuels except as provided herein, for future processing,  
14 manufacture, or conversion into articles of tangible personal  
15 property for resale when such industrial materials, including  
16 chemicals and fuels except as provided herein, become a  
17 component or ingredient of the finished product. However,  
18 said terms include the sale, use, storage, or consumption of  
19 tangible personal property, including machinery and equipment  
20 or parts thereof, purchased electricity, and fuels used to  
21 power machinery, when said items are used and dissipated in  
22 fabricating, converting, or processing tangible personal  
23 property for sale, even though they may become ingredients or  
24 components of the tangible personal property for sale through  
25 accident, wear, tear, erosion, corrosion, or similar means.

26 (d) "Gross sales" means the sum total of all sales of  
27 tangible personal property ~~or services~~ as defined herein,  
28 without any deduction whatsoever of any kind or character,  
29 except as provided in this chapter.

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

1 (16)~~(20)~~ "Sale" means and includes:

2 (a) Any transfer of title or possession, or both,  
3 exchange, barter, license, lease, or rental, conditional or  
4 otherwise, in any manner or by any means whatsoever, of  
5 tangible personal property for a consideration.

6 (b) The rental of living quarters or sleeping or  
7 housekeeping accommodations in hotels, apartment houses or  
8 roominghouses, or tourist or trailer camps, as hereinafter  
9 defined in this chapter.

10 (c) The producing, fabricating, processing, printing,  
11 or imprinting of tangible personal property for a  
12 consideration for consumers who furnish either directly or  
13 indirectly the materials used in the producing, fabricating,  
14 processing, printing, or imprinting.

15 (d) The furnishing, preparing, or serving for a  
16 consideration of any tangible personal property for  
17 consumption on or off the premises of the person furnishing,  
18 preparing, or serving such tangible personal property which  
19 includes the sale of meals or prepared food by an employer to  
20 his employees.

21 (e) A transaction whereby the possession of property  
22 is transferred but the seller retains title as security for  
23 the payment of the price.

24 ~~(f)--Any-transfer,-provision,-or-rendering-of-services~~  
25 ~~for-a-consideration~~

26 (17)~~(21)~~ "Sales price" means the total amount paid for  
27 tangible personal property ~~or-services~~, including any services  
28 that are a part of the sale ~~and-any-tangible-personal-property~~  
29 ~~that-is-part-of-the-service~~, valued in money, whether paid in  
30 money or otherwise, and includes any amount for which credit  
31 is given to the purchaser by the seller, without any deduction

1 therefrom on account of the cost of the property sold, the  
 2 cost of materials used, labor or service cost, interest  
 3 charged, losses, or any other expense whatsoever. "Sales  
 4 price" also includes the consideration for a transaction which  
 5 requires both labor and or material to alter, remodel,  
 6 maintain, adjust, or repair tangible personal property.  
 7 Trade-ins or discounts allowed and taken at the time of sale  
 8 shall not be included within the purview of this subsection.

9 ~~(22)--The term "service" or "services" as used in this~~  
 10 ~~part means those activities usually provided for consideration~~  
 11 ~~by the following establishments listed in the SIC Manual:~~

12 ~~(a)--Agricultural Services--(Major Group Number-07);~~

13 ~~(b)--Forestry Services--(Major Group Number-085);~~

14 ~~(c)--Metal Mining Services--(Group Number-108);~~

15 ~~(d)--Oil and Gas Field Services--(Group Number-138);~~

16 ~~(e)--Nonmetallic--(Nonfuel)--Mineral Services--(Group~~  
 17 ~~Number-148);~~

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

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

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

24 ~~(i)--Printing, Publishing, and Allied Services--(Major~~  
 25 ~~Group Number-27);~~

26 ~~(j)--Coating, Engraving, and Allied Services--(Group~~  
 27 ~~Number-347);~~

28 ~~(k)--Railroad Transportation--(Major Group Number-40);~~

29 ~~(l)--Local and Suburban Transit and Interurban Highway~~  
 30 ~~Passenger Transportation--(Major Group Number-41);~~

31

1            ~~(m)~~--Motor-Freight-Transportation-and-Warehousing  
 2 ~~(Major-Group-Number-42);~~  
 3            ~~(n)~~--U.S.-Postal-Service-(Major-Group-Number-43);  
 4            ~~(o)~~--Water-Transportation-(Major-Group-Number-44);  
 5            ~~(p)~~--Transportation-by-Air-(Major-Group-Number-45);  
 6            ~~(q)~~--Pipelines-except-Natural-Gas-(Major-Group-Number  
 7 ~~46);~~  
 8            ~~(r)~~--Transportation-Services-(Major-Group-Number-47);  
 9            ~~(s)~~--Communications-(Major-Group-Number-48);  
 10           ~~(t)~~--Electric-Gas-and-Sanitary-Services-(Major-Group  
 11 ~~Number-49);~~  
 12           ~~(u)~~--Food-Brokers-(Industry-Number-5141);  
 13           ~~(v)~~--Banking-(Major-Group-Number-60);  
 14           ~~(w)~~--Credit-Agencies-other-than-Banks-(Major-Group  
 15 ~~Number-61);~~  
 16           ~~(x)~~--Security-and-Commodity-Brokers-Dealers,  
 17 ~~Exchanges-and-Services-(Major-Group-Number-62);~~  
 18           ~~(y)~~--Insurance-(Major-Group-Number-63);  
 19           ~~(z)~~--Insurance-Agents-Brokers-and-Service-(Major  
 20 ~~Group-Number-64);~~  
 21           ~~(aa)~~--Real-Estate-(Major-Group-Number-65);  
 22           ~~(bb)~~--Combinations-of-Real-Estate-Insurance-loans,  
 23 ~~Law-Offices-(Major-Group-Number-66);~~  
 24           ~~(cc)~~--Holding-and-other-Investment-Offices-(Major-Group  
 25 ~~Number-67);~~  
 26           ~~(dd)~~--Personal-Services-(Major-Group-Number-72);  
 27           ~~(ee)~~--Business-Services-(Major-Group-Number-73);  
 28           ~~(ff)~~--Automotive-Repair-Services-and-Garages-(Major  
 29 ~~Group-Number-75);~~  
 30           ~~(gg)~~--Miscellaneous-Repair-Services-(Major-Group-Number  
 31 ~~76);~~

~~{hh}--Motion-Pictures-{Major-Group-Number-78};~~  
~~{ii}--Amusement-and-Recreation-Services,-except-Motion~~  
~~Pictures-{Major-Group-Number-79};~~  
~~{jj}--Health-Services-{Major-Group-Number-80};~~  
~~{kk}--Legal-Services-{Major-Group-Number-81};~~  
~~{ll}--Educational-Services-{Major-Group-Number-82};~~  
~~{mm}--Social-Services-{Major-Group-Number-83};~~  
~~{nn}--Museums,-Art-Galleries,-Botanical-and-Zoological~~  
~~Gardens-{Major-Group-Number-84};~~  
~~{oo}--Membership-Organizations-{Major-Group-Number-86};~~  
~~{pp}--Miscellaneous-Services-{Major-Group-Number-89};~~  
~~{qq}--Legislative,-Judicial,-Administrative-and~~  
~~Regulatory-Activities-of-Federal,-State,-Local-and~~  
~~International-Governments-{Major-Group-Numbers-91,-92,-93,-94,-~~  
~~95,-96,-and-97};~~  
~~In-addition,-the-terms-shall-include-the-services-of-any~~  
~~independent-broker-of-tangible-personal-property;~~

{18}{23} "Special fuel" means any liquid product, gas  
product, or combination thereof used in an internal combustion  
engine or motor to propel any form of vehicle, machine, or  
mechanical contrivance. This term includes, but is not  
limited to, all forms of fuel commonly or commercially known  
or sold as diesel fuel or kerosene. However, the term  
"special fuel" does not include butane gas, propane gas, or  
any other form of liquefied petroleum gas or compressed  
natural gas.

~~{24}--"SIC" means those classifications contained in~~  
~~the-Standard-Industrial-Classification-Manual,-1972,-as~~  
~~published-by-the-Office-of-Management-and-Budget,-Executive~~



1 ~~Office-of-the-President-and-as-amended-in-the-1977~~

2 Supplement:

3 (19)+25 "Storage" means and includes any keeping or  
4 retention in this state of tangible personal property for use  
5 or consumption in this state or for any purpose other than  
6 sale at retail in the regular course of business.

7 (20)+26 "Tangible personal property" means and  
8 includes personal property which may be seen, weighed,  
9 measured, or touched or is in any manner perceptible to the  
10 senses, including electric power or energy, boats, motor  
11 vehicles and mobile homes as defined in s. 320.01(1) and (2),  
12 aircraft as defined in s. 330.27, and all other types of  
13 vehicles. The term "tangible personal property" does not  
14 include stocks, bonds, notes, insurance, or other obligations  
15 or securities; intangibles as defined by the intangible tax  
16 law of the state; pari-mutuel tickets sold or issued under the  
17 racing laws of the state; ~~or-factory-built-buildings-during~~  
18 ~~construction-or-thereafter.~~

19 (21)+27 "Use" means and includes the exercise of any  
20 right or power over tangible personal property incident to the  
21 ownership thereof, or interest therein, except that it does  
22 not include the sale at retail of that property in the regular  
23 course of business. ~~"Use"-also-means-the-consumption-or~~  
24 ~~enjoyment-of-the-benefit-of-services.~~

25 (22)+28 The term "use tax" referred to in this  
26 chapter includes the use, the consumption, the distribution,  
27 and the storage as herein defined ~~of-tangible-personal~~  
28 ~~property-or-services.~~

29 Section 2. Effective February 1, 1988, section 212.03,  
30 Florida Statutes, is amended to read:

1           212.03 Transient rentals tax; rate, procedure,  
2 enforcement, exemptions.--

3           (1) It is hereby declared to be the legislative intent  
4 that every person is exercising a taxable privilege who  
5 engages in the business of renting, leasing, or letting any  
6 living quarters or sleeping or housekeeping accommodations in,  
7 from, or a part of, or in connection with any hotel, apartment  
8 house, roominghouse, or tourist or trailer camp For the  
9 exercise of such privilege, a tax is hereby levied in an  
10 amount equal to 6 5 percent of and on the total rental charged  
11 for such living quarters or sleeping or housekeeping  
12 accommodations by the person charging or collecting the  
13 rental. Such tax shall apply to hotels, apartment houses,  
14 roominghouses, or tourist or trailer camps whether or not  
15 there is in connection with any of the same any dining rooms,  
16 cafes, or other places where meals or lunches are sold or  
17 served to guests.

18           (2) The tax provided for herein shall be in addition  
19 to the total amount of the rental, shall be charged by the  
20 lessor or person receiving the rent in and by said rental  
21 arrangement to the lessee or person paying the rental, and  
22 shall be due and payable at the time of the receipt of such  
23 rental payment by the lessor or person, as defined in this  
24 chapter, who receives said rental or payment. The owner,  
25 lessor, or person receiving the rent shall remit the tax to  
26 the department at the times and in the manner hereinafter  
27 provided for dealers to remit taxes under this chapter. The  
28 same duties imposed by this chapter upon dealers in tangible  
29 personal property respecting the collection and remission of  
30 the tax; the making of returns; the keeping of books, records,  
31 and accounts; and the compliance with the rules and

1 regulations of the department in the administration of this  
2 chapter shall apply to and be binding upon all persons who  
3 manage or operate hotels, apartment houses, roominghouses,  
4 tourist and trailer camps, and the rental of condominium  
5 units, and to all persons who collect or receive such rents on  
6 behalf of such owner or lessor taxable under this chapter.

7 (3) When rentals are received by way of property,  
8 goods, wares, merchandise, services, or other things of value,  
9 the tax shall be at the rate of 6 5 percent of the value of  
10 the property, goods, wares, merchandise, services, or other  
11 things of value.

12 (4) The tax levied by this section shall not apply to,  
13 be imposed upon, or collected from any person who shall have  
14 entered into a bona fide written lease for longer than 6  
15 months in duration for continuous residence at any one hotel,  
16 apartment house, roominghouse, tourist or trailer camp, or  
17 condominium, or to any person who shall reside continuously  
18 longer than 6 months at any one hotel, apartment house,  
19 roominghouse, tourist or trailer camp, or condominium and  
20 shall have paid the tax levied by this section for 6 months of  
21 residence in any one hotel, roominghouse, apartment house,  
22 tourist or trailer camp, or condominium. Notwithstanding  
23 other provisions of this chapter, no tax shall be imposed upon  
24 rooms provided guests when there is no consideration involved  
25 between the guest and the public lodging establishment.  
26 Further, any person who, on the effective date of this act,  
27 has resided continuously for 6 months at any one hotel,  
28 apartment house, roominghouse, tourist or trailer camp, or  
29 condominium, or, if less than 6 months, has paid the tax  
30 imposed herein until he shall have resided continuously for 6  
31 months, shall thereafter be exempt, so long as such person

1 shall continuously reside at such location. The Department of  
2 Revenue shall have the power to reform the rental contract for  
3 the purposes of this chapter if the rental payments are  
4 collected in other than equal daily, weekly, or monthly  
5 amounts so as to reflect the actual consideration to be paid  
6 in the future for the right of occupancy during the first 6  
7 months.

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

12 (6) It is the legislative intent that every person is  
13 engaging in a taxable privilege who leases or rents parking or  
14 storage spaces for motor vehicles in parking lots or garages,  
15 who leases or rents docking or storage spaces for boats in  
16 boat docks or marinas, or who leases or rents tie-down or  
17 storage space for aircraft at airports. For the exercise of  
18 this privilege, a tax is hereby levied at the rate of 6 5  
19 percent on the total rental charged.

20 (7)(a) Full-time students enrolled in an institution  
21 offering postsecondary education and military personnel  
22 currently on active duty who reside in the facilities  
23 described in subsection (1) shall be exempt from the tax  
24 imposed by this section. The department shall be empowered to  
25 determine what shall be deemed acceptable proof of full-time  
26 enrollment. The exemption contained in this subsection shall  
27 apply irrespective of any other provisions of this section.  
28 The tax levied by this section shall not apply to or be  
29 imposed upon or collected on the basis of rentals to any  
30 person who resides in any building or group of buildings  
31

1 intended primarily for lease or rent to persons as their  
2 permanent or principal place of residence.

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

8 (c) The rental of facilities, including trailer lots,  
9 which are intended primarily for rental as a principal or  
10 permanent place of residence is exempt from the tax imposed by  
11 this chapter. The rental of facilities that primarily serve  
12 transient guests is not exempt by this subsection. In the  
13 application of this law, or in making any determination  
14 against the exemption, the department shall consider and be  
15 guided by, among other things:

16 1. Whether or not a facility caters primarily to the  
17 traveling public;

18 2. Whether less than half of the total rental units  
19 available are occupied by tenants who have a continuous  
20 residence in excess of 3 months; and

21 3. The nature of the advertising of the facility  
22 involved.

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

1 Section 3. Section 212.031, Florida Statutes, as  
2 amended by sections 8 and 25 of chapter 87-6 and section 10 of  
3 chapter 87-101, Laws of Florida, is amended to read:

4 212.031 Lease or rental of or license in real  
5 property.--

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

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

12 2. Used exclusively as dwelling units.

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

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

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

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

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

1 passengers or property onto or from aircraft or for fueling  
2 aircraft.

3 8. Property used at a port authority, as defined in s.  
4 315.02(2), exclusively for the purpose of oceangoing vessels  
5 or tugs docking, or such vessels mooring on property used by a  
6 port authority for the purpose of loading or unloading  
7 passengers or cargo onto or from such a vessel, or property  
8 used at a port authority for fueling such vessels.

9 9. Property used as an integral part of the  
10 performance of qualified production services ~~as defined in s.~~  
11 ~~212-0592(18)(a)~~. As used in this subparagraph, the term  
12 "qualified production services" means any activity or service  
13 performed directly in connection with the production of a  
14 qualified motion picture, as defined in s. 212.06(1)(b), and  
15 includes:

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

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

6           c. Property management services directly related to  
7 property used in connection with the services described in  
8 sub-subparagraphs a. and b.

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

22           (b) When a lease involves multiple use of real  
23 property wherein a part of the real property is subject to the  
24 tax herein, and a part of the property would be excluded from  
25 the tax under subparagraphs 1., 2., or 3. of paragraph (a),  
26 the department shall determine, from the lease or license and  
27 such other information as may be available, that portion of  
28 the total rental charge which is exempt from the tax imposed  
29 by this section.

30           (c) For the exercise of such privilege, a tax is  
31 levied in an amount equal to 5 percent of and on the total



1 | rent or license fee charged for such real property by the  
2 | person charging or collecting the rental or license fee.

3 |         (d) When the rental or license fee of any such real  
4 | property is paid by way of property, goods, wares,  
5 | merchandise, services, or other thing of value, the tax shall  
6 | be at the rate of 5 percent of the value of the property,  
7 | goods, wares, merchandise, services, or other thing of value

8 |         (2)(a) The tenant or person actually occupying, using,  
9 | or entitled to the use of any property from which the rental  
10 | or license fee is subject to taxation under this section shall  
11 | pay the tax to his immediate landlord or other person granting  
12 | the right to such tenant or person to occupy or use such real  
13 | property.

14 |         (b) It is the further intent of this Legislature that  
15 | only one tax be collected on the rental or license fee payable  
16 | for the occupancy or use of any such property, that the tax so  
17 | collected shall not be pyramided by a progression of  
18 | transactions, and that the amount of the tax due the state  
19 | shall not be decreased by any such progression of  
20 | transactions.

21 |         (3) The tax imposed by this section shall be in  
22 | addition to the total amount of the rental or license fee,  
23 | shall be charged by the lessor or person receiving the rent or  
24 | payment in and by a rental or license fee arrangement with the  
25 | lessee or person paying the rental or license fee, and shall  
26 | be due and payable at the time of the receipt of such rental  
27 | or license fee payment by the lessor or other person who  
28 | receives the rental or payment. The owner, lessor, or person  
29 | receiving the rent or license fee shall remit the tax to the  
30 | department at the times and in the manner hereinafter provided  
31 | for dealers to remit taxes under this chapter. The same

1 | duties imposed by this chapter upon dealers in tangible  
2 | personal property respecting the collection and remission of  
3 | the tax; the making of returns; the keeping of books, records,  
4 | and accounts; and the compliance with the rules and  
5 | regulations of the department in the administration of this  
6 | chapter shall apply to and be binding upon all persons who  
7 | manage any leases or operate real property, hotels, apartment  
8 | houses, roominghouses, or tourist and trailer camps and all  
9 | persons who collect or receive rents or license fees taxable  
10 | under this chapter on behalf of owners or lessors.

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

15 |         (5)+6 When space is subleased to a convention or  
16 | industry trade show in a convention hall, exhibition hall, or  
17 | auditorium, whether publicly or privately owned, the sponsor  
18 | who holds the prime lease is subject to tax on the prime lease  
19 | and the sublease is exempt.

20 |         (6)+7 The lease or rental of land or a hall or other  
21 | facilities by a fair association subject to the provisions of  
22 | chapter 616 to a show promoter or prime operator of a carnival  
23 | or midway attraction is exempt from the tax imposed by this  
24 | section; however, the sublease of land or a hall or other  
25 | facilities by the show promoter or prime operator is not  
26 | exempt from the provisions of this section.

27 |         Section 4. Effective February 1, 1988, paragraphs (c)  
28 | and (d) of subsection (1) of section 212.031, Florida  
29 | Statutes, as amended by sections 8 and 25 of chapter 87-6 and  
30 | section 10 of chapter 87-101, Laws of Florida, are amended to  
31 | read

1           212.031 Lease or rental of or license in real  
2 property.--

3           (1)

4           (c) For the exercise of such privilege, a tax is  
5 levied in an amount equal to 6 5 percent of and on the total  
6 rent or license fee charged for such real property by the  
7 person charging or collecting the rental or license fee.

8           (d) When the rental or license fee of any such real  
9 property is paid by way of property, goods, wares,  
10 merchandise, services, or other thing of value, the tax shall  
11 be at the rate of 6 5 percent of the value of the property,  
12 goods, wares, merchandise, services, or other thing of value.

13           Section 5. Section 212.04, Florida Statutes, as  
14 amended by sections 9 and 25 of chapter 87-6 and section 11 of  
15 chapter 87-101, Laws of Florida, is amended to read:

16           212.04 Admissions tax; rate, procedure, enforcement.--

17           (1)(a) It is hereby declared to be the legislative  
18 intent that every person is exercising a taxable privilege who  
19 sells or receives anything of value by way of admissions.

20           (b) For the exercise of such privilege, a tax is  
21 levied at the rate of 5 percent of sales price, or the actual  
22 value received from such admissions, which 5 percent shall be  
23 added to and collected with all such admissions from the  
24 purchaser thereof; and such tax shall be paid for the exercise  
25 of the privilege as defined in the preceding paragraph. Each  
26 ticket shall show on its face the actual sales price of  
27 admission, and the tax shall be computed and collected on the  
28 basis of each such admission price. The sale price or actual  
29 value of admission shall, for the purpose of this chapter, be  
30 that price remaining after deduction of federal taxes, if any,  
31 imposed upon such admission, and the rate of tax on each

1 admission shall be according to the brackets established by s.  
2 212.12(9)(10).

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

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

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

29 4. No tax shall be levied on admissions to the  
30 National Football League championship game.  
31

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

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

5           (c) The taxes imposed by this section shall be  
6 collected in addition to the admission tax collected pursuant  
7 to s. 550.09, but the amount collected under s. 550.09 shall  
8 not be subject to taxation under this chapter.

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

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

1 | the amount of tax to be paid by each such person and to  
2 | enforce the payment thereof as are hereby granted the  
3 | department for the discovery and enforcement of the payment of  
4 | taxes hereinafter levied on the sales of tangible personal  
5 | property. The failure of any person to pay such taxes before  
6 | the 21st day of the succeeding month after the taxes are  
7 | collected shall render such person liable to the same  
8 | penalties that are hereafter imposed upon such person for  
9 | being delinquent in the payment of taxes imposed upon the  
10 | sales of tangible personal property; and the failure of any  
11 | person to render returns and to pay taxes as prescribed herein  
12 | shall render such person subject to the same penalties, by way  
13 | of charges for delinquencies, at the rate of 5 percent per  
14 | month for a total amount of tax delinquent up to a total of 25  
15 | percent of such tax, and at the rate of 50-percent penalty for  
16 | attempted evasion of payment of any such tax or for any  
17 | attempt to file false or misleading returns that are required  
18 | to be filed by the department.

19 |       (5) All<sup>\*</sup> of the provisions of this chapter relating to  
20 | collection, investigation, discovery, and aids to collection  
21 | of taxes upon sales of tangible personal property shall  
22 | likewise apply to all privileges described or referred to in  
23 | this section; and the obligations imposed in this chapter upon  
24 | retailers are hereby imposed upon the seller of such  
25 | admissions. When tickets or admissions are sold and not used  
26 | but returned and credited by the seller, the seller may apply  
27 | to the department for a credit allowance for such returned  
28 | tickets or admissions if advance payments have been made by  
29 | the buyer and have been returned by the seller, upon such form  
30 | and in such manner as the department may from time to time  
31 | prescribe; and the department may, upon obtaining satisfactory

1 proof of the refunds on the part of the seller, credit the  
2 seller for taxes paid upon admissions that have been returned  
3 unused to the purchaser of those admissions. The seller of  
4 admissions, upon the payment of the taxes before they become  
5 delinquent and the rendering of the returns in accordance with  
6 the requirement of the department and as provided in this law,  
7 shall be entitled to a discount of 3 percent of the amount of  
8 taxes upon the payment thereof before such taxes become  
9 delinquent, in the same manner as permitted the sellers of  
10 tangible personal property in this chapter. However, if the  
11 amount of the tax due and remitted to the department for the  
12 reporting period exceeds \$1,000, the 3-percent discount shall  
13 be reduced to 1 percent for all amounts in excess of \$1,000.

14 (6) Admission taxes required to be paid by this  
15 chapter shall be paid to the department by the owner or the  
16 collector of such admission. When any place of business is  
17 sold or transferred by any owner, wherein such admission taxes  
18 have accrued or are accruing, such owner shall be obligated  
19 before such sale becomes effective to notify the department of  
20 such pending sale and secure from the department a certificate  
21 of registration as prescribed in this section, and the  
22 purchaser shall become obligated to withhold from the sales  
23 price such sum of money as will safely be required to  
24 discharge all accrued admission taxes upon such places of  
25 business; and, upon the failure of any such purchaser to  
26 withhold, he shall become obligated to pay all accrued  
27 admission taxes, and the same shall become a lien upon all of  
28 the purchaser's assets until the same have been paid and fully  
29 discharged.

30 (7) The taxes under this section shall become a lien  
31 upon the assets of the owner of any business exercising the

1 | privilege of selling admissions, and the collection of such  
2 | admissions, as defined hereunder, and shall remain a lien  
3 | until fully paid and discharged. Such lien may be enforced in  
4 | the manner provided hereinafter for the enforcement of the  
5 | collection of taxes imposed upon the sales of tangible  
6 | personal property.

7 |         (8) The word "owners" as used in this chapter shall be  
8 | taken to include and mean all persons obligated to collect and  
9 | pay over to the state the tax imposed under this section,  
10 | inclusive of all holders of certificates of registration  
11 | issued as herein provided. Wherever the word "owner" or  
12 | "owners" is used herein, it shall be taken to mean and include  
13 | all persons liable for such admission taxes unless it appears  
14 | from the context that the words are descriptive of property  
15 | owners.

16 |         Section 6. Effective February 1, 1988, paragraph (b)  
17 | of subsection (1) of section 212.04, Florida Statutes, as  
18 | amended by sections 9 and 25 of chapter 87-6 and section 11 of  
19 | chapter 87-101, Laws of Florida, is amended to read:

20 |         212.04 Admissions tax; rate, procedure, enforcement.--

21 |         (1)

22 |         (b) For the exercise of such privilege, a tax is  
23 | levied at the rate of 6 5 percent of sales price, or the  
24 | actual value received from such admissions, which 6 5 percent  
25 | shall be added to and collected with all such admissions from  
26 | the purchaser thereof; and such tax shall be paid for the  
27 | exercise of the privilege as defined in the preceding  
28 | paragraph. Each ticket shall show on its face the actual  
29 | sales price of admission, and the tax shall be computed and  
30 | collected on the basis of each such admission price. The sale  
31 | price or actual value of admission shall, for the purpose of



1 this chapter, be that price remaining after deduction of  
2 federal taxes, if any, imposed upon such admission; and the  
3 rate of tax on each admission shall be according to the  
4 brackets established by s. 212.12(9)~~(10)~~.

5 Section 7. Section 212.05, Florida Statutes, as  
6 amended by section 10 of chapter 87-6, sections 2 and 9 of  
7 chapter 87-99, section 12 of chapter 87-101, and section 7 of  
8 chapter 87-402, Laws of Florida, is amended to read:

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

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

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

27 b. Each occasional or isolated sale of an aircraft,  
28 boat, mobile home, or motor vehicle of a class or type which  
29 is required to be registered, licensed, titled, or documented  
30 in this state or by the United States Government shall be  
31 subject to tax at the rate provided in this paragraph. The

1 department shall, by rule, adopt the NADA Official Used Car  
2 Guide as the reference price list for any used motor vehicle  
3 which is required to be licensed pursuant to s. 320.08(1),  
4 (2), (3)(a), (b), (c), or (f), or (9). If any party to an  
5 occasional or isolated sale of such a vehicle reports to the  
6 tax collector a sales price which is less than 80 percent of  
7 the average loan price for the specified model and year of  
8 such vehicle as listed in the most recent reference price  
9 list, the tax levied under this paragraph shall be computed by  
10 the department on such average loan price unless the parties  
11 to the sale have provided to the tax collector an affidavit  
12 signed by each party, or other substantial proof, stating the  
13 actual sales price. Any party to such sale who reports a  
14 sales price less than the actual sales price is guilty of a  
15 misdemeanor of the second degree, punishable as provided in s.  
16 775.083. The department shall collect or attempt to collect  
17 from such party any delinquent sales taxes. In addition, such  
18 party shall pay any tax due and any penalty and interest  
19 assessed, plus a penalty equal to twice the amount of the  
20 additional tax owed. Notwithstanding any other provision of  
21 law, the Department of Revenue may waive or compromise any  
22 penalty imposed after July 1, 1985, pursuant to this  
23 subparagraph.

24           2. This paragraph does not apply to the sale of a boat  
25 or airplane by or through a registered dealer under this  
26 chapter to a purchaser who removes such boat or airplane from  
27 this state within 10 days after the date of purchase or, when  
28 the boat or airplane is repaired or altered, within 10 days  
29 after completion of such repairs or alterations. In no event  
30 shall the boat or airplane remain in this state more than 90  
31

1 days after the date of purchase. This exemption shall not be  
2 allowed unless the seller:

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

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

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

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

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

26 (c) At the rate of 5 percent of the gross proceeds  
27 derived from the lease or rental of tangible personal  
28 property, as defined herein, except the lease or rental of a  
29 commercial motor vehicle as defined in s. 316.003(67)(a) to  
30 one lessee or rentee for a period of not less than 12 months  
31 when tax was paid on the acquisition of such vehicle by the

1 lessor, when the lease or rental of such property is an  
2 established business or part of an established business or the  
3 same is incidental or germane to such business.

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

8 (e)1. At the rate of 5 percent on charges for all  
9 telegraph messages and long distance telephone calls beginning  
10 and terminating in this state; on charges for  
11 telecommunication service as defined in s. 203.012 and for  
12 those services described in s. 203.012(2)(a); on recurring  
13 charges to regular subscribers for wired television service;  
14 on all charges for the installation of telecommunication,  
15 wired television, and telegraphic equipment; and on all  
16 charges for electrical power or energy. For purposes of this  
17 part, the term "telecommunication service" does not include  
18 local service provided through a pay telephone. The  
19 provisions of s. 212.17(3), regarding credit for tax paid on  
20 charges subsequently found to be worthless, shall be equally  
21 applicable to any tax paid under the provisions of this  
22 section on charges for telecommunication or telegraph services  
23 or electric power subsequently found to be uncollectible. The  
24 word "charges" in this paragraph does not include any excise  
25 or similar tax levied by the Federal Government, any political  
26 subdivision of the state, or any municipality upon the  
27 purchase or sale of telecommunication, wired television, or  
28 telegraph service or electric power, which tax is collected by  
29 the seller from the purchaser.

30 2. Telegraph messages and telecommunication services  
31 which originate or terminate in this state, other than

1 interstate private communication services, and are billed to a  
2 customer, telephone number, or device located within this  
3 state are taxable under this paragraph. Interstate private  
4 communication services are taxable under this paragraph as  
5 follows:

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

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

11 c. The portion of the interstate interoffice channel  
12 mileage charge as determined by multiplying said charge times  
13 a fraction, the numerator of which is the air miles between  
14 the last channel termination point in this state and the  
15 vertical and horizontal coordinates, 7856 and 1756,  
16 respectively, and the denominator of which is the air miles  
17 between the last channel termination point in this state and  
18 the first channel termination point outside this state. The  
19 denominator of this fraction shall be adjusted, if necessary,  
20 by adding the numerator of said fraction to similarly  
21 determined air miles in the state in which the other channel  
22 termination point is located, so that the summation of the  
23 apportionment factor for this state and the apportionment  
24 factor for the other state is not greater than one, to ensure  
25 that no more than 100 percent of the interstate interoffice  
26 channel mileage charge can be taxed by this state and another  
27 state.

28 3 The tax imposed pursuant to this paragraph shall  
29 not exceed \$50,000 per calendar year on charges to any person  
30 for interstate telecommunications services defined in s.  
31 203.012(4) and (7)(b), if the majority of such services used

1 | by such person are for communications originating outside of  
2 | this state and terminating in this state. This exemption  
3 | shall only be granted to holders of a direct pay permit issued  
4 | pursuant to this subparagraph. No refunds shall be given for  
5 | taxes paid prior to receiving a direct pay permit. Upon  
6 | application, the department may issue a direct pay permit to  
7 | the purchaser of telecommunications services authorizing such  
8 | purchaser to pay tax on such services directly to the  
9 | department. Any vendor furnishing telecommunications services  
10 | to the holder of a valid direct pay permit shall be relieved  
11 | of the obligation to collect and remit the tax on such  
12 | service. Tax payments and returns pursuant to a direct pay  
13 | permit shall be monthly. For purposes of this subparagraph,  
14 | the term "person" shall be limited to a single legal entity  
15 | and shall not be construed as meaning a group or combination  
16 | of affiliated entities or entities controlled by one person or  
17 | group of persons. For purposes of this subparagraph, for  
18 | calendar year 1986, the term "calendar year" means the last 6  
19 | months of 1986.

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

27 |       (g) At the rate of 5 percent of the price, as  
28 | determined pursuant to part II of this chapter, of each gallon  
29 | of motor fuel or special fuel taxable pursuant to that part,  
30 | except that motor fuel and special fuel expressly taxable  
31 |

1 under this part shall be taxed as provided in paragraphs (a)  
2 and (b).

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

29 (i) At the rate of 5 percent on the retail price of  
30 newspapers and magazines sold or used in Florida.  
31

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

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

8           (4) The tax imposed pursuant to this part shall be due  
9 and payable according to the brackets set forth in s. 212.12.

10           Section 8. Effective February 1, 1988, section 212 05,  
11 Florida Statutes, as amended by section 10 of chapter 87-6,  
12 sections 2 and 9 of chapter 87-99, section 12 of chapter 87-  
13 101, and section 7 of chapter 87-402, Laws of Florida, is  
14 amended 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, including  
19 the business of making mail order sales, or who rents or  
20 furnishes any of the things or services taxable under this  
21 chapter section, or who stores for use or consumption in this  
22 state any item or article of tangible personal property as  
23 defined herein and who leases or rents such property within  
24 the state.

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

28           (a)1.a. At the rate of 6 5 percent of the sales price  
29 of each item or article of tangible personal property when  
30 sold at retail in this state, computed on each taxable sale  
31



1 for the purpose of remitting the amount of tax due the state,  
2 and including each and every retail sale.

3           b. Each occasional or isolated sale of an aircraft,  
4 boat, mobile home, or motor vehicle of a class or type which  
5 is required to be registered, licensed, titled, or documented  
6 in this state or by the United States Government shall be  
7 subject to tax at the rate provided in this paragraph. The  
8 department shall, by rule, adopt the NADA Official Used Car  
9 Guide as the reference price list for any used motor vehicle  
10 which is required to be licensed pursuant to s. 320.08(1),  
11 (2), (3)(a), (b), (c), or (f), or (9). If any party to an  
12 occasional or isolated sale of such a vehicle reports to the  
13 tax collector a sales price which is less than 80 percent of  
14 the average loan price for the specified model and year of  
15 such vehicle as listed in the most recent reference price  
16 list, the tax levied under this paragraph shall be computed by  
17 the department on such average loan price unless the parties  
18 to the sale have provided to the tax collector an affidavit  
19 signed by each party, or other substantial proof, stating the  
20 actual sales price. Any party to such sale who reports a  
21 sales price less than the actual sales price is guilty of a  
22 misdemeanor of the second degree, punishable as provided in s  
23 775.083. The department shall collect or attempt to collect  
24 from such party any delinquent sales taxes. In addition, such  
25 party shall pay any tax due and any penalty and interest  
26 assessed, plus a penalty equal to twice the amount of the  
27 additional tax owed. Notwithstanding any other provision of  
28 law, the Department of Revenue may waive or compromise any  
29 penalty imposed after July 1, 1985, pursuant to this  
30 subparagraph.

1           2. This paragraph does not apply to the sale of a boat  
2 or airplane by or through a registered dealer under this  
3 chapter to a purchaser who removes such boat or airplane from  
4 this state within 10 days after the date of purchase or, when  
5 the boat or airplane is repaired or altered, within 10 days  
6 after completion of such repairs or alterations. In no event  
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  
9 allowed unless the seller:

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

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

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

17  
18 In the event the purchaser fails to remove the boat or  
19 airplane from this state within 10 days after purchase or,  
20 when the boat or airplane is repaired or altered, within 10  
21 days after completion of such repairs or alterations, or  
22 permits the boat or airplane to return to this state within 6  
23 months from the date of departure, the purchaser shall be  
24 liable for use tax on the cost price of the boat or airplane  
25 and, in addition thereto, payment of a penalty to the  
26 Department of Revenue equal to the tax payable. This penalty  
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.

29           (b) At the rate of 6 5 percent of the cost price of  
30 each item or article of tangible personal property when the  
31

1 same is not sold but is used, consumed, distributed, or stored  
2 for use or consumption in this state.

3 (c) At the rate of 6 5 percent of the gross proceeds  
4 derived from the lease or rental of tangible personal  
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  
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  
9 lessor, when the lease or rental of such property is an  
10 established business or part of an established business or the  
11 same is incidental or germane to such business.

12 (d) At the rate of 6 5 percent of the lease or rental  
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  
15 personal property.

16 (e)1. At the rate of 6 5 percent on charges for all  
17 telegraph messages and long distance telephone calls beginning  
18 and terminating in this state; on charges for  
19 telecommunication service as defined in s. 203.012 and for  
20 those services described in s. 203.012(2)(a); on recurring  
21 charges to regular subscribers for wired television service;  
22 on all charges for the installation of telecommunication,  
23 wired television, and telegraphic equipment; and on all  
24 charges for electrical power or energy. For purposes of this  
25 part, the term "telecommunication service" does not include  
26 local service provided through a pay telephone. The  
27 provisions of s. 212.17(3), regarding credit for tax paid on  
28 charges subsequently found to be worthless, shall be equally  
29 applicable to any tax paid under the provisions of this  
30 section on charges for telecommunication or telegraph services  
31 or electric power subsequently found to be uncollectible. The

1 word "charges" in this paragraph does not include any excise  
2 or similar tax levied by the Federal Government, any political  
3 subdivision of the state, or any municipality upon the  
4 purchase or sale of telecommunication, wired television, or  
5 telegraph service or electric power, which tax is collected by  
6 the seller from the purchaser.

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

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

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

19           c. The portion of the interstate interoffice channel  
20 mileage charge as determined by multiplying said charge times  
21 a fraction, the numerator of which is the air miles between  
22 the last channel termination point in this state and the  
23 vertical and horizontal coordinates, 7856 and 1756,  
24 respectively, and the denominator of which is the air miles  
25 between the last channel termination point in this state and  
26 the first channel termination point outside this state. The  
27 denominator of this fraction shall be adjusted, if necessary,  
28 by adding the numerator of said fraction to similarly  
29 determined air miles in the state in which the other channel  
30 termination point is located, so that the summation of the  
31 apportionment factor for this state and the apportionment

1 factor for the other state is not greater than one, to ensure  
2 that no more than 100 percent of the interstate interoffice  
3 channel mileage charge can be taxed by this state and another  
4 state.

5           3. The tax imposed pursuant to this paragraph shall  
6 not exceed \$50,000 per calendar year on charges to any person  
7 for interstate telecommunications services defined in s.  
8 203.012(4) and (7)(b), if the majority of such services used  
9 by such person are for communications originating outside of  
10 this state and terminating in this state. This exemption  
11 shall only be granted to holders of a direct pay permit issued  
12 pursuant to this subparagraph. No refunds shall be given for  
13 taxes paid prior to receiving a direct pay permit. Upon  
14 application, the department may issue a direct pay permit to  
15 the purchaser of telecommunications services authorizing such  
16 purchaser to pay tax on such services directly to the  
17 department. Any vendor furnishing telecommunications services  
18 to the holder of a valid direct pay permit shall be relieved  
19 of the obligation to collect and remit the tax on such  
20 service. Tax payments and returns pursuant to a direct pay  
21 permit shall be monthly. For purposes of this subparagraph,  
22 the term "person" shall be limited to a single legal entity  
23 and shall not be construed as meaning a group or combination  
24 of affiliated entities or entities controlled by one person or  
25 group of persons. For purposes of this subparagraph, for  
26 calendar year 1986, the term "calendar year" means the last 6  
27 months of 1986.

28           (f) At the rate of 6 5 percent on the sale, rental,  
29 use, consumption, or storage for use in this state of machines  
30 and equipment and parts and accessories therefor used in  
31 manufacturing, processing, compounding, producing, mining, or

1 quarrying personal property for sale or to be used in  
2 furnishing communications, transportation, or public utility  
3 services.

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

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

1 | system described in this paragraph is located in more than one  
2 | state, the actual cost of such system for purposes of this  
3 | paragraph shall be the actual cost of the system's equipment  
4 | located in Florida.

5 |         (i) At the rate of 6 5 percent on the retail price of  
6 | newspapers and magazines sold or used in Florida.

7 |         (2) The tax shall be collected by the dealer, as  
8 | defined herein, and remitted by him to the state at the time  
9 | and in the manner as hereinafter provided.

10 |         (3) The tax so levied is in addition to all other  
11 | taxes, whether levied in the form of excise, license, or  
12 | privilege taxes, and in addition to all other fees and taxes  
13 | levied.

14 |         (4) The tax imposed pursuant to this part shall be due  
15 | and payable according to the brackets set forth in s. 212.12.

16 |         Section 9. Effective July 1, 1988, paragraph (a) of  
17 | subsection (1) of section 212.05, Florida Statutes, as amended  
18 | by section 83 of chapter 87-6 and section 52 of chapter 87-  
19 | 101, Laws of Florida, is amended to read:

20 |         212.05 Sales, storage, use tax.--It is hereby declared  
21 | to be the legislative intent that every person is exercising a  
22 | taxable privilege who engages in the business of selling  
23 | tangible personal property at retail in this state, including  
24 | the business of making mail order sales, or who rents or  
25 | furnishes any of the things or services taxable under this  
26 | chapter section, or who stores for use or consumption in this  
27 | state any item or article of tangible personal property as  
28 | defined herein and who leases or rents such property within  
29 | the state.

30  
31

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

4 (a)1.a. At the rate of 6 5 percent of the sales price  
5 of each item or article of tangible personal property when  
6 sold at retail in this state, computed on each taxable sale  
7 for the purpose of remitting the amount of tax due the state,  
8 and including each and every retail sale.

9 b. Each occasional or isolated sale of an aircraft,  
10 boat, mobile home, or motor vehicle of a class or type which  
11 is required to be registered, licensed, titled, or documented  
12 in this state or by the United States Government shall be  
13 subject to tax at the rate provided in this paragraph. The  
14 department shall, by rule, adopt the NADA Official Used Car  
15 Guide as the reference price list for any used motor vehicle  
16 which is required to be licensed pursuant to s. 320.08(1),  
17 (2), (3)(a), (b), (c), or (f), or (9). If any party to an  
18 occasional or isolated sale of such a vehicle reports to the  
19 tax collector a sales price which is less than 80 percent of  
20 the average loan price for the specified model and year of  
21 such vehicle as listed in the most recent reference price  
22 list, the tax levied under this paragraph shall be computed by  
23 the department on such average loan price unless the parties  
24 to the sale have provided to the tax collector an affidavit  
25 signed by each party, or other substantial proof, stating the  
26 actual sales price. Any party to such sale who reports a  
27 sales price less than the actual sales price is guilty of a  
28 misdemeanor of the first degree, punishable as provided in s.  
29 775.082, s. 775.083, or s. 775.084. The department shall  
30 collect or attempt to collect from such party any delinquent  
31 sales taxes. In addition, such party shall pay any tax due



1 | and any penalty and interest assessed, plus a penalty equal to  
2 | twice the amount of the additional tax owed. Notwithstanding  
3 | any other provision of law, the Department of Revenue may  
4 | waive or compromise any penalty imposed after July 1, 1985,  
5 | pursuant to this subparagraph sub-subparagraph. For purposes  
6 | ~~of this sub-subparagraph, an occasional or isolated sale is~~  
7 | ~~one in which the seller is not a motor vehicle dealer as~~  
8 | ~~defined in S-328+27(i)(c).~~

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

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

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

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

25 |  
26 | In the event the purchaser fails to remove the boat or  
27 | airplane from this state within 10 days after purchase or,  
28 | when the boat or airplane is repaired or altered, within 10  
29 | days after completion of such repairs or alterations, or  
30 | permits the boat or airplane to return to this state within 6  
31 | months from the date of departure, the purchaser shall be

1 liable for use tax on the cost price of the boat or airplane  
2 and, in addition thereto, payment of a penalty to the  
3 Department of Revenue equal to the tax payable. This penalty  
4 shall be in lieu of the penalty imposed by s. 212.12(2) and is  
5 mandatory and shall not be waived by the department.

6 Section 10. Section 212.054, Florida Statutes, as  
7 amended by section 11 of chapter 87-6, Laws of Florida, is  
8 amended to read:

9 212.054 Discretionary sales surtax; limitations,  
10 administration, and collection.--

11 (1) No general excise tax on sales shall be levied by  
12 the governing body of any county unless specifically  
13 authorized in s. 212.055. Any general excise tax on sales  
14 authorized pursuant to said section shall be administered and  
15 collected exclusively as provided in this section.

16 (2)(a) The tax imposed by the governing body of any  
17 county authorized to so levy pursuant to s. 212.055 shall be a  
18 discretionary surtax on all transactions occurring in the  
19 county which transactions are subject to the state tax imposed  
20 on sales, use, rentals, admissions, and other transactions by  
21 this part. The surtax, if levied, shall be computed as the  
22 applicable rate or rates authorized pursuant to s. 212.055  
23 times the any amount of taxable sales and taxable purchases  
24 representing such transactions ~~tax-imposed-by-and-paid-to-the~~  
25 ~~state-pursuant-to-this-part,-except-this-section-and-s-~~  
26 ~~212-055,-and-shall-be-rounded-to-the-nearest-penny.~~

27 (b) However

28 1. The tax on any sales amount above \$5,000 ~~917,000~~ on  
29 any item of tangible personal property and on long distance  
30 telephone service shall not be subject to the surtax.  
31

1           2. In the case of utility, telecommunication, or wired  
2 television services billed on or after the effective date of  
3 any such surtax, the entire amount of the tax for utility,  
4 telecommunication, or wired television services shall be  
5 subject to the surtax. In the case of utility,  
6 telecommunication, or wired television services billed after  
7 the last day the surtax is in effect, the entire amount of the  
8 tax on said items shall not be subject to the surtax.

9           3. In the case of written contracts which are signed  
10 prior to the effective date of any such surtax for the  
11 construction of improvements to real property or for  
12 remodeling of existing structures, the surtax shall be paid by  
13 the contractor responsible for the performance of the  
14 contract. However, the contractor may apply for one refund of  
15 any such surtax paid on materials necessary for the completion  
16 of the contract. Any application for refund shall be made no  
17 later than 15 months following initial imposition of the  
18 surtax in that county. The application for refund shall be in  
19 the manner prescribed by the department by rule. A complete  
20 application shall include proof of the written contract and of  
21 payment of the surtax. The application shall contain a sworn  
22 statement, signed by the applicant or its representative,  
23 attesting to the validity of the application. The department  
24 shall, within 30 days after approval of a complete  
25 application, certify to the county information necessary for  
26 issuance of a refund to the applicant. Counties are hereby  
27 authorized to issue refunds for this purpose and shall set  
28 aside from the proceeds of the surtax a sum sufficient to pay  
29 any refund lawfully due. Any person who fraudulently obtains  
30 or attempts to obtain a refund pursuant to this subparagraph,  
31 in addition to being liable for repayment of any refund

1 | fraudulently obtained plus a mandatory penalty of 100 percent  
2 | of the refund, is guilty of a misdemeanor of the second  
3 | degree, punishable as provided in s. 775.082, s. 775.083, or  
4 | s. 775.084.

5 |         (3) For the purpose of this section, a transaction  
6 | shall be deemed to have occurred in a county imposing the  
7 | surtax when:

8 |         (a) The dealer is located in the county and the sale  
9 | includes tangible personal property ~~or services~~, except as  
10 | otherwise provided herein; provided, that the sale of any  
11 | motor vehicle or mobile home of a class or type which is  
12 | required to be registered in this state or in any other state  
13 | shall be deemed to have occurred only in the county identified  
14 | as the residence address of the purchaser on the registration  
15 | or title document for such property;

16 |         (b) The event for which an admission is charged is  
17 | located in the county;

18 |         (c) The consumer of utility or wired television  
19 | services is located in the county, or the telecommunication  
20 | services are provided to a location within the county,

21 |         (d) The user of any aircraft or ~~boat~~, ~~motor vehicle~~,  
22 | ~~or mobile home~~ of a class or type which is required to be  
23 | registered, licensed, titled, or documented in this state or  
24 | by the United States Government imported into the county for  
25 | use, consumption, distribution, or storage to be used or  
26 | consumed in the county is located in the county; however, it  
27 | shall be presumed that such items used outside the county for  
28 | 6 months or longer before being imported into the county were  
29 | not purchased for use in the county. The provisions of this  
30 | paragraph shall not apply to the use or consumption of such  
31 |

1 items upon which a like tax of equal or greater amount has  
2 been lawfully imposed and paid outside the county;

3 (e) The purchaser of any motor vehicle or mobile home  
4 of a class or type which is required to be registered in this  
5 state is a resident of the taxing county as determined by the  
6 address appearing on or to be reflected on the registration  
7 document for such property;

8 (f) Any motor vehicle or mobile home of a class or  
9 type which is required to be registered in this state is  
10 imported from another state into the taxing county by a user  
11 residing therein for the purpose of use, consumption,  
12 distribution, or storage in the taxing county; however, it  
13 shall be presumed that such items used outside the taxing  
14 county for 6 months or longer before being imported into the  
15 county were not purchased for use in the county;

16 (g)(e) The real property which is leased or rented is  
17 located in the county;

18 (h)(f) The transient rental transaction occurs in the  
19 county;

20 (i)(g) The delivery of any aircraft or boat, ~~motor~~  
21 vehicle, ~~or mobile home~~ of a class or type which is required  
22 to be registered, licensed, titled, or documented in this  
23 state or by the United States Government is to a location in  
24 the county; however, the provisions of this paragraph shall  
25 not apply to the use or consumption of such items upon which a  
26 like tax of equal or greater amount has been lawfully imposed  
27 and paid outside the county; or

28 (j)(h) The dealer owing a use tax on purchases or  
29 leases is located in the county.

30 (4) The department shall administer, collect, and  
31 enforce the tax authorized under s. 212.055 pursuant to the

1 same procedures used in the administration, collection, and  
2 enforcement of the general state sales tax imposed under the  
3 provisions of this chapter, except as provided in this  
4 section. The provisions of this chapter regarding interest  
5 and penalties on delinquent taxes shall apply to the surtax.  
6 Discretionary sales surtaxes shall not be included in the  
7 computation of estimated taxes pursuant to s. 212.11(1)(a).  
8 Notwithstanding any other provision of law, a dealer need not  
9 separately state the amount of the surtax on the charge  
10 ticket, sales slip, invoice, or other tangible evidence of  
11 sale. For the purposes of this section and s. 212.055, the  
12 "proceeds" of any surtax shall be construed to mean all funds  
13 collected and received by the department pursuant to a  
14 specific authorization and levy under s. 212.055, including  
15 any interest and penalties on delinquent surtaxes  
16 Notwithstanding the provisions of s. 212.20, the proceeds of  
17 each discretionary sales surtax imposed by each county, less  
18 the costs of administration, shall be transferred to a  
19 discretionary sales surtax trust fund. A separate trust fund  
20 shall be established in the State Treasury for each county  
21 imposing a discretionary surtax. The amount deducted for the  
22 costs of administration shall not exceed 3 percent of the  
23 total revenue generated for all counties levying a surtax  
24 authorized in s. 212.055. The amount deducted for the costs  
25 of administration shall be used only for those costs which are  
26 solely and directly attributable to the surtax. The total  
27 cost of administration shall be prorated among those counties  
28 levying the surtax on the basis of the amount collected for a  
29 particular county to the total amount collected for all  
30 counties. No later than March 1 of each year, the department  
31 shall submit a written report which details the expenses and

1 amounts deducted for the costs of administration to the  
2 President of the Senate, the Speaker of the House of  
3 Representatives, and the governing authority of each county  
4 levying a surtax. Proceeds shall be distributed monthly to  
5 the appropriate counties, unless otherwise provided in s.  
6 212.055.

7 (5) No discretionary sales surtax shall take effect on  
8 a date other than January 1. No discretionary sales surtax  
9 shall terminate on a day other than the last day of a calendar  
10 quarter.

11 (6) The governing body of any county levying a  
12 discretionary sales surtax shall enact an ordinance levying  
13 the surtax in accordance with the procedures described in s.  
14 125.66(2), and shall notify the department within 10 days  
15 after adoption of the ordinance. The notice shall include the  
16 time period during which the surtax will be in effect, the  
17 rate, a copy of the ordinance, and such other information as  
18 the department may prescribe by rule. Notification and final  
19 adoption of the surtax shall occur no later than 45 days prior  
20 to initial imposition of the surtax.

21 (7) With respect to any motor vehicle or mobile home  
22 of a class or type which is required to be registered in this  
23 state, the tax due on a transaction occurring in the taxing  
24 county as herein provided shall be collected from the  
25 purchaser or user incident to the titling and registration of  
26 such property, irrespective of whether such titling or  
27 registration occurs in the taxing county.

28 Section 11. Effective July 1, 1988, paragraph (b) of  
29 subsection (2) of section 212.054, Florida Statutes, as  
30 amended by section 84 of chapter 87-6, Laws of Florida, is  
31 reenacted to read:

1           212.054 Discretionary sales surtax; limitations,  
2 administration, and collection.--

3           (2)

4           (b) However:

5           1. The tax on any sales amount above \$5,000 ~~\$17,000~~ on  
6 any item of tangible personal property and on long distance  
7 telephone service shall not be subject to the surtax.

8           2. In the case of utility, telecommunication, or wired  
9 television services billed on or after the effective date of  
10 any such surtax, the entire amount of the tax for utility,  
11 telecommunication, or wired television services shall be  
12 subject to the surtax. In the case of utility,  
13 telecommunication, or wired television services billed after  
14 the last day the surtax is in effect, the entire amount of the  
15 tax on said items shall not be subject to the surtax

16           3. In the case of written contracts which are signed  
17 prior to the effective date of any such surtax for the  
18 construction of improvements to real property or for  
19 remodeling of existing structures, the surtax shall be paid by  
20 the contractor responsible for the performance of the  
21 contract. However, the contractor may apply for one refund of  
22 any such surtax paid on materials necessary for the completion  
23 of the contract. Any application for refund shall be made no  
24 later than 15 months following initial imposition of the  
25 surtax in that county. The application for refund shall be in  
26 the manner prescribed by the department by rule. A complete  
27 application shall include proof of the written contract and of  
28 payment of the surtax. The application shall contain a sworn  
29 statement, signed by the applicant or its representative,  
30 attesting to the validity of the application. The department  
31 shall, within 30 days after approval of a complete



1 application, certify to the county information necessary for  
2 issuance of a refund to the applicant. Counties are hereby  
3 authorized to issue refunds for this purpose and shall set  
4 aside from the proceeds of the surtax a sum sufficient to pay  
5 any refund lawfully due. Any person who fraudulently obtains  
6 or attempts to obtain a refund pursuant to this subparagraph,  
7 in addition to being liable for repayment of any refund  
8 fraudulently obtained plus a mandatory penalty of 100 percent  
9 of the refund, is guilty of a felony of the third degree,  
10 punishable as provided in s. 775.082, s. 775.083, or s.  
11 775.084.

12 Section 12. Section 212.055, Florida Statutes, as  
13 amended by section 8 of chapter 87-99, section 1 of chapter  
14 87-100, and section 2 of chapter 87-239, Laws of Florida, is  
15 amended to read:

16 212.055 Discretionary sales surtaxes; legislative  
17 intent; authorization and use of proceeds.--It is the  
18 legislative intent that any authorization for imposition of a  
19 discretionary sales surtax shall be published in the Florida  
20 Statutes as a subsection of this section, irrespective of the  
21 duration of the levy. Each enactment shall specify the types  
22 of counties authorized to levy; the rate or rates which may be  
23 imposed; the maximum length of time the surtax may be imposed,  
24 if any; the procedure which must be followed to secure voter  
25 approval, if required; the purpose for which the proceeds may  
26 be expended, and such other requirements as the Legislature  
27 may provide. Taxable transactions and administrative  
28 procedures shall be as provided in s. 212.054.

29 (1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.--

30 (a) Each charter county which adopted a charter prior  
31 to June 1, 1976, and each county the government of which is

1 consolidated with that of one or more municipalities, may levy  
2 a discretionary sales surtax, subject to approval by a  
3 majority vote of the electorate of the county.

4 (b) ~~The rate shall be up to one percent one-fifth~~  
5 ~~(20 percent) of any amount of tax imposed by and paid to the~~  
6 ~~state pursuant to this part, except this section and s-~~  
7 ~~212-054.~~

8 ~~2. Notwithstanding subparagraph 1, for any county the~~  
9 ~~government of which is consolidated with that of one or more~~  
10 ~~municipalities, upon the retirement of any bonds which were~~  
11 ~~issued for the construction of roads and bridges and which~~  
12 ~~were outstanding on the effective date of this act, the rate~~  
13 ~~shall be one-tenth (10 percent) of any amount of tax imposed~~  
14 ~~by and paid to the state pursuant to this part, except this~~  
15 ~~section and s-212-054.~~

16 (c) The proposal to adopt a discretionary sales surtax  
17 as provided in this subsection and to create a rapid transit  
18 trust fund within the county accounts shall be placed on the  
19 ballot in accordance with law at a time to be set at the  
20 discretion of the governing body.

21 (d) Proceeds from the surtax shall be:

22 1. Deposited by the county in the rapid transit trust  
23 fund and shall be used only for the purposes of development,  
24 construction, equipment, maintenance, operation, supportive  
25 services, including a countywide bus system, and related costs  
26 of a fixed guideway rapid transit system, or

27 2. Remitted by the governing body of the county to an  
28 expressway or transportation authority created by law to be  
29 used, at the discretion of such authority, for the  
30 development, construction, operation, or maintenance of roads  
31 or bridges in the county, for the operation and maintenance of

1 a bus system, or for the payment of principal and interest on  
 2 existing bonds issued for the construction of such roads or  
 3 bridges, and, upon approval by the county commission, such  
 4 proceeds may be pledged for bonds issued to refinance existing  
 5 bonds or new bonds issued for the construction of such roads  
 6 or bridges.

7 ~~(2)--INDIGENT-CARE-SURTAX--~~

8 ~~(a)--The governing authority in each county which has a~~  
 9 ~~publicly owned, publicly operated, and publicly managed~~  
 10 ~~regional referral hospital, as defined in s-154r304(4), which~~  
 11 ~~hospital has an affiliation agreement with a state university~~  
 12 ~~medical school located in that county and which hospital would~~  
 13 ~~have received from the county between October 1, 1982, and~~  
 14 ~~September 30, 1983, more than it actually received for~~  
 15 ~~providing health care for recipient indigent patients had~~  
 16 ~~1982-1983 federal poverty guidelines been applied, is~~  
 17 ~~authorized to levy by ordinance, for the period January 1,~~  
 18 ~~1986, through March 31, 1987, or any quarterly portion~~  
 19 ~~thereof, a discretionary sales surtax:~~

20 ~~(b)--The rate shall be 5 percent of any tax paid to the~~  
 21 ~~state pursuant to this part, except this section and s-~~  
 22 ~~212r054.~~

23 ~~(c)--The provisions of s-212r054(2)(b)1, shall not~~  
 24 ~~apply to the surtax authorized by this subsection.~~

25 ~~(d)--The ordinance adopted by the governing body~~  
 26 ~~providing for the imposition of the surtax shall set forth~~  
 27 ~~criteria for the selection of the providers of the health care~~  
 28 ~~services to be paid therefor from the proceeds thereof.~~

29 ~~(e)--The department shall disburse the moneys to the~~  
 30 ~~clerk of the circuit court as ex-officio custodian of the~~  
 31 ~~funds of the authorizing county, who shall maintain the moneys~~

1 ~~in an indigent health care trust fund. Any funds on deposit~~  
2 ~~in the trust fund created pursuant to this paragraph shall be~~  
3 ~~invested pursuant to general law. The moneys in an indigent~~  
4 ~~health care trust fund for an authorizing county and any~~  
5 ~~interest thereon shall be expended within that county or, in~~  
6 ~~the case of a negotiated joint county agreement by that~~  
7 ~~authorizing county with another county, within such other~~  
8 ~~county, to provide health care to certified indigent patients~~  
9 ~~as defined by s. 154.304(1) who are residents of the~~  
10 ~~authorizing county.~~

11 ~~(f) In enacting this subsection the legislature~~  
12 ~~expressly finds that it would be an unconstitutional use of~~  
13 ~~the taxing power of the state for any holders of any hospital~~  
14 ~~revenue obligation bonds to have a lien on any of the funds~~  
15 ~~raised under this subsection until those funds are received by~~  
16 ~~the health care provider for services rendered as provided.~~  
17 ~~The moneys in an indigent health care trust fund for an~~  
18 ~~authorizing county and any interest thereon shall remain the~~  
19 ~~property of the State of Florida and shall be distributed by~~  
20 ~~the Department of Revenue on a regular and periodic basis to~~  
21 ~~the governing authority of the authorizing county, in trust,~~  
22 ~~until they are paid to the account of the appropriate provider~~  
23 ~~of health care services to certified indigent patients for~~  
24 ~~services rendered after the effective date of this act, and~~  
25 ~~the funds shall not be disbursed from the trust fund until the~~  
26 ~~authorizing county has paid out of county funds for indigent~~  
27 ~~health care a sum equal to the amount which the authorizing~~  
28 ~~county paid for indigent health care out of county funds in~~  
29 ~~the fiscal year preceding the adoption of the authorizing~~  
30 ~~ordinance.~~

31 (2)(g) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

1 (a) The governing authority in each county may levy,  
 2 for a period of up to 15 years from the date of levy, a  
 3 discretionary sales surtax of one-half of one percent or one  
 4 percent up to 20 percent of any tax paid to the state pursuant  
 5 ~~to this part, except this section, s. 212.054 and s. 212.0385.~~  
 6 ~~Such governing authority may levy such surtax in an amount~~  
 7 ~~equal to 5, 10, 15 or 20 percent of said state tax.~~ The levy  
 8 of the surtax shall be pursuant to ordinance enacted by a  
 9 majority of the members of the county governing authority and  
 10 approved by a majority of the electors of the county voting in  
 11 a referendum on the surtax. If the governing bodies of the  
 12 municipalities representing a majority of the county's  
 13 population adopt uniform resolutions establishing the rate of  
 14 the surtax and calling for a referendum on the surtax, the  
 15 levy of the surtax shall be placed on the ballot and shall  
 16 take effect if approved by a majority of the electors of the  
 17 county voting in the referendum on the surtax. No referendum  
 18 election called pursuant to the provisions of this subsection  
 19 shall be held between March 9 and December 31, 1988.

20 (b) A statement which includes a brief general  
 21 description of the projects to be funded by the surtax and  
 22 which conforms to the requirements of s. 101.161 shall be  
 23 placed on the ballot by the governing authority of any county  
 24 which enacts an ordinance calling for a referendum on the levy  
 25 of the surtax or in which the governing bodies of the  
 26 municipalities representing a majority of the county's  
 27 municipal population adopt uniform resolutions calling for a  
 28 referendum on the surtax. The following question shall be  
 29 placed on the ballot:

30                   ...FOR the                   ...-cent sales tax  
 31                   ...AGAINST the                   ...-cent sales tax

1 (c) Pursuant to s. 212.054(4), the proceeds of the  
2 surtax levied under this subsection shall be distributed to  
3 the county and the municipalities within such county in which  
4 the surtax was collected, according to:

5 1. An interlocal agreement between the county  
6 governing authority and the governing bodies of the  
7 municipalities representing a majority of the county's  
8 municipal county population; or

9 2. If there is no interlocal agreement, according to  
10 the formula provided in s. 218.62.

11 ~~(d) The provisions of s. 212.054(2)(b) relating to~~  
12 ~~the sales amount above \$1,000 on any item of tangible personal~~  
13 ~~property shall not apply to the surtax authorized by this~~  
14 ~~subsection. The sales amount above \$5,000 on any item of~~  
15 ~~tangible personal property shall not be subject to the surtax~~  
16 ~~imposed by this subsection.~~

17 ~~(e) The department shall promulgate by rule the~~  
18 ~~brackets applicable to transactions which are subject to the~~  
19 ~~surtax.~~

20 (d)(f)1. The proceeds of the surtax authorized by this  
21 subsection and any interest accrued thereto shall be expended  
22 within the county and municipalities within the county, or, in  
23 the case of a negotiated joint county agreement, within  
24 another county, to finance, plan, and construct  
25 infrastructure. Neither the proceeds nor any interest accrued  
26 thereto shall be used for operational expenses of any  
27 infrastructure. Counties, as defined in s. 125.011(-), may,  
28 in addition, use the proceeds to retire or service  
29 indebtedness incurred for bonds issued prior to July 1, 1987  
30 for infrastructure purposes.  
31

1           2. For the purposes of this paragraph "infrastructure"  
2 means any fixed capital expenditure or fixed capital costs  
3 associated with the construction, reconstruction, or  
4 improvement of public facilities which have a life expectancy  
5 of 5 or more years and any land acquisition, land improvement,  
6 design, and engineering costs related thereto.

7           ~~(e)~~~~(g)~~ Counties and municipalities receiving proceeds  
8 under the provisions of this subsection may pledge such  
9 proceeds for the purpose of servicing new bond indebtedness  
10 incurred pursuant to law. Local governments may use the  
11 services of the Division of Bond Finance of the Department of  
12 General Services pursuant to the State Bond Act to issue any  
13 bonds through the provisions of this subsection. In no case  
14 may a jurisdiction issue bonds pursuant to this subsection  
15 more frequently than once per year. Counties and  
16 municipalities may join together for the issuance of bonds  
17 authorized by this subsection.

18           ~~(f)~~~~(h)~~ Counties and municipalities shall not use the  
19 surtax proceeds to supplant or replace user fees or to reduce  
20 ad valorem taxes existing prior to the levy of the surtax  
21 authorized by this subsection.

22           ~~(g)~~~~(i)~~ No referendum proposing the levying of such  
23 surtax shall be held after November 30, 1992.

24           (h) Notwithstanding s. 212.054(5), the surtax must  
25 take effect on the first day of a month, as fixed by the  
26 ordinance adopted pursuant to paragraph (a), and may not take  
27 effect until at least 60 days after the date that the  
28 referendum approving the levy is held.

29           Section 13. Section 212.059, Florida Statutes, as  
30 created by section 1 of chapter 87-6, Laws of Florida, and  
31

1 amended by section 1 of chapter 87-72 and section 1 of chapter  
2 87-101, Laws of Florida, is hereby repealed.

3 Section 14. Section 212.0591, Florida Statutes, as  
4 created by section 2 of chapter 87-6, Laws of Florida, and  
5 amended by section 2 of chapter 87-72 and section 2 of chapter  
6 87-101, Laws of Florida, is hereby repealed.

7 Section 15. Section 212.0592, Florida Statutes, as  
8 created by section 3 of chapter 87-6, Laws of Florida, and  
9 amended by section 3 of chapter 87-101, Laws of Florida, is  
10 hereby repealed.

11 Section 16. Section 212.0593, Florida Statutes, as  
12 created by section 4 of chapter 87-6, Laws of Florida, and  
13 amended by section 4 of chapter 87-101, Laws of Florida, is  
14 hereby repealed.

15 Section 17. Section 212.0594, Florida Statutes, as  
16 created by section 6 of chapter 87-101, Laws of Florida, is  
17 hereby repealed.

18 Section 18. Section 212.0595, Florida Statutes, as  
19 created by section 6 of chapter 87-6, Laws of Florida, and  
20 amended by section 3 of chapter 87-72 and section 7 of chapter  
21 87-101, Laws of Florida, is hereby repealed.

22 Section 19. Section 212.0598, Florida Statutes, as  
23 created by section 8 of chapter 87-101, Laws of Florida, is  
24 amended to read

25 212.0598 Special provisions; air carriers.--

26 (1) Notwithstanding other provisions of this part to  
27 the contrary, any air carrier utilizing mileage apportionment  
28 for corporate income tax purposes in this state pursuant to  
29 chapter 214 required by the United States Department of  
30 Transportation to keep records according to said department's  
31 standard classification of accounting may elect, upon the



1 conditions prescribed in subsection (3)~~(4)~~, to be subject to  
2 the tax imposed by this part on ~~services and~~ tangible personal  
3 property according to the provisions of this section.

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

11 (2)~~(3)~~ It is the legislative intent that air carriers  
12 are hereby determined to be susceptible to a distinct and  
13 separate classification for taxation under the provisions of  
14 this part, if the provisions of this section are met.

15 (3)~~(4)~~ The election provided for in this section shall  
16 not be allowed unless the purchaser makes a written request,  
17 in a manner prescribed by the Department of Revenue, to be  
18 taxed under the provisions of subsection (1)~~(2)~~, and such  
19 person registers with the Department of Revenue as a dealer  
20 and extends to his vendor at the time of purchase, if required  
21 to do so, a certificate stating that the item or items to be  
22 partially exempted are for the exclusive use designated  
23 herein. ~~Otherwise, all purchases of taxable property and~~  
24 ~~services purchased in this state shall be subject to taxation.~~

25 (4)~~(5)~~ Notwithstanding other provisions of this part  
26 to the contrary, any air carrier eligible for the election  
27 provided in subsection (1) which does not so elect shall be  
28 subject to the tax imposed by this part on the purchase or use  
29 of ~~services and~~ tangible personal property purchased or used  
30 in this state, as well as other taxes imposed herein.

1 Section 20. Section 212 06, Florida Statutes, as  
2 amended by section 12 of chapter 87-6, section 3 of chapter  
3 87-99, section 1 of chapter 87-370, and section 4 of chapter  
4 87-402, Laws of Florida, is amended to read:

5 212.06 Sales, storage, use tax; collectible from  
6 dealers; "dealer" defined; dealers to collect from purchasers;  
7 legislative intent as to scope of tax.--

8 (1)(a) The aforesaid tax at the rate of 5 percent of  
9 the retail sales price as of the moment of sale, 5 percent of  
10 the cost price as of the moment of purchase, or 5 percent of  
11 the cost price as of the moment of commingling with the  
12 general mass of property in this state, as the case may be,  
13 shall be collectible from all dealers as herein defined on the  
14 sale at retail, the use, the consumption, the distribution,  
15 and the storage for use or consumption in this state of  
16 tangible personal property or services taxable under this  
17 part. The full amount of the tax on a credit sale,  
18 installment sale, or sale made on any kind of deferred payment  
19 plan shall be due at the moment of the transaction in the same  
20 manner as on a cash sale.

21 (b) Except as otherwise provided, any person who  
22 manufactures, produces, compounds, processes, or fabricates in  
23 any manner tangible personal property for his own use shall  
24 pay a tax upon the cost of the product manufactured, produced,  
25 compounded, processed, or fabricated without any deduction  
26 therefrom on account of the cost of material used, labor or  
27 service costs, or transportation charges, notwithstanding the  
28 provisions of s. 212.02 defining "cost price." However, the  
29 tax levied under this paragraph shall not be imposed upon any  
30 person who manufactures or produces electrical power or  
31 energy, steam energy, or other energy, when such power or

1 energy is used directly and exclusively in the operation of  
2 machinery or equipment that is used to manufacture, process,  
3 compound, produce, fabricate, or prepare for shipment tangible  
4 personal property for sale or to operate pollution control  
5 equipment, maintenance equipment, or monitoring or control  
6 equipment used in such operations. The manufacturing or  
7 production of electrical power or energy that is used for  
8 space heating, lighting, office equipment, or air conditioning  
9 or any other nonmanufacturing, nonprocessing, noncompounding,  
10 nonproducing, nonfabricating, or nonshipping activity is  
11 taxable. Electrical power or energy consumed or dissipated in  
12 the transmission or distribution of electrical power or energy  
13 for resale is also not taxable. Fabrication labor shall not  
14 be taxable when a person is using his own equipment and his  
15 own personnel, for his own account, as a producer,  
16 subproducer, or coproducer of a qualified motion picture as  
17 ~~defined in s. 212.0592(18)(b) prepared for showing on screens~~  
18 ~~or through television, for either theatrical, commercial,~~  
19 ~~advertising, or educational purposes. For purposes of this~~  
20 part, the term "qualified motion picture" means all or any  
21 part of a series of related images, either on film, tape, or  
22 other embodiment, including, but not limited to, all items  
23 comprising part of the original work and film-related products  
24 derived therefrom as well as duplicates and prints thereof and  
25 all sound recordings created to accompany a motion picture,  
26 which is produced, adapted, or altered for exploitation in,  
27 on, or through any medium or device and at any location,  
28 primarily for entertainment, commercial, industrial, or  
29 educational purposes. A person who manufactures factory-built  
30 buildings for his own use in the performance of contracts for  
31 the construction or improvement of real property shall pay a

1 tax only upon the person's cost price of items used in the  
2 manufacture of such buildings.

3 (2)(a) The term "dealer" as used in this chapter  
4 includes every person who manufactures or produces tangible  
5 personal property for sale at retail, for use, consumption, or  
6 distribution; or for storage to be used or consumed in this  
7 state.

8 (b) The term "dealer" is further defined to mean every  
9 person, as used in this chapter, who imports, or causes to be  
10 imported, tangible personal property from any state or foreign  
11 country for sale at retail; for use, consumption, or  
12 distribution; or for storage to be used or consumed in this  
13 state.

14 (c) The term "dealer" is further defined to mean every  
15 person, as used in this chapter, who sells at retail, or who  
16 offers for sale at retail, or who has in his possession for  
17 sale at retail, or for use, consumption, or distribution, or  
18 for storage to be used or consumed in this state tangible  
19 personal property as defined herein, including a retailer who  
20 transacts a mail order sale.

21 (d) The term "dealer" is further defined to mean any  
22 person who has sold at retail, or used, or consumed, or  
23 distributed, or stored for use or consumption in this state  
24 tangible personal property and who cannot prove that the tax  
25 levied by this chapter has been paid on the sale at retail,  
26 the use, the consumption, the distribution, or the storage of  
27 such tangible personal property.

28 (e) The term "dealer" is further defined to mean any  
29 person, as used in this chapter, who leases or rents tangible  
30 personal property, as defined in this chapter, for a  
31 consideration, permitting the use or possession of such

1 | property without transferring title thereto, except as  
2 | expressly provided for to the contrary herein.

3 |       (f) The term "dealer" is further defined to mean any  
4 | person as used in this chapter, who maintains or has within  
5 | this state, directly or by a subsidiary, an office,  
6 | distributing house, salesroom, or house, warehouse, or other  
7 | place of business.

8 |       (g) "Dealer" also means and includes every person who  
9 | solicits business either by direct representatives, indirect  
10 | representatives, or manufacturers' agents or by distribution  
11 | of catalogs or other advertising matter or by any other means  
12 | whatsoever and by reason thereof receives orders for tangible  
13 | personal property ~~or services~~ from consumers for use,  
14 | consumption, distribution, and storage for use or consumption  
15 | in the state; and such dealer shall collect the tax imposed by  
16 | this chapter from the purchaser, and no action either in law  
17 | or in equity on a sale or transaction as provided by the terms  
18 | of this chapter may be had in this state by any such dealer  
19 | unless it is affirmatively shown that the provisions of this  
20 | chapter have been fully complied with.

21 |       (h) "Dealer" also means and includes every person who,  
22 | as a representative, agent, or solicitor of an out-of-state  
23 | principal or principals, solicits, receives, and accepts  
24 | orders from consumers in the state for future delivery and  
25 | whose principal refuses to register as a dealer.

26 |       (i) "Dealer" also means and includes the state,  
27 | county, municipality, any political subdivision, agency,  
28 | bureau or department or other state or local governmental  
29 | instrumentality.

30 |       (j) The term "dealer" is further defined to mean any  
31 | person who leases, or grants a license to use, occupy, or

1 enter upon, living quarters, sleeping or housekeeping  
2 accommodations in hotels, apartment houses, roominghouses,  
3 tourist or trailer camps, real property, space or spaces in  
4 parking lots or garages for motor vehicles, docking or storage  
5 space or spaces for boats in boat docks or marinas, or tie  
6 down or storage space or spaces for aircraft at airports. The  
7 term "dealer" also means any person who has leased, occupied,  
8 or used or was entitled to use any living quarters, sleeping  
9 or housekeeping accommodations in hotels, apartment houses,  
10 roominghouses, tourist or trailer camps, real property, space  
11 or spaces in parking lots or garages for motor vehicles or  
12 docking or storage space or spaces for boats in boat docks or  
13 marinas, or who has purchased communication services or  
14 electric power or energy, and who cannot prove that the tax  
15 levied by this chapter has been paid to the vendor or lessor  
16 on any such transactions.

17 (k) "Dealer" also means any person who sells,  
18 provides, or performs a service taxable under this part.  
19 "Dealer" also means any person who purchases, uses, or  
20 consumes a service taxable under this part who cannot prove  
21 that the tax levied by this part has been paid to the seller  
22 of the taxable service.

23 (3) Every dealer making sales, whether within or  
24 outside the state, of tangible personal property for  
25 distribution, storage, or use or other consumption, in this  
26 state, shall, at the time of making sales, collect the tax  
27 imposed by this chapter from the purchaser.

28 (4) On all tangible personal property imported or  
29 caused to be imported from other states, territories, the  
30 District of Columbia, or any foreign country, and used by him,  
31 ~~and on all services purchased in other states, territories,~~

1 ~~the District of Columbia, or any foreign country, and used by~~  
2 ~~him,~~ the dealer, as herein defined, shall pay the tax imposed  
3 by this chapter on all articles of tangible personal property  
4 so imported and used, ~~and on all services so purchased and~~  
5 ~~used,~~ the same as if such articles ~~or services~~ had been sold  
6 at retail for use or consumption in this state. For the  
7 purposes of this chapter, the use, or consumption, or  
8 distribution, or storage to be used or consumed in this state  
9 of tangible personal property shall each be equivalent to a  
10 sale at retail; and the tax shall thereupon immediately levy  
11 and be collected in the manner provided herein, provided there  
12 shall be no duplication of the tax in any event.

13 (5)(a)1. Except as provided in subparagraph 2., it is  
14 not the intention of this chapter to levy a tax upon tangible  
15 personal property imported, produced, or manufactured in this  
16 state for export, provided that tangible personal property may  
17 not be considered as being imported, produced, or manufactured  
18 for export unless the importer, producer, or manufacturer  
19 delivers the same to a licensed exporter for exporting or to a  
20 common carrier for shipment outside the state or mails the  
21 same by United States mail to a destination outside the state;  
22 or, in the case of aircraft being exported under their own  
23 power to a destination outside the continental limits of the  
24 United States, by submission to the department of a duly  
25 signed and validated United States customs declaration,  
26 showing the departure of the aircraft from the continental  
27 United States; and further with respect to aircraft, the  
28 canceled United States registry of said aircraft; or in the  
29 case of parts and equipment installed on aircraft of foreign  
30 registry, by submission to the department of documentation,  
31 the extent of which shall be provided by rule, showing the

1 departure of the aircraft from the continental United States,  
2 nor is it the intention of this chapter to levy a tax on any  
3 sale which the state is prohibited from taxing under the  
4 Constitution or laws of the United States. Every retail sale  
5 made to a person physically present at the time of sale shall  
6 be presumed to have been delivered in this state.

7       2.a. Notwithstanding subparagraph 1., a tax is levied  
8 on each sale of tangible personal property to be transported  
9 to a cooperating state as defined in sub-subparagraph c., at  
10 the rate specified in sub-subparagraph d. However, a Florida  
11 dealer will be relieved from the requirements of collecting  
12 taxes pursuant to this subparagraph if the Florida dealer  
13 obtains from the purchaser an affidavit setting forth the  
14 purchaser's name, address, state taxpayer identification  
15 number, and a statement that the purchaser is aware of his  
16 state's use tax laws, is a registered dealer in Florida or  
17 another state, or is purchasing the tangible personal property  
18 for resale or is otherwise not required to pay the tax on the  
19 transaction. The department may, by rule, provide a form to  
20 be used for the purposes set forth herein.

21       b. For purposes of this subparagraph, "a cooperating  
22 state" is one determined by the executive director of the  
23 department to cooperate satisfactorily with this state in  
24 collecting taxes on mail order sales. No state shall be so  
25 determined unless it meets all the following minimum  
26 requirements.

27       (1) It levies and collects taxes on mail order sales  
28 of property transported from that state to persons in this  
29 state, as described in s. 212.0596, upon request of the  
30 department.

31



1 (II) The tax so collected shall be at the rate  
2 specified in s. 212.05, not including any local option or  
3 tourist or convention development taxes collected pursuant to  
4 s. 125.0104 or this part.

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

8 (IV) Such state authorizes the department to audit  
9 dealers within its jurisdiction who make mail order sales that  
10 are the subject of s. 212.0596, or makes arrangements deemed  
11 adequate by the department for auditing them with its own  
12 personnel.

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

18 c. For purposes of this subparagraph, "sales of  
19 tangible personal property to be transported to a cooperating  
20 state" means mail order sales to a person who is in the  
21 cooperating state at the time the order is executed, from a  
22 dealer who receives that order in this state.

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

28 e. The tax levied by sub-subparagraph a., when  
29 collected, shall be held in the State Treasury in trust for  
30 the benefit of the cooperating state, and shall be paid to it  
31 at a time agreed upon between the department, acting for this

1 state, and the cooperating state or the department or agency  
2 designated by it to act for it; however, such payment shall,  
3 in no event, be made later than 30 days from the last day of  
4 the calendar quarter after the tax was collected. Funds held  
5 in trust for the benefit of a cooperating state shall not be  
6 subject to the service charge imposed by s. 215.20.

7 f. The department is authorized to perform such acts  
8 and to provide such cooperation to a cooperating state with  
9 reference to the tax levied by sub-subparagraph a. as is  
10 required of the cooperating state by sub-subparagraph b.

11 g. In furtherance of this act, dealers selling  
12 tangible personal property for delivery in another state shall  
13 make available to the department, upon request of the  
14 department, records of all tangible personal property so sold.  
15 Such records shall include a description of the property, the  
16 name and address of the purchaser, the name and address of the  
17 person to whom the property was sent, the purchase price of  
18 the property, information regarding whether sales tax was paid  
19 in this state on the purchase price, and such other  
20 information as the department may by rule prescribe.

21 (b)1. Notwithstanding the provisions of paragraph (a),  
22 it is not the intention of this chapter to levy a tax on the  
23 sale of tangible personal property to a nonresident dealer who  
24 does not hold a Florida sales tax registration, provided such  
25 nonresident dealer furnishes the seller a statement declaring  
26 that the tangible personal property will be transported  
27 outside this state by the nonresident dealer for resale and  
28 for no other purpose. The statement shall include, but not be  
29 limited to, the nonresident dealer's name, address, applicable  
30 passport or visa number, arrival-departure card number, and  
31 evidence of authority to do business in his home state or

1 country, such as his business name and address, his  
2 occupational license number, if applicable, or any other  
3 suitable requirement. The statement shall be signed by the  
4 nonresident dealer and shall include the following sentence:  
5 "Under penalties of perjury, I declare that I have read the  
6 foregoing, and the facts alleged are true to the best of my  
7 knowledge and belief."

8           2. The burden of proof of subparagraph 1. rests with  
9 the seller, who must retain the proper documentation to  
10 support the exempt sale. The exempt transaction is subject to  
11 verification by the department.

12           (c) It is not the intention of this chapter to levy a  
13 tax upon the sale, use, storage, consumption, or distribution  
14 in this state, whether by the importer, exporter, or another  
15 person, of any telecommunications satellite or any associated  
16 launch vehicle, including components of, and parts and motors  
17 for, any such satellite or launch vehicle, imported or caused  
18 to be imported into this state for the purpose of export by  
19 means of launching into space. This intention is not affected  
20 by:

21           1. The destruction in whole or in part of the  
22 satellite or launch vehicle.

23           2. The failure of a launch to occur or be successful.

24           3. The absence of any transfer of title to, or  
25 possession of, the satellite or launch vehicle after launch.

26           4. Anything in this chapter to the contrary.

27           (6) It is however, the intention of this chapter to  
28 levy a tax on the sale at retail, the use, the consumption,  
29 the distribution, and the storage to be used or consumed in  
30 this state of tangible personal property after it has come to  
31

1 rest in this state and has become a part of the mass property  
2 of this state.

3           (7) The provisions of this chapter do not apply in  
4 respect to the use or consumption of tangible personal  
5 property ~~or services~~, or distribution or storage of tangible  
6 personal property ~~or services~~ for use or consumption in this  
7 state, upon which a like tax equal to or greater than the  
8 amount imposed by this chapter has been lawfully imposed and  
9 paid in another state, territory of the United States, or the  
10 District of Columbia. The proof of payment of such tax shall  
11 be made according to rules and regulations of the department.  
12 If the amount of tax paid in another state, territory of the  
13 United States, or the District of Columbia is not equal to or  
14 greater than the amount of tax imposed by this chapter, then  
15 the dealer shall pay to the department an amount sufficient to  
16 make the tax paid in the other state, territory of the United  
17 States, or the District of Columbia and in this state equal to  
18 the amount imposed by this chapter.

19           (8) Use tax will apply and be due on tangible personal  
20 property imported or caused to be imported into this state for  
21 use, consumption, distribution, or storage to be used or  
22 consumed in this state; provided, however, that it shall be  
23 presumed that tangible personal property used in another  
24 state, territory of the United States, or the District of  
25 Columbia for 6 months or longer before being imported into  
26 this state was not purchased for use in this state. The  
27 rental or lease of tangible personal property which is used or  
28 stored in this state shall be taxable without regard to its  
29 prior use or tax paid on purchase outside this state.

30           (9) The taxes imposed by this chapter do not apply to  
31 the use, sale, or distribution of religious publications,

1 | bibles, hymn books, prayer books, vestments, altar  
2 | paraphernalia, sacramental chalices, and like church service  
3 | and ceremonial raiments and equipment.

4 |       (10) No title certificate may be issued on any boat,  
5 | mobile home, motor vehicle, or other vehicle, or, if no title  
6 | is required by law, no license or registration may be issued  
7 | for any boat, mobile home, motor vehicle, or other vehicle,  
8 | unless there is filed with such application for title  
9 | certificate or license or registration certificate a receipt  
10 | issued by an authorized dealer or a designated agent of the  
11 | Department of Revenue, evidencing the payment of the tax  
12 | imposed by this chapter where the same is payable. For the  
13 | purpose of enforcing this provision, all county tax collectors  
14 | and all persons or firms authorized to sell or issue boat,  
15 | mobile home, and motor vehicle licenses are hereby designated  
16 | agents of the department and are required to perform such duty  
17 | in the same manner and under the same conditions prescribed  
18 | for their other duties by the constitution or any statute of  
19 | this state. All transfers of title to boats, mobile homes,  
20 | motor vehicles, and other vehicles are taxable transactions,  
21 | unless expressly exempt under this chapter.

22 |       Section 21. Effective February 1, 1988, paragraph (a)  
23 | of subsection (1) of section 212.06, Florida Statutes, as  
24 | amended by section 12 of chapter 87-6, section 3 of chapter  
25 | 87-99, section 1 of chapter 87-370, and section 4 of chapter  
26 | 87-402, Laws of Florida, is amended to read:

27 |       212.06 Sales, storage, use tax; collectible from  
28 | dealers; "dealer" defined; dealers to collect from purchasers;  
29 | legislative intent as to scope of tax.--

30 |       (1)(a) The aforesaid tax at the rate of 6 5 percent of  
31 | the retail sales price as of the moment of sale, 6 5 percent

1 | of the cost price as of the moment of purchase, or 5 5 percent  
2 | of the cost price as of the moment of commingling with the  
3 | general mass of property in this state, as the case may be,  
4 | shall be collectible from all dealers as herein defined on the  
5 | sale at retail, the use, the consumption, the distribution,  
6 | and the storage for use or consumption in this state of  
7 | tangible personal property or services taxable under this  
8 | part. The full amount of the tax on a credit sale,  
9 | installment sale, or sale made on any kind of deferred payment  
10 | plan shall be due at the moment of the transaction in the same  
11 | manner as on a cash sale.

12 |         Section 22. Section 212.065, Florida Statutes, is  
13 | created to read:

14 |         212.065 Road construction.--

15 |         (1) Notwithstanding any other provision of this part,  
16 | with regard to road construction done pursuant to an arms-  
17 | length contract, a tax at the rate of 5 percent shall be  
18 | imposed upon 50 percent of the contract price.

19 |         (2) For purposes of this section, the term:

20 |         (a) "Building materials" means those materials which  
21 | are incorporated into and become a component part of a road.

22 |         (b) "Contract price" means the total consideration  
23 | paid for road construction pursuant to the contract.

24 |         (c) "Road construction" means construction of a road  
25 | as defined in s. 334.03(17), a private road which includes one  
26 | or more components listed in s. 334.03(17), parking lot,  
27 | airport landing area or taxiway, or helicopter pad.

28 |         (3) Prime contractors and subcontractors certified  
29 | pursuant to chapter 337 may obtain resale permits from the  
30 | department to be used when purchasing building materials.

31 |

1 (4) The tax imposed pursuant to this section shall be  
2 due from the prime contractor when he is paid. If the  
3 contract price is paid in draws or installments, the amount of  
4 tax to be paid with respect to each such draw or installment,  
5 before application of the dealer credit, shall be that  
6 proportion of the tax due on the total contract price which  
7 the amount of the draw or installment bears to the total  
8 contract price.

9 (5) This section applies only to construction pursuant  
10 to contracts entered into on or after the effective date of  
11 this section.

12 Section 23. Effective February 1, 1988, subsection (1)  
13 of section 212.065, Florida Statutes, as created by this act,  
14 is amended to read:

15 212.065 Road construction.--

16 (1) Notwithstanding any other provision of this part,  
17 with regard to road construction done pursuant to an arms-  
18 length contract, a tax at the rate of 6 5 percent shall be  
19 imposed upon 50 percent of the contract price.

20 Section 24. Section 212.07, Florida Statutes, as  
21 amended by section 13 of chapter 87-6, Laws of Florida, is  
22 amended to read:

23 212.07 Sales, storage, use tax; tax added to purchase  
24 price; dealer not to absorb; liability of purchasers who  
25 cannot prove payment of the tax, penalties; general  
26 exemptions.--

27 (1)(a) The privilege tax herein levied measured by  
28 retail sales shall be collected by the dealers from the  
29 purchaser or consumer. ~~Except as otherwise specifically~~  
30 ~~provided, the sales and use tax on services herein levied~~

1 ~~measured-by-retail-sales-shall-likewise-be-collected-by-the~~  
2 ~~dealers-from-the-purchaser-or-consumer.~~

3 (b) A resale must be in strict compliance with the  
4 rules and regulations, and any dealer who makes a sale for  
5 resale which is not in strict compliance with the rules and  
6 regulations shall himself be liable for and pay the tax. A  
7 dealer may, through the informal protest provided for in s.  
8 213.21 and the rules of the Department of Revenue, provide the  
9 department with evidence of the exempt status of a sale. The  
10 Department of Revenue shall adopt rules which provide that  
11 valid resale certificates and consumer certificates of  
12 exemption executed by those dealers or exempt entities which  
13 were registered with the department at the time of sale shall  
14 be accepted by the department when submitted during the  
15 protest period but may not be accepted in any proceeding under  
16 chapter 120 or any circuit court action instituted under  
17 chapter 72.

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



1 | or practices change. Except as otherwise specifically  
2 | provided, any dealer who neglects, fails, or refuses to  
3 | collect the tax herein provided upon any, every, and all  
4 | retail sales made by him or his agents or employees of  
5 | tangible personal property or services which are subject to  
6 | the tax imposed by this chapter shall be liable for and pay  
7 | the tax himself.

8 |       (3) Any dealer who fails, neglects, or refuses to  
9 | collect the tax herein provided, either by himself or through  
10 | his agents or employees, is, in addition to the penalty of  
11 | being liable for and paying the tax himself, guilty of a  
12 | misdemeanor of the second degree, punishable as provided in s.  
13 | 775.082 or s. 775.083.

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

29 |       (5) The gross proceeds derived from the sale in this  
30 | state of livestock, poultry, and other farm products direct  
31 | from the farm are exempted from the tax levied by this

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

13 (6) It is specifically provided that the use tax as  
14 defined herein does not apply to livestock and livestock  
15 products, to poultry and poultry products, or to farm and  
16 agricultural products, when produced by the farmer and used by  
17 him and members of his family and his employees on the farm.

18 (7) Provided, however, that each and every  
19 agricultural commodity sold by any person, other than a  
20 producer, to any other person who purchases not for direct  
21 consumption but for the purpose of acquiring raw products for  
22 use or for sale in the process of preparing, finishing, or  
23 manufacturing such agricultural commodity for the ultimate  
24 retail consumer trade shall be and is exempted from any and  
25 all provisions of this chapter, including payment of the tax  
26 applicable to the sale, storage, use, or transfer, or any  
27 other utilization or handling thereof, except when such  
28 agricultural commodity is actually sold as a marketable or  
29 finished product to the ultimate consumer; and in no case  
30 shall more than one tax be exacted

31

1 (8) The term "agricultural commodity," for the  
2 purposes hereof, means horticultural, poultry and farm  
3 products, and livestock and livestock products

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

16 Section 25. Effective July 1, 1988, subsections (3)  
17 and (4) of section 212.07, Florida Statutes, as amended by  
18 section 85 of chapter 87-6 and section 53 of chapter 87-101,  
19 Laws of Florida, are amended to read:

20 212.07 Sales, storage, use tax; tax added to purchase  
21 price; dealer not to absorb; liability of purchasers who  
22 cannot prove payment of the tax; penalties; general  
23 exemptions.--

24 (3) Any dealer who fails, neglects, or refuses to  
25 collect the tax herein provided, either by himself or through  
26 his agents or employees, is, in addition to the penalty of  
27 being liable for and paying the tax himself, guilty of a  
28 misdemeanor of the first degree, punishable as provided in s.  
29 775.082, s. 775.083, or s. 775.084.

30 (4) A dealer engaged in any business ~~or in selling any~~  
31 ~~services~~ taxable under this chapter may not advertise or hold

1 out to the public, in any manner, directly or indirectly, that  
2 he will absorb all or any part of the tax, or that he will  
3 relieve the purchaser of the payment of all or any part of the  
4 tax, or that the tax will not be added to the selling price of  
5 the property or services sold or released or, when added, that  
6 it or any part thereof will be refunded either directly or  
7 indirectly by any method whatsoever. A person who violates  
8 this provision with respect to advertising or refund is guilty  
9 of a misdemeanor of the second degree, punishable as provided  
10 in s. 775.082, s. 775.083, or s. 775.084. A second or  
11 subsequent offense constitutes a misdemeanor of the first  
12 degree, punishable as provided in s. 775.082, s. 775.083, or  
13 s. 775.084.

14 Section 26. Section 212.08, Florida Statutes, as  
15 amended by sections 14 and 25 of chapter 87-6, section 4 of  
16 chapter 87-72, section 4 of chapter 87-99, section 13 of  
17 chapter 87-101, and section 2 of chapter 87-370, Laws of  
18 Florida, is amended to read:

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

25 (1) EXEMPTIONS; GENERAL GROCERIES.--

26 (a) There are exempt from the tax imposed by this  
27 chapter food and drinks for human consumption except candy.  
28 Unless the exemption provided by paragraph (7)(g) for  
29 school lunches, paragraph (7)(l) for meals to certain  
30 patients or inmates, or paragraph (7)(k) for meals provided

31

1 | by certain nonprofit organizations pertains, none of such  
2 | items of food or drinks means

3 |       1. Food or drinks served, prepared, or sold in or by  
4 | restaurants; drugstores, lunch counters; cafeterias; hotels;  
5 | amusement parks; racetracks; taverns; concession stands at  
6 | arenas, auditoriums, carnivals, fairs, stadiums, theaters, or  
7 | other like places of business; or by any business or place  
8 | required by law to be licensed by the Division of Hotels and  
9 | Restaurants of the Department of Business Regulation, except  
10 | bakery products sold in or by pastry shops, doughnut shops, or  
11 | like establishments for consumption off the premises;

12 |       2. Foods and drinks sold ready for immediate  
13 | consumption from vending machines, pushcarts, motor vehicles,  
14 | or any other form of vehicle;

15 |       3. Soft drinks, which include, but are not limited to,  
16 | any nonalcoholic beverage; any preparation or beverage  
17 | commonly referred to as a "soft drink"; or any noncarbonated  
18 | drink made from milk derivatives or tea, when sold in cans or  
19 | similar containers. The term "soft drink" does not include:  
20 | natural fruit or vegetable juices or their concentrates or  
21 | reconstituted natural concentrated fruit or vegetable juices,  
22 | whether frozen or unfrozen, dehydrated, powdered, granulated,  
23 | sweetened or unsweetened, seasoned with salt or spice, or  
24 | unseasoned, coffee or coffee substitutes; tea except when sold  
25 | in containers as provided herein; cocoa; products intended to  
26 | be mixed with milk; or natural fluid milk;

27 |       4. Foods or drinks cooked or prepared on the seller's  
28 | premises and sold ready for immediate consumption either on or  
29 | off the premises, excluding bakery products for off-premises  
30 | consumption unless such foods are taxed under subparagraph 1.  
31 | or subparagraph 2.; or

1           5. Sandwiches sold ready for immediate consumption.

2  
3 For the purposes of this paragraph, "seller's premises" shall  
4 be construed broadly, and means, but is not limited to, the  
5 lobby, aisle, or auditorium of a theater, the seating, aisle,  
6 or parking area of an arena, rink, or stadium, or the parking  
7 area of a drive-in or outdoor theater. The premises of a  
8 caterer with respect to catered meals or beverages shall be  
9 the place where such meals or beverages are served.

10           (b)1. Food or drinks not exempt under paragraph (a)  
11 shall be exempt, notwithstanding that paragraph, when  
12 purchased with food coupons or Special Supplemental Food  
13 Program for Women, Infants, and Children vouchers issued under  
14 authority of federal law.

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

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

24           (2) EXEMPTIONS; MEDICAL.--

25           (a) There shall be exempt from the tax imposed by this  
26 chapter any product, supply, or medicine dispensed in a retail  
27 establishment by a pharmacist licensed by the state, according  
28 to an individual prescription or prescriptions written by a  
29 prescriber authorized by law to prescribe medicinal drugs;  
30 hypodermic needles; hypodermic syringes; chemical compounds  
31 and test kits used for the diagnosis or treatment of human

1 disease, illness, or injury; and common household remedies  
2 recommended and generally sold for internal or external use in  
3 the cure, mitigation, treatment, or prevention of illness or  
4 disease in human beings, but not including cosmetics or toilet  
5 articles, notwithstanding the presence of medicinal  
6 ingredients therein, according to a list prescribed and  
7 approved by the Department of Health and Rehabilitative  
8 Services, which list shall be certified to the Department of  
9 Revenue from time to time and included in the rules  
10 promulgated by the Department of Revenue. There shall also be  
11 exempt from the tax imposed by this chapter artificial eyes  
12 and limbs, orthopedic shoes; prescription eyeglasses and items  
13 incidental thereto or which become a part thereof; dentures;  
14 hearing aids; crutches; prosthetic and orthopedic appliances;  
15 and funerals. Funeral directors shall pay tax on all tangible  
16 personal property used by them in their business.

17 (b) For the purposes of this subsection:

18 1. "Prosthetic and orthopedic appliances" means any  
19 apparatus, instrument, device, or equipment used to replace or  
20 substitute for any missing part of the body, to alleviate the  
21 malfunction of any part of the body, or to assist any disabled  
22 person in leading a normal life by facilitating such person's  
23 mobility. Such apparatus, instrument, device, or equipment  
24 shall be exempted according to an individual prescription or  
25 prescriptions written by a prescriber authorized by law to  
26 prescribe medicinal drugs or according to a list prescribed  
27 and approved by the Department of Health and Rehabilitative  
28 Services, which list shall be certified to the Department of  
29 Revenue from time to time and included in the rules  
30 promulgated by the Department of Revenue.

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

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

14           (c) Chlorine shall not be exempt from the tax imposed  
15 by this part when used for the treatment of water in swimming  
16 pools.

17           (d) This subsection shall be strictly construed and  
18 enforced.

19           (3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.--  
20 There shall be taxable at the rate of 3 percent the sale, use,  
21 consumption, or storage for use in this state of self-  
22 propelled or power-drawn farm equipment used exclusively by a  
23 farmer on a farm owned, leased, or sharecropped by him in  
24 plowing, planting, cultivating, or harvesting crops. The  
25 rental of self-propelled or power-drawn farm equipment shall  
26 be taxed at the rate of 5 percent.

27           (4) EXEMPTIONS, ITEMS BEARING OTHER EXCISE TAXES,  
28 ETC.--

29           (a) Also exempt are:

30           1. Water (not exempting mineral water or carbonated  
31 water).



1           2. All fuels used by a public or private utility,  
2 including any municipal corporation or rural electric  
3 cooperative association, in the generation of electric power  
4 or energy for sale. Fuel other than motor fuel and special  
5 fuel is taxable as provided in this part, with the exception  
6 of fuel expressly exempt herein. However, diesel fuel and  
7 kerosene used in any tractor, vehicle, or other farm equipment  
8 which is used exclusively on a farm or for processing farm  
9 products on the farm are taxable as provided in part II.  
10 Motor fuels and special fuels are taxable as provided in part  
11 II, with the exception of those motor fuels and special fuels  
12 used by railroad locomotives or vessels to transport persons  
13 or property in interstate or foreign commerce which are  
14 taxable under this part only to the extent provided herein.  
15 The basis of the tax shall be the ratio of intrastate mileage  
16 to interstate or foreign mileage traveled by the carrier's  
17 railroad locomotives or vessels which were used in interstate  
18 or foreign commerce and which had at least some Florida  
19 mileage during the previous fiscal year of the carrier, such  
20 ratio to be determined at the close of the fiscal year of the  
21 carrier. This ratio shall be applied each month to the total  
22 Florida purchases made in this state of gasoline and other  
23 fuels to establish that portion of the total used and consumed  
24 in intrastate movement and subject to tax under this part.  
25 Fuels used exclusively in intrastate commerce do not qualify  
26 for the proration of tax.

27           3. The transmission or wheeling of electricity.

28           (b) Alcoholic beverages and malt beverages are not  
29 exempt. The terms "alcoholic beverages" and "malt beverages"  
30 as used in this paragraph have the same meanings ascribed to  
31 them in ss. 561.01(4) and 563.01, respectively. It is

1 determined by the Legislature that the classification of  
2 alcoholic beverages made in this paragraph for the purpose of  
3 extending the tax imposed by this chapter is reasonable and  
4 just; and it is intended that such tax be separate from, and  
5 in addition to, any other tax imposed on alcoholic beverages.

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

7 (a) Items in agricultural use and certain nets.--There  
8 are exempt from the tax imposed by this chapter nets designed  
9 and used exclusively by commercial fisheries; fertilizers,  
10 insecticides, herbicides, and fungicides used for application  
11 on crops or groves; portable containers used for processing  
12 farm products; field and garden seeds; nursery stock,  
13 seedlings, cuttings, or other propagative material purchased  
14 for growing stock, cloth, plastic, and other similar materials  
15 used for shade, mulch, or protection from frost or insects on  
16 a farm; and liquefied petroleum gas or other fuel used to heat  
17 a structure in which started pullets or broilers are raised;  
18 however, such exemption shall not be allowed unless the  
19 purchaser or lessee signs a certificate stating that the item  
20 to be exempted is for the exclusive use designated herein.

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

23 1. Industrial machinery and equipment purchased for  
24 use in new businesses which manufacture, process, compound, or  
25 produce for sale items of tangible personal property at fixed  
26 locations ~~and services directly related to the installation of~~  
27 ~~such machinery and equipment; excluding construction services;~~  
28 are exempt from the tax imposed by this chapter upon an  
29 affirmative showing by the taxpayer to the satisfaction of the  
30 department that such items are used in a new business in this  
31 state. Such purchases must be made prior to the date the

1 business first begins its productive operations, and delivery  
2 of the purchased item must be made within 12 months of that  
3 date.

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

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

23           b. The applicant shall be required to maintain all  
24 necessary books and records to support the exemption. Upon  
25 completion of purchases of qualified machinery and equipment,  
26 ~~or services~~ pursuant to subparagraph 1. or subparagraph 2.,  
27 the temporary tax permit shall be delivered to the department  
28 or returned to the department by certified or registered mail.  
29 The department shall have 4 years from the date of delivery or  
30 date of receipt to perform an audit of such purchases,  
31 notwithstanding the provisions of s. 212.14(6).

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

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

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

27 5. The exemptions provided in subparagraphs 1. and 2.  
28 do not apply to machinery or ~~equipment-or-services~~ purchased  
29 or used by electric utility companies, communications  
30 companies, phosphate or other solid minerals severance,  
31 mining, or processing operations, oil or gas exploration or

1 production operations, printing or publishing firms, any firm  
2 subject to regulation by the Division of Hotels and  
3 Restaurants of the Department of Business Regulation, or any  
4 firm which does not manufacture, process, compound, or produce  
5 for sale items of tangible personal property.

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

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

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

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

7 (c) Machinery and equipment~~7-or-services~~ used in  
8 production of electrical or steam energy.--The purchase of  
9 machinery and equipment for use at a fixed location, which  
10 equipment and machinery are necessary in the production of  
11 electrical or steam energy resulting from the burning of  
12 boiler fuels other than residual oil, is ~~and-services-directly~~  
13 ~~related-to-the-installation-of-such-machinery-and-equipment,~~  
14 ~~excluding-construction-services,~~ are exempt from the tax  
15 imposed by this chapter. Such electrical or steam energy must  
16 be primarily for use in manufacturing, processing,  
17 compounding, or producing for sale items of tangible personal  
18 property in this state. However, the exemption provided for  
19 in this paragraph shall not be allowed unless the purchaser  
20 signs an affidavit stating that the item or items to be  
21 exempted are for the exclusive use designated herein. Any  
22 person furnishing a false affidavit to the vendor for the  
23 purpose of evading payment of any tax imposed under chapter  
24 212 shall be subject to the penalty set forth in s. 212.085  
25 and as otherwise provided by law

26 (d) Machinery and equipment~~7-or-services~~ used under  
27 federal procurement contract.--

28 1. Industrial machinery and equipment purchased by an  
29 expanding business which manufactures tangible personal  
30 property pursuant to federal procurement regulations at fixed  
31 locations in this state ~~and-services-directly-related-to-the~~

1 ~~installation-of-such-machinery-and-equipment,-excluding~~  
2 ~~construction-services,~~ are partially exempt from the tax  
3 imposed in this chapter on that portion of the tax which is in  
4 excess of \$100,000 per calendar year upon an affirmative  
5 showing by the taxpayer to the satisfaction of the department  
6 that such items are used to increase the implicit productive  
7 output of the expanded business by not less than 10 percent.  
8 The percentage of increase is measured as deflated implicit  
9 productive output for the calendar year during which the  
10 installation of the machinery or equipment is completed or  
11 during which commencement of production utilizing such items  
12 is begun divided by the implicit productive output for the  
13 preceding calendar year. In no case may the commencement of  
14 production begin later than 2 years following completion of  
15 installation of the machinery or equipment.

16         2. The amount of the exemption allowed shall equal the  
17 taxes otherwise imposed by this chapter in excess of \$100,000  
18 per calendar year on qualifying industrial machinery or  
19 ~~equipment,-or-services~~ reduced by the percentage of gross  
20 receipts from cost-reimbursement type contracts attributable  
21 to the plant or operation to total gross receipts so  
22 attributable, accrued for the year of completion or  
23 commencement.

24         3. The exemption provided by this paragraph shall  
25 inure to the taxpayer only through refund of previously paid  
26 taxes. Such refund shall be made within 30 days of formal  
27 approval by the department of the taxpayer's application,  
28 which application may be made on an annual basis following  
29 installation of the machinery or equipment.

30         4. For the purposes of this paragraph, the term:  
31

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

3 b. "Deflated implicit productive output" means the  
4 product of implicit productive output times the quotient of  
5 the national defense implicit price deflator for the preceding  
6 calendar year divided by the deflator for the year of  
7 completion or commencement.

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

14 d. "Implicit productive output" means the annual  
15 eligible costs attributable to all contracts or subcontracts  
16 subject to federal procurement regulations of the single plant  
17 or operation at which the machinery or equipment is used.

18 e. "Industrial machinery and equipment" means "section  
19 38 property" as defined in s. 48(a)(1)(A) and (B)(1) of the  
20 Internal Revenue Code, provided such industrial machinery and  
21 equipment qualified as an eligible cost under federal  
22 procurement regulations and are used as an integral part of  
23 the tangible personal property production process. Such term  
24 includes parts and accessories only to the extent that the  
25 exemption of such parts and accessories is consistent with the  
26 provisions of this paragraph.

27 f. "National defense implicit price deflator" means  
28 the national defense implicit price deflator for the gross  
29 national product as determined by the Bureau of Economic  
30 Analysis of the United States Department of Commerce.

31



1           5. The exclusions provided in subparagraph (b)5. apply  
2 to this exemption. This exemption applies only to machinery  
3 or equipment purchased pursuant to production contracts with  
4 the United States Department of Defense and Armed Forces, the  
5 National Aeronautics and Space Administration, and other  
6 federal agencies for which the contracts are classified for  
7 national security reasons. In no event shall the provisions  
8 of this paragraph apply to any expanding business the increase  
9 in productive output of which could be measured under the  
10 provisions of sub-subparagraph (b)6.b. as physically  
11 comparable between the two periods.

12           (e) Gas used for certain agricultural purposes.--  
13 Butane gas, propane gas, and all other forms of liquefied  
14 petroleum gases are exempt from the tax imposed by this  
15 chapter if used in any tractor, vehicle, or other farm  
16 equipment which is used exclusively on a farm or for  
17 processing farm products on the farm and no part of which gas  
18 is used in any vehicle or equipment driven or operated on the  
19 public highways of this state. This restriction does not  
20 apply to the movement of farm vehicles or farm equipment  
21 between farms. The transporting of bees by water and the  
22 operating of equipment used in the apiary of a beekeeper is  
23 also deemed an exempt use. This exemption shall inure to the  
24 taxpayer only through refund of previously paid taxes.  
25 Refunds under this paragraph shall be authorized and  
26 administered as provided in s. 212.67.

27           (f) Motion picture or video equipment used in motion  
28 picture or television production activities and sound  
29 recording equipment used in the production of master tapes and  
30 master records.--  
31

1           1. Motion picture or video equipment and sound  
2 recording equipment purchased or leased for use in this state  
3 in production activities is exempt from the tax imposed by  
4 this chapter upon an affirmative showing by the purchaser or  
5 lessee to the satisfaction of the department that the  
6 equipment will be used for production activities. The  
7 exemption provided by this paragraph shall inure to the  
8 taxpayer only through a refund of previously paid taxes.  
9 Notwithstanding the provisions of s. 212.095, such refund  
10 shall be made within 30 days of formal application, which  
11 application may be made after the completion of production  
12 activities or on a quarterly basis. Notwithstanding the  
13 provisions of chapter 213, the department shall provide the  
14 Department of Commerce with a copy of each refund application  
15 and the amount of such refund, if any.

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

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

1           b. "Production activities" means activities directed  
2 toward the preparation of a:

3           (I) Master tape or master record embodying sound; or

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

11           ~~3. This paragraph shall expire and be void July 1,~~  
12 ~~1988.~~

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

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

28           a. The name and address of the person claiming the  
29 refund.

30           b. The refund permit number assigned pursuant to s.  
31 212.095 to such person.

- 1 c. An address and assessment roll parcel number of the  
2 rehabilitated real property in an enterprise zone for which a  
3 refund of previously paid taxes is being sought.
- 4 d. A description of the improvements made to  
5 accomplish the rehabilitation of the real property.
- 6 e. A copy of the building permit issued for the  
7 rehabilitation of the real property.
- 8 f. A sworn statement, under the penalty of perjury,  
9 from the general contractor licensed in this state with whom  
10 the applicant contracted to make the improvements necessary to  
11 accomplish the rehabilitation of the real property, which  
12 statement lists the building materials used in the  
13 rehabilitation of the real property, the actual cost of the  
14 building materials, and the amount of sales tax paid in this  
15 state on the building materials. In the event that a general  
16 contractor has not been used, the applicant shall provide this  
17 information in a sworn statement, under the penalty of  
18 perjury. Copies of the invoices which evidence the purchase  
19 of the building materials used in such rehabilitation and the  
20 payment of sales tax on the building materials shall be  
21 attached to the sworn statement provided by the general  
22 contractor or by the applicant. Unless the actual cost of  
23 building materials used in the rehabilitation of real property  
24 and the payment of sales taxes due thereon is documented by a  
25 general contractor or by the applicant in this manner, the  
26 cost of such building materials shall be an amount equal to 40  
27 percent of the increase in assessed value for ad valorem tax  
28 purposes.
- 29 g. Either the identifying number assigned pursuant to  
30 s. 290.0065 to the enterprise zone in which the rehabilitated  
31 real property is located or such alternative proof as may be

1 prescribed by the department, with the concurrence of the  
2 secretary of the Department of Community Affairs, that the  
3 rehabilitated real property is located in an enterprise zone.

4 h. A certification by the property appraiser that the  
5 improvements necessary to accomplish the rehabilitation of the  
6 real property are substantially completed and that the  
7 assessed value for ad valorem tax purposes is, or on the next  
8 ad valorem tax roll will be, 30 percent or more greater than  
9 the assessed value for ad valorem tax purposes of the real  
10 property on the prior year's assessment roll.

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

27 3. The provisions of s. 212.095(4) do not apply to any  
28 refund application made pursuant to this paragraph. No more  
29 than one exemption through a refund of previously paid taxes  
30 for the rehabilitation of real property shall be permitted for  
31 any one parcel of real property. No refund shall be granted

1 pursuant to this paragraph unless the amount to be refunded  
2 exceeds \$500. No refund granted pursuant to this paragraph  
3 shall exceed the lesser of 97 percent of 5 percent of the cost  
4 of the building materials used in the rehabilitation of the  
5 real property as determined pursuant to sub-subparagraph 1.f.  
6 or \$5,000. A refund approved pursuant to this paragraph shall  
7 be made within 30 days of formal approval by the department of  
8 the application for the refund.

9         4. The department shall adopt rules governing the  
10 manner and form of refund applications and may establish  
11 guidelines as to the requisites for an affirmative showing of  
12 qualification for exemption under this paragraph.

13         5. The department shall deduct an amount equal to 10  
14 percent of each refund granted under the provisions of this  
15 paragraph from the amount deposited in the Local Government  
16 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 218.61  
17 for the county area in which the rehabilitated real property  
18 is located and shall transfer that amount to the General  
19 Revenue Fund.

20         6. For the purposes of the exemption provided in this  
21 paragraph, the term:

22         a. "Building materials" means tangible personal  
23 property which becomes a component part of improvements to  
24 real property.

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

27         c. "Rehabilitation of real property" means the  
28 reconstruction, renovation, restoration, rehabilitation,  
29 construction, or expansion of improvements to real property  
30 such that when substantially completed the assessed value for  
31 ad valorem tax purposes is 30 percent or more greater than the

1 assessed value for ad valorem tax purposes of the real  
2 property on the prior year's assessment roll.

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

5 7. The provisions of this paragraph shall expire and  
6 be void on December 31, 1994.

7 (h) Business property used in an enterprise zone.--

8 1. Business property purchased for use by businesses  
9 located in an enterprise zone which is subsequently used in an  
10 enterprise zone shall be exempt from the tax imposed by this  
11 chapter if no less than 20 percent of the employees of the  
12 business are residents of an enterprise zone, excluding  
13 temporary employees. This exemption inures to the business  
14 only through a refund of previously paid taxes. A refund  
15 shall be authorized upon an affirmative showing by the  
16 taxpayer to the satisfaction of the department that the  
17 requirements of this paragraph have been met.

18 2. To receive a refund, the business must file under  
19 oath, after the employment requirements of subparagraph 8.  
20 have been satisfied, an application which includes:

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

23 b. The refund permit number assigned pursuant to s.  
24 212.095 to such business.

25 c. Either the identifying number assigned pursuant to  
26 s. 290.0065 to the enterprise zone in which the business is  
27 located, or such alternative proof as may be prescribed by the  
28 department, with the concurrence of the secretary of the  
29 Department of Community Affairs, that the business is located  
30 in an enterprise zone.

31

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

4           e. The location of the property.

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

9           g. The name and address of each permanent employee of  
10 the business, including, for each employee who is a resident  
11 of an enterprise zone, the identifying number assigned  
12 pursuant to s. 290.0065 to the enterprise zone in which the  
13 employee resides or such alternative proof as may be  
14 prescribed by the department, with the concurrence of the  
15 secretary of the Department of Community Affairs, that the  
16 employee is a resident of an enterprise zone.

17           3. The provisions of s. 212.095(4) do not apply to any  
18 refund application made pursuant to this paragraph. The  
19 amount refunded on purchases of business property under this  
20 paragraph shall be 97 percent of the sales tax paid on such  
21 business property. A refund approved pursuant to this  
22 paragraph shall be made within 30 days of formal approval by  
23 the department of the application for the refund. No refund  
24 shall be granted under this paragraph unless the amount to be  
25 refunded exceeds \$100 in sales tax paid on purchases made  
26 within a 60-day time period.

27           4. The department shall adopt rules governing the  
28 manner and form of refund applications and may establish  
29 guidelines as to the requisites for an affirmative showing of  
30 qualification for exemption under this paragraph.

31



1           5    If the department determines that the business  
2 property is used outside an enterprise zone within 3 years  
3 from the date of purchase, the amount of taxes refunded to the  
4 business purchasing such business property shall immediately  
5 be due and payable to the department by the business, together  
6 with the appropriate interest and penalty, computed from the  
7 date of purchase, in the manner provided by this chapter.

8           6.    The department shall deduct an amount equal to 10  
9 percent of each refund granted under the provisions of this  
10 paragraph from the amount deposited in the Local Government  
11 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 218.61  
12 for the county area in which the business property is located  
13 and shall transfer that amount to the General Revenue Fund.

14           7.    For the purposes of this exemption, the term  
15 "business property" means new or used property defined as  
16 "recovery property" in s. 168(c) of the Internal Revenue Code  
17 of 1954, as amended, except:

18           a.    Property classified as 3-year property under s.  
19 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

20           b.    Industrial machinery and equipment as defined in  
21 sub-subparagraph (b)6.a.; and

22           c.    Building materials as defined in sub-subparagraph  
23 (g)6.a.

24           8.    The employment requirements established by this  
25 paragraph shall be met during the time period beginning 90  
26 days prior to the date of the initial purchase for which a  
27 refund is sought and ending 90 days after the date of the last  
28 purchase for which a refund is sought under this paragraph.  
29 However, if the business did not exist or was not operating in  
30 the enterprise zone 90 days prior to the date of the initial  
31 purchase, the employment requirements established by this

1 paragraph shall be met for not less than 90 days after the  
2 date of the last purchase for which a refund is sought

3 9. The provisions of this paragraph shall expire and  
4 be void on December 31, 1994.

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

10 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are  
11 also exempt from the tax imposed by this chapter sales made to  
12 the United States Government, a state, or any county,  
13 municipality, or political subdivision of a state when payment  
14 is made directly to the dealer by the governmental entity.  
15 This exemption shall not inure to any transaction otherwise  
16 taxable under this chapter when payment is made by a  
17 government employee by any means, including, but not limited  
18 to, cash, check, or credit card when that employee is  
19 subsequently reimbursed by the governmental entity. This  
20 exemption does not include sales of tangible personal property  
21 made to contractors employed either directly or as agents of  
22 any such government or political subdivision thereof when such  
23 tangible personal property goes into or becomes a part of  
24 public works owned by such government or political subdivision  
25 thereof, except public works in progress or for which bonds or  
26 revenue certificates have been validated on or before August  
27 1, 1959. This exemption does not include sales, rental, use,  
28 consumption, or storage for use in any political subdivision  
29 or municipality in this state of machines and equipment and  
30 parts and accessories therefor used in the generation,  
31 transmission, or distribution of electrical energy by systems

1 owned and operated by a political subdivision in this state  
2 except sales, rental, use, consumption, or storage for which  
3 bonds or revenue certificates are validated on or before  
4 January 1, 1973, for transmission or distribution expansion.  
5 Likewise exempt are charges for services rendered by radio and  
6 television stations, including line charges, talent fees, or  
7 license fees and charges for films, videotapes, and  
8 transcriptions used in producing radio or television  
9 broadcasts.

10 (7) MISCELLANEOUS EXEMPTIONS.--

11 (a) Artificial commemorative flowers.--Exempt from the  
12 tax imposed by this chapter is the sale of artificial  
13 commemorative flowers by bona fide nationally chartered  
14 veterans' organizations.

15 (b) Boiler fuels.--When purchased for use as a  
16 combustible fuel, purchases of natural gas, residual oil,  
17 recycled oil, waste oil, solid waste material, coal, sulfur,  
18 wood, wood residues or wood bark used in an industrial  
19 manufacturing, processing, compounding, or production process  
20 at a fixed location in this state are exempt from the taxes  
21 imposed by this chapter; however, such exemption shall not be  
22 allowed unless the purchaser signs a certificate stating that  
23 the fuel to be exempted is for the exclusive use designated  
24 herein. This exemption does not apply to the use of boiler  
25 fuels that are not used in manufacturing, processing,  
26 compounding, or producing items of tangible personal property  
27 for sale, or to the use of boiler fuels used by any firm  
28 subject to regulation by the Division of Hotels and  
29 Restaurants of the Department of Business Regulation.

30 (c) Crustacea bait.--Also exempt from the tax imposed  
31 by this chapter is the purchase by commercial fishermen of

1 bait intended solely for use in the entrapment of Callinectes  
2 sapidus and Menippe mercenaria.

3 (d) Feeds.--Feeds for poultry and livestock, including  
4 racehorses and dairy cows, are exempt.

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

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

13 (g) Florida Retired Educators Association and its  
14 local chapters.--Also exempt from payment of the tax imposed  
15 by this chapter are purchases of office supplies, equipment,  
16 and publications made by the Florida Retired Educators  
17 Association and its local chapters.

18 (h) Guide dogs for the blind.--Also exempt are the  
19 sale or rental of guide dogs for the blind, commonly referred  
20 to as "seeing-eye dogs," and the sale of food or other items  
21 for such guide dogs.

22 1. The department shall issue a consumer's certificate  
23 of exemption to any blind person who holds an identification  
24 card as provided for in s. 413.091 and who either owns or  
25 rents, or contemplates the ownership or rental of, a guide dog  
26 for the blind. The consumer's certificate of exemption shall  
27 be issued without charge and shall be of such size as to be  
28 capable of being carried in a wallet or billfold.

29 2. The department shall make such rules concerning  
30 items exempt from tax under the provisions of this paragraph  
31 as may be necessary to provide that any person authorized to

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

4 (i) Hospital meals and rooms.--Also exempt from  
5 payment of the tax imposed by this chapter on rentals and  
6 meals are patients and inmates of any hospital or other  
7 physical plant or facility designed and operated primarily for  
8 the care of persons who are ill, aged, infirm, mentally or  
9 physically incapacitated, or otherwise dependent on special  
10 care or attention.

11 (j) Household fuels.--Also exempt from payment of the  
12 tax imposed by this chapter are sales of utilities to  
13 residential households or owners of residential models in this  
14 state by utility companies who pay the gross receipts tax  
15 imposed under s. 203.01, and sales of fuel to residential  
16 households or owners of residential models, including oil,  
17 kerosene, liquefied petroleum gas, coal, wood, and other fuel  
18 products used in the household or residential model for the  
19 purposes of heating, cooking, lighting, and refrigeration,  
20 regardless of whether such sales of utilities and fuels are  
21 separately metered and billed direct to the residents or are  
22 metered and billed to the landlord. If any part of the  
23 utility or fuel is used for a nonexempt purpose, the entire  
24 sale is taxable. The landlord shall provide a separate meter  
25 for nonexempt utility or fuel consumption.

26 (k) Meals provided by certain nonprofit  
27 organizations.--There is exempt from the tax imposed by this  
28 chapter the sale of prepared meals by a nonprofit volunteer  
29 organization to handicapped, elderly, or indigent persons when  
30 such meals are delivered as a charitable function by the  
31 organization to such persons at their places of residence.

1 (1) Military museums.--Also exempt are sales to  
2 nonprofit corporations which hold current exemptions from  
3 federal corporate income tax pursuant to s. 501(c)(3), U.S.  
4 Internal Revenue Code, 1954, as amended, and whose primary  
5 purpose is to raise money for military museums.

6 (m) Nonprofit corporation; home for the aged, nursing  
7 home, or hospice.--Nonprofit corporations which hold current  
8 exemptions from federal corporate income tax pursuant to s.  
9 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and  
10 which either qualify as homes for the aged pursuant to s.  
11 196.1975(2) or are licensed as a nursing home or hospice under  
12 the provisions of chapter 400, are exempt from the tax imposed  
13 by this chapter.

14 (n) Organizations providing special educational,  
15 cultural, recreational, and social benefits to minors.--There  
16 shall be exempt from the tax imposed by this part nonprofit  
17 organizations which are incorporated pursuant to chapter 617  
18 or which hold a current exemption from federal corporate  
19 income tax pursuant to s. 501(c)(3) of the Internal Revenue  
20 Code the primary purpose of which is providing activities that  
21 contribute to the development of good character or good  
22 sportsmanship, or to the educational or cultural development,  
23 of minors. This exemption is extended only to that level of  
24 the organization that has a salaried executive officer or an  
25 elected nonsalaried executive officer.

26 (o) Religious, charitable, scientific, educational,  
27 and veterans' institutions and organizations.--

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

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

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

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

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

19           a. "Religious institutions" means churches,  
20 synagogues, and established physical places for worship at  
21 which nonprofit religious services and activities are  
22 regularly conducted and carried on. The term "religious  
23 institutions" includes nonprofit corporations the sole purpose  
24 of which is to provide free transportation services to church  
25 members, their families, and other church attendees. The term  
26 "religious institutions" also includes state, district, or  
27 other governing or administrative offices the function of  
28 which is to assist or regulate the customary activities of  
29 religious organizations or members.

30           b. "Charitable institutions" means only nonprofit  
31 corporations qualified as nonprofit pursuant to s. 501(c)(3),

1 United States Internal Revenue Code, 1954, as amended, and  
2 other nonprofit entities, the sole or primary function of  
3 which is to provide, or to raise funds for organizations which  
4 provide, one or more of the following services if a reasonable  
5 percentage of such service is provided free of charge, or at a  
6 substantially reduced cost, to persons, animals, or  
7 organizations that are unable to pay for such service:

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

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

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

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

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

23 (VI) Legal services; or

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

27  
28 and the term includes groups providing volunteer manpower to  
29 organizations designated as charitable institutions hereunder.

30 c. "Scientific organizations" means scientific  
31 organizations which hold current exemptions from federal



1 income tax under s. 501(c)(3) of the Internal Revenue Code and  
2 also means organizations the purpose of which is to protect  
3 air and water quality or the purpose of which is to protect  
4 wildlife and which hold current exemptions from the federal  
5 income tax under s. 501(c)(3) of the Internal Revenue Code.

6 d. "Educational institutions" means state tax-  
7 supported or parochial, church and nonprofit private schools,  
8 colleges, or universities which conduct regular classes and  
9 courses of study required for accreditation by, or membership  
10 in, the Southern Association of Colleges and Schools, the  
11 Department of Education, the Florida Council of Independent  
12 Schools, or the Florida Association of Christian Colleges and  
13 Schools, Inc., or which conduct regular classes and courses of  
14 study accepted for continuing education credit by the American  
15 Medical Association or the American Dental Association.

16 Nonprofit libraries, art galleries, and museums open to the  
17 public are defined as educational institutions and are  
18 eligible for exemption. The term "educational institutions"  
19 includes private nonprofit organizations the purpose of which  
20 is to raise funds for schools teaching grades kindergarten  
21 through high school, colleges, and universities. The term  
22 "educational institutions" includes any nonprofit newspaper of  
23 free or paid circulation primarily on university or college  
24 campuses which holds a current exemption from federal income  
25 tax under s. 501(c)(3) of the Internal Revenue Code, and any  
26 educational television or radio network or system established  
27 pursuant to s. 229.805 or s. 229.8051 and any nonprofit  
28 television or radio station which is a part of such network or  
29 system and which holds a current exemption from federal income  
30 tax under s. 501(c)(3) of the Internal Revenue Code. The term  
31 "educational institutions" also includes state, district, or

1 other governing or administrative offices the function of  
2 which is to assist or regulate the customary activities of  
3 educational organizations or members.

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

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

17 (q) School books and school lunches.--This exemption  
18 applies to school books used in regularly prescribed courses  
19 of study, and to school lunches served to students, in public,  
20 parochial, or nonprofit schools operated for and attended by  
21 pupils of grades 1 through 12. School books and food sold or  
22 served at community colleges and other institutions of higher  
23 learning are taxable.

24 (r) State Theater Program facilities.--Nonprofit  
25 organizations incorporated in accordance with chapter 617  
26 which have qualified under s. 501(c)(3) of the Internal  
27 Revenue Code of 1954, as amended, and which have been  
28 designated as State Theater Program facilities as provided in  
29 s. 265.287 are exempt from the tax imposed by this chapter.

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

1 of "wine tasting" and "spirituous beverage tasting" as  
2 contemplated under the provisions of ss. section 564.06 and  
3 565.12, respectively, are exempt from the tax imposed by this  
4 part. This exemption shall be effective retroactively to July  
5 1, 1981.

6 (t)(w) Boats temporarily docked in state.--

7 1. Notwithstanding the provisions of chapters 327 and  
8 328, ~~Pierda-Statutes~~, pertaining to the registration of  
9 vessels, a boat upon which sales tax has not been paid, which  
10 has not been licensed, titled, or registered in another taxing  
11 jurisdiction within the United States, or which is being used  
12 in the waters of this state under a permit issued by an agency  
13 of the United States government is exempt from the use tax  
14 under this chapter if it enters and remains in this state for  
15 a period not to exceed a total of 10 days in any calendar year  
16 calculated from the date of first dockage or slippage at a  
17 facility, registered with the department, that rents dockage  
18 or slippage space in this state. If a boat brought into this  
19 state for use under this paragraph is placed in a facility,  
20 registered with the department, for repairs, alterations,  
21 refitting, or modifications and such repairs, alterations,  
22 refitting, or modifications are supported by written  
23 documentation, the 10-day period shall be tolled during the  
24 time the boat is physically in the care, custody, and control  
25 of the repair facility. The 10-day time period may be tolled  
26 only once within a calendar year when a boat is placed for the  
27 first time that year in the physical care, custody, and  
28 control of a registered repair facility; however, the owner  
29 may request and the department may grant an additional tolling  
30 of the 10-day period for purposes of repairs that arise from a  
31 written guarantee given by the registered repair facility,

1 | which guarantee covers only those repairs or modifications  
2 | made during the first tolled period. Within 72 hours after  
3 | the date upon which the registered repair facility took  
4 | possession of the boat, the facility must furnish to the  
5 | department, on forms prescribed by the department, an  
6 | affidavit which states that the boat is under its care,  
7 | custody, and control and that the owner does not use the boat.  
8 | Upon completion of the repairs, alterations, refitting, or  
9 | modifications, the registered repair facility must furnish the  
10 | department, within 72 hours after the date of release, with a  
11 | copy of the release form which shows the date of release and  
12 | any other information the department requires. When, within 6  
13 | months after the date of its purchase, a boat is brought into  
14 | this state under this paragraph, the 6-month period provided  
15 | in s. 212.06(8) shall be tolled

16 |         2. During the period of repairs, alterations,  
17 | refitting, or modifications and during the 10-day period  
18 | referred to in subparagraph 1., the boat may be listed for  
19 | sale, contracted for sale, or sold exclusively by a broker or  
20 | dealer registered with the department without incurring a use  
21 | tax under this part; however, the sales tax levied under this  
22 | part applies to such sale.

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

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

27 |         a. A full-service facility that:

28 |             (I) Is located on a navigable body of water,

29 |             (II) Has haulout capability such as a dry dock, travel  
30 | lift, railway, or similar equipment to service craft under the  
31 | care, custody, and control of the facility,

1 (III) Has adequate piers and storage facilities to  
2 provide safe berthing of vessels in its care, custody, and  
3 control; and

4 (IV) Has necessary shops and equipment to provide  
5 repair or warranty work on vessels under the care, custody,  
6 and control of the facility,

7 b. A marina that:

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

9 (II) Has adequate piers and storage facilities to  
10 provide safe berthing of vessels in its care, custody, and  
11 control; and

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

14 c. A shoreside facility that:

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

16 (II) Has adequate piers and storage facilities to  
17 provide safe berthing of vessels in its care, custody, and  
18 control; and

19 (III) Has necessary shops and equipment to provide  
20 repairs or warranty work.

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

25 (v) Professional services.--

26 1. Also exempted are professional, insurance, or  
27 personal service transactions that involve sales as  
28 inconsequential elements for which no separate charges are  
29 made.

30 2. The personal service transactions exempted pursuant  
31 to subparagraph 1. do not exempt the sale of information

1 services involving the furnishing of printed, mimeographed, or  
2 multigraphed matter, or matter duplicating written or printed  
3 matter in any other manner, other than professional services  
4 and services of employees, agents, or other persons acting in  
5 a representative or fiduciary capacity or information services  
6 furnished to newspapers and radio and television stations. As  
7 used in this subparagraph, the term "information services"  
8 includes the services of collecting, compiling, or analyzing  
9 information of any kind or nature and furnishing reports  
10 thereof to other persons.

11 (w) Newspapers.--Likewise exempt are newspapers.

12 (x) Sporting equipment brought into the state --  
13 Sporting equipment brought into Florida, for a period of not  
14 more than 4 months in any calendar year, used by an athletic  
15 team or an individual athlete in a sporting event is exempt  
16 from the use tax if such equipment is removed from the state  
17 within 7 days after the completion of the event.

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

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

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

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

22 (c) It is the intent of the Legislature that neither  
23 subsection (4) nor this subsection, whether as currently in  
24 effect or as amended by chapter 73-240, Laws of Florida, and  
25 in effect between June 22, 1973, and June 13, 1977, shall be  
26 construed as imposing the tax provided by this part on vessels  
27 used as common carriers, contract carriers, or private  
28 carriers, engaged in interstate or foreign commerce, except to  
29 the extent provided by the pro rata formula provided in  
30 subsection (4) and in paragraph (a).

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

3           (a) Railroads which are licensed as common carriers by  
4 the Interstate Commerce Commission and parts thereof used to  
5 transport persons or property in interstate or foreign  
6 commerce are subject to tax imposed in this chapter only to  
7 the extent provided herein. The basis of the tax shall be the  
8 ratio of intrastate mileage to interstate or foreign mileage  
9 traveled by the carrier during the previous fiscal year of the  
10 carrier. Such ratio is to be determined at the close of the  
11 carrier's fiscal year. This ratio shall be applied each month  
12 to the total purchases of the railroad which are used in this  
13 state to establish that portion of the total used and consumed  
14 in intrastate movement and subject to tax under this part.

15 Railroads which are licensed as common carriers by the  
16 Interstate Commerce Commission and parts thereof used to  
17 transport persons or property in interstate and foreign  
18 commerce are hereby determined to be susceptible to a distinct  
19 and separate classification for taxation under the provisions  
20 of this part.

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



1 month 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 and parts thereof used to transport persons or  
7 property in interstate and foreign commerce are hereby  
8 determined to be susceptible to a distinct and separate  
9 classification for taxation under the provisions of this part.  
10 Motor vehicles and parts thereof used exclusively in  
11 intrastate commerce do not qualify for the proration of tax.

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

27 (11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.--

28 (a) The tax imposed on the sale by a manufacturer of  
29 flyable aircraft, who designs such aircraft, which sale may  
30 include necessary equipment and modifications placed on such  
31 flyable aircraft prior to delivery by the manufacturer, shall

1 | be an amount equal to the sales tax which would be imposed on  
2 | such sale under the laws of the state in which the aircraft  
3 | will be domiciled.

4 |       (b) This partial exemption applies only if the  
5 | purchaser is a resident of another state who will not use the  
6 | aircraft in this state, or if the purchaser is a resident of  
7 | another state and uses the aircraft in interstate or foreign  
8 | commerce, or if the purchaser is a resident of a foreign  
9 | country.

10 |       (c) The maximum tax collectible under this subsection  
11 | may not exceed 5 percent of the sales price of such aircraft.  
12 | No Florida tax may be imposed on the sale of such aircraft if  
13 | the state in which the aircraft will be domiciled does not  
14 | allow Florida sales or use tax to be credited against its  
15 | sales or use tax. Furthermore, no tax may be imposed on the  
16 | sale of such aircraft if the state in which the aircraft will  
17 | be domiciled has enacted a sales and use tax exemption for  
18 | flyable aircraft or if the aircraft will be domiciled outside  
19 | the United States.

20 |       (d) The purchaser shall execute a sworn affidavit  
21 | attesting that he is not a resident of this state and stating  
22 | where the aircraft will be domiciled. If the aircraft is  
23 | subsequently used in this state within 6 months of the time of  
24 | purchase, in violation of the intent of this subsection, the  
25 | purchaser shall be liable for payment of the full use tax  
26 | imposed by this chapter and shall be subject to the penalty  
27 | imposed by s. 212.12(2), which penalty shall be mandatory.

28 |       (12) PARTIAL EXEMPTION, MASTER TAPES, RECORDS, FILMS,  
29 | OR VIDEO TAPES.--

30 |       (a) There are exempt from the taxes imposed by this  
31 | part the gross receipts from the sale or lease of, and the

1 storage, use, or other consumption in this state of, master  
2 tapes or master records embodying sound, or master films or  
3 master video tapes; except that amounts paid to recording  
4 studios or motion picture or television studios for the  
5 tangible elements of such master tapes, records, films, or  
6 video tapes are taxable as otherwise provided in this part.

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

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

17 2. "Master films or master video tapes" means films or  
18 video tapes utilized by the motion picture and television  
19 production industries in making visual images for  
20 reproduction.

21 3. "Master tapes or master records embodying sound"  
22 means tapes, records, and other devices utilized by the  
23 recording industry in making recordings embodying sound.

24 4. "Motion picture or television studio" means a  
25 facility in which film or video tape productions or parts of  
26 productions are made and which contains the necessary  
27 equipment and personnel for this purpose and includes a mobile  
28 unit or vehicle that is equipped in much the same manner as a  
29 stationary studio and used in the making of film or video tape  
30 productions.

31

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

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

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

14           ~~(e)--This subsection shall expire and be void July 1,~~  
15 ~~1988.~~

16           (13) No transactions shall be exempt from the tax  
17 imposed by this chapter except those expressly exempted  
18 herein. All laws granting tax exemptions, to the extent they  
19 may be inconsistent or in conflict with this chapter,  
20 including, but not limited to, the following designated laws,  
21 shall yield to and be superseded by the provisions of this  
22 subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31,  
23 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 258.14,  
24 315.11, 348.65, 348.762, 349.13, 374.132, 403.1834, 616.07,  
25 623.09, 637.131, and 637.291 and the following Laws of  
26 Florida, acts of the year indicated: s. 31, ch. 30843, 1955;  
27 s. 19, ch. 30845, 1955, s. 12, ch. 30927, 1955; s. 8, ch.  
28 31179, 1955; s. 15, ch. 31263, 1955; s. 13, ch. 31343, 1955;  
29 s. 16, ch. 59-1653; s. 13, ch. 59-1356; s. 12, ch. 61-2261; s.  
30 19, ch. 61-2754; s. 10, ch. 61-2686, s. 11, ch. 63-1643; s.  
31 11, ch. 65-1274; s. 16, ch. 67-1446; and s. 10, ch. 67-1681.

1 (14) The department shall establish a technical  
2 assistance advisory committee with public and private sector  
3 members to advise the Department of Revenue and the Department  
4 of Health and Rehabilitative Services in determining the  
5 taxability of specific products and product lines pursuant to  
6 subsection (1) and paragraph (2)(a). In determining  
7 taxability and in preparing a list of specific products and  
8 product lines which are or are not taxable, the committee  
9 shall not be subject to the provisions of chapter 120.  
10 Private sector members shall not be compensated for serving on  
11 the committee.

12 (15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.--

13 (a) Charges for electrical energy used by a qualified  
14 business at a fixed location in an enterprise zone in a  
15 municipality which has enacted an ordinance pursuant to s.  
16 166.231(8) which provides for exemption of municipal utility  
17 taxes on such businesses shall be exempt from the tax imposed  
18 by this chapter for a period of 5 years from the billing  
19 period beginning not more than 30 days following notification  
20 to the applicable utility company by the department that an  
21 exemption has been authorized pursuant to this subsection.

22 (b) To receive this exemption, a business must file an  
23 application, on a form provided by the department for the  
24 purposes of this subsection and s. 166.231(8). The  
25 application shall be made under oath and shall include:

- 26 1. The name and location of the business.  
27 2. Either the identifying number assigned pursuant to  
28 s. 290.0065 to the enterprise zone in which the business is  
29 located or such alternative proof as may be prescribed by the  
30 department, with the concurrence of the secretary of the  
31

1 Department of Community Affairs, that the business is located  
2 in an enterprise zone.

3 3. The date on which electrical service is to be first  
4 initiated to the business.

5 4. The name and mailing address of the entity from  
6 which electrical energy is to be purchased.

7 5. The date of the application.

8 6. The name of the city in which the business is  
9 located.

10 7. The name and address of each permanent employee of  
11 the business including, for each employee who is a resident of  
12 an enterprise zone, the identifying number assigned pursuant  
13 to s. 290.0065 to the enterprise zone in which the employee  
14 resides or such alternate proof as may be prescribed by the  
15 department, with the concurrence of the secretary of the  
16 Department of Community Affairs, that the employee is a  
17 resident of an enterprise zone.

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

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

1 (e) For the purpose of the exemption provided in this  
2 subsection, the term "qualified business" means a business for  
3 which not less than 20 percent of its employees are residents  
4 of an enterprise zone, excluding temporary employees, for the  
5 5-year duration of this exemption, except as provided in  
6 paragraph (f), and which is:

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

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

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

18 (f) The employment requirements established by this  
19 subsection shall be satisfied, without exception, for the  
20 first 6 months of the exemption period authorized in this  
21 subsection. Subsequently, any qualified business which fails  
22 for a period of 30 consecutive days to maintain such  
23 employment requirements will be ineligible for the remainder  
24 of the exemption authorized in this subsection.

25 (g) This subsection shall expire and be void on  
26 December 31, 1994, except that:

27 1. Paragraph (c) shall not expire, and

28 2. Any qualified business which has been granted an  
29 exemption under this subsection prior to that date shall be  
30 allowed the full benefit of this exemption as if this  
31 subsection had not expired on that date.

1 Section 27. Effective February 1, 1988, subsection (3)  
2 and paragraph (c) of subsection (11) of section 212.08,  
3 Florida Statutes, as amended by sections 14 and 25 of chapter  
4 87-6, section 4 of chapter 87-72, section 4 of chapter 87-99,  
5 section 13 of chapter 87-101, and section 2 of chapter 87-370,  
6 Laws of Florida, are amended to read:

7 212.08 Sales, rental, use, consumption, distribution,  
8 and storage tax; specified exemptions.--The sale at retail,  
9 the rental, the use, the consumption, the distribution, and  
10 the storage to be used or consumed in this state of the  
11 following are hereby specifically exempt from the tax imposed  
12 by part I of this chapter.

13 (3) EXEMPTIONS, PARTIAL, CERTAIN FARM EQUIPMENT.--  
14 There shall be taxable at the rate of 3 percent the sale, use,  
15 consumption, or storage for use in this state of self-  
16 propelled or power-drawn farm equipment used exclusively by a  
17 farmer on a farm owned, leased, or sharecropped by him in  
18 plowing, planting, cultivating, or harvesting crops. The  
19 rental of self-propelled or power-drawn farm equipment shall  
20 be taxed at the rate of 6 5 percent.

21 (11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.--

22 (c) The maximum tax collectible under this subsection  
23 may not exceed 6 5 percent of the sales price of such  
24 aircraft. No Florida tax may be imposed on the sale of such  
25 aircraft if the state in which the aircraft will be domiciled  
26 does not allow Florida sales or use tax to be credited against  
27 its sales or use tax. Furthermore, no tax may be imposed on  
28 the sale of such aircraft if the state in which the aircraft  
29 will be domiciled has enacted a sales and use tax exemption  
30 for flyable aircraft or if the aircraft will be domiciled  
31 outside the United States.



1 Section 28. Effective July 1, 1988, paragraph (b) of  
2 subsection (5) of section 212.08, Florida Statutes, as amended  
3 by section 59 of chapter 87-6 and section 34 of chapter 87-  
4 101, Laws of Florida, is amended to read.

5 212.08 Sales, rental, use, consumption, distribution,  
6 and storage tax; specified exemptions.--The sale at retail,  
7 the rental, the use, the consumption, the distribution, and  
8 the storage to be used or consumed in this state of the  
9 following are hereby specifically exempt from the tax imposed  
10 by part I of this chapter.

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

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

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

26 2. Industrial machinery and equipment purchased for  
27 use in expanding manufacturing facilities or plant units which  
28 manufacture, process, compound, or produce for sale items of  
29 tangible personal property at fixed locations in this state  
30 ~~and services directly related to the installation of such~~  
31 ~~machinery and equipment, excluding construction services,~~ are

1 exempt from any amount of tax imposed by this chapter in  
2 excess of \$100,000 per calendar year upon an affirmative  
3 showing by the taxpayer to the satisfaction of the department  
4 that such items are used to increase the productive output of  
5 such expanded business by not less than 10 percent.

6       3 a. To receive an exemption provided by subparagraph  
7 1. or subparagraph 2., a qualifying business entity shall  
8 apply to the department for a temporary tax exemption permit.  
9 The application shall state that a new business exemption or  
10 expanded business exemption is being sought. Upon a tentative  
11 affirmative determination by the department pursuant to  
12 subparagraph 1. or subparagraph 2., the department shall issue  
13 such permit.

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

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

30       d. In the event a qualifying business entity fails to  
31 apply for a temporary exemption permit or if the tentative

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

8           4. The department shall promulgate rules governing  
9 applications for, issuance of, and the form of temporary tax  
10 exemption permits; provisions for recapture of taxes; and the  
11 manner and form of refund applications and may establish  
12 guidelines as to the requisites for an affirmative showing of  
13 increased productive output, commencement of production, and  
14 qualification for exemption.

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

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

28           a. "Industrial machinery and equipment" means "section  
29 38 property" as defined in s. 48(a)(1)(A) and (B)(1) of the  
30 Internal Revenue Code, provided "industrial machinery and  
31 equipment" shall be construed by regulations adopted by the

1 Department of Revenue to mean tangible property used as an  
2 integral part of the manufacturing, processing, compounding,  
3 or producing for sale of items of tangible personal property.  
4 Such term includes parts and accessories only to the extent  
5 that the exemption thereof is consistent with the provisions  
6 of this paragraph.

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

26       Section 29. Section 212.11, Florida Statutes, as  
27 amended by section 16 of chapter 87-6, section 15 of chapter  
28 87-101, and section 3 of chapter 87-239, Laws of Florida, is  
29 amended to read:

30       212.11 Tax returns and regulations.--

1           ~~(1)(a)1. Except as provided in subparagraph 3-~~ Each  
2 dealer shall calculate his estimated tax liability for any  
3 month by one of the following methods:

4           a. Sixty-six percent of the current month's liability  
5 pursuant to this part as shown on the tax return;

6           b. Sixty-six percent of the tax reported on the tax  
7 return pursuant to this part by a dealer for the taxable  
8 transactions occurring during the corresponding month of the  
9 preceding calendar year; or

10          c. Sixty-six percent of the average tax liability  
11 pursuant to this part for those months during the preceding  
12 calendar year in which the dealer reported taxable  
13 transactions.

14          2. Any estimated tax liability greater than or equal  
15 to the threshold amount specified in subsection (5) shall be  
16 due, payable, and remitted by the 20th day of the month for  
17 which the liability applies. The difference between the  
18 estimated tax liability paid and the actual amount and taxes  
19 due under this part for such month shall become due and  
20 payable by the first day of the following month and shall be  
21 remitted by the 20th day thereof.

22          3. For any dealer who has an estimated tax liability  
23 of less than the threshold amount specified in subsection (5)  
24 or who was not registered for sales tax purposes for the  
25 corresponding month of the preceding year ~~or who first remits~~  
26 ~~taxes to the department on or after the effective date of this~~  
27 ~~section~~, the current taxes levied pursuant to this part shall  
28 be due and payable monthly on the first day of the following  
29 month and shall be remitted by the 20th day thereof.

30          (b) For the purpose of ascertaining the amount of tax  
31 payable under this chapter, it shall be the duty of all

1 dealers to make a return, on or before the 20th day of the  
2 month, to the department, upon forms prepared and furnished by  
3 it, showing the rentals, admissions, gross sales, or  
4 purchases, as the case may be, arising from all leases,  
5 rentals, admissions, sales, or purchases taxable under this  
6 chapter during the preceding calendar month.

7 (c) However, the department may authorize a quarterly  
8 return and payment when the tax remitted by the dealer for the  
9 preceding quarter did not exceed \$100 and may authorize a  
10 semiannual return and payment when the tax remitted by the  
11 dealer for the preceding 6 months did not exceed \$200.

12 ~~(d) -- Beginning October 17, 1987, the department may~~  
13 ~~authorize a quarterly return and payment for dealers~~  
14 ~~registered as service providers and remitting tax solely from~~  
15 ~~the provision of services. -- Such returns may be authorized~~  
16 ~~only for dealers whose monthly tax collections are less than~~  
17 ~~\$500 in each month for the previous 3 months. -- Quarterly~~  
18 ~~payments pursuant to this paragraph shall be due and payable~~  
19 ~~in March, June, September, and December of each year.~~

20 (d)(e) The department shall accept returns as timely  
21 if postmarked on or before the 20th day of the month; if the  
22 20th day falls on a Saturday, Sunday, or federal or state  
23 legal holiday, returns shall be accepted as timely if  
24 postmarked on the next succeeding workday. Any dealer who  
25 operates two or more places of business for which returns are  
26 required to be filed with the department and maintains records  
27 for such places of business in a central office or place shall  
28 have the privilege on each reporting date of filing a  
29 consolidated return for all such places of business in lieu of  
30 separate returns for each such place of business, however,  
31 such consolidated returns must clearly indicate the amounts

1 collected within each county of the state. Any dealer who  
2 files a consolidated return shall calculate his estimated tax  
3 liability for each county by the same method he uses to  
4 calculate his estimated tax liability on the consolidated  
5 return as a whole. Each dealer shall file a return for each  
6 tax period even though no tax is due for such period.

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

11 (3) Except as otherwise expressly provided for herein,  
12 it is hereby declared to be the intention of this chapter to  
13 impose a tax on the gross proceeds of all leases and rentals  
14 of tangible personal property in this state when the lease or  
15 rental is a part of the regularly established business, or the  
16 same is incidental or germane thereto.

17 (4) The 66 percent rate provided in subsection (1)  
18 shall be reduced over a period of 5 years beginning January 1,  
19 1986, and is repealed December 31, 1990. During such period  
20 the following rates shall be applicable:

21 (a) From January 1, 1986, through December 31, 1986,  
22 the rate shall be 50 percent.

23 (b) From January 1, 1987, through December 31, 1987,  
24 the rate shall be 40 percent.

25 (c) From January 1, 1988, through December 31, 1988,  
26 the rate shall be 30 percent.

27 (d) From January 1, 1989, through December 31, 1989,  
28 the rate shall be 20 percent.

29 (e) From January 1, 1990, through December 31, 1990,  
30 the rate shall be 10 percent.

31

1 (5) The threshold amount to be used pursuant to  
2 subsection (1) shall be:

3 (a) \$1,650 before January 1, 1986.

4 (b) \$1,250 from January 1, 1986, through December 31,  
5 1986.

6 (c) \$1,000 from January 1, 1987, through December 31,  
7 1987.

8 (d) \$750 from January 1, 1988, through December 31,  
9 1988.

10 (e) \$500 from January 1, 1989, through December 31,  
11 1989.

12 (f) \$250 from January 1, 1990, through December 31,  
13 1990.

14 Section 30. Subsections (1), (2), (3), (4), (5), (6),  
15 (7), and (8) of section 212.12, Florida Statutes, as amended  
16 by section 17 of chapter 87-6, section 6 of chapter 87-99,  
17 section 16 of chapter 87-101, and section 8 of chapter 87-402,  
18 Laws of Florida, are amended to read:

19 212.12 Dealer's credit for collecting tax; penalties  
20 for noncompliance; powers of Department of Revenue in dealing  
21 with delinquents; brackets applicable to taxable transactions;  
22 records required.--

23 (1) Notwithstanding any other provision of law and for  
24 the purpose of compensating persons granting licenses for and  
25 the lessors of real and personal property taxed hereunder, for  
26 the purpose of compensating dealers in tangible personal  
27 property, for the purpose of compensating dealers providing  
28 communication services and taxable services, for the purpose  
29 of compensating owners of places where admissions are  
30 collected, and for the purpose of compensating remitters of  
31 any taxes or fees reported on the same documents utilized for



1 the sales and use tax, as compensation for the keeping of  
2 prescribed records and the proper accounting and remitting of  
3 taxes by them, such seller, person, lessor, dealer, owner and  
4 remitter (except dealers who make mail order sales) shall be  
5 allowed 3 percent of the amount of the tax due and accounted  
6 for and remitted to the department, in the form of a deduction  
7 in submitting his report and paying the amount due by him; and  
8 the department shall allow such deduction of 3 percent of the  
9 amount of the tax to the person paying the same for remitting  
10 the tax in the manner herein provided, for paying the amount  
11 due to be paid by him, and as further compensation to dealers  
12 in tangible personal property for the keeping of prescribed  
13 records and for collection of taxes and remitting the same.  
14 However, if the amount of the tax due and remitted to the  
15 department for the reporting period exceeds \$1,000, the 3-  
16 percent allowance shall be reduced to 1 percent for all  
17 amounts in excess of \$1,000. The executive director of the  
18 department is authorized to negotiate a collection allowance,  
19 pursuant to rules promulgated by the department, with a dealer  
20 who makes mail order sales. The rules of the department shall  
21 provide guidelines for establishing the collection allowance  
22 based upon the dealer's estimated costs of collecting the tax,  
23 the volume and value of the dealer's mail order sales to  
24 purchasers in this state, and the administrative and legal  
25 costs and likelihood of achieving collection of the tax absent  
26 the cooperation of the dealer. However, in no event shall the  
27 collection allowance negotiated by the executive director  
28 exceed 10 percent of the tax remitted for a reporting period.

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

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

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

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

25 (c) The collection allowance and other credits or  
26 deductions provided in this part shall be applied  
27 proportionally to any taxes or fees reported on the same  
28 documents used for the sales and use tax.

29 (2)(a) When any person, firm, or corporation required  
30 hereunder to make any return or to pay any tax imposed by this  
31 chapter fails to timely file such return or fails to pay the

1 tax due within the time required hereunder, in addition to all  
2 other penalties provided herein and by the laws of this state  
3 in respect to such taxes, a specific penalty shall be added to  
4 the tax in the amount of 5 percent of any unpaid tax if the  
5 failure is for not more than 30 days, with an additional 5  
6 percent of any unpaid tax for each additional 30 days, or  
7 fraction thereof, during the time which the failure continues,  
8 not to exceed, however, a total penalty of 25 percent, in the  
9 aggregate, of any unpaid tax. In no event may the penalty be  
10 less than \$5 for failure to timely file a tax return required  
11 by s. 212.11. In the case of a false or fraudulent return or  
12 a willful intent to evade payment of any tax imposed under  
13 this chapter, in addition to the other penalties provided by  
14 law, the person making such false or fraudulent return or  
15 willfully attempting to evade the payment of such a tax shall  
16 be liable to a specific penalty of 50 percent of the tax bill  
17 and for fine and punishment as provided by law for a  
18 conviction of a misdemeanor of the second degree.

19 (b) When any person, firm, or corporation fails to  
20 timely remit the proper estimated payment required under s.  
21 212.11, a specific penalty shall be added in an amount equal  
22 to 5 percent of any unpaid estimated tax. Through December  
23 31, 1984, this penalty shall be waived upon application by the  
24 dealer unless the department has determined that there was  
25 willful intent by the dealer to evade payment of the tax.  
26 Beginning with January 1, 1985 returns, the department, upon a  
27 showing of reasonable cause, is authorized to waive or  
28 compromise penalties imposed by this paragraph. However,  
29 other penalties and interest shall be due and payable if the  
30 return on which the estimated payment was due was not timely  
31 or properly filed.

1 (c) Dealers filing a consolidated return pursuant to  
2 s. 212.11(1)(d) shall be subject to the penalty established in  
3 paragraph (b) unless the dealer has paid the required  
4 estimated tax for his consolidated return as a whole without  
5 regard to each location. If the dealer fails to pay the  
6 required estimated tax for his consolidated return as a whole,  
7 each filing location shall stand on its own with respect to  
8 calculating penalties pursuant to paragraph (b).

9 (3) When any dealer, or other person charged herein,  
10 fails to remit the tax, or any portion thereof, on or before  
11 the day when such tax is required by law to be paid, there  
12 shall be added to the amount due interest at the rate of 1  
13 percent per month of the amount due from the date due until  
14 paid. Interest on the delinquent tax shall be calculated  
15 beginning on the 21st day of the month following the month for  
16 which the tax is due, except as otherwise provided in this  
17 part.

18 (4) All penalties and interest imposed by this chapter  
19 shall be payable to and collectible by the department in the  
20 same manner as if they were a part of the tax imposed. The  
21 department may settle or compromise any such interest or  
22 penalties pursuant to s. 213.21.

23 (5)(a) The department is authorized to audit or  
24 inspect the records and accounts of dealers defined herein,  
25 including audits or inspections of dealers who make mail order  
26 sales to the extent permitted by another state, and to correct  
27 by credit any overpayment of tax,<sup>r</sup> and, in the event of a  
28 deficiency, an assessment shall be made and collected. No  
29 administrative finding of fact is necessary prior to the  
30 assessment of any tax deficiency.

31

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 (6)(a) The department is given the power to prescribe  
26 the records to be kept by all persons subject to taxes imposed  
27 by this chapter; and it shall be the duty of every person  
28 required to make a report and pay any tax under this chapter,  
29 every person receiving rentals or license fees, and owners of  
30 places of admission, to keep and preserve suitable records of  
31 the sales, leases, rentals, license fees, admissions, or

1 purchases, as the case may be, taxable under this chapter;  
2 such other books of account as may be necessary to determine  
3 the amount of the tax due hereunder; and other information as  
4 may be required by the department. It shall be the duty of  
5 every such person so charged with such duty, moreover, to keep  
6 and preserve for a period of 3 years all invoices and other  
7 records of goods, wares, and merchandise, records of  
8 admissions, leases, license fees and rentals, and all other  
9 subjects of taxation under this chapter; and all such books,  
10 invoices, and other records shall be open to examination at  
11 all reasonable hours to the department or any of its duly  
12 authorized agents.

13 (b) For the purpose of this subsection, if a dealer  
14 does not have adequate records of his retail sales or  
15 purchases, the department may, upon the basis of a test or  
16 sampling of the dealer's available records or other  
17 information relating to the sales or purchases made by such  
18 dealer, for a representative period, determine the proportion  
19 that taxable retail sales bear to total retail sales or the  
20 proportion that taxable purchases bear to total purchases.  
21 This subsection does not affect the duty of the dealer to  
22 collect, or the liability of any consumer to pay, any tax  
23 imposed by or pursuant to this part.

24 (c) If the records of a dealer are adequate but  
25 voluminous in nature and substance, the department may  
26 statistically sample such records, except for fixed assets,  
27 and project the audit findings derived therefrom over the  
28 entire audit period to determine the proportion that taxable  
29 retail sales bear to total retail sales or the proportion that  
30 taxable purchases bear to total purchases. In order to  
31 conduct such a sample, the department must first make a good

1 | faith effort to reach an agreement with the dealer, which  
2 | agreement provides for the means and methods to be used in the  
3 | sampling process. In the event that no agreement is reached,  
4 | the dealer is entitled to a review by the executive director.

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

17 |       (8) In the case of the lease or rental of tangible  
18 | personal property, or other rentals or license fees as herein  
19 | defined and taxed, if the consideration given or reported by  
20 | the lessor, person receiving rental or license fee, or dealer  
21 | does not, in the judgment of the department, represent the  
22 | true or actual consideration, then the department is  
23 | authorized to ascertain the same and assess and collect the  
24 | tax thereon in the same manner as above provided, with respect  
25 | to imported tangible property, together with interest, plus  
26 | penalties, if such have accrued.

27 |       Section 31. Effective February 1, 1988, subsections  
28 | (9), (10), (11), (12), and (13) of section 212.12, Florida  
29 | Statutes, as amended by section 17 of chapter 87-6, section 6  
30 | of chapter 87-99, section 16 of chapter 87-101, and section 8  
31 | of chapter 87-402, Laws of Florida, are amended to read:

1           212.12 Dealer's credit for collecting tax, penalties  
2 for noncompliance; powers of Department of Revenue in dealing  
3 with delinquents; brackets applicable to taxable transactions;  
4 records required.--

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

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

30           (b) On single sales in amounts from 10 cents to 16 29  
31 cents, both inclusive, 1 cent shall be added for taxes.



1 (c) On sales in amounts from 17 2½ cents to 33 40  
2 cents, both inclusive, 2 cents shall be added for taxes.

3 (d) On sales in amounts from 34 4½ cents to 50 60  
4 cents, both inclusive, 3 cents shall be added for taxes.

5 (e) On sales in amounts from 51 6½ cents to 66 80  
6 cents, both inclusive, 4 cents shall be added for taxes.

7 (f) On sales in amounts from 67 8½ cents to 83 cents  
8 9½, both inclusive, 5 cents shall be added for taxes.

9 (g) On sales in amounts from 84 cents to \$1, both  
10 inclusive, 6 cents shall be added for taxes.

11 (h)†g† On sales in amounts of more than \$1, 6 5  
12 percent shall be charged upon each dollar of price, plus the  
13 appropriate bracket charge upon any fractional part of a  
14 dollar.

15 (10) In charter counties which have adopted the  
16 discretionary 1-percent tax, the following brackets shall be  
17 applicable to all taxable transactions which would otherwise  
18 have been transactions taxable at the rate of 6 5 percent:

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

21 (b) On single sales in amounts from 10 cents to 14 ½6  
22 cents, both inclusive, 1 cent shall be added for taxes.

23 (c) On sales in amounts from 15 ½7 cents to 28 93  
24 cents, both inclusive, 2 cents shall be added for taxes.

25 (d) On sales in amounts from 29 94 cents to 42 50  
26 cents, both inclusive, 3 cents shall be added for taxes.

27 (e) On sales in amounts from 43 5½ cents to 57 66  
28 cents, both inclusive, 4 cents shall be added for taxes.

29 (f) On sales in amounts from 58 67 cents to 71 83  
30 cents, both inclusive, 5 cents shall be added for taxes.

31

1 (g) On sales in amounts from 72 84 cents to 85 cents  
2 \$1, both inclusive, 6 cents shall be added for taxes.

3 (h) On sales in amounts from 86 cents to \$1, both  
4 inclusive, 7 cents shall be added for taxes.

5 ~~(i)††~~ On sales in amounts from \$1 up to, and  
6 including, the first \$1,000 in price, 7 6 percent shall be  
7 charged upon each dollar of price, plus the appropriate  
8 bracket charge upon any fractional part of a dollar.

9 ~~(j)††~~ On sales in amounts of more than \$1,000 in  
10 price, 7 6 percent shall be added upon the first \$1,000 in  
11 price, and 6 5 percent shall be added upon each dollar of  
12 price in excess of the first \$1,000 in price, plus the bracket  
13 charges upon any fractional part of a dollar as provided for  
14 in subsection (9).

15 (11) The department shall promulgate by rule the tax  
16 amounts and brackets applicable to transactions taxable at 3  
17 percent pursuant to s. 212.08(3) and on transactions which  
18 would otherwise have been so taxable in counties which have  
19 adopted the discretionary 1-percent tax.

20 (12) It is hereby declared to be the legislative  
21 intent that, whenever in the construction, administration, or  
22 enforcement of this chapter there may be any question  
23 respecting a duplication of the tax, the end consumer, or last  
24 retail sale, be the sale intended to be taxed and insofar as  
25 may be practicable there be no duplication or pyramiding of  
26 the tax.

27 (13) In order to aid the administration and  
28 enforcement of the provisions of this chapter with respect to  
29 the rentals and license fees, each lessor or person granting  
30 the use of any hotel, apartment house, roominghouse, tourist  
31 or trailer camp, real property, or any interest therein, or

1 any portion thereof, inclusive of owners, property managers,  
2 lessors, landlords, hotel, apartment house, and roominghouse  
3 operators and all licensed real estate agents within the state  
4 leasing, granting the use of, or renting such property, shall  
5 be required to keep a record of each and every such lease,  
6 license, or rental transaction which is taxable under this  
7 chapter, in such a manner and upon such forms as the  
8 department may prescribe, and to report such transaction to  
9 the department or its designated agents, and to maintain such  
10 records for a period of not less than 3 years, subject to the  
11 inspection of the department and its agents; and, upon the  
12 failure by such owner, property manager, lessor, landlord,  
13 hotel, apartment house, roominghouse, tourist or trailer camp  
14 operator, or real estate agent to keep and maintain such  
15 records and to make such reports upon the forms and in the  
16 manner prescribed, such owner, property manager, lessor,  
17 landlord, hotel, apartment house, roominghouse, tourist or  
18 trailer camp operator, receiver of rent or license fees, or  
19 real estate agent is guilty of a misdemeanor of the second  
20 degree, punishable as provided in s. 775.082 or s. 775.083,  
21 for the first offense; and for subsequent offenses, they are  
22 each guilty of a misdemeanor of the first degree, punishable  
23 as provided in s. 775.082 or s. 775.083.

24 Section 32. Effective July 1, 1988, paragraph (a) of  
25 subsection (2) and subsection (13) of section 212.12, Florida  
26 Statutes, as amended by section 88 of chapter 87-6 and section  
27 56 of chapter 87-101, Laws of Florida, are reenacted to read:

28 212.12 Dealer's credit for collecting tax, penalties  
29 for noncompliance; powers of Department of Revenue in dealing  
30 with delinquents; brackets applicable to taxable transactions;  
31 records required.--

1           (2)(a) When any person, firm, or corporation required  
2 hereunder to make any return or to pay any tax imposed by this  
3 chapter fails to timely file such return or fails to pay the  
4 tax due within the time required hereunder, in addition to all  
5 other penalties provided herein and by the laws of this state  
6 in respect to such taxes, a specific penalty shall be added to  
7 the tax in the amount of 5 percent of any unpaid tax if the  
8 failure is for not more than 30 days, with an additional 5  
9 percent of any unpaid tax for each additional 30 days, or  
10 fraction thereof, during the time which the failure continues,  
11 not to exceed, however, a total penalty of 25 percent, in the  
12 aggregate, of any unpaid tax. In no event may the penalty be  
13 less than \$5 for failure to timely file a tax return required  
14 by s. 212.11. In the case of a false or fraudulent return or  
15 a willful intent to evade payment of any tax imposed under  
16 this chapter, in addition to the other penalties provided by  
17 law, the person making such false or fraudulent return or  
18 willfully attempting to evade the payment of such a tax shall  
19 be liable to a specific penalty of 50 percent of the tax bill  
20 and for fine and punishment as provided by law for a  
21 conviction of a misdemeanor of the first degree.

22           (13) In order to aid the administration and  
23 enforcement of the provisions of this chapter with respect to  
24 the rentals and license fees, each lessor or person granting  
25 the use of any hotel, apartment house, roominghouse, tourist  
26 or trailer camp, real property, or any interest therein, or  
27 any portion thereof, inclusive of owners, property managers,  
28 lessors, landlords, hotel, apartment house, and roominghouse  
29 operators and all licensed real estate agents within the state  
30 leasing, granting the use of, or renting such property, shall  
31 be required to keep a record of each and every such lease,

1 license, or rental transaction which is taxable under this  
2 chapter, in such a manner and upon such forms as the  
3 department may prescribe, and to report such transaction to  
4 the department or its designated agents, and to maintain such  
5 records for a period of not less than 3 years, subject to the  
6 inspection of the department and its agents; and, upon the  
7 failure by such owner, property manager, lessor, landlord,  
8 hotel, apartment house, roominghouse, tourist or trailer camp  
9 operator, or real estate agent to keep and maintain such  
10 records and to make such reports upon the forms and in the  
11 manner prescribed, such owner, property manager, lessor,  
12 landlord, hotel, apartment house, roominghouse, tourist or  
13 trailer camp operator, receiver of rent or license fees, or  
14 real estate agent is guilty of a misdemeanor of the second  
15 degree, punishable as provided in s. 775.082, s. 775.083, or  
16 s. 775.084, for the first offense; and for subsequent  
17 offenses, they are each guilty of a misdemeanor of the first  
18 degree, punishable as provided in s. 775.082, s. 775.083, or  
19 s. 775.084.

20 Section 33. Section 212.21, Florida Statutes, as  
21 amended by section 22 of chapter 87-6, Laws of Florida, is  
22 amended to read:

23 212.21 Declaration of legislative intent.--  
24 (1) If any section, subsection, sentence, clause,  
25 phrase or word of this chapter is for any reason held or  
26 declared to be unconstitutional, invalid, inoperative,  
27 ineffective, inapplicable, or void, such invalidity or  
28 unconstitutionality shall not be construed to affect the  
29 portions of this chapter not so held to be unconstitutional,  
30 void, invalid, or ineffective, or affect the application of  
31 this chapter to other circumstances not so held to be invalid,

1 | it being hereby declared to be the express legislative intent  
2 | that any such unconstitutional, illegal, invalid, ineffective,  
3 | inapplicable or void portion or portions of this chapter did  
4 | not induce its passage, and that without the inclusion of any  
5 | such unconstitutional, illegal, invalid, ineffective or void  
6 | portions of this chapter, the Legislature would have enacted  
7 | the valid and constitutional portions thereof.

8 |         (2) It is hereby declared to be the specific  
9 | legislative intent to tax each and every sale, admission, use,  
10 | storage, consumption or rental levied and set forth in this  
11 | chapter, except as to such sale, admission, use, storage,  
12 | consumption, or rental, as shall be specifically exempted  
13 | therefrom by this chapter, subject to the conditions  
14 | appertaining to such exemption. It is further declared to be  
15 | the specific legislative intent that should any exemption or  
16 | attempted exemption from the tax or the operation or  
17 | imposition of the tax or taxes be declared to be invalid,  
18 | ineffective, inapplicable, unconstitutional or void for any  
19 | reason, such declaration shall not affect the tax or taxes  
20 | imposed herein, but such sale, admission, use, storage,  
21 | consumption or rental or any of them exempted or attempted to  
22 | be exempted from the tax or taxes or the operation or the  
23 | imposition of the tax or taxes, shall be subject to the tax or  
24 | taxes and the operation and imposition thereof to the same  
25 | extent as if such exemption or attempted exemption had never  
26 | been included herein.

27 |         (3) It is further declared to be the specific  
28 | legislative intent to exempt from the tax or taxes or from the  
29 | operation or the imposition thereof only such sales,  
30 | admissions, uses, storages, consumption or rentals in relation  
31 | to or in respect of the things set forth by this chapter as

1 | exempted from the tax to the extent that such exemptions are  
2 | in accordance with the provisions of the constitutions of the  
3 | state and of the United States. It is further declared to be  
4 | the specific legislative intent to tax each and every taxable  
5 | privilege made subject to the tax or taxes, ~~and each and every~~  
6 | ~~taxable service made subject to the tax or taxes,~~ except such  
7 | sales, admissions, uses, storages, consumptions or rentals as  
8 | are specifically exempted therefrom by this chapter to the  
9 | extent that such exemptions are in accordance with the  
10 | provisions of the constitutions of the state and of the United  
11 | States.

12 |         (4) It being further declared to be the specific  
13 | legislative intent that in the event any exemption or  
14 | attempted exemption of any sale, admissions, use, storage,  
15 | consumption or rental from the tax or taxes imposed by this  
16 | chapter is for any reason declared to be unconstitutional,  
17 | ineffective, inapplicable or void, that then and in such event  
18 | each and every such sale, admission, use, storage, consumption  
19 | or rental shall be subject to the tax or taxes imposed by this  
20 | chapter as fully and to the same extent as if such exemption  
21 | or attempted exemption had never been included herein, it  
22 | being declared to be the specific legislative intent that no  
23 | unconstitutional, invalid, ineffective, inapplicable or void  
24 | exemption or attempted exemption or exemptions or attempted  
25 | exemptions induced the passage of this chapter, it being  
26 | further declared to be the specific legislative intent that  
27 | without the inclusion herein of any such unconstitutional,  
28 | invalid, ineffective, inapplicable or void exemption or  
29 | attempted exemption, exemptions or attempted exemptions, the  
30 | valid portions of this chapter would have been enacted.

31 |

1 (5) It is the legislative intent that the repeal of  
2 any provision heretofore exempting in whole or part any item  
3 or transaction from the tax imposed by this chapter shall  
4 result in the full imposition of the applicable tax to any  
5 such item or transaction.

6 Section 34. Section 212.61, Florida Statutes, as  
7 amended by section 23 of chapter 87-6, Laws of Florida, is  
8 amended to read:

9 212.61 Definitions.--As used in this part, the term:

10 (1) "Dealer" means any person who holds a valid  
11 license as a dealer of special fuel, issued by the department  
12 pursuant to s. 206.89, and who:

13 (a) Imports and sells at wholesale, retail, or  
14 otherwise within this state any special fuel;

15 (b) Imports, or causes to be imported, and withdraws  
16 for use within this state by himself or others any special  
17 fuel from the tank car, truck, or other original container or  
18 package in which it was imported into this state;

19 (c) Exports special fuel from this state to another  
20 state or foreign country;

21 (d) Manufactures, refines, produces, or compounds any  
22 special fuel within this state and sells such fuel at  
23 wholesale, retail, or otherwise within this state;

24 (e) Imports into this state from any other state or  
25 foreign country, or receives by any means into this state and  
26 keeps in storage in this state for a period of 24 hours or  
27 more after the fuel loses interstate character as a shipment  
28 in interstate commerce, any special fuel which is intended to  
29 be used in this state;

30 (f) Is primarily liable under the special fuel tax  
31 laws of this state for the payment of special fuel taxes;



(g) Purchases or receives in this state special fuel in bulk quantities for resale to service stations, to a user or another dealer, or to the ultimate consumer for nontaxable consumption upon which the tax has not been paid; or

(h) Has both a taxable use and nontaxable consumption of the same special fuel in this state. However, this paragraph does not require that a person be a dealer when his only purchases of special fuel are delivered into reservoirs attached to motor vehicles to fuel internal combustion engines attached to such motor vehicles.

(2) "Refiner," "importer," or "wholesaler" means any person who holds a valid license as a refiner, importer, or wholesaler, as defined in s. 206.01, of motor fuel, issued by the department pursuant to ss. 206.02 and 206.03.

(3) "Retail dealer" means any person who is licensed pursuant to chapter 206 to sell motor fuel or special fuel at retail to the general public at posted retail prices.

The definitions contained in s. 212.02(2), (5), (8), (11), (13), (14), (15), (16), (17), (18), (19), (21), and (22) ~~(3), (4), (6), (7), (9), (10), (12), (14), (16), (18), (20), (22), (24), (26), (28), (30), (32), (34), (36), (38), (40), (42), (44), (46), (48), (50), (52), (54), (56), (58), (60), (62), (64), (66), (68), (70), (72), (74), (76), (78), (80), (82), (84), (86), (88), (90), (92), (94), (96), (98), (100), (102), (104), (106), (108), (110), (112), (114), (116), (118), (120), (122), (124), (126), (128), (130), (132), (134), (136), (138), (140), (142), (144), (146), (148), (150), (152), (154), (156), (158), (160), (162), (164), (166), (168), (170), (172), (174), (176), (178), (180), (182), (184), (186), (188), (190), (192), (194), (196), (198), (200), (202), (204), (206), (208), (210), (212), (214), (216), (218), (220), (222), (224), (226), (228), (230), (232), (234), (236), (238), (240), (242), (244), (246), (248), (250), (252), (254), (256), (258), (260), (262), (264), (266), (268), (270), (272), (274), (276), (278), (280), (282), (284), (286), (288), (290), (292), (294), (296), (298), (300), (302), (304), (306), (308), (310), (312), (314), (316), (318), (320), (322), (324), (326), (328), (330), (332), (334), (336), (338), (340), (342), (344), (346), (348), (350), (352), (354), (356), (358), (360), (362), (364), (366), (368), (370), (372), (374), (376), (378), (380), (382), (384), (386), (388), (390), (392), (394), (396), (398), (400), (402), (404), (406), (408), (410), (412), (414), (416), (418), (420), (422), (424), (426), (428), (430), (432), (434), (436), (438), (440), (442), (444), (446), (448), (450), (452), (454), (456), (458), (460), (462), (464), (466), (468), (470), (472), (474), (476), (478), (480), (482), (484), (486), (488), (490), (492), (494), (496), (498), (500), (502), (504), (506), (508), (510), (512), (514), (516), (518), (520), (522), (524), (526), (528), (530), (532), (534), (536), (538), (540), (542), (544), (546), (548), (550), (552), (554), (556), (558), (560), (562), (564), (566), (568), (570), (572), (574), (576), (578), (580), (582), (584), (586), (588), (590), (592), (594), (596), (598), (600), (602), (604), (606), (608), (610), (612), (614), (616), (618), (620), (622), (624), (626), (628), (630), (632), (634), (636), (638), (640), (642), (644), (646), (648), (650), (652), (654), (656), (658), (660), (662), (664), (666), (668), (670), (672), (674), (676), (678), (680), (682), (684), (686), (688), (690), (692), (694), (696), (698), (700), (702), (704), (706), (708), (710), (712), (714), (716), (718), (720), (722), (724), (726), (728), (730), (732), (734), (736), (738), (740), (742), (744), (746), (748), (750), (752), (754), (756), (758), (760), (762), (764), (766), (768), (770), (772), (774), (776), (778), (780), (782), (784), (786), (788), (790), (792), (794), (796), (798), (800), (802), (804), (806), (808), (810), (812), (814), (816), (818), (820), (822), (824), (826), (828), (830), (832), (834), (836), (838), (840), (842), (844), (846), (848), (850), (852), (854), (856), (858), (860), (862), (864), (866), (868), (870), (872), (874), (876), (878), (880), (882), (884), (886), (888), (890), (892), (894), (896), (898), (900), (902), (904), (906), (908), (910), (912), (914), (916), (918), (920), (922), (924), (926), (928), (930), (932), (934), (936), (938), (940), (942), (944), (946), (948), (950), (952), (954), (956), (958), (960), (962), (964), (966), (968), (970), (972), (974), (976), (978), (980), (982), (984), (986), (988), (990), (992), (994), (996), (998), (1000)~~ apply to the same terms as used in this part.

Section 35. Section 31 of chapter 87-6, Laws of Florida, as amended by section 18 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 36. Section 32 of chapter 87-6, Laws of Florida, as amended by section 19 of chapter 87-101, 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 of Revenue is hereby authorized to provide by rule for self-

1 | accrual of the sales tax under one or more of the following  
2 | circumstances:

3 |       ~~(1)--Where-authorized-by-law-for-purchasers-of~~  
4 | ~~services;~~

5 |       (1)~~(2)~~ Where authorized by law for holders of direct  
6 | pay permits.†

7 |       (2)~~(3)~~ Where tangible personal property is subject to  
8 | tax on a prorated basis, and the proration factor is based  
9 | upon characteristics of the purchaser.†

10 |       (3)~~(4)~~ Where the taxable status of types of tangible  
11 | personal property will be known only upon use.†-and

12 |       (4)~~(5)~~ For commercial rentals where the purchaser  
13 | rents from a number of independent property owners who, apart  
14 | from rentals to the purchaser in question, would otherwise not  
15 | be obligated to register as dealers.

16 |       (5)~~(6)~~ Where the purchaser makes purchases in excess  
17 | of \$10 million per year of tangible personal property in any  
18 | county.

19 |       Section ~~37~~. Section 37 of chapter 87-6, Laws of  
20 | Florida, as amended by section 22 of chapter 87-101, Laws of  
21 | Florida, is hereby repealed.

22 |       Section 38. Section 47 of chapter 87-6, Laws of  
23 | Florida, as amended by section 26 of chapter 87-101, Laws of  
24 | Florida, is hereby repealed.

25 |       Section 39. Any person who, before the effective date  
26 | of this section, was required by section 212.13, Florida  
27 | Statutes, as amended by chapters 87-6 and 87-101, Laws of  
28 | Florida, to keep records relating to the sale or use of  
29 | services shall continue to keep such records for a period of 3  
30 | years, and such records shall be available for inspection in  
31 | the same manner as records kept pursuant to section 212.13,

1 Florida Statutes. The failure to keep such records or to  
2 allow their inspection as required by this section is subject  
3 to the same penalties provided in section 212.13, Florida  
4 Statutes.

5 Section 40. Section 212.235, Florida Statutes, as  
6 created by section 24 of chapter 87-6, Laws of Florida, and  
7 amended by section 17 of chapter 87-101, Laws of Florida, is  
8 amended to read:

9 212.235 State Infrastructure Trust Fund; deposits.--

10 (1) Notwithstanding the provisions of ss. 212.20(1)  
11 and 218.61, in fiscal year 1987-1988 an amount equal to 2  
12 percent, and in each fiscal year thereafter an amount equal to  
13 5 percent, of the proceeds remitted pursuant to this part by a  
14 dealer, or the sums sufficient to provide the maximum receipts  
15 specified herein, shall be transferred into the State  
16 Infrastructure Trust Fund, which is created in the State  
17 Treasury. "Proceeds" means all funds collected and received  
18 by the Department of Revenue, including any interest and  
19 penalties. However, any receipts of the trust fund, including  
20 those received pursuant to ss. 201.15(5) and 206.875(3) and  
21 interest earned, in excess of \$200 million in fiscal year  
22 1987-1988, and \$550 ~~\$500~~ million thereafter, shall revert to  
23 the General Revenue Fund.

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

- 27 (a) Acquiring the right-of-way for and constructing  
28 state highways and bridges;
- 29 (b) Constructing public education capital facilities;
- 30
- 31

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

4 (d) Constructing state correctional facilities;

5 (e) Matching grants to local government to assist in  
6 meeting the requirements as set forth in s. 163.3177.

7 ~~(f)~~ Constructing other infrastructure projects; or

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

16 Section 41. Notwithstanding sections 218.61 and  
17 212.20(1), Florida Statutes, for fiscal year 1987-1988, the  
18 distribution of the proceeds remitted pursuant to part I of  
19 chapter 212, Florida Statutes, into the Local Government Half-  
20 cent Sales Tax Clearing Trust Fund and earmarked for  
21 distribution to counties and municipalities shall be such that  
22 for that fiscal year as a whole the total transfer shall equal  
23 9.846 percent of the proceeds remitted.

24 Section 42. Effective July 1, 1988, section 218.61,  
25 Florida Statutes, is amended to read:

26 218.61 Local government half-cent sales tax;  
27 designated proceeds; trust fund.--

28 (1) Each participating county or municipal government  
29 shall receive a portion of the local government half-cent  
30 sales tax, as provided in this part.

31

1           (2) Notwithstanding the provisions of s. 212.20(1),  
2 9.888 9-697 percent of the proceeds remitted pursuant to part  
3 I of chapter 212 by a sales tax dealer located within the  
4 county shall be transferred into the Local Government Half-  
5 cent Sales Tax Clearing Trust Fund and earmarked for  
6 distribution to the governing body of that county and of each  
7 municipality within that county. Such moneys shall be known  
8 as the "local government half-cent sales tax." "Proceeds"  
9 means all funds collected and received by the Department of  
10 Revenue, including any interest or penalties

11           (3) There is created in the State Treasury the Local  
12 Government Half-cent Sales Tax Clearing Trust Fund. Moneys in  
13 the fund are hereby appropriated to the Department of Revenue  
14 and shall be distributed monthly to participating units of  
15 local government.

16           Section 43. Section 201.15, Florida Statutes, as  
17 amended by section 35 of chapter 87-6 and section 4 of chapter  
18 87-96, Laws of Florida is reenacted to read

19           201.15 Distribution of taxes collected.--All taxes  
20 collected under the provisions of this chapter shall be  
21 distributed as follows:

22           (1) Sixty and eight-tenths percent of the total taxes  
23 collected under the provisions of this chapter shall be paid  
24 into the State Treasury to the credit of the General Revenue  
25 Fund of the state, to be used and expended for the purposes  
26 for which the General Revenue Fund was created and exists by  
27 law.

28           (2) Eleven and eight-tenths percent of the total taxes  
29 collected under the provisions of this chapter shall be paid  
30 into the State Treasury to the credit of the Land Acquisition  
31 Trust Fund. Sums deposited in such fund pursuant to this

1 subsection may be used for any purpose for which funds  
2 deposited in the Land Acquisition Trust Fund may lawfully be  
3 used and may be used to pay the cost of the collection and  
4 enforcement of the tax levied by this chapter.

5 (3) Three percent of the total taxes collected under  
6 the provisions of this chapter shall be paid into the State  
7 Treasury to the credit of the Land Acquisition Trust Fund.  
8 Moneys deposited in the trust fund pursuant to this section  
9 shall be used for the following purposes:

10 (a) Sixty percent of the moneys shall be used to  
11 acquire coastal lands or to pay debt service on bonds issued  
12 to acquire coastal lands; and

13 (b) Forty percent of the moneys shall be used to  
14 develop and manage lands acquired with moneys from the Land  
15 Acquisition Trust Fund.

16 (4) Nine and two-tenths percent of the total taxes  
17 collected under the provisions of this chapter shall be paid  
18 into the State Treasury to the credit of the Water Management  
19 Lands Trust Fund. Sums deposited in that fund may be used for  
20 any purpose authorized in s. 373.59 and may be used to pay the  
21 cost of the collection and enforcement of the tax levied by  
22 this chapter.

23 (5) Six percent of the total taxes collected under the  
24 provisions of this chapter shall be paid into the State  
25 Treasury to the credit of the State Infrastructure Trust Fund.

26 (6) Nine and two-tenths percent of the total taxes  
27 collected under the provisions of this chapter shall be paid  
28 into the State Treasury to the credit of the Conservation and  
29 Recreation Lands Trust Fund to carry out the purposes set  
30 forth in s. 253.023.

31

1 Section 44. Paragraph (d) of subsection (2) of section  
2 215.32, Florida Statutes, as amended by section 31 of chapter  
3 87-247 and section 8 of chapter 87-331, Laws of Florida, is  
4 amended to read:

5 215.32 State funds; segregation.--

6 (2) The source and use of each of these funds shall be  
7 as follows:

8 (d) The State Infrastructure Fund shall consist of all  
9 moneys received from proceeds earmarked for this fund pursuant  
10 to ss. ~~201.157-206.875~~ and 212.235. Such moneys shall only  
11 be expended pursuant to legislative appropriations for  
12 infrastructure facilities listed in s. 212.235(2).

13 Section 45. Paragraph (b) of subsection (1) of section  
14 206.87, Florida Statutes, as amended by section 39 of chapter  
15 87-6, Laws of Florida, and subsection (3) of section 206.875,  
16 Florida Statutes, as amended by section 40 of chapter 87-6,  
17 Laws of Florida, are hereby repealed.

18 Section 46. Section 207.026, Florida Statutes, as  
19 amended by section 41 of chapter 87-6, Laws of Florida, is  
20 amended to read:

21 207.026 Allocation of tax.--All moneys derived from  
22 the taxes and fees imposed by this chapter shall be paid into  
23 the State Treasury by the department for deposit in the Gas  
24 Tax Collection Trust Fund, from which the following transfers  
25 shall be made: After withholding \$50,000 from the proceeds  
26 therefrom, to be used as a revolving cash balance, the funds  
27 for the purpose of conducting the study as set forth in s. 4  
28 of chapter 80-415, Laws of Florida, and the amount of funds  
29 necessary for the administration and enforcement of this tax,  
30 all other moneys shall be transferred in the same manner and  
31

1 | for the same purpose as provided in ss. 206.41, 206.45,  
2 | 206.60, 206.605, ~~206-8757~~, and 212.69.

3 |       Section 47. Effective March 1, 1988, section 207.026,  
4 | Florida Statutes, as amended by section 41 of chapter 87-6,  
5 | Laws of Florida, and section 13 of chapter 87-198, Laws of  
6 | Florida, is amended to read:

7 |       207.026 Allocation of tax.--All moneys derived from  
8 | the taxes and fees imposed by this chapter shall be paid into  
9 | the State Treasury by the department for deposit in the Gas  
10 | Tax Collection Trust Fund, from which the following transfers  
11 | shall be made: After withholding \$50,000 from the proceeds  
12 | therefrom, to be used as a revolving cash balance, and the  
13 | amount of funds necessary for the administration and  
14 | enforcement of this tax, all other moneys shall be transferred  
15 | in the same manner and for the same purpose as provided in ss.  
16 | 206.41, 206.45, 206.60, 206.605, ~~206-0757~~, and 212.69.

17 |       Section 48. The increased sales or use tax provided in  
18 | this act shall not apply to any transaction occurring before  
19 | February 1, 1988, except that with respect to utility services  
20 | regularly billed on a monthly cycle basis, the increased sales  
21 | or use tax provided in this act shall apply to any such cycle  
22 | beginning on or after February 1, 1988.

23 |       Section 49. In the case of any written contract signed  
24 | prior to May 1, 1987, or any offer submitted prior to such  
25 | date which was binding on the offeror and was accepted, or any  
26 | contract funded by government bonds sold before May 1, 1987,  
27 | or contracted prior to such date to be sold, for constructing  
28 | improvements to real property, the prime contractor, as  
29 | defined in s. 212.0594, Florida Statutes, as created by  
30 | chapter 87-101, Laws of Florida, responsible for performing  
31 | the contract shall pay the sales or use tax on materials



1 | necessary to complete the contract at the rate provided in  
2 | this act. Such contractor, within 3 years after the effective  
3 | date of this section, may apply for one refund of the  
4 | additional sales or use tax paid on materials necessary to  
5 | complete the contract. Application for such refund shall be  
6 | pursuant to Department of Revenue rule. The application shall  
7 | contain a sworn statement, signed by the applicant or its  
8 | representative, attesting to the validity of the application.  
9 | The Department of Revenue shall, within 30 days after approval  
10 | of a complete application, certify to the Comptroller  
11 | information necessary for issuance of a refund to the  
12 | applicant of said additional sales or use taxes.  
13 | Alternatively, for up to a 3-year period after the effective  
14 | date of this section, pursuant to Department of Revenue rule,  
15 | a contractor may apply quarterly for a refund of taxes paid  
16 | pursuant to the contract during the previous quarter. Any  
17 | person who fraudulently obtains or attempts to obtain a refund  
18 | pursuant to this section, in addition to being liable for  
19 | repayment of any refund fraudulently obtained plus a penalty  
20 | of 100 percent of the refund, is guilty of a misdemeanor of  
21 | the second degree, punishable as provided in s. 775.082, s.  
22 | 775.083, or s. 775.084, Florida Statutes. This section shall  
23 | take effect February 1, 1988.

24 |         Section 50. All services subject to tax under the  
25 | provisions of chapter 87-6, Laws of Florida, as amended, which  
26 | were performed or used in the state prior to the effective  
27 | date of this section remain taxable under the provisions of  
28 | said chapter, notwithstanding that payment for those services  
29 | was received by the dealer on or after the effective date of  
30 | this section. This act shall not be construed in any way to  
31 | prohibit subsequent collection or enforcement of taxes due

1 prior to the effective date of this section under the  
2 provisions of said chapter. To this end, the audit,  
3 collection, and enforcement powers of the Department of  
4 Revenue shall be construed to ensure that all taxes imposed by  
5 said chapter prior to the effective date of this section are  
6 received by the state.

7 Section 51. Of the appropriations provided in chapter  
8 87-98, Laws of Florida, to the Department of Revenue for the  
9 purpose of implementing chapter 87-6, Laws of Florida, the  
10 Executive Office of the Governor shall place in reserve all  
11 currently vacant positions and related funding. In addition,  
12 all remaining positions and related funding provided for the  
13 implementation of chapter 87-6, Laws of Florida, shall be  
14 placed in reserve as soon as they can be vacated without  
15 implementing layoff procedures.

16 Section 52. Section 28 of chapter 87-101, Laws of  
17 Florida, is amended to read:

18 Section 28. There is hereby appropriated from the  
19 General Revenue Fund the sum of \$364,757 to the Division of  
20 Administrative Hearings of the Department of Administration  
21 and six positions are hereby authorized, for purposes of  
22 implementing the provisions of chapter 87-6, Laws of Florida,  
23 and this act.

24 Section 53. The Legislature hereby finds that the  
25 failure to promptly implement the provisions of this act would  
26 present an immediate threat to the welfare of the state  
27 because revenues needed for operation of the state would not  
28 be collected. Therefore, the Executive Director of the  
29 Department of Revenue is hereby authorized to adopt emergency  
30 rules pursuant to s. 120.54(9), Florida Statutes, for purposes  
31 of implementing this act. Notwithstanding any other provision

1 of law, such emergency rules shall remain effective for 6  
2 months from the date of adoption. Other rules of the  
3 Department of Revenue related to and in furtherance of the  
4 orderly implementation of this act shall not be subject to a  
5 s. 120.54(4), Florida Statutes, rule challenge or a s.  
6 120.54(17), Florida Statutes, drawout proceeding, but, once  
7 adopted, shall be subject to a s. 120.56, Florida Statutes,  
8 invalidity challenge. Such rules shall be adopted by the  
9 Governor and Cabinet and shall become effective upon filing  
10 with the Department of State, notwithstanding the provisions  
11 s. 120.54(13), Florida Statutes. This section shall take  
12 effect upon this act becoming a law.

13 Section 54. To expedite the acquisition of goods and  
14 services for implementing the provisions of this act, the  
15 Department of Revenue is exempt from the provisions of chapter  
16 287, Florida Statutes, when contracting for the purchase or  
17 lease of goods or services for such purposes. This section  
18 shall take effect upon this act becoming a law and shall  
19 expire July 1, 1988.

20 Section 55. The repeal by this act of any statute or  
21 part of a statute does not affect the prosecution or continued  
22 prosecution of any cause of action that accrued prior to the  
23 effective date of that repeal.

24 Section 56. Notwithstanding section 212.12(1)(b)2.,  
25 Florida Statutes, the gross sales, taxable sales, taxable  
26 purchases, and tax collected or due under chapter 212, Florida  
27 Statutes, are not required to be reported by major sales tax  
28 source as specified in said section, except that the  
29 Department of Revenue shall require that transient rentals and  
30 agricultural equipment transactions be separately shown. This  
31

1 | section shall take effect upon this act becoming a law and  
2 | shall expire February 1, 1988.

3 |         Section 57. Section 216 175, Florida Statutes, is  
4 | created to read:

5 |         216.175 State infrastructure fund appropriations.--Any  
6 | project or activity including defined locations funded from  
7 | the State Infrastructure Fund with its specific appropriations  
8 | shall be separately identified in the General Appropriations  
9 | Act. No State Infrastructure Fund Appropriation allocation  
10 | into any project or activity or defined location shall be  
11 | outside of the General Appropriations Act.

12 |         Section 58. Present paragraphs (ee), (ff), (gg), (hh),  
13 | (ii), (jj), (kk), and (ll) of subsection (1) of section  
14 | 216.011, Florida Statutes, as amended by section 3 of chapter  
15 | 87-137, Laws of Florida, are redesignated as paragraphs (ff),  
16 | (gg), (hh), (ii), (jj), (kk), (ll), and (mm), respectively,  
17 | and a new paragraph (ee) is added to said subsection to read:

18 |         216.011 Definitions.--

19 |         (1) For the purpose of fiscal affairs of the state,  
20 | appropriations acts, legislative budgets, and approved  
21 | budgets, each of the following terms has the meaning  
22 | indicated:

23 |         (ee) "Proviso" means language that qualifies or  
24 | restricts a specific appropriation and which can be logically  
25 | and directly related to the specific appropriation.

26 |         Section 59. Subsection (7) of section 216.031, Florida  
27 | Statutes, as amended by section 5 of chapter 87-137, Laws of  
28 | Florida, is hereby repealed.

29 |         Section 60. Section 216.046, Florida Statutes, is  
30 | amended to read:

31 |

1           216.046 Governor's supplemental recommendations.--The  
2 Governor may make supplemental revenue and appropriation  
3 recommendations to the Legislature at least 45 days prior to  
4 the annual session in any even-numbered year. The  
5 supplemental recommendations shall include the information  
6 required in ss. 216.162-216.168 and shall use as a base the  
7 most recent ~~legislative-appropriations-act-or~~ approved  
8 operating budget.

9           Section 61. Section 216.081, Florida Statutes, is  
10 amended to read:

11           216.081 Data on legislative expenses.--

12           (1) On or before November 1 in each even-numbered  
13 year, in sufficient time to be included in the Governor's  
14 recommended budget ~~report-to-the-Legislature~~, estimates of the  
15 financial needs of the legislative branch during the ensuing  
16 biennium shall be furnished to the Governor pursuant to  
17 chapter 11.

18           (2) All of the data relative to the legislative branch  
19 shall be for information and guidance in estimating the total  
20 financial needs of the state for the ensuing biennium; but  
21 none of these estimates shall be subject to revision or review  
22 by the Governor, and they must be included in his recommended  
23 budget ~~report-to-the-Legislature~~.

24           Section 62. Section 216.167, Florida Statutes, is  
25 amended to read:

26           216.167 Governor's recommendations.--The Governor's  
27 recommendations shall include a financial schedule which shall  
28 provide:

29           (1) His estimate of the recommended recurring revenues  
30 available in the Working Capital Fund, the State  
31 Infrastructure Fund, and the General Revenue Fund.

1 (2) His estimate of the recommended nonrecurring  
2 revenues available in the Working Capital Fund, the State  
3 Infrastructure Fund, and the General Revenue Fund.

4 (3) His recommended recurring and nonrecurring  
5 appropriations from the Working Capital Fund, the State  
6 Infrastructure Fund, and the General Revenue Fund, ~~and the~~  
7 ~~Federal Revenue Sharing Fund~~.

8 (4) His estimates of any interfund loans or temporary  
9 obligations of the Working Capital Fund or trust funds, which  
10 loans or obligations are needed to implement his recommended  
11 budget.

12 (5) His estimates of the debt service and reserve  
13 requirements for any recommended new bond issues or reissues  
14 and his recommended debt service appropriations for all  
15 outstanding fixed capital outlay bond issues.

16 Section 63. Subsection (1) of section 216.181, Florida  
17 Statutes, as amended by section 58 of chapter 87-224, Laws of  
18 Florida, is amended to read:

19 216.181 Approved budgets for operations and fixed  
20 capital outlay.--

21 (1) On or before the fifth day before the end of the  
22 period allowed by law for veto consideration in July 1 of any  
23 year in which an appropriation is made, the chairmen of the  
24 legislative appropriations committees shall jointly transmit a  
25 statement of intent, including performance and workload  
26 measures as appropriate and the official list of General  
27 Revenue Fund appropriations determined in consultation with  
28 the Executive Office of the Governor to be nonrecurring, to  
29 the Executive Office of the Governor, the Comptroller, the  
30 Auditor General, and each state agency. The statement of  
31 intent may not allocate or appropriate any funds, or amend or

1 correct any provision, in the General Appropriations Act, but  
2 may provide additional direction and explanation to the  
3 Executive Office of the Governor, the Administration  
4 Commission, and each affected state agency relative to the  
5 purpose, objectives, spending philosophy, and restrictions  
6 associated with any specific appropriation category. The  
7 statement of intent shall compare the request of the agency or  
8 the recommendation of the Governor to the funds appropriated  
9 for the purpose of establishing intent in the development of  
10 the approved operating budget. A request for additional  
11 explanation and direction regarding the legislative intent of  
12 the General Appropriations Act during the fiscal year may be  
13 made only by and through the Executive Office of the Governor  
14 as is deemed necessary. However, the Comptroller may also  
15 request further clarification of legislative intent pursuant  
16 to his responsibilities related to his preaudit function of  
17 expenditures.

18 Section 64. Subsection (5) of section 216.292, Florida  
19 Statutes, as amended by section 7 of chapter 87-137, Laws of  
20 Florida, is amended to read:

21 216.292 Appropriations nontransferable; exceptions.--

22 (5) The Executive Office of the Governor may approve  
23 any transfer from the Working Capital Fund to the General  
24 Revenue Fund provided such transfer was identified or  
25 contemplated by the Legislature in the original approved  
26 operating budget.

27 Section 65. Paragraph (c) of subsection (1) of section  
28 216.301, Florida Statutes, is amended to read:

29 216.301 Appropriations; undisbursed balances.--

30 (1)

31

1 (c) Each department shall maintain the integrity of  
2 the general revenue fund. Appropriations from the general  
3 revenue fund for any state agency contained in the original  
4 approved ~~operating~~ budget may, with the approval of the  
5 Executive Office of the Governor, be transferred to the proper  
6 trust fund for disbursement. However, all transferred general  
7 revenue funds which are unexpended on June 30 are subject to  
8 the general revenue reversion provision of this chapter.

9 Section 66. Subsections (2) and (3) of section 235.41,  
10 Florida Statutes, as amended by section 47 of chapter 87-329,  
11 Laws of Florida, are amended to read:

12 235.41 Legislative capital outlay budget request --

13 (2) The commissioner shall submit to the Governor and  
14 to the Legislature an integrated, comprehensive budget request  
15 for educational facilities construction and fixed capital  
16 outlay needs for all boards, including the Board of Regents,  
17 pursuant to the provisions of s. 235.435 and applicable  
18 provisions of chapter 216. Each board, including the Board of  
19 Regents, shall submit to the commissioner a 3-year plan and  
20 data required in the development of the annual capital outlay  
21 budget. No further disbursements shall be made from the  
22 Public Education Capital Outlay and Debt Service Trust Fund to  
23 a board that fails to timely submit the required data until  
24 such board submits the data.

25 (3) The commissioner shall submit an integrated,  
26 comprehensive budget request to the Executive Office of the  
27 Governor and to the Legislature no later than 60 ~~45~~ days prior  
28 to the legislative session each fiscal year. Notwithstanding  
29 the provisions of s. 216.043, the integrated, comprehensive  
30 budget request shall include:

31



1 (a) For the Public Education Capital Outlay and Debt  
2 Service Trust Fund and all sinking and investment accounts  
3 which are in receipt of any portion of the revenue sources  
4 listed in s. 235.42(2)(a):

5 1. A schedule for each fund showing the actual  
6 beginning cash balance for each of the 2 prior fiscal years  
7 and showing for the current fiscal year the estimated  
8 beginning cash balance and a listing of all disbursements and  
9 receipts.

10 2. For the budget fiscal year for each fund, the  
11 projected beginning cash balance, a monthly projection of all  
12 receipts, and a monthly projection of all disbursements.

13 3. For the budget fiscal year, necessary forecasting  
14 data to enable the commissioner to prepare and submit a  
15 monthly gross receipts tax forecast, a monthly bond proceeds  
16 estimate, the interest rate assumption used in the bond  
17 proceeds estimate, a monthly interest earnings forecast, the  
18 interest rate assumption used in the calculation of interest  
19 to be received on the idle balances invested, and any other  
20 reports as deemed necessary by the Legislature.

21 (b)(d) Recommendations for the priority of expenditure  
22 of funds in the state system of public education, with reasons  
23 for the recommended priorities, and other recommendations  
24 which relate to the effectiveness of the educational  
25 facilities construction program.

26  
27 All items in s. 235.435 shall be part of the legislative  
28 budget request submitted by the commissioner.

29 Section 67. Nothing contained herein shall affect the  
30 legality of bonds issued pursuant to local option elections  
31 held prior to the effective date of this act.

1           Section 68. Except as otherwise expressly provided in  
2 this act, this act shall take effect January 1, 1988, or upon  
3 becoming a law, whichever occurs later.

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1987 SALES TAX ON SERVICES

LOF-87-6 (CS/SB 777)

LOF-87-101 (CS/HB 1506) GLITCH BILL

LOF-87-548 (CS/CS/SB 5-D...) Repealed

DOCUMENTATION IN STORAGE

# The Repeal and Replacement of the Services Tax

## The Bill:

CS/CS/SB 5D and 6D repeals the sales tax on services effective January 1, 1988. It increases the general sales tax on goods from five to six cents effective February 1, 1988.

## Advantage to Local Government:

Funding for local governments will remain basically the same under CS/CS/SB 5D and 6D. Local governments are almost held harmless to the amount of revenue they would have received had the services tax not been repealed. Only \$5.2 million less will be available for distribution statewide.

Local governments can still levy up to 1¢ with referendum approval. Revenue generated from this tax can be used for construction, renovation of public facilities with a life expectancy of five years or more and for costs relating to the purchase and improvement of land, as well as design or engineering costs.

It provides for the allocation of \$550 million to the State Infrastructure Fund in FY 1988-89. The State Infrastructure Fund has been expanded to include "matching" dollars to local governmental agencies to meet their growth management needs. However, the law did not earmark any money for local governments. In addition, these dollars can be used to fund prison construction, PECO, beach renourishment, and the building of roads, highways and bridges.

## Budget Reform:

The governor was given the power to line item veto projects funded under the State Infrastructure Fund.

## Other Taxes:

The Diesel Fuel Tax increase is repealed as of January 1, 1988. The five-cent increase in the Documentary Stamp Tax was not repealed. These funds will be deposited into the State Infrastructure Fund.

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*" I'm not really sorry that we did what we did back during the Regular Session I think the concept was right, I still think the concept was right...What bothers me and what frightens me is that I was naive enough to believe in the Constitution of the United States and the First Amendment right guarantees. And I think there's a smudge on that document now because I've seen the written media and the broadcast media hide behind those First Amendment rights for their own personal gain and their own personal self-interest. I wonder how many times that will take place before we place those First Amendment rights in jeopardy. That's a concern to me I've taken an oath and repeated it too many times to protect and defend the Constitution of the United States to take that kind of thing lightly...The other thing that concerns me is the ability of a powerful special interest group to have the degree of control over things as important as this to the State of Florida That bothers me. And so I'm going to vote in favor of this bill to repeal the sales tax on services. The time hasn't come yet for Florida, but I'll tell you, it will. And I think the special interests have carried this day, but ladies and gentlemen, there will be another day There's more than one way to skin a cat. There will be another day"*

—Rep. Bud Gardner  
December 9, 1987

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## Transition Rules:

The 5¢ services tax must be collected on any business, professional or personal service performed before January 1, 1988. The bill also provides for a freeze in the Department of Revenue (DOR) hiring.

## Other Issues:

Laundry and Dry Cleaning Services tax is repealed effective January 1, 1988.

Several exemptions for the motion picture industry were retained.

Non-services exemptions for newspaper sales, admissions to non-profit organization events and certain charges associated with radio and television broadcasting were reinstated effective January 1, 1988.

A study commission was not established.

## Funding the State's Future Needs:

The one-cent increase in the sales tax will generate \$278.5 million in FY '87 and \$1,112.2 million in FY '88 for the state. The replacement of the services tax with a one-cent increase in the sales tax on general goods will not fully replace the revenues expected from the services tax. Figures released November 10, 1987 by the House Finance & Taxation Committee show the state's projected shortfall in FY '87 is nearly \$98 million and the shortfall in FY '88 is estimated at \$144.5 million. Rep. Bud Gardner, Chairman of the Finance & Taxation Committee, said other alternatives for funding the needs of the state will be examined.

CS/CS/SB 5D and 6D

<u>Issue</u>	<u>Bill</u>
<u>Sales Tax Issues:</u>	
1. Sales tax on services first taxed in 1987	Repealed 1/1/88.
2. Laundry and Dry Cleaning Services	Repealed 1/1/88.
3. Non Service Exemptions	Reinstates newspaper sales, admissions of non-profit sponsoring organizations and certain charges associated with radio and television broadcasting effective 1/1/88.
4. Sales Tax Increase	1 cent increase effective 2/1/88.
<u>Other Taxes:</u>	
5. Diesel Fuel Tax Increase	Repealed 1/1/88.
6. Doc Stamp Tax Increase	Not Repealed.
<u>State Infrastructure Fund:</u>	
7	Increased from \$500 Million to \$550 Million in FY 88 89. Expanded uses to include matching local expenditures to meet growth management act requirements.
<u>Local Government Half Cent Distribution</u>	
8. Changes to Local Government Distributions	Local governments are almost held harmless for the amount of revenue they would have received had the services tax not been repealed. (loss \$5.2 M)
<u>Local Option Sales Tax:</u>	
9. Levy	Unchanged except for technical changes. Basic provisions provide for up to a 1¢ levy upon referendum approval.
10. Uses	Minor changes. Current uses include construction or improvement of public facilities with a life expectancy of 5 years or more and related land acquisition, landimprovement, design or engineering costs. Bill allowed certain counties to pay off existing bonds.
<u>Other Issues:</u>	
11. BOAH Hearing Officers	Retained.
12. Aircraft Modification Exemption	Provided.

CS/CS/SB 5D and 6D

Issue	Bill
13. Budget Reform	Provided. Line item veto of State Infrastructure Fund appropriations.
14. Road Contractors Use Tax Charges	Provided.
15. Car Dealers - Local Option Sales Provisions	Provided.
16. DOR Position Freeze	Provided.
17. Duval Count Transit Tax Revision	Provided.
18. DOR Emergency Rules	Provided.
19. Study Commission	Not Provided.
20. Sporting Events	Use tax exemption for sports equipment temporarily brought into the state.
21. "Wheeling" of Electricity	Exempted.
22. Charges Made Pursuant to Railroad Car Service Agreements	Not taxed.
23. Rent on the Interchange of Utility Property	Net Amount of Rental Taxed.
24. Equipment Used in the Production and Sale of Master Tapes	Exemption continued after current sunset date of 7/1/88.
25. Definition of Real Property	Limited to surface land.
26. Sales Tax Return Reporting Categories	Requirement repealed effective upon the act becoming a law.
27. Transition Rules	Service taxable if provided prior to January 1.
28. Dealer Reporting Requirements	Various changes are made to make sales tax dealer reporting easier.

Repeal Bill as Passed  
Preliminary Impact  
First Revision

Fiscal Year 1987-88	General Revenue	Infrast Fund	Total State	Local Gov	Total
Personal and Prof. Serv. Non Services	-359.6	16.8	-342.8	-36.1	-378.9
Documentary Stamp Tax	-8.6	0.0	-8.6	-0.9	-9.5
Special Fuel	0.0	0.0	0.0	0.0	0.0
Laundry & Dry Cleaning	0.0	-16.8	-16.8	0.0	-16.8
Amnesty	-8.3	0.0	-8.3	-0.8	-9.1
	0.0	0.0	0.0	0.0	0.0
Tax Loss	-376.5	0.0	-376.5	-37.8	-414.3
One Cent Sales Tax Increase	278.5	0.0	278.5	37.5	316.0
Net Impact	-98.0	0.0	-98.0	-0.3	-98.3

Fiscal Year 1988-89	General Revenue	Infrast Fund	Total State	Local Gov	Total
Personal and Prof. Serv. Non Services	-726.0	-431.9	-1157.9	-72.9	-1230.8
Documentary Stamp Tax	-29.4	0.0	-29.4	-2.9	-32.3
Special Fuel	0.0	0.0	0.0	0.0	0.0
Laundry & Dry Cleaning	0.0	-41.0	-41.0	0.0	-41.0
	-23.2	0.0	-23.2	-2.3	-25.5
Tax Loss	-778.6	-472.9	-1251.5	-78.1	-1329.6
One Cent Sales Tax Increase	589.3	522.9	1112.2	72.9	1185.1
Net Impact	-189.3	50.0	-139.3	-5.2	-144.5

10-Dec-87  
10:52 AM

Repealed 1/1/88:

Services including laundry and dry cleaning  
Diesel Fuel increase  
About 65% of nonservices

One cent sales tax increase effective 2/1/88

Local governments held harmless first year, share in loss due to  
increased distribution to SIF second year

SIF cap increased to \$550 million second year

1 A bill to be entitled  
2 An act relating to taxation; creating s.  
3 216.175, F.S., relating to State Infrastructure  
4 Fund Appropriations; amending ss. 212.02,  
5 212.03, 212.031, 212.04, 212.05, 212.054,  
6 212.055, 212.0590, 212.06, 212.07, 212.08,  
7 212.11, 212.12, 212.21, 212.61, F.S.; repealing  
8 ss. 212.059, 212.0591, 212.0592, 212.0593,  
9 212.0594, 212.0595, F.S.; amending s. 32, ch.  
10 87-86, Laws of Florida, as amended; repealing  
11 ss. 31, 37, 47, ch. 87-6, Laws of Florida, as  
12 amended; repealing the sales tax on specified  
13 services and conforming various statutes to  
14 that repeal; providing exemptions from the tax  
15 on sales, use, and other transactions;  
16 providing for attribution of taxes by air  
17 carriers; increasing the tax on transient  
18 rentals, the lease or rental of or license in  
19 real property, admissions, and sales, storage,  
20 and use; providing for administration and rates  
21 of local option surtaxes; creating s. 212.065,  
22 F.S.; providing for taxes levied with respect  
23 to road construction; providing for retention  
24 of records relating to the sales tax on  
25 services for a certain period; amending s.  
26 212.235, F.S.; revising the percentage of the  
27 sales tax proceeds to be transferred to the  
28 State Infrastructure Fund and providing for  
29 allocation and use of moneys in the fund;  
30 amending s. 218.61, F.S.; revising the  
31 percentage of the sales tax proceeds to be

1 transferred to the Local Government Half-cent  
2 Sales Tax Clearing Trust Fund; amending s.  
3 215.32, F.S.; specifying moneys in the State  
4 Infrastructure Fund; repealing ss.  
5 206.87(1)(b), 206.875(3), F.S.; repealing the  
6 increase in diesel fuel taxes; amending s.  
7 207.026, F.S.; providing for redistribution of  
8 taxes; providing for application of the  
9 additional sales or use tax to certain utility  
10 services; providing for refund of additional  
11 taxes paid by certain contractors; providing  
12 penalties; providing transition rules for the  
13 repeal of the services tax; providing for  
14 additional positions and funding to be placed  
15 in reserve; authorizing additional positions  
16 for the Division of Administrative Hearings of  
17 the Department of Administration; providing for  
18 emergency rules of the Department of Revenue;  
19 exempting the Department of Revenue from  
20 provisions of chapter 287, F.S., relating to  
21 purchase or lease of goods or services; saving  
22 certain actions from abatement; eliminating  
23 requirement for certain data to be reported to  
24 the Department of Revenue; amending ss.  
25 216.011, 216.046, 216.081, 216.121, 216.167,  
26 216.181, 216.292, 216.301, 235.41, F.S.;  
27 defining the term "proviso"; providing for  
28 Governor's supplemental recommendations;  
29 providing for data on legislative expenses;  
30 changing provisions relating to information to  
31 be furnished to the Governor; providing for



1 Governor's recommendations; providing for  
 2 appropriation committee statements of intent;  
 3 providing for transferability and transfer of  
 4 appropriations; providing for legislative  
 5 capital outlay budget request; repealing s.  
 6 216.031(7), F.S., as amended, relating to  
 7 information required in legislative budget  
 8 requests; providing effective dates.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12 Section 1. Section 212.02, Florida Statutes, as  
 13 amended by section 7 of chapter 87-6, section 12 of chapter  
 14 87-87, section 9 of chapter 87-101, and section 6 of chapter  
 15 87-402, Laws of Florida, is amended to read:

16 212.02 Definitions.--The following terms and phrases  
 17 when used in this chapter have the meanings ascribed to them  
 18 in this section, except where the context clearly indicates a  
 19 different meaning:

20 (1) The term "admissions" means and includes the net  
 21 sum of money after deduction of any federal taxes for  
 22 admitting a person or vehicle or persons to any place of  
 23 amusement, sport, or recreation or for the privilege of  
 24 entering or staying in any place of amusement, sport, or  
 25 recreation, including, but not limited to, theaters, outdoor  
 26 theaters, shows, exhibitions, games, races, or any place where  
 27 charge is made by way of sale of tickets, gate charges, seat  
 28 charges, box charges, season pass charges, cover charges,  
 29 greens fees, participation fees, entrance fees, or other fees  
 30 or receipts of anything of value measured on an admission or  
 31 entrance or length of stay or seat box accommodations in any

1 place where there is any exhibition, amusement, sport, or  
 2 recreation, and all dues paid to private clubs providing  
 3 recreational facilities, including but not limited to golf,  
 4 tennis, swimming, yachting, and boating facilities.

5 ~~(2) "Affiliated group" means:--an affiliated group of~~  
 6 ~~corporations as defined in s. 1504(a) of the Internal Revenue~~  
 7 ~~Code, whose members are includable under s. 1504(b), (c), or~~  
 8 ~~(d) of the Internal Revenue Code, and are eligible to file a~~  
 9 ~~consolidated tax return for Federal corporate income tax~~  
 10 ~~purpose or mutual insurance companies which are members of~~  
 11 ~~one insurance holding company system subject to s. 620.001;~~  
 12 ~~however, s. 1504(b)(2) shall not apply to this definition;~~  
 13 ~~however, the taxpayer may elect, pursuant to rules of the~~  
 14 ~~department governing the procedure for making and amending~~  
 15 ~~such election, to define its affiliated group in a manner~~  
 16 ~~which excludes any member who has no tax nexus in this state~~  
 17 ~~and any member whose business activities are unrelated to the~~  
 18 ~~business activities of other members of the group;--However,~~  
 19 ~~in no event shall a parent corporation of an included member~~  
 20 ~~be excluded from the affiliated group~~

21 (2)(3) "Business" means any activity engaged in by any  
 22 person, or caused to be engaged in by him, with the object of  
 23 private or public gain, benefit, or advantage, either direct  
 24 or indirect. Except for the sales of any aircraft, boat,  
 25 mobile home, or motor vehicle, the term "business" shall not  
 26 be construed in this chapter to include occasional or isolated  
 27 sales or transactions involving tangible personal property or  
 28 services by a person who does not hold himself out as engaged  
 29 in business, but includes other charges for the sale or rental  
 30 of tangible personal property, sales of services taxable under  
 31 this part, sales of or charges of admission, communication

1 services, all rentals and leases of living quarters, other  
 2 than low-rent housing operated under chapter 421, sleeping or  
 3 housekeeping accommodations in hotels, apartment houses,  
 4 roominghouses, tourist or trailer camps, and all rentals of or  
 5 licenses in real property, other than low-rent housing  
 6 operated under chapter 421, all leases or rentals of or  
 7 licenses in parking lots or garages for motor vehicles,  
 8 docking or storage spaces for boats in boat docks or marinas  
 9 as defined in this chapter and made subject to a tax imposed  
 10 by this chapter. Any tax on such sales, charges, rentals,  
 11 admissions, or other transactions made subject to the tax  
 12 imposed by this chapter shall be collected by the state,  
 13 county, municipality, any political subdivision, agency,  
 14 bureau, or department, or other state or local governmental  
 15 instrumentality in the same manner as other dealers, unless  
 16 specifically exempted by this chapter.

17 (3)(4) The terms "cigarettes," "tobacco," or "tobacco  
 18 products" referred to in this chapter include all such  
 19 products as are defined or may be hereafter defined by the  
 20 laws of the state.

21 (4)(5) "Cost price" means the actual cost of articles  
 22 of tangible personal property or services without any  
 23 deductions therefrom on account of the cost of materials used,  
 24 labor or service costs, transportation charges, or any  
 25 expenses whatsoever.

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

1 (5)(7) The term "department" means the Department of  
 2 Revenue.

3 ~~(8)--"Employee"-means-any-person-who-is-not-an~~  
 4 ~~independent-contractor-and-whose-wages-or-remuneration-are~~  
 5 ~~subject-to-tax-under-the-Federal-insurance-contributions-act~~  
 6 ~~or-under-the-Federal-unemployment-tax-act,or-whose-wages-or~~  
 7 ~~remuneration-are-subject-to-withholding-for-federal-income-tax~~  
 8 ~~purposes.~~

9 ~~(9)--"Employer"-means-any-person-who-must-pay-taxes-on~~  
 10 ~~wages-under-the-Federal-insurance-contributions-act-or-under~~  
 11 ~~the-Federal-unemployment-tax-act,or-who-must-withhold-taxes~~  
 12 ~~from-wages-for-federal-income-tax-purposes.~~

13 (6)(10) "Enterprise zone" means an area of the state  
 14 authorized to be an enterprise zone pursuant to s. 290.0055  
 15 and approved by the secretary of the Department of Community  
 16 Affairs pursuant to s. 290.0065. This subsection shall expire  
 17 and be void on December 31, 1994.

18 (7)(11) "Factory-built building" means a structure  
 19 manufactured in a manufacturing facility for installation or  
 20 erection as a finished building; "factory-built building"  
 21 includes, but is not limited to, residential, commercial,  
 22 institutional, storage, and industrial structures.

23 (8)(12) "In this state" or "in the state" means within  
 24 the state boundaries of Florida as defined in s. 1, Art. II of  
 25 the Constitution of the State of Florida and includes all  
 26 territory within these limits owned by or ceded to the United  
 27 States.

28 (9)(13) The term "intoxicating beverages" or  
 29 "alcoholic beverages" referred to in this chapter includes all  
 30 such beverages as are so defined or may be hereafter defined  
 31 by the laws of the state.

1 (10)(14) "Lease," "let," or "rental" means leasing or  
 2 renting of living quarters or sleeping or housekeeping  
 3 accommodations in hotels, apartment houses, roominghouses,  
 4 tourist or trailer camps and real property, the same being  
 5 defined as follows:

6 (a) Every building or other structure kept, used,  
 7 maintained, or advertised as, or held out to the public to be,  
 8 a place where sleeping accommodations are supplied for pay to  
 9 transient or permanent guests or tenants, in which 10 or more  
 10 rooms are furnished for the accommodation of such guests, and  
 11 having one or more dining rooms or cafes where meals or  
 12 lunches are served to such transient or permanent guests, such  
 13 sleeping accommodations and dining rooms or cafes being  
 14 conducted in the same building or buildings in connection  
 15 therewith, shall, for the purpose of this chapter, be deemed a  
 16 hotel.

17 (b) Any building, or part thereof, where separate  
 18 accommodations for two or more families living independently  
 19 of each other are supplied to transient or permanent guests or  
 20 tenants shall for the purpose of this chapter be deemed an  
 21 apartment house.

22 (c) Every house, boat, vehicle, motor court, trailer  
 23 court, or other structure or any place or location kept, used,  
 24 maintained, or advertised as, or held out to the public to be,  
 25 a place where living quarters or sleeping or housekeeping  
 26 accommodations are supplied for pay to transient or permanent  
 27 guests or tenants, whether in one or adjoining buildings,  
 28 shall for the purpose of this chapter be deemed a  
 29 roominghouse.

30 (d) In all hotels, apartment houses, and roominghouses  
 31 within the meaning of this chapter, the parlor, dining room,

1 sleeping porches, kitchen, office, and sample rooms shall be  
 2 construed to mean "rooms."

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

9 (f) A "trailer camp," "mobile home park," or  
 10 "recreational vehicle park" is a place where space is offered,  
 11 with or without service facilities, by any persons or  
 12 municipality to the public for the parking and accommodation  
 13 of two or more automobile trailers, mobile homes, or  
 14 recreational vehicles which are used for lodging, for either a  
 15 direct money consideration or an indirect benefit to the  
 16 lessor or owner in connection with a related business, such  
 17 space being hereby defined as living quarters, and the rental  
 18 price thereof shall include all service charges paid to the  
 19 lessor.

20 (g) "Lease," "let," or "rental" also means the leasing  
 21 or rental of tangible personal property and the possession or  
 22 use thereof by the lessee or rentee for a consideration,  
 23 without transfer of the title of such property, except as  
 24 expressly provided to the contrary herein. The term "lease,"  
 25 "let," or "rental" or "service" does not mean hourly, daily,  
 26 or mileage charges, to the extent that such charges are  
 27 subject to the jurisdiction of the United States Interstate  
 28 Commerce Commission, when such charges are paid by reason of  
 29 the presence of railroad cars owned by another on the tracks  
 30 of the taxpayer, or charges made pursuant to car service  
 31 agreements. However, where two taxpayers, in connection with

1 the interchange of facilities, rent or lease property, each to  
 2 the other, for use in providing or furnishing any of the  
 3 services mentioned in s. 166.231, the term "lease or rental"  
 4 means only the net amount of rental involved.

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

8 (i) "License," as used in this chapter with reference  
 9 to the use of real property, means the granting of a privilege  
 10 to use or occupy a building or a parcel of real property for  
 11 any purpose.

12 ~~(11)(15)~~ "Motor fuel" means and includes what is  
 13 commonly known and sold as gasoline and fuels containing a  
 14 mixture of gasoline and other products.

15 ~~(12)(16)~~ "Nurseryman" or "grower" means any person  
 16 engaged in the production of nursery stock or horticultural  
 17 plants.

18 ~~(13)(17)~~ "Person" includes any individual, firm,  
 19 copartnership, joint adventure, association, corporation,  
 20 estate, trust, business trust, receiver, syndicate, or other  
 21 group or combination acting as a unit and includes any  
 22 political subdivision, municipality, state agency, bureau, or  
 23 department and the plural as well as the singular number.

24 ~~(14)(18)~~ "Retailer" means and includes every person  
 25 engaged in the business of making sales at retail, or for  
 26 distribution, or use, or consumption, or storage to be used or  
 27 consumed in this state.

28 ~~(15)(19)(a)~~ "Retail sale" or a "sale at retail" means  
 29 a sale to a consumer or to any person for any purpose other  
 30 than for resale in the form of tangible personal property or  
 31 services taxable under this part, and includes all such

1 transactions that may be made in lieu of retail sales or sales  
 2 at retail. ~~"Retail sale" does not include fee sharing for~~  
 3 ~~services described in s. 475.011 by persons licensed under~~  
 4 ~~chapter 475. A sale of a service shall be considered a sale~~  
 5 ~~for resale only if:~~

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

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

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

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

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

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

29 (b) The terms "retail sales," "sales at retail,"  
 30 "use," "storage," and "consumption" include the sale, use,  
 31 storage, or consumption of all tangible advertising materials

1 imported or caused to be imported into this state. Tangible  
2 advertising material includes displays, display containers,  
3 brochures, catalogs, pricelists, point-of-sale advertising,  
4 and technical manuals or any tangible personal property which  
5 does not accompany the product to the ultimate consumer.

6 (c) "Retail sales," "sale at retail," "use,"  
7 "storage," and "consumption" do not include materials,  
8 containers, labels, sacks, or bags intended to be used one  
9 time only for packaging tangible personal property for sale or  
10 for packaging in the process of providing a service taxable  
11 under this part and do not include the sale, use, storage, or  
12 consumption of industrial materials, including chemicals and  
13 fuels except as provided herein, for future processing,  
14 manufacture, or conversion into articles of tangible personal  
15 property for resale when such industrial materials, including  
16 chemicals and fuels except as provided herein, become a  
17 component or ingredient of the finished product. However,  
18 said terms include the sale, use, storage, or consumption of  
19 tangible personal property, including machinery and equipment  
20 or parts thereof, purchased electricity, and fuels used to  
21 power machinery, when said items are used and dissipated in  
22 fabricating, converting, or processing tangible personal  
23 property for sale, even though they may become ingredients or  
24 components of the tangible personal property for sale through  
25 accident, wear, tear, erosion, corrosion, or similar means.

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

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

1 ~~(16)(20)~~ "Sale" means and includes:

2 (a) Any transfer of title or possession, or both,  
3 exchange, barter, license, lease, or rental, conditional or  
4 otherwise, in any manner or by any means whatsoever, of  
5 tangible personal property for a consideration.

6 (b) The rental of living quarters or sleeping or  
7 housekeeping accommodations in hotels, apartment houses or  
8 roominghouses, or tourist or trailer camps, as hereinafter  
9 defined in this chapter.

10 (c) The producing, fabricating, processing, printing,  
11 or imprinting of tangible personal property for a  
12 consideration for consumers who furnish either directly or  
13 indirectly the materials used in the producing, fabricating,  
14 processing, printing, or imprinting.

15 (d) The furnishing, preparing, or serving for a  
16 consideration of any tangible personal property for  
17 consumption on or off the premises of the person furnishing,  
18 preparing, or serving such tangible personal property which  
19 includes the sale of meals or prepared food by an employer to  
20 his employees.

21 (e) A transaction whereby the possession of property  
22 is transferred but the seller retains title as security for  
23 the payment of the price.

24 ~~(f)--Any-transfer,-provision,-or-rendering-of-services~~  
25 ~~for-a-consideration~~

26 (17)(21) "Sales price" means the total amount paid for  
27 tangible personal property or services, including any services  
28 that are a part of the sale and any tangible personal property  
29 that is part of the service, valued in money, whether paid in  
30 money or otherwise, and includes any amount for which credit  
31 is given to the purchaser by the seller, without any deduction

1 therefrom on account of the cost of the property sold, the  
 2 cost of materials used, labor or service cost, interest  
 3 charged, losses, or any other expense whatsoever. "Sales  
 4 price" also includes the consideration for a transaction which  
 5 requires both labor and or material to alter, remodel,  
 6 maintain, adjust, or repair tangible personal property.  
 7 Trade-ins or discounts allowed and taken at the time of sale  
 8 shall not be included within the purview of this subsection.  
 9 ~~(f2)--The term "service" or "services" as used in this~~  
 10 ~~part means these activities usually provided for consideration~~  
 11 ~~by the following establishments listed in the SIC Manual:~~  
 12 ~~(a)--Agricultural Services-(Major-Group-Number-07);~~  
 13 ~~(b)--Forestry Services-(Major-Group-Number-085);~~  
 14 ~~(c)--Metal-Mining-Services-(Group-Number-100);~~  
 15 ~~(d)--Oil-and-Gas-Field-Services-(Group-Number-130);~~  
 16 ~~(e)--Nonmetallic-(Nonfuel)-Mineral-Services-(Group~~  
 17 ~~Number-140);~~  
 18 ~~(f)--Building-Construction-General-Contractors-and~~  
 19 ~~Operative-Builders-(Major-Group-Number-15);~~  
 20 ~~(g)--Construction-other-than-Building-Construction-~~  
 21 ~~General-Contractors-(Major-Group-Number-16);~~  
 22 ~~(h)--Construction-Special-Trade-Contractors-(Major~~  
 23 ~~Group-Number-17);~~  
 24 ~~(i)--Printing-Publishing-and-Allied-Services-(Major~~  
 25 ~~Group-Number-27);~~  
 26 ~~(j)--Coating-Engraving-and-Allied-Services-(Group~~  
 27 ~~Number-347);~~  
 28 ~~(k)--Railroad-Transportation-(Major-Group-Number-40);~~  
 29 ~~(l)--Local-and-Suburban-Transit-and-Interurban-Highway~~  
 30 ~~Passenger-Transportation-(Major-Group-Number-41);~~  
 31

1 ~~(m)--Motor-Freight-Transportation-and-Warehousing~~  
 2 ~~(Major-Group-Number-42);~~  
 3 ~~(n)--U.S.-Postal-Service-(Major-Group-Number-43);~~  
 4 ~~(o)--Water-Transportation-(Major-Group-Number-44);~~  
 5 ~~(p)--Transportation-by-Air-(Major-Group-Number-45);~~  
 6 ~~(q)--Pipelines-except-Natural-Gas-(Major-Group-Number~~  
 7 ~~46);~~  
 8 ~~(r)--Transportation-Services-(Major-Group-Number-47);~~  
 9 ~~(s)--Communications-(Major-Group-Number-48);~~  
 10 ~~(t)--Electricity-Gas-and-Sanitary-Services-(Major-Group~~  
 11 ~~Number-49);~~  
 12 ~~(u)--Food-Brokers-(Industry-Number-5141);~~  
 13 ~~(v)--Banking-(Major-Group-Number-60);~~  
 14 ~~(w)--Credit-Agencies-other-than-Banks-(Major-Group~~  
 15 ~~Number-61);~~  
 16 ~~(x)--Security-and-Commodity-Brokers-Dealers,~~  
 17 ~~Exchanges-and-Services-(Major-Group-Number-62);~~  
 18 ~~(y)--Insurance-(Major-Group-Number-63);~~  
 19 ~~(z)--Insurance-Agents-Brokers-and-Services-(Major~~  
 20 ~~Group-Number-64);~~  
 21 ~~(aa)--Real-Estate-(Major-Group-Number-65);~~  
 22 ~~(bb)--Combinations-of-Real-Estate-Insurance-loans,~~  
 23 ~~law-Offices-(Major-Group-Number-66);~~  
 24 ~~(cc)--Holding-and-other-Investment-Offices-(Major-Group~~  
 25 ~~Number-67);~~  
 26 ~~(dd)--Personal-Services-(Major-Group-Number-72);~~  
 27 ~~(ee)--Business-Services-(Major-Group-Number-73);~~  
 28 ~~(ff)--Automotive-Repair-Services-and-Garages-(Major~~  
 29 ~~Group-Number-75);~~  
 30 ~~(gg)--Miscellaneous-Repair-Services-(Major-Group-Number~~  
 31 ~~76);~~

1 ~~{hh}~~--Motion Pictures--~~{Major-Group-Number-78}~~;

2 ~~{ii}~~--Amusement and Recreation Services, except Motion

3 Pictures--~~{Major-Group-Number-79}~~;

4 ~~{jj}~~--Health Services--~~{Major-Group-Number-80}~~;

5 ~~{kk}~~--Legal Services--~~{Major-Group-Number-81}~~;

6 ~~{ll}~~--Educational Services--~~{Major-Group-Number-82}~~;

7 ~~{mm}~~--Social Services--~~{Major-Group-Number-83}~~;

8 ~~{nn}~~--Museum, Art Galleries, Botanical and Biological

9 Gardens--~~{Major-Group-Number-84}~~;

10 ~~{oo}~~--Membership Organizations--~~{Major-Group-Number-85}~~;

11 ~~{pp}~~--Miscellaneous Services--~~{Major-Group-Number-89}~~;

12 ~~{qq}~~--Legislative, Judiciary, Administrative and

13 Regulatory Activities of Federal, State, local and

14 International Governments--~~{Major-Group-Numbers-91, 92, 93, 94,~~

15 ~~95, 96, and 97}~~;

16

17 ~~in addition, the terms shall include the services of any~~

18 ~~independent broker of tangible personal property;~~

19 {18}{23} "Special fuel" means any liquid product, gas

20 product, or combination thereof used in an internal combustion

21 engine or motor to propel any form of vehicle, machine, or

22 mechanical contrivance. This term includes, but is not

23 limited to, all forms of fuel commonly or commercially known

24 or sold as diesel fuel or kerosene. However, the term

25 "special fuel" does not include butane gas, propane gas, or

26 any other form of liquefied petroleum gas or compressed

27 natural gas.

28 ~~{24}~~--"SIC" means those classifications contained in

29 the Standard Industrial Classification Manual, 1987, as

30 published by the Office of Management and Budget, Executive

31

1 ~~Office of the President, and as amended in the 1977~~

2 Supplement;

3 {19}{25} "Storage" means and includes any keeping or

4 retention in this state of tangible personal property for use

5 or consumption in this state or for any purpose other than

6 sale at retail in the regular course of business.

7 {20}{26} "Tangible personal property" means and

8 includes personal property which may be seen, weighed,

9 measured, or touched or is in any manner perceptible to the

10 senses, including electric power or energy, boats, motor

11 vehicles and mobile homes as defined in s. 320.01(1) and (2),

12 aircraft as defined in s. 330.27, and all other types of

13 vehicles. The term "tangible personal property" does not

14 include stocks, bonds, notes, insurance, or other obligations

15 or securities; intangibles as defined by the intangible tax

16 law of the state; pari-mutuel tickets sold or issued under the

17 racing laws of the state; or factory-built buildings during

18 construction or thereafter.

19 {21}{27} "Use" means and includes the exercise of any

20 right or power over tangible personal property incident to the

21 ownership thereof, or interest therein, except that it does

22 not include the sale at retail of that property in the regular

23 course of business. ~~"Use" also means the consumption or~~

24 ~~enjoyment of the benefit of services;~~

25 {22}{28} The term "use tax" referred to in this

26 chapter includes the use, the consumption, the distribution,

27 and the storage as herein defined of ~~tangible personal~~

28 ~~property or services.~~

29 Section 2. Effective February 1, 1988, section 212 01,

30 Florida Statutes, is amended to read:

31

1 212.03 Transient rentals tax; rate, procedure,  
2 enforcement, exemptions.--

3 (1) It is hereby declared to be the legislative intent  
4 that every person is exercising a taxable privilege who  
5 engages in the business of renting, leasing, or letting any  
6 living quarters or sleeping or housekeeping accommodations in,  
7 from, or a part of, or in connection with any hotel, apartment  
8 house, roominghouse, or tourist or trailer camp. For the  
9 exercise of such privilege, a tax is hereby levied in an  
10 amount equal to 6 5 percent of and on the total rental charged  
11 for such living quarters or sleeping or housekeeping  
12 accommodations by the person charging or collecting the  
13 rental. Such tax shall apply to hotels, apartment houses,  
14 roominghouses, or tourist or trailer camps whether or not  
15 there is in connection with any of the same any dining rooms,  
16 cafes, or other places where meals or lunches are sold or  
17 served to guests.

18 (2) The tax provided for herein shall be in addition  
19 to the total amount of the rental, shall be charged by the  
20 lessor or person receiving the rent in and by said rental  
21 arrangement to the lessee or person paying the rental, and  
22 shall be due and payable at the time of the receipt of such  
23 rental payment by the lessor or person, as defined in this  
24 chapter, who receives said rental or payment. The owner,  
25 lessor, or person receiving the rent shall remit the tax to  
26 the department at the times and in the manner hereinafter  
27 provided for dealers to remit taxes under this chapter. The  
28 same duties imposed by this chapter upon dealers in tangible  
29 personal property respecting the collection and remission of  
30 the tax; the making of returns; the keeping of books, records,  
31 and accounts; and the compliance with the rules and

1 regulations of the department in the administration of this  
2 chapter shall apply to and be binding upon all persons who  
3 manage or operate hotels, apartment houses, roominghouses,  
4 tourist and trailer camps, and the rental of condominium  
5 units, and to all persons who collect or receive such rents on  
6 behalf of such owner or lessor taxable under this chapter.

7 (3) When rentals are received by way of property,  
8 goods, wares, merchandise, services, or other things of value,  
9 the tax shall be at the rate of 6 5 percent of the value of  
10 the property, goods, wares, merchandise, services, or other  
11 things of value.

12 (4) The tax levied by this section shall not apply to,  
13 be imposed upon, or collected from any person who shall have  
14 entered into a bona fide written lease for longer than 6  
15 months in duration for continuous residence at any one hotel,  
16 apartment house, roominghouse, tourist or trailer camp, or  
17 condominium, or to any person who shall reside continuously  
18 longer than 6 months at any one hotel, apartment house,  
19 roominghouse, tourist or trailer camp, or condominium and  
20 shall have paid the tax levied by this section for 6 months of  
21 residence in any one hotel, roominghouse, apartment house,  
22 tourist or trailer camp, or condominium. Notwithstanding  
23 other provisions of this chapter, no tax shall be imposed upon  
24 rooms provided guests when there is no consideration involved  
25 between the guest and the public lodging establishment.  
26 Further, any person who, on the effective date of this act,  
27 has resided continuously for 6 months at any one hotel,  
28 apartment house, roominghouse, tourist or trailer camp, or  
29 condominium, or, if less than 6 months, has paid the tax  
30 imposed herein until he shall have resided continuously for 6  
31 months, shall thereafter be exempt, so long as such person



1 shall continuously reside at such location. The Department of  
 2 Revenue shall have the power to reform the rental contract for  
 3 the purposes of this chapter if the rental payments are  
 4 collected in other than equal daily, weekly, or monthly  
 5 amounts so as to reflect the actual consideration to be paid  
 6 in the future for the right of occupancy during the first 6  
 7 months.

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

12 (6) It is the legislative intent that every person is  
 13 engaging in a taxable privilege who leases or rents parking or  
 14 storage spaces for motor vehicles in parking lots or garages,  
 15 who leases or rents docking or storage spaces for boats in  
 16 boat docks or marinas, or who leases or rents tie-down or  
 17 storage space for aircraft at airports. For the exercise of  
 18 this privilege, a tax is hereby levied at the rate of 6 5  
 19 percent on the total rental charged.

20 (7)(a) Full-time students enrolled in an institution  
 21 offering postsecondary education and military personnel  
 22 currently on active duty who reside in the facilities  
 23 described in subsection (1) shall be exempt from the tax  
 24 imposed by this section. The department shall be empowered to  
 25 determine what shall be deemed acceptable proof of full-time  
 26 enrollment. The exemption contained in this subsection shall  
 27 apply irrespective of any other provisions of this section.  
 28 The tax levied by this section shall not apply to or be  
 29 imposed upon or collected on the basis of rentals to any  
 30 person who resides in any building or group of buildings  
 31

1 intended primarily for lease or rent to persons as their  
 2 permanent or principal place of residence.

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

8 (c) The rental of facilities, including trailer lots,  
 9 which are intended primarily for rental as a principal or  
 10 permanent place of residence is exempt from the tax imposed by  
 11 this chapter. The rental of facilities that primarily serve  
 12 transient guests is not exempt by this subsection. In the  
 13 application of this law, or in making any determination  
 14 against the exemption, the department shall consider and be  
 15 guided by, among other things:

16 1. Whether or not a facility caters primarily to the  
 17 traveling public;

18 2. Whether less than half of the total rental units  
 19 available are occupied by tenants who have a continuous  
 20 residence in excess of 3 months; and

21 3. The nature of the advertising of the facility  
 22 involved.

23 (d) The rental of living accommodations in migrant  
 24 labor camps is not taxable under this section. "Migrant labor  
 25 camps" are defined as one or more buildings or structures,  
 26 tents, trailers, or vehicles, or any portion thereof, together  
 27 with the land appertaining thereto, established, operated, or  
 28 used as living quarters for seasonal, temporary, or migrant  
 29 workers.  
 30  
 31

1 Section 3. Section 212.031, Florida Statutes, as  
 2 amended by sections 8 and 25 of chapter 87-6 and section 10 of  
 3 chapter 87-101, Laws of Florida, is amended to read  
 4 212.031 Lease or rental of or license in real  
 5 property.--  
 6 (1)(a) It is declared to be the legislative intent  
 7 that every person is exercising a taxable privilege who  
 8 engages in the business of renting, leasing, letting, or  
 9 granting a license for the use of any real property unless  
 10 such property is:  
 11 1. Assessed as agricultural property under s. 193.461.  
 12 2. Used exclusively as dwelling units.  
 13 3. Property subject to tax on parking, docking, or  
 14 storage spaces under s. 212.03(6).  
 15 4. Recreational property or the common elements of a  
 16 condominium when subject to a lease between the developer or  
 17 owner thereof and the condominium association in its own right  
 18 or as agent for the owners of individual condominium units or  
 19 the owners of individual condominium units. However, only the  
 20 lease payments on such property shall be exempt from the tax  
 21 imposed by this chapter, and any other use made by the owner  
 22 or the condominium association shall be fully taxable under  
 23 this chapter.  
 24 5. A public or private street or right-of-way occupied  
 25 or used by a utility for utility purposes.  
 26 6. A public street or road which is used for  
 27 transportation purposes.  
 28 7. Property used at an airport exclusively for the  
 29 purpose of aircraft landing or aircraft taxiing or property  
 30 used by an airline for the purpose of loading or unloading  
 31

1 passengers or property onto or from aircraft or for fueling  
 2 aircraft.  
 3 8. Property used at a port authority, as defined in s.  
 4 315.02(2), exclusively for the purpose of oceangoing vessels  
 5 or tugs docking, or such vessels mooring on property used by a  
 6 port authority for the purpose of loading or unloading  
 7 passengers or cargo onto or from such a vessel, or property  
 8 used at a port authority for fueling such vessels.  
 9 9. Property used as an integral part of the  
 10 performance of qualified production services as ~~defined in s.~~  
 11 ~~212.0592(10)(a).~~ As used in this subparagraph, the term  
 12 "qualified production services" means any activity or service  
 13 performed directly in connection with the production of a  
 14 qualified motion picture, as defined in s. 212.06(1)(b), and  
 15 includes:  
 16 a. Photography, sound and recording, casting, location  
 17 managing and scouting, shooting, creation of special and  
 18 optical effects, animation, adaptation (language, media,  
 19 electronic or otherwise), technological modifications,  
 20 computer graphics, set and stage support (such as  
 21 electricians, lighting designers and operators, greensmen,  
 22 prop managers and assistants, and grips), wardrobe (design,  
 23 preparation, and management), hair and make-up (design,  
 24 production, and application), performing (such as acting,  
 25 dancing, and playing), designing and executing stunts,  
 26 coaching, consulting, writing, scoring, composing,  
 27 choreographing, script supervising, directing, producing,  
 28 transmitting dailies, dubbing, mixing, editing, cutting,  
 29 looping, printing, processing, duplicating, storing, and  
 30 distributing;  
 31

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

6 c. Property management services directly related to  
 7 property used in connection with the services described in  
 8 sub-subparagraphs a. and b.

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

22 (b) When a lease involves multiple use of real  
 23 property wherein a part of the real property is subject to the  
 24 tax herein, and a part of the property would be excluded from  
 25 the tax under subparagraphs 1., 2., or 3. of paragraph (a),  
 26 the department shall determine, from the lease or license and  
 27 such other information as may be available, that portion of  
 28 the total rental charge which is exempt from the tax imposed  
 29 by this section.

30 (c) For the exercise of such privilege, a tax is  
 31 levied in an amount equal to 5 percent of and on the total

1 rent or license fee charged for such real property by the  
 2 person charging or collecting the rental or license fee.

3 (d) When the rental or license fee of any such real  
 4 property is paid by way of property, goods, wares,  
 5 merchandise, services, or other thing of value, the tax shall  
 6 be at the rate of 5 percent of the value of the property,  
 7 goods, wares, merchandise, services, or other thing of value.

8 (2)(a) The tenant or person actually occupying, using,  
 9 or entitled to the use of any property from which the rental  
 10 or license fee is subject to taxation under this section shall  
 11 pay the tax to his immediate landlord or other person granting  
 12 the right to such tenant or person to occupy or use such real  
 13 property.

14 (b) It is the further intent of this Legislature that  
 15 only one tax be collected on the rental or license fee payable  
 16 for the occupancy or use of any such property, that the tax so  
 17 collected shall not be pyramided by a progression of  
 18 transactions, and that the amount of the tax due the state  
 19 shall not be decreased by any such progression of  
 20 transactions.

21 (3) The tax imposed by this section shall be in  
 22 addition to the total amount of the rental or license fee,  
 23 shall be charged by the lessor or person receiving the rent or  
 24 payment in and by a rental or license fee arrangement with the  
 25 lessee or person paying the rental or license fee, and shall  
 26 be due and payable at the time of the receipt of such rental  
 27 or license fee payment by the lessor or other person who  
 28 receives the rental or payment. The owner, lessor, or person  
 29 receiving the rent or license fee shall remit the tax to the  
 30 department at the times and in the manner hereinafter provided  
 31 for dealers to remit taxes under this chapter. The same

1 duties imposed by this chapter upon dealers in tangible  
 2 personal property respecting the collection and remission of  
 3 the tax; the making of returns; the keeping of books, records,  
 4 and accounts; and the compliance with the rules and  
 5 regulations of the department in the administration of this  
 6 chapter shall apply to and be binding upon all persons who  
 7 manage any leases or operate real property, hotels, apartment  
 8 houses, roominghouses, or tourist and trailer camps and all  
 9 persons who collect or receive rents or license fees taxable  
 10 under this chapter on behalf of owners or lessors.

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

15 (5)(6) When space is subleased to a convention or  
 16 industry trade show in a convention hall, exhibition hall, or  
 17 auditorium, whether publicly or privately owned, the sponsor  
 18 who holds the prime lease is subject to tax on the prime lease  
 19 and the sublease is exempt.

20 (6)(7) The lease or rental of land or a hall or other  
 21 facilities by a fair association subject to the provisions of  
 22 chapter 616 to a show promoter or prime operator of a carnival  
 23 or midway attraction is exempt from the tax imposed by this  
 24 section; however, the sublease of land or a hall or other  
 25 facilities by the show promoter or prime operator is not  
 26 exempt from the provisions of this section.

27 Section 4. Effective February 1, 1988, paragraphs (c)  
 28 and (d) of subsection (1) of section 212.031, Florida  
 29 Statutes, as amended by sections 8 and 25 of chapter 87-6 and  
 30 section 10 of chapter 87-101, Laws of Florida, are amended to  
 31 read.

1 212.031 Lease or rental of or license in real  
 2 property.--

3 (1)

4 (c) For the exercise of such privilege, a tax is  
 5 levied in an amount equal to 6 5 percent of and on the total  
 6 rent or license fee charged for such real property by the  
 7 person charging or collecting the rental or license fee.

8 (d) When the rental or license fee of any such real  
 9 property is paid by way of property, goods, wares,  
 10 merchandise, services, or other thing of value, the tax shall  
 11 be at the rate of 6 5 percent of the value of the property,  
 12 goods, wares, merchandise, services, or other thing of value.

13 Section 5. Section 212.04, Florida Statutes, as  
 14 amended by sections 9 and 25 of chapter 87-6 and section 11 of  
 15 chapter 87-101, Laws of Florida, is amended to read:

16 212.04 Admissions tax; rate, procedure, enforcement.--

17 (1)(a) It is hereby declared to be the legislative  
 18 intent that every person is exercising a taxable privilege who  
 19 sells or receives anything of value by way of admissions.

20 (b) For the exercise of such privilege, a tax is  
 21 levied at the rate of 5 percent of sales price, or the actual  
 22 value received from such admissions, which 5 percent shall be  
 23 added to and collected with all such admissions from the  
 24 purchaser thereof; and such tax shall be paid for the exercise  
 25 of the privilege as defined in the preceding paragraph. Each  
 26 ticket shall show on its face the actual sales price of  
 27 admission, and the tax shall be computed and collected on the  
 28 basis of each such admission price. The sale price or actual  
 29 value of admission shall, for the purpose of this chapter, be  
 30 that price remaining after deduction of federal taxes, if any,  
 31 imposed upon such admission; and the rate of tax on each

1 admission shall be according to the brackets established by s.  
2 212.12~~(9)~~(10).

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

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

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

29 4. No tax shall be levied on admissions to the  
30 National Football League championship game.  
31

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

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

5 (c) The taxes imposed by this section shall be  
6 collected in addition to the admission tax collected pursuant  
7 to s. 550.09, but the amount collected under s. 550.09 shall  
8 not be subject to taxation under this chapter.

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

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

1 the amount of tax to be paid by each such person and to  
 2 enforce the payment thereof as are hereby granted the  
 3 department for the discovery and enforcement of the payment of  
 4 taxes hereinafter levied on the sales of tangible personal  
 5 property. The failure of any person to pay such taxes before  
 6 the 21st day of the succeeding month after the taxes are  
 7 collected shall render such person liable to the same  
 8 penalties that are hereafter imposed upon such person for  
 9 being delinquent in the payment of taxes imposed upon the  
 10 sales of tangible personal property; and the failure of any  
 11 person to render returns and to pay taxes as prescribed herein  
 12 shall render such person subject to the same penalties, by way  
 13 of charges for delinquencies, at the rate of 5 percent per  
 14 month for a total amount of tax delinquent up to a total of 25  
 15 percent of such tax, and at the rate of 50-percent penalty for  
 16 attempted evasion of payment of any such tax or for any  
 17 attempt to file false or misleading returns that are required  
 18 to be filed by the department.

19 (5) All of the provisions of this chapter relating to  
 20 collection, investigation, discovery, and aide to collection  
 21 of taxes upon sales of tangible personal property shall  
 22 likewise apply to all privileges described or referred to in  
 23 this section; and the obligations imposed in this chapter upon  
 24 retailers are hereby imposed upon the seller of such  
 25 admissions. When tickets or admissions are sold and not used  
 26 but returned and credited by the seller, the seller may apply  
 27 to the department for a credit allowance for such returned  
 28 tickets or admissions if advance payments have been made by  
 29 the buyer and have been returned by the seller, upon such form  
 30 and in such manner as the department may from time to time  
 31 prescribe; and the department may, upon obtaining satisfactory

1 proof of the refunds on the part of the seller, credit the  
 2 seller for taxes paid upon admissions that have been returned  
 3 unused to the purchaser of those admissions. The seller of  
 4 admissions, upon the payment of the taxes before they become  
 5 delinquent and the rendering of the returns in accordance with  
 6 the requirement of the department and as provided in this law,  
 7 shall be entitled to a discount of 3 percent of the amount of  
 8 taxes upon the payment thereof before such taxes become  
 9 delinquent, in the same manner as permitted the sellers of  
 10 tangible personal property in this chapter. However, if the  
 11 amount of the tax due and remitted to the department for the  
 12 reporting period exceeds \$1,000, the 3-percent discount shall  
 13 be reduced to 1 percent for all amounts in excess of \$1,000.

14 (6) Admission taxes required to be paid by this  
 15 chapter shall be paid to the department by the owner or the  
 16 collector of such admission. When any place of business is  
 17 sold or transferred by any owner, wherein such admission taxes  
 18 have accrued or are accruing, such owner shall be obligated  
 19 before such sale becomes effective to notify the department of  
 20 such pending sale and secure from the department a certificate  
 21 of registration as prescribed in this section, and the  
 22 purchaser shall become obligated to withhold from the sales  
 23 price such sum of money as will safely be required to  
 24 discharge all accrued admission taxes upon such places of  
 25 business; and, upon the failure of any such purchaser to  
 26 withhold, he shall become obligated to pay all accrued  
 27 admission taxes, and the same shall become a lien upon all of  
 28 the purchaser's assets until the same have been paid and fully  
 29 discharged.

30 (7) The taxes under this section shall become a lien  
 31 upon the assets of the owner of any business exercising the

1 privilege of selling admissions, and the collection of such  
 2 admissions, as defined hereunder, and shall remain a lien  
 3 until fully paid and discharged. Such lien may be enforced in  
 4 the manner provided hereinafter for the enforcement of the  
 5 collection of taxes imposed upon the sales of tangible  
 6 personal property.

7 (8) The word "owners" as used in this chapter shall be  
 8 taken to include and mean all persons obligated to collect and  
 9 pay over to the state the tax imposed under this section,  
 10 inclusive of all holders of certificates of registration  
 11 issued as herein provided. Wherever the word "owner" or  
 12 "owners" is used herein, it shall be taken to mean and include  
 13 all persons liable for such admission taxes unless it appears  
 14 from the context that the words are descriptive of property  
 15 owners.

16 Section 6. Effective February 1, 1988, paragraph (b)  
 17 of subsection (1) of section 212.04, Florida Statutes, as  
 18 amended by sections 9 and 25 of chapter 87-6 and section 11 of  
 19 chapter 87-101, Laws of Florida, is amended to read:

20 212.04 Admissions tax; rate, procedure, enforcement.--

21 (1)

22 (b) For the exercise of such privilege, a tax is  
 23 levied at the rate of 5 percent of sales price, or the  
 24 actual value received from such admissions, which 5 percent  
 25 shall be added to and collected with all such admissions from  
 26 the purchaser thereof; and such tax shall be paid for the  
 27 exercise of the privilege as defined in the preceding  
 28 paragraph. Each ticket shall show on its face the actual  
 29 sales price of admission, and the tax shall be computed and  
 30 collected on the basis of each such admission price. The sale  
 31 price or actual value of admission shall, for the purpose of

1 this chapter, be that price remaining after deduction of  
 2 federal taxes, if any, imposed upon such admission; and the  
 3 rate of tax on each admission shall be according to the  
 4 brackets established by s. 212.12~~(9)~~(10).

5 Section 7. Section 212.05, Florida Statutes, as  
 6 amended by section 10 of chapter 87-6, sections 2 and 9 of  
 7 chapter 87-99, section 12 of chapter 87-101, and section 7 of  
 8 chapter 87-402, Laws of Florida, is amended to read:

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

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

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

27 b. Each occasional or isolated sale of an aircraft,  
 28 boat, mobile home, or motor vehicle of a class or type which  
 29 is required to be registered, licensed, titled, or documented  
 30 in this state or by the United States Government shall be  
 31 subject to tax at the rate provided in this paragraph. The

1 department shall, by rule, adopt the NADA Official Used Car  
 2 Guide as the reference price list for any used motor vehicle  
 3 which is required to be licensed pursuant to s. 320.08(1),  
 4 (2), (3)(a), (b), (c), or (f), or (9). If any party to an  
 5 occasional or isolated sale of such a vehicle reports to the  
 6 tax collector a sales price which is less than 80 percent of  
 7 the average loan price for the specified model and year of  
 8 such vehicle as listed in the most recent reference price  
 9 list, the tax levied under this paragraph shall be computed by  
 10 the department on such average loan price unless the parties  
 11 to the sale have provided to the tax collector an affidavit  
 12 signed by each party, or other substantial proof, stating the  
 13 actual sales price. Any party to such sale who reports a  
 14 sales price less than the actual sales price is guilty of a  
 15 misdemeanor of the second degree, punishable as provided in s.  
 16 775.083. The department shall collect or attempt to collect  
 17 from such party any delinquent sales taxes. In addition, such  
 18 party shall pay any tax due and any penalty and interest  
 19 assessed, plus a penalty equal to twice the amount of the  
 20 additional tax owed. Notwithstanding any other provision of  
 21 law, the Department of Revenue may waive or compromise any  
 22 penalty imposed after July 1, 1985, pursuant to this  
 23 subparagraph.

24 2. This paragraph does not apply to the sale of a boat  
 25 or airplane by or through a registered dealer under this  
 26 chapter to a purchaser who removes such boat or airplane from  
 27 this state within 10 days after the date of purchase or, when  
 28 the boat or airplane is repaired or altered, within 10 days  
 29 after completion of such repairs or alterations. In no event  
 30 shall the boat or airplane remain in this state more than 90  
 31

1 days after the date of purchase. This exemption shall not be  
 2 allowed unless the seller:

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

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

9 c. Makes the affidavit a part of his permanent record.  
 10

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

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

26 (c) At the rate of 5 percent of the gross proceeds  
 27 derived from the lease or rental of tangible personal  
 28 property, as defined herein, except the lease or rental of a  
 29 commercial motor vehicle as defined in s. 316.003(67)(a) to  
 30 one lessee or rentee for a period of not less than 12 months  
 31 when tax was paid on the acquisition of such vehicle by the



1 lessor, when the lease or rental of such property is an  
 2 established business or part of an established business or the  
 3 same is incidental or germane to such business.

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

8 (e)1. At the rate of 5 percent on charges for all  
 9 telegraph messages and long distance telephone calls beginning  
 10 and terminating in this state; on charges for  
 11 telecommunication service as defined in s. 203.012 and for  
 12 those services described in s. 203.012(2)(a); on recurring  
 13 charges to regular subscribers for wired television service;  
 14 on all charges for the installation of telecommunication,  
 15 wired television, and telegraphic equipment; and on all  
 16 charges for electrical power or energy. For purposes of this  
 17 part, the term "telecommunication service" does not include  
 18 local service provided through a pay telephone. The  
 19 provisions of s. 212.17(3), regarding credit for tax paid on  
 20 charges subsequently found to be worthless, shall be equally  
 21 applicable to any tax paid under the provisions of this  
 22 section on charges for telecommunication or telegraph services  
 23 or electric power subsequently found to be uncollectible. The  
 24 word "charges" in this paragraph does not include any excise  
 25 or similar tax levied by the Federal Government, any political  
 26 subdivision of the state, or any municipality upon the  
 27 purchase or sale of telecommunication, wired television, or  
 28 telegraph service or electric power, which tax is collected by  
 29 the seller from the purchaser.

30 2. Telegraph messages and telecommunication services  
 31 which originate or terminate in this state, other than

1 interstate private communication services, and are billed to a  
 2 customer, telephone number, or device located within this  
 3 state are taxable under this paragraph. Interstate private  
 4 communication services are taxable under this paragraph as  
 5 follows:

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

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

11 c. The portion of the interstate interoffice channel  
 12 mileage charge as determined by multiplying said charge times  
 13 a fraction, the numerator of which is the air miles between  
 14 the last channel termination point in this state and the  
 15 vertical and horizontal coordinates, 7856 and 1756,  
 16 respectively, and the denominator of which is the air miles  
 17 between the last channel termination point in this state and  
 18 the first channel termination point outside this state. The  
 19 denominator of this fraction shall be adjusted, if necessary,  
 20 by adding the numerator of said fraction to similarly  
 21 determined air miles in the state in which the other channel  
 22 termination point is located, so that the summation of the  
 23 apportionment factor for this state and the apportionment  
 24 factor for the other state is not greater than one, to ensure  
 25 that no more than 100 percent of the interstate interoffice  
 26 channel mileage charge can be taxed by this state and another  
 27 state.

28 3. The tax imposed pursuant to this paragraph shall  
 29 not exceed \$50,000 per calendar year on charges to any person  
 30 for interstate telecommunications services defined in s.  
 31 203.012(4) and (7)(b), if the majority of such services used

1 by such person are for communications originating outside of  
 2 this state and terminating in this state. This exemption  
 3 shall only be granted to holders of a direct pay permit issued  
 4 pursuant to this subparagraph. No refunds shall be given for  
 5 taxes paid prior to receiving a direct pay permit. Upon  
 6 application, the department may issue a direct pay permit to  
 7 the purchaser of telecommunications services authorizing such  
 8 purchaser to pay tax on such services directly to the  
 9 department. Any vendor furnishing telecommunications services  
 10 to the holder of a valid direct pay permit shall be relieved  
 11 of the obligation to collect and remit the tax on such  
 12 service. Tax payments and returns pursuant to a direct pay  
 13 permit shall be monthly. For purposes of this subparagraph,  
 14 the term "person" shall be limited to a single legal entity  
 15 and shall not be construed as meaning a group or combination  
 16 of affiliated entities or entities controlled by one person or  
 17 group of persons. For purposes of this subparagraph, for  
 18 calendar year 1986, the term "calendar year" means the last 6  
 19 months of 1986.

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

27 (g) At the rate of 5 percent of the price, as  
 28 determined pursuant to part II of this chapter, of each gallon  
 29 of motor fuel or special fuel taxable pursuant to that part,  
 30 except that motor fuel and special fuel expressly taxable  
 31

1 under this part shall be taxed as provided in paragraphs (a)  
 2 and (b).

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

29 (i) At the rate of 5 percent on the retail price of  
 30 newspapers and magazines sold or used in Florida.  
 31

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

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

8 (4) The tax imposed pursuant to this part shall be due  
9 and payable according to the brackets set forth in s. 212.12.

10 Section 8. Effective February 1, 1988, section 212.05,  
11 Florida Statutes, as amended by section 10 of chapter 87-6,  
12 sections 2 and 9 of chapter 87-99, section 12 of chapter 87-  
13 101, and section 7 of chapter 87-402, Laws of Florida, is  
14 amended 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, including  
19 the business of making mail order sales, or who rents or  
20 furnishes any of the things or services taxable under this  
21 chapter section, or who stores for use or consumption in this  
22 state any item or article of tangible personal property as  
23 defined herein and who leases or rents such property within  
24 the state.

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

28 (a)1.a. At the rate of 6 5 percent of the sales price  
29 of each item or article of tangible personal property when  
30 sold at retail in this state, computed on each taxable sale  
31

1 for the purpose of remitting the amount of tax due the state,  
2 and including each and every retail sale.

3 b. Each occasional or isolated sale of an aircraft,  
4 boat, mobile home, or motor vehicle of a class or type which  
5 is required to be registered, licensed, titled, or documented  
6 in this state or by the United States Government shall be  
7 subject to tax at the rate provided in this paragraph. The  
8 department shall, by rule, adopt the NADA Official Used Car  
9 Guide as the reference price list for any used motor vehicle  
10 which is required to be licensed pursuant to s. 320.08(1),  
11 (2), (3)(a), (b), (c), or (f), or (9). If any party to an  
12 occasional or isolated sale of such a vehicle reports to the  
13 tax collector a sales price which is less than 80 percent of  
14 the average loan price for the specified model and year of  
15 such vehicle as listed in the most recent reference price  
16 list, the tax levied under this paragraph shall be computed by  
17 the department on such average loan price unless the parties  
18 to the sale have provided to the tax collector an affidavit  
19 signed by each party, or other substantial proof, stating the  
20 actual sales price. Any party to such sale who reports a  
21 sales price less than the actual sales price is guilty of a  
22 misdemeanor of the second degree, punishable as provided in s.  
23 775.083. The department shall collect or attempt to collect  
24 from such party any delinquent sales taxes. In addition, such  
25 party shall pay any tax due and any penalty and interest  
26 assessed, plus a penalty equal to twice the amount of the  
27 additional tax owed. Notwithstanding any other provision of  
28 law, the Department of Revenue may waive or compromise any  
29 penalty imposed after July 1, 1985, pursuant to this  
30 subparagraph.  
31

1           2. This paragraph does not apply to the sale of a boat  
2 or airplane by or through a registered dealer under this  
3 chapter to a purchaser who removes such boat or airplane from  
4 this state within 10 days after the date of purchase or, when  
5 the boat or airplane is repaired or altered, within 10 days  
6 after completion of such repairs or alterations. In no event  
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  
9 allowed unless the seller:

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

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

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

17

18 In the event the purchaser fails to remove the boat or  
19 airplane from this state within 10 days after purchase or,  
20 when the boat or airplane is repaired or altered, within 10  
21 days after completion of such repairs or alterations, or  
22 permits the boat or airplane to return to this state within 6  
23 months from the date of departure, the purchaser shall be  
24 liable for use tax on the cost price of the boat or airplane  
25 and, in addition thereto, payment of a penalty to the  
26 Department of Revenue equal to the tax payable. This penalty  
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.

29           (b) At the rate of 5 percent of the cost price of  
30 each item or article of tangible personal property when the  
31

1 same is not sold but is used, consumed, distributed, or stored  
2 for use or consumption in this state.

3           (c) At the rate of 5 percent of the gross proceeds  
4 derived from the lease or rental of tangible personal  
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  
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  
9 lessor, when the lease or rental of such property is an  
10 established business or part of an established business or the  
11 same is incidental or germane to such business.

12           (d) At the rate of 5 percent of the lease or rental  
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  
15 personal property.

16           (e)1. At the rate of 5 percent on charges for all  
17 telegraph messages and long distance telephone calls beginning  
18 and terminating in this state; on charges for  
19 telecommunication service as defined in s. 203.012 and for  
20 those services described in s. 203.012(2)(a); on recurring  
21 charges to regular subscribers for wired television service;  
22 on all charges for the installation of telecommunication,  
23 wired television, and telegraphic equipment; and on all  
24 charges for electrical power or energy. For purposes of this  
25 part, the term "telecommunication service" does not include  
26 local service provided through a pay telephone. The  
27 provisions of s. 212.17(3), regarding credit for tax paid on  
28 charges subsequently found to be worthless, shall be equally  
29 applicable to any tax paid under the provisions of this  
30 section on charges for telecommunication or telegraph services  
31 or electric power subsequently found to be uncollectible. The

1 word "charges" in this paragraph does not include any excise  
 2 or similar tax levied by the Federal Government, any political  
 3 subdivision of the state, or any municipality upon the  
 4 purchase or sale of telecommunication, wired television, or  
 5 telegraph service or electric power, which tax is collected by  
 6 the seller from the purchaser.

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

- 14 a. One hundred percent of the charge imposed at each  
 15 channel termination point within this state;  
 16 b. One hundred percent of the charge imposed for the  
 17 total channel mileage between each channel termination point  
 18 within this state; and  
 19 c. The portion of the interstate interoffice channel  
 20 mileage charge as determined by multiplying said charge times  
 21 a fraction, the numerator of which is the air miles between  
 22 the last channel termination point in this state and the  
 23 vertical and horizontal coordinates, 7856 and 1756,  
 24 respectively, and the denominator of which is the air miles  
 25 between the last channel termination point in this state and  
 26 the first channel termination point outside this state. The  
 27 denominator of this fraction shall be adjusted, if necessary,  
 28 by adding the numerator of said fraction to similarly  
 29 determined air miles in the state in which the other channel  
 30 termination point is located, so that the summation of the  
 31 apportionment factor for this state and the apportionment

1 factor for the other state is not greater than one, to ensure  
 2 that no more than 100 percent of the interstate interoffice  
 3 channel mileage charge can be taxed by this state and another  
 4 state.

5 3. The tax imposed pursuant to this paragraph shall  
 6 not exceed \$50,000 per calendar year on charges to any person  
 7 for interstate telecommunications services defined in a.  
 8 203.012(4) and (7)(b), if the majority of such services used  
 9 by such person are for communications originating outside of  
 10 this state and terminating in this state. This exemption  
 11 shall only be granted to holders of a direct pay permit issued  
 12 pursuant to this subparagraph. No refunds shall be given for  
 13 taxes paid prior to receiving a direct pay permit. Upon  
 14 application, the department may issue a direct pay permit to  
 15 the purchaser of telecommunications services authorizing such  
 16 purchaser to pay tax on such services directly to the  
 17 department. Any vendor furnishing telecommunications services  
 18 to the holder of a valid direct pay permit shall be relieved  
 19 of the obligation to collect and remit the tax on such  
 20 service. Tax payments and returns pursuant to a direct pay  
 21 permit shall be monthly. For purposes of this subparagraph,  
 22 the term "person" shall be limited to a single legal entity  
 23 and shall not be construed as meaning a group or combination  
 24 of affiliated entities or entities controlled by one person or  
 25 group of persons. For purposee of this subparagraph, for  
 26 calendar year 1986, the term "calendar year" means the last 6  
 27 months of 1986.

28 (f) At the rate of 6 5 percent on the sale, rental,  
 29 use, consumption, or storage for use in this state of machines  
 30 and equipment and parts and accessories therefor used in  
 31 manufacturing, processing, compounding, producing, mining, or

1 quarrying personal property for sale or to be used in  
2 furnishing communications, transportation, or public utility  
3 services.

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

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

1 system described in this paragraph is located in more than one  
2 state, the actual cost of such system for purposes of this  
3 paragraph shall be the actual cost of the system's equipment  
4 located in Florida.

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

7 (2) The tax shall be collected by the dealer, as  
8 defined herein, and remitted by him to the state at the time  
9 and in the manner as hereinafter provided.

10 (3) The tax so levied is in addition to all other  
11 taxes, whether levied in the form of excise, license, or  
12 privilege taxes, and in addition to all other fees and taxes  
13 levied.

14 (4) The tax imposed pursuant to this part shall be due  
15 and payable according to the brackets set forth in s. 212.12.

16 Section 9. Effective July 1, 1988, paragraph (a) of  
17 subsection (1) of section 212.05, Florida Statutes, as amended  
18 by section 83 of chapter 87-6 and section 52 of chapter 87-  
19 101, Laws of Florida, is amended to read:

20 212.05 Sales, storage, use tax.--It is hereby declared  
21 to be the legislative intent that every person is exercising a  
22 taxable privilege who engages in the business of selling  
23 tangible personal property at retail in this state, including  
24 the business of making mail order sales, or who rents or  
25 furnishes any of the things or services taxable under this  
26 chapter section, or who stores for use or consumption in this  
27 state any item or article of tangible personal property as  
28 defined herein and who leases or rents such property within  
29 the state.  
30  
31

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

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

9 b. Each occasional or isolated sale of an aircraft,  
10 boat, mobile home, or motor vehicle of a class or type which  
11 is required to be registered, licensed, titled, or documented  
12 in this state or by the United States Government shall be  
13 subject to tax at the rate provided in this paragraph. The  
14 department shall, by rule, adopt the MADA Official Used Car  
15 Guide as the reference price list for any used motor vehicle  
16 which is required to be licensed pursuant to s. 320.08(1),  
17 (2), (3)(a), (b), (c), or (f), or (9). If any party to an  
18 occasional or isolated sale of such a vehicle reports to the  
19 tax collector a sales price which is less than 80 percent of  
20 the average loan price for the specified model and year of  
21 such vehicle as listed in the most recent reference price  
22 list, the tax levied under this paragraph shall be computed by  
23 the department on such average loan price unless the parties  
24 to the sale have provided to the tax collector an affidavit  
25 signed by each party, or other substantial proof, stating the  
26 actual sales price. Any party to such sale who reports a  
27 sales price less than the actual sales price is guilty of a  
28 misdemeanor of the first degree, punishable as provided in s.  
29 775.082, s. 775.083, or s. 775.084. The department shall  
30 collect or attempt to collect from such party any delinquent  
31 sales taxes. In addition, such party shall pay any tax due

1 and any penalty and interest assessed, plus a penalty equal to  
2 twice the amount of the additional tax owed. Notwithstanding  
3 any other provision of law, the Department of Revenue may  
4 waive or compromise any penalty imposed after July 1, 1985,  
5 pursuant to this subparagraph sub-subparagraph. For purposes  
6 ~~of this sub-subparagraph, an occasional or isolated sale is~~  
7 ~~one in which the seller is not a motor vehicle dealer as~~  
8 ~~defined in s. 328.27(1)(c).~~

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

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

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

24 c. Makes the affidavit a part of his permanent record.  
25

26 In the event the purchaser fails to remove the boat or  
27 airplane from this state within 10 days after purchase or,  
28 when the boat or airplane is repaired or altered, within 10  
29 days after completion of such repairs or alterations, or  
30 permits the boat or airplane to return to this state within 6  
31 months from the date of departure, the purchaser shall be

1 liable for use tax on the cost price of the boat or airplane  
2 and, in addition thereto, payment of a penalty to the  
3 Department of Revenue equal to the tax payable. This penalty  
4 shall be in lieu of the penalty imposed by s. 212.12(2) and is  
5 mandatory and shall not be waived by the department.

6 Section 10. Section 212.054, Florida Statutes, as  
7 amended by section 11 of chapter 87-6, Laws of Florida, is  
8 amended to read:

9 212.054 Discretionary sales surtax; limitations,  
10 administration, and collection.--

11 (1) No general excise tax on sales shall be levied by  
12 the governing body of any county unless specifically  
13 authorized in s. 212.055. Any general excise tax on sales  
14 authorized pursuant to said section shall be administered and  
15 collected exclusively as provided in this section.

16 (2)(a) The tax imposed by the governing body of any  
17 county authorized to so levy pursuant to s. 212.055 shall be a  
18 discretionary surtax on all transactions occurring in the  
19 county which transactions are subject to the state tax imposed  
20 on sales, use, rentals, admissions, and other transactions by  
21 this part. The surtax, if levied, shall be computed as the  
22 applicable rate or rates authorized pursuant to s. 212.055  
23 times the any amount of taxable sales and taxable purchases  
24 representing such transactions tax-imposed-by-and-paid-to-the  
25 state-pursuant-to-this-part;-except-this-section-and-s-  
26 212-055;-and-shall-be-rounded-to-the-nearest-penny.

27 (b) However:

28 1. The tax on any sales amount above \$5,000 ~~\$1,000~~ on  
29 any item of tangible personal property and on long distance  
30 telephone service shall not be subject to the surtax.  
31

1 2. In the case of utility, telecommunication, or wired  
2 television services billed on or after the effective date of  
3 any such surtax, the entire amount of the tax for utility,  
4 telecommunication, or wired television services shall be  
5 subject to the surtax. In the case of utility,  
6 telecommunication, or wired television services billed after  
7 the last day the surtax is in effect, the entire amount of the  
8 tax on said items shall not be subject to the surtax.

9 3. In the case of written contracts which are signed  
10 prior to the effective date of any such surtax for the  
11 construction of improvements to real property or for  
12 remodeling of existing structures, the surtax shall be paid by  
13 the contractor responsible for the performance of the  
14 contract. However, the contractor may apply for one refund of  
15 any such surtax paid on materials necessary for the completion  
16 of the contract. Any application for refund shall be made no  
17 later than 15 months following initial imposition of the  
18 surtax in that county. The application for refund shall be in  
19 the manner prescribed by the department by rule. A complete  
20 application shall include proof of the written contract and of  
21 payment of the surtax. The application shall contain a sworn  
22 statement, signed by the applicant or its representative,  
23 attesting to the validity of the application. The department  
24 shall, within 30 days after approval of a complete  
25 application, certify to the county information necessary for  
26 issuance of a refund to the applicant. Counties are hereby  
27 authorized to issue refunds for this purpose and shall set  
28 aside from the proceeds of the surtax a sum sufficient to pay  
29 any refund lawfully due. Any person who fraudulently obtains  
30 or attempts to obtain a refund pursuant to this subparagraph,  
31 in addition to being liable for repayment of any refund



1 fraudulently obtained plus a mandatory penalty of 100 percent  
 2 of the refund, is guilty of a misdemeanor of the second  
 3 degree, punishable as provided in s. 775.082, s. 775.083, or  
 4 s. 775.084.

5 (3) For the purpose of this section, a transaction  
 6 shall be deemed to have occurred in a county imposing the  
 7 surtax when:

8 (a) The dealer is located in the county and the sale  
 9 includes tangible personal property or services, except as  
 10 otherwise provided herein; provided, that the sale of any  
 11 motor vehicle or mobile home of a class or type which is  
 12 required to be registered in this state or in any other state  
 13 shall be deemed to have occurred only in the county identified  
 14 as the residence address of the purchaser on the registration  
 15 or title document for such property;

16 (b) The event for which an admission is charged is  
 17 located in the county;

18 (c) The consumer of utility or wired television  
 19 services is located in the county, or the telecommunication  
 20 services are provided to a location within the county;

21 (d) The user of any aircraft or boat-~~motor-vehicle~~  
 22 ~~er-mobile-home~~ of a class or type which is required to be  
 23 registered, licensed, titled, or documented in this state or  
 24 by the United States Government imported into the county for  
 25 use, consumption, distribution, or storage to be used or  
 26 consumed in the county is located in the county; however, it  
 27 shall be presumed that such items used outside the county for  
 28 6 months or longer before being imported into the county were  
 29 not purchased for use in the county. The provisions of this  
 30 paragraph shall not apply to the use or consumption of such  
 31

1 items upon which a like tax of equal or greater amount has  
 2 been lawfully imposed and paid outside the county;

3 (e) The purchaser of any motor vehicle or mobile home  
 4 of a class or type which is required to be registered in this  
 5 state is a resident of the taxing county as determined by the  
 6 address appearing on or to be reflected on the registration  
 7 document for such property;

8 (f) Any motor vehicle or mobile home of a class or  
 9 type which is required to be registered in this state is  
 10 imported from another state into the taxing county by a user  
 11 residing therein for the purpose of use, consumption,  
 12 distribution, or storage in the taxing county; however, it  
 13 shall be presumed that such items used outside the taxing  
 14 county for 6 months or longer before being imported into the  
 15 county were not purchased for use in the county;

16 (g)(e) The real property which is leased or rented is  
 17 located in the county;

18 (h)(f) The transient rental transaction occurs in the  
 19 county;

20 (i)(g) The delivery of any aircraft or boat-~~motor~~  
 21 vehicle-~~er-mobile-home~~ of a class or type which is required  
 22 to be registered, licensed, titled, or documented in this  
 23 state or by the United States Government is to a location in  
 24 the county; however, the provisions of this paragraph shall  
 25 not apply to the use or consumption of such items upon which a  
 26 like tax of equal or greater amount has been lawfully imposed  
 27 and paid outside the county; or

28 (j)(h) The dealer owing a use tax on purchases or  
 29 leases is located in the county.

30 (4) The department shall administer, collect, and  
 31 enforce the tax authorized under s. 212.055 pursuant to the

1 same procedures used in the administration, collection, and  
 2 enforcement of the general state sales tax imposed under the  
 3 provisions of this chapter, except as provided in this  
 4 section. The provisions of this chapter regarding interest  
 5 and penalties on delinquent taxes shall apply to the surtax.  
 6 Discretionary sales surtaxes shall not be included in the  
 7 computation of estimated taxes pursuant to s. 212.11(1)(a).  
 8 Notwithstanding any other provision of law, a dealer need not  
 9 separately state the amount of the surtax on the charge  
 10 ticket, sales slip, invoice, or other tangible evidence of  
 11 sale. For the purposes of this section and s. 212.055, the  
 12 "proceeds" of any surtax shall be construed to mean all funds  
 13 collected and received by the department pursuant to a  
 14 specific authorization and levy under s. 212.055, including  
 15 any interest and penalties on delinquent surtaxes.  
 16 Notwithstanding the provisions of s. 212.20, the proceeds of  
 17 each discretionary sales surtax imposed by each county, less  
 18 the costs of administration, shall be transferred to a  
 19 discretionary sales surtax trust fund. A separate trust fund  
 20 shall be established in the State Treasury for each county  
 21 imposing a discretionary surtax. The amount deducted for the  
 22 costs of administration shall not exceed 3 percent of the  
 23 total revenue generated for all counties levying a surtax  
 24 authorized in s. 212.055. The amount deducted for the costs  
 25 of administration shall be used only for those costs which are  
 26 solely and directly attributable to the surtax. The total  
 27 cost of administration shall be prorated among those counties  
 28 levying the surtax on the basis of the amount collected for a  
 29 particular county to the total amount collected for all  
 30 counties. No later than March 1 of each year, the department  
 31 shall submit a written report which details the expenses and

1 amounts deducted for the costs of administration to the  
 2 President of the Senate, the Speaker of the House of  
 3 Representatives, and the governing authority of each county  
 4 levying a surtax. Proceeds shall be distributed monthly to  
 5 the appropriate counties, unless otherwise provided in s.  
 6 212.055.  
 7 (5) No discretionary sales surtax shall take effect on  
 8 a date other than January 1. No discretionary sales surtax  
 9 shall terminate on a day other than the last day of a calendar  
 10 quarter.  
 11 (6) The governing body of any county levying a  
 12 discretionary sales surtax shall enact an ordinance levying  
 13 the surtax in accordance with the procedures described in s.  
 14 125.66(2), and shall notify the department within 10 days  
 15 after adoption of the ordinance. The notice shall include the  
 16 time period during which the surtax will be in effect, the  
 17 rate, a copy of the ordinance, and such other information as  
 18 the department may prescribe by rule. Notification and final  
 19 adoption of the surtax shall occur no later than 45 days prior  
 20 to initial imposition of the surtax.  
 21 (7) With respect to any motor vehicle or mobile home  
 22 of a class or type which is required to be registered in this  
 23 state, the tax due on a transaction occurring in the taxing  
 24 county as herein provided shall be collected from the  
 25 purchaser or user incident to the titling and registration of  
 26 such property, irrespective of whether such titling or  
 27 registration occurs in the taxing county.  
 28 Section 11. Effective July 1, 1988, paragraph (b) of  
 29 subsection (2) of section 212.054, Florida Statutes, as  
 30 amended by section 84 of chapter 87-6, Laws of Florida, is  
 31 reenacted to read:

1 212.054 Discretionary sales surtax; limitations,  
 2 administration, and collection.--  
 3 (2)  
 4 (b) However:  
 5 1. The tax on any sales amount above \$5,000 ~~\$1,000~~ on  
 6 any item of tangible personal property and on long distance  
 7 telephone service shall not be subject to the surtax.  
 8 2. In the case of utility, telecommunication, or wired  
 9 television services billed on or after the effective date of  
 10 any such surtax, the entire amount of the tax for utility,  
 11 telecommunication, or wired television services shall be  
 12 subject to the surtax. In the case of utility,  
 13 telecommunication, or wired television services billed after  
 14 the last day the surtax is in effect, the entire amount of the  
 15 tax on said items shall not be subject to the surtax.  
 16 3. In the case of written contracts which are signed  
 17 prior to the effective date of any such surtax for the  
 18 construction of improvements to real property or for  
 19 remodeling of existing structures, the surtax shall be paid by  
 20 the contractor responsible for the performance of the  
 21 contract. However, the contractor may apply for one refund of  
 22 any such surtax paid on materials necessary for the completion  
 23 of the contract. Any application for refund shall be made no  
 24 later than 15 months following initial imposition of the  
 25 surtax in that county. The application for refund shall be in  
 26 the manner prescribed by the department by rule. A complete  
 27 application shall include proof of the written contract and of  
 28 payment of the surtax. The application shall contain a sworn  
 29 statement, signed by the applicant or its representative,  
 30 attesting to the validity of the application. The department  
 31 shall, within 30 days after approval of a complete

1 application, certify to the county information necessary for  
 2 issuance of a refund to the applicant. Counties are hereby  
 3 authorized to issue refunds for this purpose and shall set  
 4 aside from the proceeds of the surtax a sum sufficient to pay  
 5 any refund lawfully due. Any person who fraudulently obtains  
 6 or attempts to obtain a refund pursuant to this subparagraph,  
 7 in addition to being liable for repayment of any refund  
 8 fraudulently obtained plus a mandatory penalty of 100 percent  
 9 of the refund, is guilty of a felony of the third degree,  
 10 punishable as provided in s. 775.082, s. 775.083, or s.  
 11 775.084.

12 Section 12. Section 212.055, Florida Statutes, as  
 13 amended by section 8 of chapter 87-99, section 1 of chapter  
 14 87-100, and section 2 of chapter 87-239, Laws of Florida, is  
 15 amended to read:

16 212.055 Discretionary sales surtaxes; legislative  
 17 intent; authorization and use of proceeds.--It is the  
 18 legislative intent that any authorization for imposition of a  
 19 discretionary sales surtax shall be published in the Florida  
 20 Statutes as a subsection of this section, irrespective of the  
 21 duration of the levy. Each enactment shall specify the types  
 22 of counties authorized to levy; the rate or rates which may be  
 23 imposed; the maximum length of time the surtax may be imposed,  
 24 if any; the procedure which must be followed to secure voter  
 25 approval, if required; the purpose for which the proceeds may  
 26 be expended; and such other requirements as the Legislature  
 27 may provide. Taxable transactions and administrative  
 28 procedures shall be as provided in s. 212.054.

29 (1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.--

30 (a) Each charter county which adopted a charter prior  
 31 to June 1, 1976, and each county the government of which is

1 consolidated with that of one or more municipalities, may levy  
 2 a discretionary sales surtax, subject to approval by a  
 3 majority vote of the electorate of the county.  
 4 (b) The rate shall be up to one percent one-fifth  
 5 ~~(20 percent) of any amount of tax imposed by and paid to the~~  
 6 ~~state pursuant to this part, except this section and s-~~  
 7 ~~212.054.~~  
 8 ~~2--Notwithstanding subparagraph 1, for any county the~~  
 9 ~~government of which is consolidated with that of one or more~~  
 10 ~~municipalities, upon the retirement of any bonds which were~~  
 11 ~~issued for the construction of roads and bridges and which~~  
 12 ~~were outstanding on the effective date of this act, the rate~~  
 13 ~~shall be one-tenth (10 percent) of any amount of tax imposed~~  
 14 ~~by and paid to the state pursuant to this part, except this~~  
 15 ~~section and s-212.054.~~  
 16 (c) The proposal to adopt a discretionary sales surtax  
 17 as provided in this subsection and to create a rapid transit  
 18 trust fund within the county accounts shall be placed on the  
 19 ballot in accordance with law at a time to be set at the  
 20 discretion of the governing body.  
 21 (d) Proceeds from the surtax shall be:  
 22 1. Deposited by the county in the rapid transit trust  
 23 fund and shall be used only for the purposes of development,  
 24 construction, equipment, maintenance, operation, supportive  
 25 services, including a countywide bus system, and related costs  
 26 of a fixed guideway rapid transit system; or  
 27 2. Remitted by the governing body of the county to an  
 28 expressway or transportation authority created by law to be  
 29 used, at the discretion of such authority, for the  
 30 development, construction, operation, or maintenance of roads  
 31 or bridges in the county, for the operation and maintenance of

1 a bus system, or for the payment of principal and interest on  
 2 existing bonds issued for the construction of such roads or  
 3 bridges, and, upon approval by the county commission, such  
 4 proceeds may be pledged for bonds issued to refinance existing  
 5 bonds or new bonds issued for the construction of such roads  
 6 or bridges.  
 7 (2) ~~INDIGENT CARE SURTAX--~~  
 8 (a) ~~The governing authority in each county which has a~~  
 9 ~~publicly owned, publicly operated, and publicly managed~~  
 10 ~~regional referral hospital, as defined in s-154.304(4), which~~  
 11 ~~capital has an affiliation agreement with the state university~~  
 12 ~~medical school located in that county and which hospital would~~  
 13 ~~have received from the county between October 1, 1982, and~~  
 14 ~~September 30, 1983, more than it actually received for~~  
 15 ~~providing health care for recipient indigent patients had~~  
 16 ~~1982-1983 federal poverty guidelines been applied, is~~  
 17 ~~authorized to levy by ordinance, for the period January 1,~~  
 18 ~~1986, through March 31, 1987, or any quarterly portion~~  
 19 ~~thereof, a discretionary sales surtax~~  
 20 (b) ~~The rate shall be 5 percent of any tax paid to the~~  
 21 ~~state pursuant to this part, except this section and s-~~  
 22 ~~212.054.~~  
 23 (c) ~~The provisions of s-212.054(2)(b) shall not~~  
 24 ~~apply to the surtax authorized by this subsection.~~  
 25 (d) ~~The ordinance adopted by the governing body~~  
 26 ~~providing for the imposition of the surtax shall set forth~~  
 27 ~~criteria for the selection of the providers of the health care~~  
 28 ~~services to be paid therefor from the proceeds thereof.~~  
 29 (e) ~~The department shall disburse the moneys to the~~  
 30 ~~clerk of the circuit court as ex officio custodian of the~~  
 31 ~~funds of the authorizing county, who shall maintain the moneys~~

~~in an indigent health care trust fund. Any funds on deposit in the trust fund created pursuant to this paragraph shall be invested pursuant to general law. The moneys in an indigent health care trust fund for an authorizing county and any interest thereon shall be expended within that county or in the case of a negotiated joint county agreement by that authorizing county with another county, within such her county, to provide health care to certified indigent patients as defined by s. 154.304(1) who are residents of the authorizing county.~~

~~(f) In enacting this subsection the legislature expressly finds that it would be an unconstitutional use of the taxing power of the state for any holders of any hospital revenue obligation bonds to have a lien on any of the funds raised under this subsection until those funds are received by the health care provider for services rendered as provided. The moneys in an indigent health care trust fund for an authorizing county and any interest thereon, shall remain the property of the State of Florida and shall be distributed by the Department of Revenue on a regular and periodic basis to the governing authority of the authorizing county, in trust, until they are paid to the account of the appropriate provider of health care services to certified indigent patients for services rendered after the effective date of this act and the funds shall not be disbursed from the trust fund until the authorizing county has paid out of county funds for indigent health care an amount equal to the amount which the authorizing county paid for indigent health care out of county funds in the fiscal year preceding the adoption of the authorizing ordinance.~~

(2)(3) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

(a) The governing authority in each county may levy, for a period of up to 15 years from the date of levy, a discretionary sales surtax of one-half of one percent or one percent ~~up to 20 percent~~ of any tax paid to the state pursuant to this part, except this section, s. 212.054 and s. 212.0305. Such governing authority may levy such surtax in an amount equal to 5, 10, 15 or 20 percent of said state tax. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988.

(b) A statement which includes a brief general description of the projects to be funded by the surtax and which conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county which enacts an ordinance calling for a referendum on the levy of the surtax or in which the governing bodies of the municipalities representing a majority of the county's municipal population adopt uniform resolutions calling for a referendum on the surtax. The following question shall be placed on the ballot:

....FOR the                      ....cent sales tax  
 ....AGAINST the                      ....cent sales tax

1 (c) Pursuant to s. 212.054(4), the proceeds of the  
 2 surtax levied under this subsection shall be distributed to  
 3 the county and the municipalities within such county in which  
 4 the surtax was collected, according to:

5 1. An interlocal agreement between the county  
 6 governing authority and the governing bodies of the  
 7 municipalities representing a majority of the county's  
 8 municipal county population; or

9 2. If there is no interlocal agreement, according to  
 10 the formula provided in s. 218.62.

11 ~~(d)--The provisions of s. 212.054(2)(b) relating to~~  
 12 ~~the sales amount above \$1,000 on any item of tangible personal~~  
 13 ~~property shall not apply to the surtax authorized by this~~  
 14 ~~subsection. The sales amount above \$5,000 on any item of~~  
 15 ~~tangible personal property shall not be subject to the surtax~~  
 16 ~~imposed by this subsection.~~

17 ~~(e)--The department shall promulgate by rule the~~  
 18 ~~brackets applicable to transactions which are subject to the~~  
 19 ~~surtax.~~

20 (d)(f)1. The proceeds of the surtax authorized by this  
 21 subsection and any interest accrued thereto shall be expended  
 22 within the county and municipalities within the county, or, in  
 23 the case of a negotiated joint county agreement, within  
 24 another county, to finance, plan, and construct  
 25 infrastructure. Neither the proceeds nor any interest accrued  
 26 thereto shall be used for operational expenses of any  
 27 infrastructure. Counties, as defined in s. 125.011(1), may,  
 28 in addition, use the proceeds to retire or service  
 29 indebtedness incurred for bonds issued prior to July 1, 1987  
 30 for infrastructure purposes.  
 31

1 2. For the purposes of this paragraph "infrastructure"  
 2 means any fixed capital expenditure or fixed capital costs  
 3 associated with the construction, reconstruction, or  
 4 improvement of public facilities which have a life expectancy  
 5 of 5 or more years and any land acquisition, land improvement,  
 6 design, and engineering costs related thereto.

7 ~~(e)(g)~~ Counties and municipalities receiving proceeds  
 8 under the provisions of this subsection may pledge such  
 9 proceeds for the purpose of servicing new bond indebtedness  
 10 incurred pursuant to law. Local governments may use the  
 11 services of the Division of Bond Finance of the Department of  
 12 General Services pursuant to the State Bond Act to issue any  
 13 bonds through the provisions of this subsection. In no case  
 14 may a jurisdiction issue bonds pursuant to this subsection  
 15 more frequently than once per year. Counties and  
 16 municipalities may join together for the issuance of bonds  
 17 authorized by this subsection.

18 ~~(f)(h)~~ Counties and municipalities shall not use the  
 19 surtax proceeds to supplant or replace user fees or to reduce  
 20 ad valorem taxes existing prior to the levy of the surtax  
 21 authorized by this subsection.

22 ~~(g)(i)~~ No referendum proposing the levying of such  
 23 surtax shall be held after November 30, 1992.

24 (h) Notwithstanding s. 212.054(5), the surtax must  
 25 take effect on the first day of a month, as fixed by the  
 26 ordinance adopted pursuant to paragraph (a), and may not take  
 27 effect until at least 60 days after the date that the  
 28 referendum approving the levy is held.

29 Section 13. Section 212.059, Florida Statutes, as  
 30 created by section 1 of chapter 87-6, Laws of Florida, and  
 31

1 amended by section 1 of chapter 87-72 and section 1 of chapter  
2 87-101, Laws of Florida, is hereby repealed.

3 Section 14. Section 212.0591, Florida Statutes, as  
4 created by section 2 of chapter 87-6, Laws of Florida, and  
5 amended by section 2 of chapter 87-72 and section 2 of chapter  
6 87-101, Laws of Florida, is hereby repealed.

7 Section 15. Section 212.0592, Florida Statutes, as  
8 created by section 3 of chapter 87-6, Laws of Florida, and  
9 amended by section 3 of chapter 87-101, Laws of Florida, is  
10 hereby repealed.

11 Section 16. Section 212.0593, Florida Statutes, as  
12 created by section 4 of chapter 87-6, Laws of Florida, and  
13 amended by section 4 of chapter 87-101, Laws of Florida, is  
14 hereby repealed.

15 Section 17. Section 212.0594, Florida Statutes, as  
16 created by section 6 of chapter 87-101, Laws of Florida, is  
17 hereby repealed.

18 Section 18. Section 212.0595, Florida Statutes, as  
19 created by section 6 of chapter 87-6, Laws of Florida, and  
20 amended by section 3 of chapter 87-72 and section 7 of chapter  
21 87-101, Laws of Florida, is hereby repealed.

22 Section 19. Section 212.0598, Florida Statutes, as  
23 created by section 8 of chapter 87-101, Laws of Florida, is  
24 amended to read:

25 212.0598 Special provisions; air carriers.--

26 (1) Notwithstanding other provisions of this part to  
27 the contrary, any air carrier utilizing mileage apportionment  
28 for corporate income tax purposes in this state pursuant to  
29 chapter 214 required by the United States Department of  
30 Transportation to keep records according to said department's  
31 standard classification of accounting may elect, upon the

1 conditions prescribed in subsection (3)(4), to be subject to  
2 the tax imposed by this part on services and tangible personal  
3 property according to the provisions of this section.

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

11 (2)(3) It is the legislative intent that air carriers  
12 are hereby determined to be susceptible to a distinct and  
13 separate classification for taxation under the provisions of  
14 this part, if the provisions of this section are met.

15 (3)(4) The election provided for in this section shall  
16 not be allowed unless the purchaser makes a written request,  
17 in a manner prescribed by the Department of Revenue, to be  
18 taxed under the provisions of subsection (1)(2), and such  
19 person registers with the Department of Revenue as a dealer  
20 and extends to his vendor at the time of purchase, if required  
21 to do so, a certificate stating that the item or items to be  
22 partially exempted are for the exclusive use designated  
23 herein. ~~Otherwise, all purchases of taxable property and~~  
24 ~~services purchased in this state shall be subject to taxation~~

25 (4)(5) Notwithstanding other provisions of this part  
26 to the contrary, any air carrier eligible for the election  
27 provided in subsection (1) which does not so elect shall be  
28 subject to the tax imposed by this part on the purchase or use  
29 of services and tangible personal property purchased or used  
30 in this state, as well as other taxes imposed herein.

1 Section 20. Section 212.06, Florida Statutes, as  
 2 amended by section 12 of chapter 87-6, section 3 of chapter  
 3 87-99, section 1 of chapter 87-370, and section 4 of chapter  
 4 87-402, Laws of Florida, is amended to read:

5 212.06 Sales, storage, use tax; collectible from  
 6 dealers; "dealer" defined; dealers to collect from purchasers;  
 7 legislative intent as to scope of tax.--

8 (1)(a) The aforesaid tax at the rate of 5 percent of  
 9 the retail sales price as of the moment of sale, 5 percent of  
 10 the cost price as of the moment of purchase, or 5 percent of  
 11 the cost price as of the moment of commingling with the  
 12 general mass of property in this state, as the case may be,  
 13 shall be collectible from all dealers as herein defined on the  
 14 sale at retail, the use, the consumption, the distribution,  
 15 and the storage for use or consumption in this state of  
 16 tangible personal property or services taxable under this  
 17 part. The full amount of the tax on a credit sale,  
 18 installment sale, or sale made on any kind of deferred payment  
 19 plan shall be due at the moment of the transaction in the same  
 20 manner as on a cash sale.

21 (b) Except as otherwise provided, any person who  
 22 manufactures, produces, compounds, processes, or fabricates in  
 23 any manner tangible personal property for his own use shall  
 24 pay a tax upon the cost of the product manufactured, produced,  
 25 compounded, processed, or fabricated without any deduction  
 26 therefrom on account of the cost of material used, labor or  
 27 service costs, or transportation charges, notwithstanding the  
 28 provisions of s. 212.02 defining "cost price." However, the  
 29 tax levied under this paragraph shall not be imposed upon any  
 30 person who manufactures or produces electrical power or  
 31 energy, steam energy, or other energy, when such power or

1 energy is used directly and exclusively in the operation of  
 2 machinery or equipment that is used to manufacture, process,  
 3 compound, produce, fabricate, or prepare for shipment tangible  
 4 personal property for sale or to operate pollution control  
 5 equipment, maintenance equipment, or monitoring or control  
 6 equipment used in such operations. The manufacturing or  
 7 production of electrical power or energy that is used for  
 8 space heating, lighting, office equipment, or air conditioning  
 9 or any other nonmanufacturing, nonprocessing, noncompounding,  
 10 nonproducing, nonfabricating, or nonshipping activity is  
 11 taxable. Electrical power or energy consumed or dissipated in  
 12 the transmission or distribution of electrical power or energy  
 13 for resale is also not taxable. Fabrication labor shall not  
 14 be taxable when a person is using his own equipment and his  
 15 own personnel, for his own account, as a producer,  
 16 subproducer, or coproducer of a qualified motion picture as  
 17 defined in s. 212.0592(18)(b)-prepared-for-showing-on-screens  
 18 or-through-television-for-either-theatrical-commercial  
 19 advertising-<sup>r</sup>-educational-purposes. For purposes of this  
 20 part, the term "qualified motion picture" means all or any  
 21 part of a series of related images, either on film, tape, or  
 22 other embodiment, including, but not limited to, all items  
 23 comprising part of the original work and film-related products  
 24 derived therefrom as well as duplicates and prints thereof and  
 25 all sound recordings created to accompany a motion picture,  
 26 which is produced, adapted, or altered for exploitation in,  
 27 on, or through any medium or device and at any location,  
 28 primarily for entertainment, commercial, industrial, or  
 29 educational purposes. A person who manufactures factory-built  
 30 buildings for his own use in the performance of contracts for  
 31 the construction or improvement of real property shall pay a



1 tax only upon the person's cost price of items used in the  
 2 manufacture of such buildings.

3 (2)(a) The term "dealer" as used in this chapter  
 4 includes every person who manufactures or produces tangible  
 5 personal property for sale at retail; for use, consumption, or  
 6 distribution; or for storage to be used or consumed in this  
 7 state.

8 (b) The term "dealer" is further defined to mean every  
 9 person, as used in this chapter, who imports, or causes to be  
 10 imported, tangible personal property from any state or foreign  
 11 country for sale at retail; for use, consumption, or  
 12 distribution; or for storage to be used or consumed in this  
 13 state.

14 (c) The term "dealer" is further defined to mean every  
 15 person, as used in this chapter, who sells at retail, or who  
 16 offers for sale at retail, or who has in his possession for  
 17 sale at retail, or for use, consumption, or distribution, or  
 18 for storage to be used or consumed in this state tangible  
 19 personal property as defined herein, including a retailer who  
 20 transacts a mail order sale.

21 (d) The term "dealer" is further defined to mean any  
 22 person who has sold at retail, or used, or consumed, or  
 23 distributed, or stored for use or consumption in this state  
 24 tangible personal property and who cannot prove that the tax  
 25 levied by this chapter has been paid on the sale at retail,  
 26 the use, the consumption, the distribution, or the storage of  
 27 such tangible personal property.

28 (e) The term "dealer" is further defined to mean any  
 29 person, as used in this chapter, who leases or rents tangible  
 30 personal property, as defined in this chapter, for a  
 31 consideration, permitting the use or possession of such

1 property without transferring title thereto, except as  
 2 expressly provided for to the contrary herein.

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

8 (g) "Dealer" also means and includes every person who  
 9 solicits business either by direct representatives, indirect  
 10 representatives, or manufacturers' agents or by distribution  
 11 of catalogs or other advertising matter or by any other means  
 12 whatsoever and by reason thereof receives orders for tangible  
 13 personal property or services from consumers for use,  
 14 consumption, distribution, and storage for use or consumption  
 15 in the state; and such dealer shall collect the tax imposed by  
 16 this chapter from the purchaser, and no action either in law  
 17 or in equity on a sale or transaction as provided by the terms  
 18 of this chapter may be had in this state by any such dealer  
 19 unless it is affirmatively shown that the provisions of this  
 20 chapter have been fully complied with.

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

26 (i) "Dealer" also means and includes the state,  
 27 county, municipality, any political subdivision, agency,  
 28 bureau or department or other state or local governmental  
 29 instrumentality.

30 (j) The term "dealer" is further defined to mean any  
 31 person who leases, or grants a license to use, occupy, or

1 enter upon, living quarters, sleeping or housekeeping  
 2 accommodations in hotels, apartment houses, roominghouses,  
 3 tourist or trailer camps, real property, space or spaces in  
 4 parking lots or garages for motor vehicles, docking or storage  
 5 space or spaces for boats in boat docks or marinas, or tie  
 6 down or storage space or spaces for aircraft at airports. The  
 7 term "dealer" also means any person who has leased, occupied,  
 8 or used or was entitled to use any living quarters, sleeping  
 9 or housekeeping accommodations in hotels, apartment houses,  
 10 roominghouses, tourist or trailer camps, real property, space  
 11 or spaces in parking lots or garages for motor vehicles or  
 12 docking or storage space or spaces for boats in boat docks or  
 13 marinas, or who has purchased communication services or  
 14 electric power or energy, and who cannot prove that the tax  
 15 levied by this chapter has been paid to the vendor or lessor  
 16 on any such transactions.

17 (k) "Dealer" also means any person who sells,  
 18 provides, or performs a service taxable under this part.  
 19 "Dealer" also means any person who purchases, uses, or  
 20 consumes a service taxable under this part who cannot prove  
 21 that the tax levied by this part has been paid to the seller  
 22 of the taxable services.

23 (3) Every dealer making sales, whether within or  
 24 outside the state, of tangible personal property for  
 25 distribution, storage, or use or other consumption, in this  
 26 state, shall, at the time of making sales, collect the tax  
 27 imposed by this chapter from the purchaser.

28 (4) On all tangible personal property imported or  
 29 caused to be imported from other states, territories, the  
 30 District of Columbia, or any foreign country, and used by him,  
 31 ~~and on all services purchased in other states, territories,~~

1 ~~the District of Columbia or any foreign country, and used by~~  
 2 ~~him~~ the dealer, as herein defined, shall pay the tax imposed  
 3 by this chapter on all articles of tangible personal property  
 4 so imported and used, ~~and on all services so purchased and~~  
 5 ~~used~~ the same as if such articles ~~or services~~ had been sold  
 6 at retail for use or consumption in this state. For the  
 7 purposes of this chapter, the use, or consumption, or  
 8 distribution, or storage to be used or consumed in this state  
 9 of tangible personal property shall each be equivalent to a  
 10 sale at retail; and the tax shall thereupon immediately levy  
 11 and be collected in the manner provided herein, provided there  
 12 shall be no duplication of the tax in any event.

13 (5)(a)1. Except as provided in subparagraph 2., it is  
 14 not the intention of this chapter to levy a tax upon tangible  
 15 personal property imported, produced, or manufactured in this  
 16 state for export, provided that tangible personal property may  
 17 not be considered as being imported, produced, or manufactured  
 18 for export unless the importer, producer, or manufacturer  
 19 delivers the ~~same~~ to a licensed exporter for exporting or to a  
 20 common carrier for shipment outside the state or mails the  
 21 ~~same~~ by United States mail to a destination outside the state;  
 22 or, in the case of aircraft being exported under their own  
 23 power to a destination outside the continental limits of the  
 24 United States, by submission to the department of a duly  
 25 signed and validated United States customs declaration,  
 26 showing the departure of the aircraft from the continental  
 27 United States; and further with respect to aircraft, the  
 28 canceled United States registry of said aircraft; or in the  
 29 case of parts and equipment installed on aircraft of foreign  
 30 registry, by submission to the department of documentation,  
 31 the extent of which shall be provided by rule, showing the

1 departure of the aircraft from the continental United States,  
 2 nor is it the intention of this chapter to levy a tax on any  
 3 sale which the state is prohibited from taxing under the  
 4 Constitution or laws of the United States. Every retail sale  
 5 made to a person physically present at the time of sale shall  
 6 be presumed to have been delivered in this state.

7 2.a. Notwithstanding subparagraph 1., a tax is levied  
 8 on each sale of tangible personal property to be transported  
 9 to a cooperating state as defined in sub-subparagraph c., at  
 10 the rate specified in sub-subparagraph d. However, a Florida  
 11 dealer will be relieved from the requirements of collecting  
 12 taxes pursuant to this subparagraph if the Florida dealer  
 13 obtains from the purchaser an affidavit setting forth the  
 14 purchaser's name, address, state taxpayer identification  
 15 number, and a statement that the purchaser is aware of his  
 16 state's use tax laws, is a registered dealer in Florida or  
 17 another state, or is purchasing the tangible personal property  
 18 for resale or is otherwise not required to pay the tax on the  
 19 transaction. The department may, by rule, provide a form to  
 20 be used for the purposes set forth herein.

21 b. For purposes of this subparagraph, "a cooperating  
 22 state" is one determined by the executive director of the  
 23 department to cooperate satisfactorily with this state in  
 24 collecting taxes on mail order sales. No state shall be so  
 25 determined unless it meets all the following minimum  
 26 requirements.

27 (I) It levies and collects taxes on mail order sales  
 28 of property transported from that state to persons in this  
 29 state, as described in s. 212.0596, upon request of the  
 30 department.  
 31

1 (II) The tax so collected shall be at the rate  
 2 specified in s. 212.05, not including any local option or  
 3 tourist or convention development taxes collected pursuant to  
 4 s. 125.0104 or this part.

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

8 (IV) Such state authorizes the department to audit  
 9 dealers within its jurisdiction who make mail order sales that  
 10 are the subject of s. 212.0596, or makes arrangements deemed  
 11 adequate by the department for auditing them with its own  
 12 personnel.

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

18 c. For purposes of this subparagraph, "sales of  
 19 tangible personal property to be transported to a cooperating  
 20 state" means mail order sales to a person who is in the  
 21 cooperating state at the time the order is executed, from a  
 22 dealer who receives that order in this state.

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

28 e. The tax levied by sub-subparagraph a., when  
 29 collected, shall be held in the State Treasury in trust for  
 30 the benefit of the cooperating state and shall be paid to it  
 31 at a time agreed upon between the department, acting for this

1 state, and the cooperating state or the department or agency  
 2 designated by it to act for it; however, such payment shall  
 3 in no event, be made later than 30 days from the last day of  
 4 the calendar quarter after the tax was collected. Funds held  
 5 in trust for the benefit of a cooperating state shall not be  
 6 subject to the service charge imposed by s. 215.20.

7 f. The department is authorized to perform such acts  
 8 and to provide such cooperation to a cooperating state with  
 9 reference to the tax levied by sub-subparagraph a. as is  
 10 required of the cooperating state by sub-subparagraph b.

11 g. In furtherance of this act, dealers selling  
 12 tangible personal property for delivery in another state shall  
 13 make available to the department, upon request of the  
 14 department, records of all tangible personal property so sold.  
 15 Such records shall include a description of the property, the  
 16 name and address of the purchaser, the name and address of the  
 17 person to whom the property was sent, the purchase price of  
 18 the property, information regarding whether sales tax was paid  
 19 in this state on the purchase price, and such other  
 20 information as the department may by rule prescribe.

21 (b)1. Notwithstanding the provisions of paragraph (a),  
 22 it is not the intention of this chapter to levy a tax on the  
 23 sale of tangible personal property to a nonresident dealer who  
 24 does not hold a Florida sales tax registration, provided such  
 25 nonresident dealer furnishes the seller a statement declaring  
 26 that the tangible personal property will be transported  
 27 outside this state by the nonresident dealer for resale and  
 28 for no other purpose. The statement shall include, but not be  
 29 limited to, the nonresident dealer's name, address, applicable  
 30 passport or visa number, arrival-departure card number, and  
 31 evidence of authority to do business in his home state or

1 country, such as his business name and address, his  
 2 occupational license number, if applicable, or any other  
 3 suitable requirement. The statement shall be signed by the  
 4 nonresident dealer and shall include the following sentence:  
 5 "Under penalties of perjury, I declare that I have read the  
 6 foregoing, and the facts alleged are true to the best of my  
 7 knowledge and belief."

8 2. The burden of proof of subparagraph 1. rests with  
 9 the seller, who must retain the proper documentation to  
 10 support the exempt sale. The exempt transaction is subject to  
 11 verification by the department.

12 (c) It is not the intention of this chapter to levy a  
 13 tax upon the sale, use, storage, consumption, or distribution  
 14 in this state, whether by the importer, exporter, or another  
 15 person, of any telecommunications satellite or any associated  
 16 launch vehicle, including components of, and parts and motors  
 17 for, any such satellite or launch vehicle, imported or caused  
 18 to be imported into this state for the purpose of export by  
 19 means of launching into space. This intention is not affected  
 20 by:

- 21 1. The destruction in whole or in part of the
- 22 satellite or launch vehicle.
- 23 2. The failure of a launch to occur or be successful.
- 24 3. The absence of any transfer of title to, or
- 25 possession of, the satellite or launch vehicle after launch.
- 26 4. Anything in this chapter to the contrary.

27 (6) It is however, the intention of this chapter to  
 28 levy a tax on the sale at retail, the use, the consumption,  
 29 the distribution, and the storage to be used or consumed in  
 30 this state of tangible personal property after it has come to  
 31

1 rest in this state and has become a part of the mass property  
2 of this state.

3 (7) The provisions of this chapter do not apply in  
4 respect to the use or consumption of tangible personal  
5 property ex-services, or distribution or storage of tangible  
6 personal property ex-services for use or consumption in this  
7 state, upon which a like tax equal to or greater than the  
8 amount imposed by this chapter has been lawfully imposed and  
9 paid in another state, territory of the United States, or the  
10 District of Columbia. The proof of payment of such tax shall  
11 be made according to rules and regulations of the department.  
12 If the amount of tax paid in another state, territory of the  
13 United States, or the District of Columbia is not equal to or  
14 greater than the amount of tax imposed by this chapter, then  
15 the dealer shall pay to the department an amount sufficient to  
16 make the tax paid in the other state, territory of the United  
17 States, or the District of Columbia and in this state equal to  
18 the amount imposed by this chapter.

19 (8) Use tax will apply and be due on tangible personal  
20 property imported or caused to be imported into this state for  
21 use, consumption, distribution, or storage to be used or  
22 consumed in this state; provided, however, that it shall be  
23 presumed that tangible personal property used in another  
24 state, territory of the United States, or the District of  
25 Columbia for 6 months or longer before being imported into  
26 this state was not purchased for use in this state. The  
27 rental or lease of tangible personal property which is used or  
28 stored in this state shall be taxable without regard to its  
29 prior use or tax paid on purchase outside this state.

30 (9) The taxes imposed by this chapter do not apply to  
31 the use, sale, or distribution of religious publications,

1 bibles, hymn books, prayer books, vestments, altar  
2 paraphernalia, sacramental chalices, and like church service  
3 and ceremonial raiments and equipment.

4 (10) No title certificate may be issued on any boat,  
5 mobile home, motor vehicle, or other vehicle, or, if no title  
6 is required by law, no license or registration may be issued  
7 for any boat, mobile home, motor vehicle, or other vehicle,  
8 unless there is filed with such application for title  
9 certificate or license or registration certificate a receipt  
10 issued by an authorized dealer or a designated agent of the  
11 Department of Revenue, evidencing the payment of the tax  
12 imposed by this chapter where the same is payable. For the  
13 purpose of enforcing this provision, all county tax collectors  
14 and all persons or firms authorized to sell or issue boat,  
15 mobile home, and motor vehicle licenses are hereby designated  
16 agents of the department and are required to perform such duty  
17 in the same manner and under the same conditions prescribed  
18 for their other duties by the constitution or any statute of  
19 this state. All transfers of title to boats, mobile homes,  
20 motor vehicles, and other vehicles are taxable transactions,  
21 unless expressly exempt under this chapter.

22 Section 21. Effective February 1, 1988, paragraph (a)  
23 of subsection (1) of section 212.06, Florida Statutes, as  
24 amended by section 12 of chapter 87-6, section 3 of chapter  
25 87-99, section 1 of chapter 87-370, and section 4 of chapter  
26 87-402, Laws of Florida, is amended to read:

27 212.06 Sales, storage, use tax; collectible from  
28 dealers; "dealer" defined; dealers to collect from purchasers;  
29 legislative intent as to scope of tax.--

30 (1)(a) The aforesaid tax at the rate of 6 5 percent of  
31 the retail sales price as of the moment of sale, 6 5 percent

1 of the cost price as of the moment of purchase, or 5 percent  
 2 of the cost price as of the moment of commingling with the  
 3 general mass of property in this state, as the case may be,  
 4 shall be collectible from all dealers as herein defined on the  
 5 sale at retail, the use, the consumption, the distribution,  
 6 and the storage for use or consumption in this state of  
 7 tangible personal property or services taxable under this  
 8 part. The full amount of the tax on a credit sale,  
 9 installment sale, or sale made on any kind of deferred payment  
 10 plan shall be due at the moment of the transaction in the same  
 11 manner as on a cash sale.

12 Section 22. Section 212.065, Florida Statutes, is  
 13 created to read:

14 212.065 Road construction.--

15 (1) Notwithstanding any other provision of this part,  
 16 with regard to road construction done pursuant to an arms-  
 17 length contract, a tax at the rate of 5 percent shall be  
 18 imposed upon 50 percent of the contract price.

19 (2) For purposes of this section, the term:

20 (a) "Building materials" means those materials which  
 21 are incorporated into and become a component part of a road.

22 (b) "Contract price" means the total consideration  
 23 paid for road construction pursuant to the contract.

24 (c) "Road construction" means construction of a road  
 25 as defined in s. 334.03(17), a private road which includes one  
 26 or more components listed in s. 334.03(17), parking lot,  
 27 airport landing area or taxiway, or helicopter pad.

28 (3) Prime contractors and subcontractors certified  
 29 pursuant to chapter 337 may obtain resale permits from the  
 30 department to be used when purchasing building materials.  
 31

1 (4) The tax imposed pursuant to this section shall be  
 2 due from the prime contractor when he is paid. If the  
 3 contract price is paid in draws or installments, the amount of  
 4 tax to be paid with respect to each such draw or installment,  
 5 before application of the dealer credit, shall be that  
 6 proportion of the tax due on the total contract price which  
 7 the amount of the draw or installment bears to the total  
 8 contract price.

9 (5) This section applies only to construction pursuant  
 10 to contracts entered into on or after the effective date of  
 11 this section.

12 Section 23. Effective February 1, 1988, subsection (1)  
 13 of section 212.065, Florida Statutes, as created by this act,  
 14 is amended to read:

15 212.065 Road construction.--

16 (1) Notwithstanding any other provision of this part,  
 17 with regard to road construction done pursuant to an arms-  
 18 length contract, a tax at the rate of 5 percent shall be  
 19 imposed upon 50 percent of the contract price.

20 Section 24. Section 212.07, Florida Statutes, as  
 21 amended by section 13 of chapter 87-6, Laws of Florida, is  
 22 amended to read:

23 212.07 Sales, storage, use tax; tax added to purchase  
 24 price; dealer not to absorb; liability of purchasers who  
 25 cannot prove payment of the tax; penalties; general  
 26 exemptions.--

27 (1)(a) The privilege tax herein levied measured by  
 28 retail sales shall be collected by the dealers from the  
 29 purchaser or consumer. ~~Except as otherwise specifically~~  
 30 ~~provided, the sales and use tax on services herein levied~~  
 31

1 ~~measured-by-retail-sales-shall-like-wise-be-collected-by-the~~  
 2 ~~dealers-from-the-purchaser-or-consumer;~~

3 (b) A resale must be in strict compliance with the  
 4 rules and regulations, and any dealer who makes a sale for  
 5 resale which is not in strict compliance with the rules and  
 6 regulations shall himself be liable for and pay the tax. A  
 7 dealer may, through the informal protest provided for in s.  
 8 213.21 and the rules of the Department of Revenue, provide the  
 9 department with evidence of the exempt status of a sale. The  
 10 Department of Revenue shall adopt rules which provide that  
 11 valid resale certificates and consumer certificates of  
 12 exemption executed by those dealers or exempt entities which  
 13 were registered with the department at the time of sale shall  
 14 be accepted by the department when submitted during the  
 15 protest period but may not be accepted in any proceeding under  
 16 chapter 120 or any circuit court action instituted under  
 17 chapter 72.

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

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

8 (3) Any dealer who fails, neglects, or refuses to  
 9 collect the tax herein provided, either by himself or through  
 10 his agents or employees, is, in addition to the penalty of  
 11 being liable for and paying the tax himself, guilty of a  
 12 misdemeanor of the second degree, punishable as provided in s.  
 13 775.082 or s. 775.083.

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

29 (5) The gross proceeds derived from the sale in this  
 30 state of livestock, poultry, and other farm products direct  
 31 from the farm are exempted from the tax levied by this

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

13 (6) It is specifically provided that the use tax as  
 14 defined herein does not apply to livestock and livestock  
 15 products, to poultry and poultry products, or to farm and  
 16 agricultural products, when produced by the farmer and used by  
 17 him and members of his family and his employees on the farm.

18 (7) Provided, however, that each and every  
 19 agricultural commodity sold by any person, other than a  
 20 producer, to any other person who purchases not for direct  
 21 consumption but for the purpose of acquiring raw products for  
 22 use or for sale in the process of preparing, finishing, or  
 23 manufacturing such agricultural commodity for the ultimate  
 24 retail consumer trade shall be and is exempted from any and  
 25 all provisions of this chapter, including payment of the tax  
 26 applicable to the sale, storage, use, or transfer, or any  
 27 other utilization or handling thereof, except when such  
 28 agricultural commodity is actually sold as a marketable or  
 29 finished product to the ultimate consumer; and in no case  
 30 shall more than one tax be exacted.  
 31

1 (8) The term "agricultural commodity," for the  
 2 purposes hereof, means horticultural, poultry and farm  
 3 products, and livestock and livestock products.

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

16 Section 25. Effective July 1, 1988, subsections (3)  
 17 and (4) of section 212.07, Florida Statutes, as amended by  
 18 section 05 of chapter 87-6 and section 53 of chapter 87-101,  
 19 Laws of Florida, are amended to read:

20 212.07 Sales, storage, use tax; tax added to purchase  
 21 price; dealer not to absorb; liability of purchasers who  
 22 cannot prove payment of the tax; penalties; general  
 23 exemptions.--

24 (3) Any dealer who fails, neglects, or refuses to  
 25 collect the tax herein provided, either by himself or through  
 26 his agents or employees, is, in addition to the penalty of  
 27 being liable for and paying the tax himself, guilty of a  
 28 misdemeanor of the first degree, punishable as provided in s.  
 29 775.082, s. 775.083, or s. 775.084.

30 (4) A dealer engaged in any business or-in-setting-any  
 31 services taxable under this chapter may not advertise or hold



1 out to the public, in any manner, directly or indirectly, that  
 2 he will absorb all or any part of the tax, or that he will  
 3 relieve the purchaser of the payment of all or any part of the  
 4 tax, or that the tax will not be added to the selling price of  
 5 the property or services sold or released or, when added, that  
 6 it or any part thereof will be refunded either directly or  
 7 indirectly by any method whatsoever. A person who violates  
 8 this provision with respect to advertising or refund is guilty  
 9 of a misdemeanor of the second degree, punishable as provided  
 10 in s. 775.082, s. 775.083, or s. 775.084. A second or  
 11 subsequent offense constitutes a misdemeanor of the first  
 12 degree, punishable as provided in s. 775.082, s. 775.083, or  
 13 s. 775.084.

14 Section 26. Section 212.08, Florida Statutes, as  
 15 amended by sections 14 and 25 of chapter 87-6, section 4 of  
 16 chapter 87-72, section 4 of chapter 87-99, section 13 of  
 17 chapter 87-101, and section 2 of chapter 87-370, Laws of  
 18 Florida, is amended to read:

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

25 (1) EXEMPTIONS; GENERAL GROCERIES.--

26 (a) There are exempt from the tax imposed by this  
 27 chapter food and drinks for human consumption except candy.  
 28 Unless the exemption provided by paragraph (7)(q)(b) for  
 29 school lunches, paragraph (7)(i)(c) for meals to certain  
 30 patients or inmates, or paragraph (7)(k)(h) for meals provided  
 31

1 by certain nonprofit organizations pertains, none of such  
 2 items of food or drinks means:

3 1. Food or drinks served, prepared, or sold in or by  
 4 restaurants; drugstores; lunch counters; cafeterias; hotels;  
 5 amusement parks; racetracks; taverns; concession stands at  
 6 arenas, auditoriums, carnivals, fairs, stadiums, theaters, or  
 7 other like places of business; or by any business or place  
 8 required by law to be licensed by the Division of Hotels and  
 9 Restaurants of the Department of Business Regulation, except  
 10 bakery products sold in or by pastry shops, doughnut shops, or  
 11 like establishments for consumption off the premises;

12 2. Foods and drinks sold ready for immediate  
 13 consumption from vending machines, pushcarts, motor vehicles,  
 14 or any other form of vehicle;

15 3. Soft drinks, which include, but are not limited to,  
 16 any nonalcoholic beverage; any preparation or beverage  
 17 commonly referred to as a "soft drink"; or any noncarbonated  
 18 drink made from milk derivatives or tea, when sold in cans or  
 19 similar containers. The term "soft drink" does not include:  
 20 natural fruit or vegetable juices or their concentrates or  
 21 reconstituted natural concentrated fruit or vegetable juices,  
 22 whether frozen or unfrozen, dehydrated, powdered, granulated,  
 23 sweetened or unsweetened, seasoned with salt or spice, or  
 24 unseasoned; coffee or coffee substitutes; tea except when sold  
 25 in containers as provided herein; cocoa; products intended to  
 26 be mixed with milk; or natural fluid milk;

27 4. Foods or drinks cooked or prepared on the seller's  
 28 premises and sold ready for immediate consumption either on or  
 29 off the premises, excluding bakery products for off-premises  
 30 consumption unless such foods are taxed under subparagraph 1  
 31 or subparagraph 2.; or

1 5. Sandwiches sold ready for immediate consumption.

2  
3 For the purposes of this paragraph, "seller's premises" shall  
4 be construed broadly, and means, but is not limited to, the  
5 lobby, aisle, or auditorium of a theater, the seating, aisle,  
6 or parking area of an arena, rink, or stadium, or the parking  
7 area of a drive-in or outdoor theater. The premises of a  
8 caterer with respect to catered meals or beverages shall be  
9 the place where such meals or beverages are served.

10 (b)1. Food or drinks not exempt under paragraph (a)  
11 shall be exempt, notwithstanding that paragraph, when  
12 purchased with food coupons or Special Supplemental Food  
13 Program for Women, Infants, and Children vouchers issued under  
14 authority of federal law.

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

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

24 (2) EXEMPTIONS; MEDICAL.--

25 (a) There shall be exempt from the tax imposed by this  
26 chapter any product, supply, or medicine dispensed in a retail  
27 establishment by a pharmacist licensed by the state, according  
28 to an individual prescription or prescriptions written by a  
29 prescriber authorized by law to prescribe medicinal drugs;  
30 hypodermic needles, hypodermic syringes; chemical compounds  
31 and test kits used for the diagnosis or treatment of human

1 disease, illness, or injury; and common household remedies  
2 recommended and generally sold for internal or external use in  
3 the cure, mitigation, treatment, or prevention of illness or  
4 disease in human beings, but not including cosmetics or toilet  
5 articles, notwithstanding the presence of medicinal  
6 ingredients therein, according to a list prescribed and  
7 approved by the Department of Health and Rehabilitative  
8 Services, which list shall be certified to the Department of  
9 Revenue from time to time and included in the rules  
10 promulgated by the Department of Revenue. There shall also be  
11 exempt from the tax imposed by this chapter artificial eyes  
12 and limbs; orthopedic shoes; prescription eyeglasses and items  
13 incidental thereto or which become a part thereof; dentures;  
14 hearing aids; crutches; prosthetic and orthopedic appliances;  
15 and funerals. Funeral directors shall pay tax on all tangible  
16 personal property used by them in their business.

17 (b) For the purposes of this subsection:

18 1. "Prosthetic and orthopedic appliances" means any  
19 apparatus, instrument, device, or equipment used to replace or  
20 substitute for any missing part of the body, to alleviate the  
21 malfunction of any part of the body, or to assist any disabled  
22 person in leading a normal life by facilitating such person's  
23 mobility. Such apparatus, instrument, device, or equipment  
24 shall be exempted according to an individual prescription or  
25 prescriptions written by a prescriber authorized by law to  
26 prescribe medicinal drugs or according to a list prescribed  
27 and approved by the Department of Health and Rehabilitative  
28 Services, which list shall be certified to the Department of  
29 Revenue from time to time and included in the rules  
30 promulgated by the Department of Revenue.

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

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

14 (c) Chlorine shall not be exempt from the tax imposed  
15 by this part when used for the treatment of water in swimming  
16 pools.

17 (d) This subsection shall be strictly construed and  
18 enforced.

19 (3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.--  
20 There shall be taxable at the rate of 3 percent the sale, use,  
21 consumption, or storage for use in this state of self-  
22 propelled or power-drawn farm equipment used exclusively by a  
23 farmer on a farm owned, leased, or sharecropped by him in  
24 plowing, planting, cultivating, or harvesting crops. The  
25 rental of self-propelled or power-drawn farm equipment shall  
26 be taxed at the rate of 5 percent.

27 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,  
28 ETC.--

29 (a) Also exempt are:

30 1. Water (not exempting mineral water or carbonated  
31 water).

1 2. All fuels used by a public or private utility,  
2 including any municipal corporation or rural electric  
3 cooperative association, in the generation of electric power  
4 or energy for sale. Fuel other than motor fuel and special  
5 fuel is taxable as provided in this part, with the exception  
6 of fuel expressly exempt herein. However, diesel fuel and  
7 kerosene used in any tractor, vehicle, or other farm equipment  
8 which is used exclusively on a farm or for processing farm  
9 products on the farm are taxable as provided in part II.  
10 Motor fuels and special fuels are taxable as provided in part  
11 II, with the exception of those motor fuels and special fuels  
12 used by railroad locomotives or vessels to transport persons  
13 or property in interstate or foreign commerce which are  
14 taxable under this part only to the extent provided herein.  
15 The basis of the tax shall be the ratio of intrastate mileage  
16 to interstate or foreign mileage traveled by the carrier's  
17 railroad locomotives or vessels which were used in interstate  
18 or foreign commerce and which had at least some Florida  
19 mileage during the previous fiscal year of the carrier, such  
20 ratio to be determined at the close of the fiscal year of the  
21 carrier. This ratio shall be applied each month to the total  
22 Florida purchases made in this state of gasoline and other  
23 fuels to establish that portion of the total used and consumed  
24 in intrastate movement and subject to tax under this part.  
25 Fuels used exclusively in intrastate commerce do not qualify  
26 for the proration of tax.

27 3. The transmission or wheeling of electricity.

28 (b) Alcoholic beverages and malt beverages are not  
29 exempt. The terms "alcoholic beverages" and "malt beverages"  
30 as used in this paragraph have the same meanings ascribed to  
31 them in ss. 561.01(4) and 563.01, respectively. It is

1 determined by the Legislature that the classification of  
 2 alcoholic beverages made in this paragraph for the purpose of  
 3 extending the tax imposed by this chapter is reasonable and  
 4 just; and it is intended that such tax be separate from, and  
 5 in addition to, any other tax imposed on alcoholic beverages.

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

7 (a) Items in agricultural use and certain nets.--There  
 8 are exempt from the tax imposed by this chapter nets designed  
 9 and used exclusively by commercial fisheries; fertilizers,  
 10 insecticides, herbicides, and fungicides used for application  
 11 on crops or groves; portable containers used for processing  
 12 farm products; field and garden seeds; nursery stock,  
 13 seedlings, cuttings, or other propagative material purchased  
 14 for growing stock; cloth, plastic, and other similar materials  
 15 used for shade, mulch, or protection from frost or insects on  
 16 a farm; and liquefied petroleum gas or other fuel used to heat  
 17 a structure in which started pullets or broilers are raised;  
 18 however, such exemption shall not be allowed unless the  
 19 purchaser or lessee signs a certificate stating that the item  
 20 to be exempted is for the exclusive use designated herein.

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

23 1. Industrial machinery and equipment purchased for  
 24 use in new businesses which manufacture, process, compound, or  
 25 produce for sale items of tangible personal property at fixed  
 26 locations ~~and-services-directly-related-to-the-installation-of~~  
 27 ~~such-machinery-and-equipment; excluding-construction-services;~~  
 28 are exempt from the tax imposed by this chapter upon an  
 29 affirmative showing by the taxpayer to the satisfaction of the  
 30 department that such items are used in a new business in this  
 31 state. Such purchases must be made prior to the date the

1 business first begins its productive operations, and delivery  
 2 of the purchased item must be made within 12 months of that  
 3 date.

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

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

23 b. The applicant shall be required to maintain all  
 24 necessary books and records to support the exemption. Upon  
 25 completion of purchases of qualified machinery and equipment,  
 26 or services pursuant to subparagraph 1. or subparagraph 2.,  
 27 the temporary tax permit shall be delivered to the department  
 28 or returned to the department by certified or registered mail.  
 29 The department shall have 4 years from the date of delivery or  
 30 date of receipt to perform an audit of such purchases,  
 31 notwithstanding the provisions of s. 212.14(6).

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

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

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

27 5. The exemptions provided in subparagraphs 1. and 2.  
28 do not apply to machinery or ~~equipment, or services~~ purchased  
29 or used by electric utility companies, communications  
30 companies, phosphate or other solid minerals severance,  
31 mining, or processing operations, oil or gas exploration or

1 production operations, printing or publishing firms, any firm  
2 subject to regulation by the Division of Hotels and  
3 Restaurants of the Department of Business Regulation, or any  
4 firm which does not manufacture, process, compound, or produce  
5 for sale items of tangible personal property.

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

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

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

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

7 (c) Machinery and equipment, ~~or services~~ used in  
 8 production of electrical or steam energy.--The purchase of  
 9 machinery and equipment for use at a fixed location, which  
 10 equipment and machinery are necessary in the production of  
 11 electrical or steam energy resulting from the burning of  
 12 boiler fuels other than residual oil, is and services directly  
 13 ~~related to the installation of such machinery and equipment,~~  
 14 ~~excluding construction services,~~ are exempt from the tax  
 15 imposed by this chapter. Such electrical or steam energy must  
 16 be primarily for use in manufacturing, processing,  
 17 compounding, or producing for sale items of tangible personal  
 18 property in this state. However, the exemption provided for  
 19 in this paragraph shall not be allowed unless the purchaser  
 20 signs an affidavit stating that the item or items to be  
 21 exempted are for the exclusive use designated herein. Any  
 22 person furnishing a false affidavit to the vendor for the  
 23 purpose of evading payment of any tax imposed under chapter  
 24 212 shall be subject to the penalty set forth in s. 212.085  
 25 and as otherwise provided by law.

26 (d) Machinery and equipment, ~~or services~~ used under  
 27 federal procurement contract.--

28 1. Industrial machinery and equipment purchased by an  
 29 expanding business which manufactures tangible personal  
 30 property pursuant to federal procurement regulations at fixed  
 31 locations in this state ~~and services directly related to the~~

1 ~~installation of such machinery and equipment,~~ excluding  
 2 ~~construction services,~~ are partially exempt from the tax  
 3 imposed in this chapter on that portion of the tax which is in  
 4 excess of \$100,000 per calendar year upon an affirmative  
 5 showing by the taxpayer to the satisfaction of the department  
 6 that such items are used to increase the implicit productive  
 7 output of the expanded business by not less than 10 percent.  
 8 The percentage of increase is measured as deflated implicit  
 9 productive output for the calendar year during which the  
 10 installation of the machinery or equipment is completed or  
 11 during which commencement of production utilizing such items  
 12 is begun divided by the implicit productive output for the  
 13 preceding calendar year. In no case may the commencement of  
 14 production begin later than 2 years following completion of  
 15 installation of the machinery or equipment.

16 2. The amount of the exemption allowed shall equal the  
 17 taxes otherwise imposed by this chapter in excess of \$100,000  
 18 per calendar year on qualifying industrial machinery or  
 19 ~~equipment, or services~~ reduced by the percentage of gross  
 20 receipts from cost-reimbursement type contracts attributable  
 21 to the plant or operation to total gross receipts so  
 22 attributable, accrued for the year of completion or  
 23 commencement.

24 3. The exemption provided by this paragraph shall  
 25 inure to the taxpayer only through refund of previously paid  
 26 taxes. Such refund shall be made within 30 days of formal  
 27 approval by the department of the taxpayer's application,  
 28 which application may be made on an annual basis following  
 29 installation of the machinery or equipment.

30 4. For the purposes of this paragraph, the term:  
 31

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

3 b. "Deflated implicit productive output" means the  
4 product of implicit productive output times the quotient of  
5 the national defense implicit price deflator for the preceding  
6 calendar year divided by the deflator for the year of  
7 completion or commencement.

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

14 d. "Implicit productive output" means the annual  
15 eligible costs attributable to all contracts or subcontracts  
16 subject to federal procurement regulations of the single plant  
17 or operation at which the machinery or equipment is used.

18 e. "Industrial machinery and equipment" means "section  
19 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the  
20 Internal Revenue Code, provided such industrial machinery and  
21 equipment qualified as an eligible cost under federal  
22 procurement regulations and are used as an integral part of  
23 the tangible personal property production process. Such term  
24 includes parts and accessories only to the extent that the  
25 exemption of such parts and accessories is consistent with the  
26 provisions of this paragraph.

27 f. "National defense implicit price deflator" means  
28 the national defense implicit price deflator for the gross  
29 national product as determined by the Bureau of Economic  
30 Analysis of the United States Department of Commerce.

1 5. The exclusions provided in subparagraph (b)5 apply  
2 to this exemption. This exemption applies only to machinery  
3 or equipment purchased pursuant to production contracts with  
4 the United States Department of Defense and Armed Forces, the  
5 National Aeronautics and Space Administration, and other  
6 federal agencies for which the contracts are classified for  
7 national security reasons. In no event shall the provisions  
8 of this paragraph apply to any expanding business the increase  
9 in productive output of which could be measured under the  
10 provisions of sub-subparagraph (b)6.b. as physically  
11 comparable between the two periods.

12 (e) Gas used for certain agricultural purposes.--  
13 Butane gas, propane gas, and all other forms of liquefied  
14 petroleum gases are exempt from the tax imposed by this  
15 chapter if used in any tractor, vehicle, or other farm  
16 equipment which is used exclusively on a farm or for  
17 processing farm products on the farm and no part of which gas  
18 is used in any vehicle or equipment driven or operated on the  
19 public highways of this state. This restriction does not  
20 apply to the movement of farm vehicles or farm equipment  
21 between farms. The transporting of bees by water and the  
22 operating of equipment used in the apiary of a beekeeper is  
23 also deemed an exempt use. This exemption shall inure to the  
24 taxpayer only through refund of previously paid taxes.  
25 Refunds under this paragraph shall be authorized and  
26 administered as provided in s. 212.67.

27 (f) Motion picture or video equipment used in motion  
28 picture or television production activities and sound  
29 recording equipment used in the production of master tapes and  
30 master records.--

1           1    Motion picture or video equipment and sound  
 2 recording equipment purchased or leased for use in this state  
 3 in production activities is exempt from the tax imposed by  
 4 this chapter upon an affirmative showing by the purchaser or  
 5 lessee to the satisfaction of the department that the  
 6 equipment will be used for production activities. The  
 7 exemption provided by this paragraph shall inure to the  
 8 taxpayer only through a refund of previously paid taxes.  
 9 Notwithstanding the provisions of s. 212.095, such refund  
 10 shall be made within 30 days of formal application, which  
 11 application may be made after the completion of production  
 12 activities or on a quarterly basis. Notwithstanding the  
 13 provisions of chapter 213, the department shall provide the  
 14 Department of Commerce with a copy of each refund application  
 15 and the amount of such refund, if any.

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

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

1           b. "Production activities" means activities directed  
 2 toward the preparation of a:  
 3           (I) Master tape or master record embodying sound; or  
 4           (II) Motion picture or television production which is  
 5 produced for theatrical, commercial, advertising, or  
 6 educational purposes and utilizes live or animated actions or  
 7 a combination of live and animated actions. The motion  
 8 picture or television production shall be commercially  
 9 produced for sale or for showing on screens or broadcasting on  
 10 television and may be on film or video tape.

11           ~~3. This paragraph shall expire and be void July 1,~~  
 12 ~~1988.~~

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

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

28           a. The name and address of the person claiming the  
 29 refund.

30           b. The refund permit number assigned pursuant to s.  
 31 212.095 to such person.



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

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

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

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

29 g. Either the identifying number assigned pursuant to  
 30 s. 290.0065 to the enterprise zone in which the rehabilitated  
 31 real property is located or such alternative proof as may be

1 prescribed by the department, with the concurrence of the  
 2 secretary of the Department of Community Affairs, that the  
 3 rehabilitated real property is located in an enterprise zone.

4 h. A certification by the property appraiser that the  
 5 improvements necessary to accomplish the rehabilitation of the  
 6 real property are substantially completed and that the  
 7 assessed value for ad valorem tax purposes is, or on the next  
 8 ad valorem tax roll will be, 30 percent or more greater than  
 9 the assessed value for ad valorem tax purposes of the real  
 10 property on the prior year's assessment roll.

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

27 3. The provisions of s. 212.095(4) do not apply to any  
 28 refund application made pursuant to this paragraph. No more  
 29 than one exemption through a refund of previously paid taxes  
 30 for the rehabilitation of real property shall be permitted for  
 31 any one parcel of real property. No refund shall be granted

1 pursuant to this paragraph unless the amount to be refunded  
 2 exceeds \$500. No refund granted pursuant to this paragraph  
 3 shall exceed the lesser of 97 percent of 5 percent of the cost  
 4 of the building materials used in the rehabilitation of the  
 5 real property as determined pursuant to sub-subparagraph 1.f.  
 6 or \$5,000. A refund approved pursuant to this paragraph shall  
 7 be made within 30 days of formal approval by the department of  
 8 the application for the refund.

9 4. The department shall adopt rules governing the  
 10 manner and form of refund applications and may establish  
 11 guidelines as to the requisites for an affirmative showing of  
 12 qualification for exemption under this paragraph.

13 5. The department shall deduct an amount equal to 10  
 14 percent of each refund granted under the provisions of this  
 15 paragraph from the amount deposited in the Local Government  
 16 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 218.61  
 17 for the county area in which the rehabilitated real property  
 18 is located and shall transfer that amount to the General  
 19 Revenue Fund.

20 6. For the purposes of the exemption provided in this  
 21 paragraph, the term:

22 a. "Building materials" means tangible personal  
 23 property which becomes a component part of improvements to  
 24 real property.

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

27 c. "Rehabilitation of real property" means the  
 28 reconstruction, renovation, restoration, rehabilitation,  
 29 construction, or expansion of improvements to real property  
 30 such that when substantially completed the assessed value for  
 31 ad valorem tax purposes is 30 percent or more greater than the

1 assessed value for ad valorem tax purposes of the real  
 2 property on the prior year's assessment roll.

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

5 7. The provisions of this paragraph shall expire and  
 6 be void on December 31, 1994.

7 (h) Business property used in an enterprise zone.--

8 1. Business property purchased for use by businesses  
 9 located in an enterprise zone which is subsequently used in an  
 10 enterprise zone shall be exempt from the tax imposed by this  
 11 chapter if no less than 20 percent of the employees of the  
 12 business are residents of an enterprise zone, excluding  
 13 temporary employees. This exemption inures to the business  
 14 only through a refund of previously paid taxes. A refund  
 15 shall be authorized upon an affirmative showing by the  
 16 taxpayer to the satisfaction of the department that the  
 17 requirements of this paragraph have been met.

18 2. To receive a refund, the business must file under  
 19 oath, after the employment requirements of subparagraph 1.  
 20 have been satisfied, an application which includes:

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

23 b. The refund permit number assigned pursuant to s.  
 24 212.095 to such business.

25 c. Either the identifying number assigned pursuant to  
 26 s. 290.0065 to the enterprise zone in which the business is  
 27 located, or such alternative proof as may be prescribed by the  
 28 department, with the concurrence of the secretary of the  
 29 Department of Community Affairs, that the business is located  
 30 in an enterprise zone.

31

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

4 e. The location of the property.

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

9 g. The name and address of each permanent employee of  
 10 the business, including, for each employee who is a resident  
 11 of an enterprise zone, the identifying number assigned  
 12 pursuant to s. 290.0065 to the enterprise zone in which the  
 13 employee resides or such alternative proof as may be  
 14 prescribed by the department, with the concurrence of the  
 15 secretary of the Department of Community Affairs, that the  
 16 employee is a resident of an enterprise zone.

17 3. The provisions of s. 212.095(4) do not apply to any  
 18 refund application made pursuant to this paragraph. The  
 19 amount refunded on purchases of business property under this  
 20 paragraph shall be 97 percent of the sales tax paid on such  
 21 business property. A refund approved pursuant to this  
 22 paragraph shall be made within 30 days of formal approval by  
 23 the department of the application for the refund. No refund  
 24 shall be granted under this paragraph unless the amount to be  
 25 refunded exceeds \$100 in sales tax paid on purchases made  
 26 within a 60-day time period.

27 4. The department shall adopt rules governing the  
 28 manner and form of refund applications and may establish  
 29 guidelines as to the requisites for an affirmative showing of  
 30 qualification for exemption under this paragraph.  
 31

1 5. If the department determines that the business  
 2 property is used outside an enterprise zone within 3 years  
 3 from the date of purchase, the amount of taxes refunded to the  
 4 business purchasing such business property shall immediately  
 5 be due and payable to the department by the business, together  
 6 with the appropriate interest and penalty, computed from the  
 7 date of purchase, in the manner provided by this chapter.

8 6. The department shall deduct an amount equal to 10  
 9 percent of each refund granted under the provisions of this  
 10 paragraph from the amount deposited in the Local Government  
 11 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 210.61  
 12 for the county area in which the business property is located  
 13 and shall transfer that amount to the General Revenue Fund.

14 7. For the purposes of this exemption, the term  
 15 "business property" means new or used property defined as  
 16 "recovery property" in s. 168(c) of the Internal Revenue Code  
 17 of 1954, as amended, except:

18 a. Property classified as 3-year property under s.  
 19 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

20 b. Industrial machinery and equipment as defined in  
 21 sub-subparagraph (b)6.a.; and

22 c. Building materials as defined in sub-subparagraph  
 23 (g)6.a.

24 8. The employment requirements established by this  
 25 paragraph shall be met during the time period beginning 90  
 26 days prior to the date of the initial purchase for which a  
 27 refund is sought and ending 90 days after the date of the last  
 28 purchase for which a refund is sought under this paragraph.  
 29 However, if the business did not exist or was not operating in  
 30 the enterprise zone 90 days prior to the date of the initial  
 31 purchase, the employment requirements established by this

1 paragraph shall be met for not less than 90 days after the  
2 date of the last purchase for which a refund is sought.

3 9. The provisions of this paragraph shall expire and  
4 be void on December 31, 1994.

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

10 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are  
11 also exempt from the tax imposed by this chapter sales made to  
12 the United States Government, a state, or any county,  
13 municipality, or political subdivision of a state when payment  
14 is made directly to the dealer by the governmental entity.  
15 This exemption shall not inure to any transaction otherwise  
16 taxable under this chapter when payment is made by a  
17 government employee by any means, including, but not limited  
18 to, cash, check, or credit card when that employee is  
19 subsequently reimbursed by the governmental entity. This  
20 exemption does not include sales of tangible personal property  
21 made to contractors employed either directly or as agents of  
22 any such government or political subdivision thereof when such  
23 tangible personal property goes into or becomes a part of  
24 public works owned by such government or political subdivision  
25 thereof, except public works in progress or for which bonds or  
26 revenue certificates have been validated on or before August  
27 1, 1959. This exemption does not include sales, rental, use,  
28 consumption, or storage for use in any political subdivision  
29 or municipality in this state of machines and equipment and  
30 parts and accessories therefor used in the generation,  
31 transmission, or distribution of electrical energy by systems

1 owned and operated by a political subdivision in this state  
2 except sales, rental, use, consumption, or storage for which  
3 bonds or revenue certificates are validated on or before  
4 January 1, 1973, for transmission or distribution expansion.  
5 Likewise exempt are charges for services rendered by radio and  
6 television stations, including line charges, talent fees, or  
7 license fees and charges for films, videotapes, and  
8 transcriptions used in producing radio or television  
9 broadcasts.

10 (7) MISCELLANEOUS EXEMPTIONS.--

11 (a) Artificial commemorative flowers.--Exempt from the  
12 tax imposed by this chapter is the sale of artificial  
13 commemorative flowers by bona fide nationally chartered  
14 veterans' organizations.

15 (b) Boiler fuels.--When purchased for use as a  
16 combustible fuel, purchases of natural gas, residual oil,  
17 recycled oil, waste oil, solid waste material, coal, sulfur,  
18 wood, wood residues or wood bark used in an industrial  
19 manufacturing, processing, compounding, or production process  
20 at a fixed location in this state are exempt from the taxes  
21 imposed by this chapter; however, such exemption shall not be  
22 allowed unless the purchaser signs a certificate stating that  
23 the fuel to be exempted is for the exclusive use designated  
24 herein. This exemption does not apply to the use of boiler  
25 fuels that are not used in manufacturing, processing,  
26 compounding, or producing items of tangible personal property  
27 for sale, or to the use of boiler fuels used by any firm  
28 subject to regulation by the Division of Hotels and  
29 Restaurants of the Department of Business Regulation.

30 (c) Crustacea bait.--Also exempt from the tax imposed  
31 by this chapter is the purchase by commercial fishermen of

1 bait intended solely for use in the entrapment of Callinectes  
2 sapidus and Menippe mercenaria.

3 (d) Feeds.--Feeds for poultry and livestock, including  
4 racehorses and dairy cows, are exempt.

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

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

13 (g) Florida Retired Educators Association and its  
14 local chapters.--Also exempt from payment of the tax imposed  
15 by this chapter are purchases of office supplies, equipment,  
16 and publications made by the Florida Retired Educators  
17 Association and its local chapters.

18 (h) Guide dogs for the blind.--Also exempt are the  
19 sale or rental of guide dogs for the blind, commonly referred  
20 to as "seeing-eye dogs," and the sale of food or other items  
21 for such guide dogs.

22 1. The department shall issue a consumer's certificate  
23 of exemption to any blind person who holds an identification  
24 card as provided for in s. 413.091 and who either owns or  
25 rents, or contemplates the ownership or rental of, a guide dog  
26 for the blind. The consumer's certificate of exemption shall  
27 be issued without charge and shall be of such size as to be  
28 capable of being carried in a wallet or billfold.

29 2. The department shall make such rules concerning  
30 items exempt from tax under the provisions of this paragraph  
31 as may be necessary to provide that any person authorized to

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

4 (i) Hospital meals and rooms.--Also exempt from  
5 payment of the tax imposed by this chapter on rentals and  
6 meals are patients and inmates of any hospital or other  
7 physical plant or facility designed and operated primarily for  
8 the care of persons who are ill, aged, infirm, mentally or  
9 physically incapacitated, or otherwise dependent on special  
10 care or attention.

11 (j) Household fuels.--Also exempt from payment of the  
12 tax imposed by this chapter are sales of utilities to  
13 residential households or owners of residential models in this  
14 state by utility companies who pay the gross receipts tax  
15 imposed under s. 203.01, and sales of fuel to residential  
16 households or owners of residential models, including oil,  
17 kerosene, liquefied petroleum gas, coal, wood, and other fuel  
18 products used in the household or residential model for the  
19 purposes of heating, cooking, lighting, and refrigeration,  
20 regardless of whether such sales of utilities and fuels are  
21 separately metered and billed direct to the residents or are  
22 metered and billed to the landlord. If any part of the  
23 utility or fuel is used for a nonexempt purpose, the entire  
24 sale is taxable. The landlord shall provide a separate meter  
25 for nonexempt utility or fuel consumption.

26 (k) Meals provided by certain nonprofit  
27 organizations.--There is exempt from the tax imposed by this  
28 chapter the sale of prepared meals by a nonprofit volunteer  
29 organization to handicapped, elderly, or indigent persons when  
30 such meals are delivered as a charitable function by the  
31 organization to such persons at their places of residence.

1 (l) Military museums.--Also exempt are sales to  
2 nonprofit corporations which hold current exemptions from  
3 federal corporate income tax pursuant to s. 501(c)(3), U.S.  
4 Internal Revenue Code, 1954, as amended, and whose primary  
5 purpose is to raise money for military museums.

6 (m) Nonprofit corporation; home for the aged, nursing  
7 home, or hospice.--Nonprofit corporations which hold current  
8 exemptions from federal corporate income tax pursuant to s.  
9 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and  
10 which either qualify as homes for the aged pursuant to s.  
11 196.1975(2) or are licensed as a nursing home or hospice under  
12 the provisions of chapter 400, are exempt from the tax imposed  
13 by this chapter.

14 (n) Organizations providing special educational,  
15 cultural, recreational, and social benefits to minors.--There  
16 shall be exempt from the tax imposed by this part nonprofit  
17 organizations which are incorporated pursuant to chapter 617  
18 or which hold a current exemption from federal corporate  
19 income tax pursuant to s. 501(c)(3) of the Internal Revenue  
20 Code the primary purpose of which is providing activities that  
21 contribute to the development of good character or good  
22 sportsmanship, or to the educational or cultural development,  
23 of minors. This exemption is extended only to that level of  
24 the organization that has a salaried executive officer or an  
25 elected nonsalaried executive officer.

26 (o) Religious, charitable, scientific, educational,  
27 and veterans' institutions and organizations.--

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

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

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

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

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

19 a. "Religious institutions" means churches,  
20 synagogues, and established physical places for worship at  
21 which nonprofit religious services and activities are  
22 regularly conducted and carried on. The term "religious  
23 institutions" includes nonprofit corporations the sole purpose  
24 of which is to provide free transportation services to church  
25 members, their families, and other church attendees. The term  
26 "religious institutions" also includes state, district, or  
27 other governing or administrative offices the function of  
28 which is to assist or regulate the customary activities of  
29 religious organizations or members.

30 b. "Charitable institutions" means only nonprofit  
31 corporations qualified as nonprofit pursuant to s. 501(c)(3),

1 United States Internal Revenue Code, 1954, as amended, and  
 2 other nonprofit entities, the sole or primary function of  
 3 which is to provide, or to raise funds for organizations which  
 4 provide, one or more of the following services if a reasonable  
 5 percentage of such service is provided free of charge, or at a  
 6 substantially reduced cost, to persons, animals, or  
 7 organizations that are unable to pay for such service:

- 8 (I) Medical aid for the relief of disease, injury, or  
 9 disability;  
 10 (II) Regular provision of physical necessities such as  
 11 food, clothing, or shelter;  
 12 (III) Services for the prevention of, or  
 13 rehabilitation of persons from, alcoholism or drug abuse; the  
 14 prevention of suicide; or the alleviation of mental, physical,  
 15 or sensory health problems;  
 16 (IV) Social welfare services including adoption  
 17 placement, child care, community care for the elderly, and  
 18 other social welfare services which clearly and substantially  
 19 benefit a client population which is disadvantaged or suffers  
 20 a hardship;  
 21 (V) Medical research for the relief of disease,  
 22 injury, or disability;  
 23 (VI) Legal services; or  
 24 (VII) Food, shelter, or medical care for animals or  
 25 adoption services, cruelty investigations, or education  
 26 programs concerning animals;

27  
 28 and the term includes groups providing volunteer manpower to  
 29 organizations designated as charitable institutions hereunder.

30 c. "Scientific organizations" means scientific  
 31 organizations which hold current exemptions from federal

1 income tax under s. 501(c)(3) of the Internal Revenue Code and  
 2 also means organizations the purpose of which is to protect  
 3 air and water quality or the purpose of which is to protect  
 4 wildlife and which hold current exemptions from the federal  
 5 income tax under s. 501(c)(3) of the Internal Revenue Code.

6 d. "Educational institutions" means state tax-  
 7 supported or parochial, church and nonprofit private schools,  
 8 colleges, or universities which conduct regular classes and  
 9 courses of study required for accreditation by, or membership  
 10 in, the Southern Association of Colleges and Schools, the  
 11 Department of Education, the Florida Council of Independent  
 12 Schools, or the Florida Association of Christian Colleges and  
 13 Schools, Inc., or which conduct regular classes and courses of  
 14 study accepted for continuing education credit by the American  
 15 Medical Association or the American Dental Association.  
 16 Nonprofit libraries, art galleries, and museums open to the  
 17 public are defined as educational institutions and are  
 18 eligible for exemption. The term "educational institutions"  
 19 includes private nonprofit organizations the purpose of which  
 20 is to raise funds for schools teaching grades kindergarten  
 21 through high school, colleges, and universities. The term  
 22 "educational institutions" includes any nonprofit newspaper of  
 23 free or paid circulation primarily on university or college  
 24 campuses which holds a current exemption from federal income  
 25 tax under s. 501(c)(3) of the Internal Revenue Code, and any  
 26 educational television or radio network or system established  
 27 pursuant to s. 229.805 or s. 229.8051 and any nonprofit  
 28 television or radio station which is a part of such network or  
 29 system and which holds a current exemption from federal income  
 30 tax under s. 501(c)(3) of the Internal Revenue Code. The term  
 31 "educational institutions" also includes state, district, or

1 other governing or administrative offices the function of  
2 which is to assist or regulate the customary activities of  
3 educational organizations or members.

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

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

17 (q) School books and school lunches.--This exemption  
18 applies to school books used in regularly prescribed courses  
19 of study, and to school lunches served to students, in public,  
20 parochial, or nonprofit schools operated for and attended by  
21 pupils of grades 1 through 12. School books and food sold or  
22 served at community colleges and other institutions of higher  
23 learning are taxable.

24 (r) State Theater Program facilities.--Nonprofit  
25 organizations incorporated in accordance with chapter 617  
26 which have qualified under s. 501(c)(3) of the Internal  
27 Revenue Code of 1954, as amended, and which have been  
28 designated as State Theater Program facilities as provided in  
29 s. 265.287 are exempt from the tax imposed by this chapter.

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

1 of "wine tasting" and "spirituous beverage tasting" as  
2 contemplated under the provisions of ss. sections 564.06 and  
3 565.12, respectively, are exempt from the tax imposed by this  
4 part. This exemption shall be effective retroactively to July  
5 1, 1981.

6 (t)(w) Boats temporarily docked in state.--

7 1. Notwithstanding the provisions of chapters 327 and  
8 328, Florida Statutes, pertaining to the registration of  
9 vessels, a boat upon which sales tax has not been paid, which  
10 has not been licensed, titled, or registered in another taxing  
11 jurisdiction within the United States, or which is being used  
12 in the waters of this state under a permit issued by an agency  
13 of the United States government is exempt from the use tax  
14 under this chapter if it enters and remains in this state for  
15 a period not to exceed a total of 10 days in any calendar year  
16 calculated from the date of first dockage or slippage at a  
17 facility, registered with the department, that rents dockage  
18 or slippage space in this state. If a boat brought into this  
19 state for use under this paragraph is placed in a facility,  
20 registered with the department, for repairs, alterations,  
21 refitting, or modifications and such repairs, alterations,  
22 refitting, or modifications are supported by written  
23 documentation, the 10-day period shall be tolled during the  
24 time the boat is physically in the care, custody, and control  
25 of the repair facility. The 10-day time period may be tolled  
26 only once within a calendar year when a boat is placed for the  
27 first time that year in the physical care, custody, and  
28 control of a registered repair facility; however, the owner  
29 may request and the department may grant an additional tolling  
30 of the 10-day period for purposes of repairs that arise from a  
31 written guarantee given by the registered repair facility,



1 which guarantee covers only those repairs or modifications  
 2 made during the first tolled period. Within 72 hours after  
 3 the date upon which the registered repair facility took  
 4 possession of the boat, the facility must furnish to the  
 5 department, on forms prescribed by the department, an  
 6 affidavit which states that the boat is under its care,  
 7 custody, and control and that the owner does not use the boat.  
 8 Upon completion of the repairs, alterations, refitting, or  
 9 modifications, the registered repair facility must furnish the  
 10 department, within 72 hours after the date of release, with a  
 11 copy of the release form which shows the date of release and  
 12 any other information the department requires. When, within 6  
 13 months after the date of its purchase, a boat is brought into  
 14 this state under this paragraph, the 6-month period provided  
 15 in s. 212.06(8) shall be tolled.

16 2. During the period of repairs, alterations,  
 17 refitting, or modifications and during the 10-day period  
 18 referred to in subparagraph 1., the boat may be listed for  
 19 sale, contracted for sale, or sold exclusively by a broker or  
 20 dealer registered with the department without incurring a use  
 21 tax under this part; however, the sales tax levied under this  
 22 part applies to such sale.

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

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

27 a. A full-service facility that:

- 28 (I) is located on a navigable body of water;  
 29 (II) has haulout capability such as a dry dock, travel  
 30 lift, railway, or similar equipment to service craft under the  
 31 care, custody, and control of the facility;

1 (III) Has adequate piers and storage facilities to  
 2 provide safe berthing of vessels in its care, custody, and  
 3 control; and

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

7 b. A marina that:

8 (I) is located on a navigable body of water;

9 (II) Has adequate piers and storage facilities to  
 10 provide safe berthing of vessels in its care, custody, and  
 11 control; and

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

14 c. A shoreside facility that:

15 (I) is located on a navigable body of water;

16 (II) Has adequate pier and storage facilities to  
 17 provide safe berthing of vessels in its care, custody, and  
 18 control; and

19 (III) Has necessary shops and equipment to provide  
 20 repairs or warranty work.

21 ~~(v)~~ Volunteer fire departments.--Also exempt are  
 22 firefighting and rescue service equipment and supplies  
 23 purchased by volunteer fire departments, duly chartered under  
 24 the Florida Statutes as corporations not for profit.

25 (v) Professional services.--

26 1. Also exempted are professional, insurance, or  
 27 personal service transactions that involve sales as  
 28 inconsequential elements for which no separate charges are  
 29 made.

30 2. The personal service transactions exempted pursuant  
 31 to subparagraph 1. do not exempt the sale of information

1 services involving the furnishing of printed, mimeographed, or  
 2 multigraphed matter, or matter duplicating written or printed  
 3 matter in any other manner, other than professional services  
 4 and services of employees, agents, or other persons acting in  
 5 a representative or fiduciary capacity or information services  
 6 furnished to newspapers and radio and television stations. As  
 7 used in this subparagraph, the term "information services"  
 8 includes the services of collecting, compiling, or analyzing  
 9 information of any kind or nature and furnishing reports  
 10 thereof to other persons.

11 (w) Newspapers.--Likewise exempt are newspapers.

12 (x) Sporting equipment brought into the state.--

13 Sporting equipment brought into Florida, for a period of not  
 14 more than 6 months in any calendar year, used by an athletic  
 15 team or an individual athlete in a sporting event is exempt  
 16 from the use tax if such equipment is removed from the state  
 17 within 7 days after the completion of the event.

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

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

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

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

22 (c) It is the intent of the Legislature that neither  
 23 subsection (4) nor this subsection, whether as currently in  
 24 effect or as amended by chapter 73-240, Laws of Florida, and  
 25 in effect between June 22, 1973, and June 13, 1977, shall be  
 26 construed as imposing the tax provided by this part on vessels  
 27 used as common carriers, contract carriers, or private  
 28 carriers, engaged in interstate or foreign commerce, except to  
 29 the extent provided by the pro rata formula provided in  
 30 subsection (4) and in paragraph (a).  
 31

1 (9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES  
 2 ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.--  
 3 (a) Railroads which are licensed as common carriers by  
 4 the Interstate Commerce Commission and parts thereof used to  
 5 transport persons or property in interstate or foreign  
 6 commerce are subject to tax imposed in this chapter only to  
 7 the extent provided herein. The basis of the tax shall be the  
 8 ratio of intrastate mileage to interstate or foreign mileage  
 9 traveled by the carrier during the previous fiscal year of the  
 10 carrier. Such ratio is to be determined at the close of the  
 11 carrier's fiscal year. This ratio shall be applied each month  
 12 to the total purchases of the railroad which are used in this  
 13 state to establish that portion of the total used and consumed  
 14 in intrastate movement and subject to tax under this part.  
 15 Railroads which are licensed as common carriers by the  
 16 Interstate Commerce Commission and parts thereof used to  
 17 transport persons or property in interstate and foreign  
 18 commerce are hereby determined to be susceptible to a distinct  
 19 and separate classification for taxation under the provisions  
 20 of this part.  
 21 (b) Motor vehicles which are licensed as common  
 22 carriers by the Interstate Commerce Commission and parts  
 23 thereof used to transport persons or property in interstate or  
 24 foreign commerce are subject to tax imposed in this chapter  
 25 only to the extent provided herein. The basis of the tax  
 26 shall be the ratio of intrastate mileage to interstate or  
 27 foreign mileage traveled by the carrier's motor vehicles which  
 28 were used in interstate or foreign commerce and which had at  
 29 least some Florida mileage during the previous fiscal year of  
 30 the carrier. Such ratio is to be determined at the close of  
 31 the carrier's fiscal year. This ratio shall be applied each

1 month 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 and parts thereof used to transport persons or  
 7 property in interstate and foreign commerce are hereby  
 8 determined to be susceptible to a distinct and separate  
 9 classification for taxation under the provisions of this part.  
 10 Motor vehicles and parts thereof used exclusively in  
 11 intrastate commerce do not qualify for the proration of tax.  
 12 (10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT  
 13 OF ANOTHER STATE.--The tax collected on the sale of a new or  
 14 used motor vehicle in this state to a resident of another  
 15 state shall be an amount equal to the sales tax which would be  
 16 imposed on such sale under the laws of the state of which the  
 17 purchaser is a resident, except that such tax shall not exceed  
 18 the tax that would otherwise be imposed under this chapter.  
 19 At the time of the sale, the purchaser shall execute a  
 20 notarized statement of his intent to license the vehicle in  
 21 the state of which he is a resident within 10 days of the sale  
 22 and of the fact of the payment to the State of Florida of a  
 23 sales tax in an amount equivalent to the sales tax of his  
 24 state of residence and shall submit the statement to the  
 25 appropriate sales tax collection agency in his state of  
 26 residence.  
 27 (11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.--  
 28 (a) The tax imposed on the sale by a manufacturer of  
 29 flyable aircraft, who designs such aircraft, which sale may  
 30 include necessary equipment and modifications placed on such  
 31 flyable aircraft prior to delivery by the manufacturer, shall

1 be an amount equal to the sales tax which would be imposed on  
2 such sale under the laws of the state in which the aircraft  
3 will be domiciled.

4 (b) This partial exemption applies only if the  
5 purchaser is a resident of another state who will not use the  
6 aircraft in this state, or if the purchaser is a resident of  
7 another state and uses the aircraft in interstate or foreign  
8 commerce, or if the purchaser is a resident of a foreign  
9 country.

10 (c) The maximum tax collectible under this subsection  
11 may not exceed 5 percent of the sales price of such aircraft.  
12 No Florida tax may be imposed on the sale of such aircraft if  
13 the state in which the aircraft will be domiciled does not  
14 allow Florida sales or use tax to be credited against its  
15 sales or use tax. Furthermore, no tax may be imposed on the  
16 sale of such aircraft if the state in which the aircraft will  
17 be domiciled has enacted a sales and use tax exemption for  
18 flyable aircraft or if the aircraft will be domiciled outside  
19 the United States.

20 (d) The purchaser shall execute a sworn affidavit  
21 attesting that he is not a resident of this state and stating  
22 where the aircraft will be domiciled. If the aircraft is  
23 subsequently used in this state within 6 months of the time of  
24 purchase, in violation of the intent of this subsection, the  
25 purchaser shall be liable for payment of the full use tax  
26 imposed by this chapter and shall be subject to the penalty  
27 imposed by s. 212.12(2), which penalty shall be mandatory.

28 (12) PARTIAL EXEMPTION; MASTER TAPES, RECORDS, FILMS,  
29 OR VIDEO TAPES.--

30 (a) There are exempt from the taxes imposed by this  
31 part the gross receipts from the sale or lease of, and the

1 storage, use, or other consumption in this state of, master  
2 tapes or master records embodying sound, or master films or  
3 master video tapes; except that amounts paid to recording  
4 studios or motion picture or television studios for the  
5 tangible elements of such master tapes, records, films, or  
6 video tapes are taxable as otherwise provided in this part.

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

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

17 2. "Master films or master video tapes" means films or  
18 video tapes utilized by the motion picture and television  
19 production industries in making visual images for  
20 reproduction.

21 3. "Master tapes or master records embodying sound"  
22 means tapes, records, and other devices utilized by the  
23 recording industry in making recordings embodying sound.

24 4. "Motion picture or television studio" means a  
25 facility in which film or video tape productions or parts of  
26 productions are made and which contains the necessary  
27 equipment and personnel for this purpose and includes a mobile  
28 unit or vehicle that is equipped in much the same manner as a  
29 stationary studio and used in the making of film or video tape  
30 productions.

31

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

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

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

14 ~~(c)---This subsection shall expire and be void July 1,~~  
15 ~~1988.~~

16 (13) No transactions shall be exempt from the tax  
17 imposed by this chapter except those expressly exempted  
18 herein. All laws granting tax exemptions, to the extent they  
19 may be inconsistent or in conflict with this chapter,  
20 including, but not limited to, the following designated laws,  
21 shall yield to and be superseded by the provisions of this  
22 subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31,  
23 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 258.14,  
24 315.11, 348.65, 348.762, 349.13, 374.132, 403.1834, 616.07,  
25 623.09, 637.131, and 637.291 and the following Laws of  
26 Florida, acts of the year indicated: s. 31, ch. 30843, 1955,  
27 s. 19, ch. 30845, 1955; s. 12, ch. 30927, 1955; s. 8, ch.  
28 31179, 1955; s. 15, ch. 31263, 1955; s. 13, ch. 31343, 1955;  
29 s. 16, ch. 59-1653; s. 13, ch. 59-1356; s. 12, ch. 61-2261; s.  
30 19, ch. 61-2754; s. 10, ch. 61-2686; s. 11, ch. 63-1643; s.  
31 11, ch. 65-1274; s. 16, ch. 67-1446; and s. 10, ch. 67-1681.

1 (14) The department shall establish a technical  
2 assistance advisory committee with public and private sector  
3 members to advise the Department of Revenue and the Department  
4 of Health and Rehabilitative Services in determining the  
5 taxability of specific products and product lines pursuant to  
6 subsection (1) and paragraph (2)(a). In determining  
7 taxability and in preparing a list of specific products and  
8 product lines which are or are not taxable, the committee  
9 shall not be subject to the provisions of chapter 120.  
10 Private sector members shall not be compensated for serving on  
11 the committee.

12 (15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.--

13 (a) Charges for electrical energy used by a qualified  
14 business at a fixed location in an enterprise zone in a  
15 municipality which has enacted an ordinance pursuant to s.  
16 166.231(8) which provides for exemption of municipal utility  
17 taxes on such businesses shall be exempt from the tax imposed  
18 by this chapter for a period of 5 years from the billing  
19 period beginning not more than 30 days following notification  
20 to the applicable utility company by the department that an  
21 exemption has been authorized pursuant to this subsection.

22 (b) To receive this exemption, a business must file an  
23 application, on a form provided by the department for the  
24 purposes of this subsection and s. 166.231(8). The  
25 application shall be made under oath and shall include:

26 1. The name and location of the business.

27 2. Either the identifying number assigned pursuant to  
28 s. 290.0065 to the enterprise zone in which the business is  
29 located or such alternative proof as may be prescribed by the  
30 department, with the concurrence of the secretary of the  
31

1 Department of Community Affairs, that the business is located  
 2 in an enterprise zone.

3 3. The date on which electrical service is to be first  
 4 initiated to the business.

5 4. The name and mailing address of the entity from  
 6 which electrical energy is to be purchased.

7 5. The date of the application.

8 6. The name of the city in which the business is  
 9 located.

10 7. The name and address of each permanent employee of  
 11 the business including, for each employee who is a resident of  
 12 an enterprise zone, the identifying number assigned pursuant  
 13 to s. 290.0065 to the enterprise zone in which the employee  
 14 resides or such alternate proof as may be prescribed by the  
 15 department, with the concurrence of the secretary of the  
 16 Department of Community Affairs, that the employee is a  
 17 resident of an enterprise zone.

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

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

1 (e) For the purpose of the exemption provided in this  
 2 subsection, the term "qualified business" means a business for  
 3 which not less than 20 percent of its employees are residents  
 4 of an enterprise zone, excluding temporary employees, for the  
 5 5-year duration of this exemption, except as provided in  
 6 paragraph (f), and which is:

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

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

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

18 (f) The employment requirements established by this  
 19 subsection shall be satisfied, without exception, for the  
 20 first 6 months of the exemption period authorized in this  
 21 subsection. Subsequently, any qualified business which fails  
 22 for a period of 30 consecutive days to maintain such  
 23 employment requirements will be ineligible for the remainder  
 24 of the exemption authorized in this subsection.

25 (g) This subsection shall expire and be void on  
 26 December 31, 1994, except that:

27 1. Paragraph (c) shall not expire; and

28 2. Any qualified business which has been granted an  
 29 exemption under this subsection prior to that date shall be  
 30 allowed the full benefit of this exemption as if this  
 31 subsection had not expired on that date.

1 Section 27. Effective February 1, 1988, subsection (3)  
 2 and paragraph (c) of subsection (11) of section 212.08,  
 3 Florida Statutes, as amended by sections 14 and 25 of chapter  
 4 87-6, section 4 of chapter 87-72, section 4 of chapter 87-99,  
 5 section 13 of chapter 87-101, and section 2 of chapter 87-370,  
 6 Laws of Florida, are amended to read:

7 212.08 Sales, rental, use, consumption, distribution,  
 8 and storage tax; specified exemptions.--The sale at retail,  
 9 the rental, the use, the consumption, the distribution, and  
 10 the storage to be used or consumed in this state of the  
 11 following are hereby specifically exempt from the tax imposed  
 12 by part I of this chapter.

13 (3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.--  
 14 There shall be taxable at the rate of 3 percent the sale, use,  
 15 consumption, or storage for use in this state of self-  
 16 propelled or power-drawn farm equipment used exclusively by a  
 17 farmer on a farm owned, leased, or sharecropped by him in  
 18 plowing, planting, cultivating, or harvesting crops. The  
 19 rental of self-propelled or power-drawn farm equipment shall  
 20 be taxed at the rate of 6 5 percent.

21 (11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.--

22 (c) The maximum tax collectible under this subsection  
 23 may not exceed 6 5 percent of the sales price of such  
 24 aircraft. No Florida tax may be imposed on the sale of such  
 25 aircraft if the state in which the aircraft will be domiciled  
 26 does not allow Florida sales or use tax to be credited against  
 27 its sales or use tax. Furthermore, no tax may be imposed on  
 28 the sale of such aircraft if the state in which the aircraft  
 29 will be domiciled has enacted a sales and use tax exemption  
 30 for flyable aircraft or if the aircraft will be domiciled  
 31 outside the United States.

1 Section 28. Effective July 1, 1988, paragraph (b) of  
 2 subsection (5) of section 212.08, Florida Statutes, as amended  
 3 by section 59 of chapter 87-6 and section 34 of chapter 87-  
 4 101, Laws of Florida, is amended to read:

5 212.08 Sales, rental, use, consumption, distribution,  
 6 and storage tax; specified exemptions.--The sale at retail,  
 7 the rental, the use, the consumption, the distribution, and  
 8 the storage to be used or consumed in this state of the  
 9 following are hereby specifically exempt from the tax imposed  
 10 by part I of this chapter.

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

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

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

26 2. Industrial machinery and equipment purchased for  
 27 use in expanding manufacturing facilities or plant units which  
 28 manufacture, process, compound, or produce for sale items of  
 29 tangible personal property at fixed locations in this state  
 30 ~~and services directly related to the installation of such~~  
 31 ~~machinery and equipment, excluding construction services,~~ are

1 exempt from any amount of tax imposed by this chapter in  
 2 excess of \$100,000 per calendar year upon an affirmative  
 3 showing by the taxpayer to the satisfaction of the department  
 4 that such items are used to increase the productive output of  
 5 such expanded business by not less than 10 percent.

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

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

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

30 d. In the event a qualifying business entity fails to  
 31 apply for a temporary exemption permit or if the tentative

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

8 4. The department shall promulgate rules governing  
 9 applications for, issuance of, and the form of temporary tax  
 10 exemption permits; provisions for recapture of taxes; and the  
 11 manner and form of refund applications and may establish  
 12 guidelines as to the requisites for an affirmative showing of  
 13 increased productive output, commencement of production, and  
 14 qualification for exemption.

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

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

28 a. "Industrial machinery and equipment" means "section  
 29 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the  
 30 Internal Revenue Code, provided "industrial machinery and  
 31 equipment" shall be construed by regulations adopted by the



1 Department of Revenue to mean tangible property used as an  
 2 integral part of the manufacturing, processing, compounding,  
 3 or producing for sale of items of tangible personal property.  
 4 Such term includes parts and accessories only to the extent  
 5 that the exemption thereof is consistent with the provisions  
 6 of this paragraph.

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

26       Section 29. Section 212.11, Florida Statutes, as  
 27 amended by section 16 of chapter 87-6, section 15 of chapter  
 28 87-101, and section 3 of chapter 87-239, Laws of Florida, is  
 29 amended to read:

30       212.11 Tax returns and regulations.--  
 31

1       (1)(a)1. ~~Except-as-provided-in-subparagraph-3-7~~ Each  
 2 dealer shall calculate his estimated tax liability for any  
 3 month by one of the following methods:

4       a. Sixty-six percent of the current month's liability  
 5 pursuant to this part as shown on the tax return;

6       b. Sixty-six percent of the tax reported on the tax  
 7 return pursuant to this part by a dealer for the taxable  
 8 transactions occurring during the corresponding month of the  
 9 preceding calendar year; or

10       c. Sixty-six percent of the average tax liability  
 11 pursuant to this part for those months during the preceding  
 12 calendar year in which the dealer reported taxable  
 13 transactions.

14       2. Any estimated tax liability greater than or equal  
 15 to the threshold amount specified in subsection (5) shall be  
 16 due, payable, and remitted by the 20th day of the month for  
 17 which the liability applies. The difference between the  
 18 estimated tax liability paid and the actual amount and taxes  
 19 due under this part for such month shall become due and  
 20 payable by the first day of the following month and shall be  
 21 remitted by the 20th day thereof.

22       3. For any dealer who has an estimated tax liability  
 23 of less than the threshold amount specified in subsection (5)  
 24 or who was not registered for sales tax purposes for the  
 25 corresponding month of the preceding year ~~or who first remits~~  
 26 ~~taxes to the department on or after the effective date of this~~  
 27 ~~section~~, the current taxes levied pursuant to this part shall  
 28 be due and payable monthly on the first day of the following  
 29 month and shall be remitted by the 20th day thereof.

30       (b) For the purpose of ascertaining the amount of tax  
 31 payable under this chapter, it shall be the duty of all

1 dealers to make a return, on or before the 20th day of the  
2 month, to the department, upon forms prepared and furnished by  
3 it, showing the rentals, admissions, gross sales, or  
4 purchases, as the case may be, arising from all leases,  
5 rentals, admissions, sales, or purchases taxable under this  
6 chapter during the preceding calendar month.

7 (c) However, the department may authorize a quarterly  
8 return and payment when the tax remitted by the dealer for the  
9 preceding quarter did not exceed \$100 and may authorize a  
10 semiannual return and payment when the tax remitted by the  
11 dealer for the preceding 6 months did not exceed \$200.

12 ~~fd--Beginning-October-17-1987-The-department-may~~  
13 ~~authorize-a-quarterly-return-and-payment-for-dealers~~  
14 ~~registered-as-service-providers-and-remitting-tax-solely-from~~  
15 ~~the-provision-of-services--Such-returns-may-be-authorized~~  
16 ~~only-for-dealers-whose-monthly-tax-collections-are-less-than~~  
17 ~~\$500-in-each-month-for-the-previous-3-months--Quarterly~~  
18 ~~payments-purevent-to-this-paragraph-shall-be-due-and-payable~~  
19 ~~in-Marchy-June, September, and-December-of-each-year.~~

20 (d)(e) The department shall accept returns as timely  
21 if postmarked on or before the 20th day of the month; if the  
22 20th day falls on a Saturday, Sunday, or federal or state  
23 legal holiday, returns shall be accepted as timely if  
24 postmarked on the next succeeding workday. Any dealer who  
25 operates two or more places of business for which returns are  
26 required to be filed with the department and maintains records  
27 for such places of business in a central office or place shall  
28 have the privilege on each reporting date of filing a  
29 consolidated return for all such places of business in lieu of  
30 separate returns for each such place of business, however,  
31 such consolidated returns must clearly indicate the amounts

1 collected within each county of the state. Any dealer who  
2 files a consolidated return shall calculate his estimated tax  
3 liability for each county by the same method he uses to  
4 calculate his estimated tax liability on the consolidated  
5 return as a whole. Each dealer shall file a return for each  
6 tax period even though no tax is due for such period.

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

11 (3) Except as otherwise expressly provided for herein,  
12 it is hereby declared to be the intention of this chapter to  
13 impose a tax on the gross proceeds of all leases and rentals  
14 of tangible personal property in this state when the lease or  
15 rental is a part of the regularly established business, or the  
16 same is incidental or germane thereto.

17 (4) The 66 percent rate provided in subsection (1)  
18 shall be reduced over a period of 5 years beginning January 1,  
19 1986, and is repealed December 31, 1990. During such period  
20 the following rates shall be applicable:

21 (a) From January 1, 1986, through December 31, 1986,  
22 the rate shall be 50 percent.

23 (b) From January 1, 1987, through December 31, 1987,  
24 the rate shall be 40 percent.

25 (c) From January 1, 1988, through December 31, 1988,  
26 the rate shall be 30 percent.

27 (d) From January 1, 1989, through December 31, 1989,  
28 the rate shall be 20 percent.

29 (e) From January 1, 1990, through December 31, 1990,  
30 the rate shall be 10 percent.

- 1 (5) The threshold amount to be used pursuant to  
 2 subsection (1) shall be:  
 3 (a) \$1,650 before January 1, 1986.  
 4 (b) \$1,250 from January 1, 1986, through December 31,  
 5 1986.  
 6 (c) \$1,000 from January 1, 1987, through December 31,  
 7 1987.  
 8 (d) \$750 from January 1, 1988, through December 31,  
 9 1988.  
 10 (e) \$500 from January 1, 1989, through December 31,  
 11 1989.  
 12 (f) \$250 from January 1, 1990, through December 31,  
 13 1990.

14 Section 38. Subsections (1), (2), (3), (4), (5), (6),  
 15 (7), and (8) of section 212.12, Florida Statutes, as amended  
 16 by section 17 of chapter 87-6, section 6 of chapter 87-99,  
 17 section 16 of chapter 87-101, and section 8 of chapter 87-402,  
 18 Laws of Florida, are amended to read:

19 212.12 Dealer's credit for collecting tax; penalties  
 20 for noncompliance; powers of Department of Revenue in dealing  
 21 with delinquents; brackets applicable to taxable transactions;  
 22 records required.--

23 (1) Notwithstanding any other provision of law and for  
 24 the purpose of compensating persons granting licenses for and  
 25 the lessors of real and personal property taxed hereunder, for  
 26 the purpose of compensating dealers in tangible personal  
 27 property, for the purpose of compensating dealers providing  
 28 communication services and taxable services, for the purpose  
 29 of compensating owners of places where admissions are  
 30 collected, and for the purpose of compensating remitters of  
 31 any taxes or fees reported on the same documents utilized for

1 the sales and use tax, as compensation for the keeping of  
 2 prescribed records and the proper accounting and remitting of  
 3 taxes by them, such seller, person, lessor, dealer, owner and  
 4 remitter (except dealers who make mail order sales) shall be  
 5 allowed 3 percent of the amount of the tax due and accounted  
 6 for and remitted to the department, in the form of a deduction  
 7 in submitting his report and paying the amount due by him; and  
 8 the department shall allow such deduction of 3 percent of the  
 9 amount of the tax to the person paying the same for remitting  
 10 the tax in the manner herein provided, for paying the amount  
 11 due to be paid by him, and as further compensation to dealers  
 12 in tangible personal property for the keeping of prescribed  
 13 records and for collection of taxes and remitting the same.  
 14 However, if the amount of the tax due and remitted to the  
 15 department for the reporting period exceeds \$1,000, the 3-  
 16 percent allowance shall be reduced to 1 percent for all  
 17 amounts in excess of \$1,000. The executive director of the  
 18 department is authorized to negotiate a collection allowance,  
 19 pursuant to rules promulgated by the department, with a dealer  
 20 who makes mail order sales. The rules of the department shall  
 21 provide guidelines for establishing the collection allowance  
 22 based upon the dealer's estimated costs of collecting the tax,  
 23 the volume and value of the dealer's mail order sales to  
 24 purchasers in this state, and the administrative and legal  
 25 costs and likelihood of achieving collection of the tax absent  
 26 the cooperation of the dealer. However, in no event shall the  
 27 collection allowance negotiated by the executive director  
 28 exceed 10 percent of the tax remitted for a reporting period.

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

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

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

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

25 (c) The collection allowance and other credits or  
26 deductions provided in this part shall be applied  
27 proportionally to any taxes or fees reported on the same  
28 documents used for the sales and use tax.

29 (2)(a) When any person, firm, or corporation required  
30 hereunder to make any return or to pay any tax imposed by this  
31 chapter fails to timely file such return or fails to pay the

1 tax due within the time required hereunder, in addition to all  
2 other penalties provided herein and by the laws of this state  
3 in respect to such taxes, a specific penalty shall be added to  
4 the tax in the amount of 5 percent of any unpaid tax if the  
5 failure is for not more than 30 days, with an additional 5  
6 percent of any unpaid tax for each additional 30 days, or  
7 fraction thereof, during the time which the failure continues,  
8 not to exceed, however, a total penalty of 25 percent, in the  
9 aggregate, of any unpaid tax. In no event may the penalty be  
10 less than \$5 for failure to timely file a tax return required  
11 by s. 212.11. In the case of a false or fraudulent return or  
12 a willful intent to evade payment of any tax imposed under  
13 this chapter, in addition to the other penalties provided by  
14 law, the person making such false or fraudulent return or  
15 willfully attempting to evade the payment of such a tax shall  
16 be liable to a specific penalty of 50 percent of the tax bill  
17 and for fine and punishment as provided by law for a  
18 conviction of a misdemeanor of the second degree.

19 (b) When any person, firm, or corporation fails to  
20 timely remit the proper estimated payment required under s.  
21 212.11, a specific penalty shall be added in an amount equal  
22 to 5 percent of any unpaid estimated tax. Through December  
23 31, 1984, this penalty shall be waived upon application by the  
24 dealer unless the department has determined that there was  
25 willful intent by the dealer to evade payment of the tax.  
26 Beginning with January 1, 1985 returns, the department, upon a  
27 showing of reasonable cause, is authorized to waive or  
28 compromise penalties imposed by this paragraph. However,  
29 other penalties and interest shall be due and payable if the  
30 return on which the estimated payment was due was not timely  
31 or properly filed.

1 (c) Dealers filing a consolidated return pursuant to  
 2 s. 212.11(1)(d) shall be subject to the penalty established in  
 3 paragraph (b) unless the dealer has paid the required  
 4 estimated tax for his consolidated return as a whole without  
 5 regard to each location. If the dealer fails to pay the  
 6 required estimated tax for his consolidated return as a whole,  
 7 each filing location shall stand on its own with respect to  
 8 calculating penalties pursuant to paragraph (b).

9 (3) When any dealer, or other person charged herein,  
 10 fails to remit the tax, or any portion thereof, on or before  
 11 the day when such tax is required by law to be paid, there  
 12 shall be added to the amount due interest at the rate of 1  
 13 percent per month of the amount due from the date due until  
 14 paid. Interest on the delinquent tax shall be calculated  
 15 beginning on the 21st day of the month following the month for  
 16 which the tax is due, except as otherwise provided in this  
 17 part.

18 (4) All penalties and interest imposed by this chapter  
 19 shall be payable to and collectible by the department in the  
 20 same manner as if they were a part of the tax imposed. The  
 21 department may settle or compromise any such interest or  
 22 penalties pursuant to s. 213.21.

23 (5)(a) The department is authorized to audit or  
 24 inspect the records and accounts of dealers defined herein,  
 25 including audits or inspections of dealers who make mail order  
 26 sales to the extent permitted by another state, and to correct  
 27 by credit any overpayment of tax, and, in the event of a  
 28 deficiency, an assessment shall be made and collected. No  
 29 administrative finding of fact is necessary prior to the  
 30 assessment of any tax deficiency.  
 31

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 (6)(a) The department is given the power to prescribe  
 26 the records to be kept by all persons subject to taxes imposed  
 27 by this chapter; and it shall be the duty of every person  
 28 required to make a report and pay any tax under this chapter,  
 29 every person receiving rentals or license fees, and owners of  
 30 places of admission, to keep and preserve suitable records of  
 31 the sales, leases, rentals, license fees, admissions, or

1 purchases, as the case may be, taxable under this chapter;  
 2 such other books of account as may be necessary to determine  
 3 the amount of the tax due hereunder; and other information as  
 4 may be required by the department. It shall be the duty of  
 5 every such person so charged with such duty, moreover, to keep  
 6 and preserve for a period of 3 years all invoices and other  
 7 records of goods, wares, and merchandise, records of  
 8 admissions, leases, license fees and rentals, and all other  
 9 subjects of taxation under this chapter; and all such books,  
 10 invoices, and other records shall be open to examination at  
 11 all reasonable hours to the department or any of its duly  
 12 authorized agents.

13 (b) For the purpose of this subsection, if a dealer  
 14 does not have adequate records of his retail sales or  
 15 purchases, the department may, upon the basis of a test or  
 16 sampling of the dealer's available records or other  
 17 information relating to the sales or purchases made by such  
 18 dealer, for a representative period, determine the proportion  
 19 that taxable retail sales bear to total retail sales or the  
 20 proportion that taxable purchases bear to total purchases.  
 21 This subsection does not affect the duty of the dealer to  
 22 collect, or the liability of any consumer to pay, any tax  
 23 imposed by or pursuant to this part.

24 (c) If the records of a dealer are adequate but  
 25 voluminous in nature and substance, the department may  
 26 statistically sample such records, except for fixed assets,  
 27 and project the audit findings derived therefrom over the  
 28 entire audit period to determine the proportion that taxable  
 29 retail sales bear to total retail sales or the proportion that  
 30 taxable purchases bear to total purchases. In order to  
 31 conduct such a sample, the department must first make a good

1 faith effort to reach an agreement with the dealer, which  
 2 agreement provides for the means and methods to be used in the  
 3 sampling process. In the event that no agreement is reached,  
 4 the dealer is entitled to a review by the executive director.

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

17 (8) In the case of the lease or rental of tangible  
 18 personal property, or other rentals or license fees as herein  
 19 defined and taxed, if the consideration given or reported by  
 20 the lessor, person receiving rental or license fee, or dealer  
 21 does not, in the judgment of the department, represent the  
 22 true or actual consideration, then the department is  
 23 authorized to ascertain the same and assess and collect the  
 24 tax thereon in the same manner as above provided, with respect  
 25 to imported tangible property, together with interest, plus  
 26 penalties, if such have accrued.

27 Section 31. Effective February 1, 1988, subsections  
 28 (9), (10), (11), (12), and (13) of section 212.12, Florida  
 29 Statutes, as amended by section 17 of chapter 87-6, section 6  
 30 of chapter 87-99, section 16 of chapter 87-101, and section 8  
 31 of chapter 87-402, Laws of Florida, are amended to read:

1 212.12 Dealer's credit for collecting tax; penalties  
2 for noncompliance; powers of Department of Revenue in dealing  
3 with delinquents; brackets applicable to taxable transactions;  
4 records required.--

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

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

30 (b) On single sales in amounts from 10 cents to 16 20  
31 cents, both inclusive, 1 cent shall be added for taxes.

1 (c) On sales in amounts from 17 2½ cents to 33 40  
2 cents, both inclusive, 2 cents shall be added for taxes.

3 (d) On sales in amounts from 34 4½ cents to 50 60  
4 cents, both inclusive, 3 cents shall be added for taxes.

5 (e) On sales in amounts from 51 6½ cents to 66 80  
6 cents, both inclusive, 4 cents shall be added for taxes.

7 (f) On sales in amounts from 67 8½ cents to 83 cents  
8 0½, both inclusive, 5 cents shall be added for taxes.

9 (g) On sales in amounts from 84 cents to \$1, both  
10 inclusive, 6 cents shall be added for taxes.

11 (h)(9) On sales in amounts of more than \$1, 6 5  
12 percent shall be charged upon each dollar of price, plus the  
13 appropriate bracket charge upon any fractional part of a  
14 dollar.

15 (10) In charter counties which have adopted the  
16 discretionary 1-percent tax, the following brackets shall be  
17 applicable to all taxable transactions which would otherwise  
18 have been transactions taxable at the rate of 6 5 percent:

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

21 (b) On single sales in amounts from 10 cents to 14 16  
22 cents, both inclusive, 1 cent shall be added for taxes.

23 (c) On sales in amounts from 15 17 cents to 28 33  
24 cents, both inclusive, 2 cents shall be added for taxes.

25 (d) On sales in amounts from 29 34 cents to 42 50  
26 cents, both inclusive, 3 cents shall be added for taxes.

27 (e) On sales in amounts from 43 5½ cents to 57 66  
28 cents, both inclusive, 4 cents shall be added for taxes.

29 (f) On sales in amounts from 58 67 cents to 71 83  
30 cents, both inclusive, 5 cents shall be added for taxes.

31

1 (g) On sales in amounts from 22 04 cents to 85 cents  
2 91, both inclusive, 6 cents shall be added for taxes.

3 (h) On sales in amounts from 86 cents to \$1, both  
4 inclusive, 7 cents shall be added for taxes.

5 (i)(h) On sales in amounts from \$1 up to, and  
6 including, the first \$1,000 in price, 7 6 percent shall be  
7 charged upon each dollar of price, plus the appropriate  
8 bracket charge upon any fractional part of a dollar.

9 (i)(t) On sales in amounts of more than \$1,000 in  
10 price, 7 6 percent shall be added upon the first \$1,000 in  
11 price, and 5 5 percent shall be added upon each dollar of  
12 price in excess of the first \$1,000 in price, plus the bracket  
13 charges upon any fractional part of a dollar as provided for  
14 in subsection (9).

15 (11) The department shall promulgate by rule the tax  
16 amounts and brackets applicable to transactions taxable at 3  
17 percent pursuant to s. 212.08(3) and on transactions which  
18 would otherwise have been so taxable in counties which have  
19 adopted the discretionary 1-percent tax.

20 (12) It is hereby declared to be the legislative  
21 intent that, whenever in the construction, administration, or  
22 enforcement of this chapter there may be any question  
23 respecting a duplication of the tax, the end consumer, or last  
24 retail sale, be the sale intended to be taxed and insofar as  
25 may be practicable there be no duplication or pyramiding of  
26 the tax.

27 (13) In order to aid the administration and  
28 enforcement of the provisions of this chapter with respect to  
29 the rentals and license fees, each lessor or person granting  
30 the use of any hotel, apartment house, roominghouse, tourist  
31 or trailer camp, real property, or any interest therein, or

1 any portion thereof, inclusive of owners, property managers,  
2 lessors, landlords, hotel, apartment house, and roominghouse  
3 operators and all licensed real estate agents within the state  
4 leasing, granting the use of, or renting such property, shall  
5 be required to keep a record of each and every such lease,  
6 licensee, or rental transaction which is taxable under this  
7 chapter, in such a manner and upon such forms as the  
8 department may prescribe, and to report such transaction to  
9 the department or its designated agents, and to maintain such  
10 records for a period of not less than 3 years, subject to the  
11 inspection of the department and its agents; and, upon the  
12 failure by such owner, property manager, lessor, landlord,  
13 hotel, apartment house, roominghouse, tourist or trailer camp  
14 operator, or real estate agent to keep and maintain such  
15 records and to make such reports upon the forms and in the  
16 manner prescribed, such owner, property manager, lessor,  
17 landlord, hotel, apartment house, roominghouse, tourist or  
18 trailer camp operator, receiver of rent or license fees, or  
19 real estate agent is guilty of a misdemeanor of the second  
20 degree, punishable as provided in s. 775.082 or s. 775.083,  
21 for the first offense; and for subsequent offenses, they are  
22 each guilty of a misdemeanor of the first degree, punishable  
23 as provided in s. 775.082 or s. 775.083.

24 Section 32. Effective July 1, 1988, paragraph (a) of  
25 subsection (2) and subsection (13) of section 212.12, Florida  
26 Statutes, as amended by section 88 of chapter 87-6 and section  
27 56 of chapter 87-101, Laws of Florida, are reenacted to read.

28 212.12 Dealer's credit for collecting tax; penalties  
29 for noncompliance; powers of Department of Revenue in dealing  
30 with delinquents; brackets applicable to taxable transactions;  
31 records required.--



1 (2)(a) When any person, firm, or corporation required  
 2 hereunder to make any return or to pay any tax imposed by this  
 3 chapter fails to timely file such return or fails to pay the  
 4 tax due within the time required hereunder, in addition to all  
 5 other penalties provided herein and by the laws of this state  
 6 in respect to such taxes, a specific penalty shall be added to  
 7 the tax in the amount of 5 percent of any unpaid tax if the  
 8 failure is for not more than 30 days, with an additional 5  
 9 percent of any unpaid tax for each additional 30 days, or  
 10 fraction thereof, during the time which the failure continues,  
 11 not to exceed, however, a total penalty of 25 percent, in the  
 12 aggregate, of any unpaid tax. In no event may the penalty be  
 13 less than \$5 for failure to timely file a tax return required  
 14 by s. 212.11. In the case of a false or fraudulent return or  
 15 a willful intent to evade payment of any tax imposed under  
 16 this chapter, in addition to the other penalties provided by  
 17 law, the person making such false or fraudulent return or  
 18 willfully attempting to evade the payment of such a tax shall  
 19 be liable to a specific penalty of 50 percent of the tax bill  
 20 and for fine and punishment as provided by law for a  
 21 conviction of a misdemeanor of the first degree.

22 (13) In order to aid the administration and  
 23 enforcement of the provisions of this chapter with respect to  
 24 the rentals and license fees, each lessor or person granting  
 25 the use of any hotel, apartment house, roominghouse, tourist  
 26 or trailer camp, real property, or any interest therein, or  
 27 any portion thereof, inclusive of owners, property managers,  
 28 lessors, landlords, hotel, apartment house, and roominghouse  
 29 operators and all licensed real estate agents within the state  
 30 leasing, granting the use of, or renting such property, shall  
 31 be required to keep a record of each and every such lease,

1 license, or rental transaction which is taxable under this  
 2 chapter, in such a manner and upon such forms as the  
 3 department may prescribe, and to report such transaction to  
 4 the department or its designated agents, and to maintain such  
 5 records for a period of not less than 3 years, subject to the  
 6 inspection of the department and its agents; and, upon the  
 7 failure by such owner, property manager, lessor, landlord,  
 8 hotel, apartment house, roominghouse, tourist or trailer camp  
 9 operator, or real estate agent to keep and maintain such  
 10 records and to make such reports upon the forms and in the  
 11 manner prescribed, such owner, property manager, lessor,  
 12 landlord, hotel, apartment house, roominghouse, tourist or  
 13 trailer camp operator, receiver of rent or license fees, or  
 14 real estate agent is guilty of a misdemeanor of the second  
 15 degree, punishable as provided in s. 775.082, s. 775.083, or  
 16 s. 775.084, for the first offense; and for subsequent  
 17 offenses, they are each guilty of a misdemeanor of the first  
 18 degree, punishable as provided in s. 775.082, s. 775.083, or  
 19 s. 775.084.

20 Section 33. Section 212.21, Florida Statutes, as  
 21 amended by section 22 of chapter 87-6, Laws of Florida, is  
 22 amended to read:

23 212.21 Declaration of legislative intent.--  
 24 (1) If any section, subsection, sentence, clause,  
 25 phrase or word of this chapter is for any reason held or  
 26 declared to be unconstitutional, invalid, inoperative,  
 27 ineffective, inapplicable, or void, such invalidity or  
 28 unconstitutionality shall not be construed to affect the  
 29 portions of this chapter not so held to be unconstitutional,  
 30 void, invalid, or ineffective, or affect the application of  
 31 this chapter to other circumstances not so held to be invalid,

1 it being hereby declared to be the express legislative intent  
 2 that any such unconstitutional, illegal, invalid, ineffective,  
 3 inapplicable or void portion or portions of this chapter did  
 4 not induce its passage, and that without the inclusion of any  
 5 such unconstitutional, illegal, invalid, ineffective or void  
 6 portions of this chapter, the Legislature would have enacted  
 7 the valid and constitutional portions thereof.

8 (2) It is hereby declared to be the specific  
 9 legislative intent to tax each and every sale, admission, use,  
 10 storage, consumption or rental levied and set forth in this  
 11 chapter, except as to such sale, admission, use, storage,  
 12 consumption, or rental, as shall be specifically exempted  
 13 therefrom by this chapter, subject to the conditions  
 14 appertaining to such exemption. It is further declared to be  
 15 the specific legislative intent that should any exemption or  
 16 attempted exemption from the tax or the operation or  
 17 imposition of the tax or taxes be declared to be invalid,  
 18 ineffective, inapplicable, unconstitutional or void for any  
 19 reason, such declaration shall not affect the tax or taxes  
 20 imposed herein, but such sale, admission, use, storage,  
 21 consumption or rental or any of them exempted or attempted to  
 22 be exempted from the tax or taxes or the operation or the  
 23 imposition of the tax or taxes, shall be subject to the tax or  
 24 taxes and the operation and imposition thereof to the same  
 25 extent as if such exemption or attempted exemption had never  
 26 been included herein.

27 (3) It is further declared to be the specific  
 28 legislative intent to exempt from the tax or taxes or from the  
 29 operation or the imposition thereof only such sales,  
 30 admissions, uses, storages, consumption or rentals in relation  
 31 to or in respect of the things set forth by this chapter as

1 exempted from the tax to the extent that such exemptions are  
 2 in accordance with the provisions of the constitutions of the  
 3 state and of the United States. It is further declared to be  
 4 the specific legislative intent to tax each and every taxable  
 5 privilege made subject to the tax or taxes, ~~end-each-and-every~~  
 6 ~~taxable-service-made-subject-to-the-tax-or-taxes~~, except such  
 7 sales, admissions, uses, storages, consumptions or rentals as  
 8 are specifically exempted therefrom by this chapter to the  
 9 extent that such exemptions are in accordance with the  
 10 provisions of the constitutions of the state and of the United  
 11 States.

12 (4) It being further declared to be the specific  
 13 legislative intent that in the event any exemption or  
 14 attempted exemption of any sale, admissions, use, storage,  
 15 consumption or rental from the tax or taxes imposed by this  
 16 chapter is for any reason declared to be unconstitutional,  
 17 ineffective, inapplicable or void, that then and in such event  
 18 each and every such sale, admission, use, storage, consumption  
 19 or rental shall be subject to the tax or taxes imposed by this  
 20 chapter as fully and to the same extent as if such exemption  
 21 or attempted exemption had never been included herein, it  
 22 being declared to be the specific legislative intent that no  
 23 unconstitutional, invalid, ineffective, inapplicable or void  
 24 exemption or attempted exemption or exemptions or attempted  
 25 exemptions induced the passage of this chapter, it being  
 26 further declared to be the specific legislative intent that  
 27 without the inclusion herein of any such unconstitutional,  
 28 invalid, ineffective, inapplicable or void exemption or  
 29 attempted exemption, exemptions or attempted exemptions, the  
 30 valid portions of this chapter would have been enacted.  
 31

1 (5) It is the legislative intent that the repeal of  
2 any provision heretofore exempting in whole or part any item  
3 or transaction from the tax imposed by this chapter shall  
4 result in the full imposition of the applicable tax to any  
5 such item or transaction.

6 Section 34. Section 212.61, Florida Statutes, as  
7 amended by section 23 of chapter 87-6, Laws of Florida, is  
8 amended to read:

9 212.61 Definitions.--As used in this part, the term:

10 (1) "Dealer" means any person who holds a valid  
11 license as a dealer of special fuel, issued by the department  
12 pursuant to s. 206.09, and who:

13 (a) Imports and sells at wholesale, retail, or  
14 otherwise within this state any special fuel;

15 (b) Imports, or causes to be imported, and withdraws  
16 for use within this state by himself or others any special  
17 fuel from the tank car, truck, or other original container or  
18 package in which it was imported into this state;

19 (c) Exports special fuel from this state to another  
20 state or foreign country;

21 (d) Manufactures, refines, produces, or compounds any  
22 special fuel within this state and sells such fuel at  
23 wholesale, retail, or otherwise within this state;

24 (e) Imports into this state from any other state or  
25 foreign country, or receives by any means into this state and  
26 keeps in storage in this state for a period of 24 hours or  
27 more after the fuel loses interstate character as a shipment  
28 in interstate commerce, any special fuel which is intended to  
29 be used in this state;

30 (f) Is primarily liable under the special fuel tax  
31 laws of this state for the payment of special fuel taxes;

1 (g) Purchases or receives in this state special fuel  
2 in bulk quantities for resale to service stations, to a user  
3 or another dealer, or to the ultimate consumer for nontaxable  
4 consumption upon which the tax has not been paid; or

5 (h) Has both a taxable use and nontaxable consumption  
6 of the same special fuel in this state. However, this  
7 paragraph does not require that a person be a dealer when his  
8 only purchases of special fuel are delivered into reservoirs  
9 attached to motor vehicles to fuel internal combustion engines  
10 attached to such motor vehicles.

11 (2) "Refiner," "importer," or "wholesaler" means any  
12 person who holds a valid license as a refiner, importer, or  
13 wholesaler, as defined in s. 206.01, of motor fuel, issued by  
14 the department pursuant to ss. 206.02 and 206.03.

15 (3) "Retail dealer" means any person who is licensed  
16 pursuant to chapter 206 to sell motor fuel or special fuel at  
17 retail to the general public at posted retail prices.

18  
19 The definitions contained in s. 212.02(2), (5), (8), (11),  
20 (13), (14), (15), (16), (17), (18), (19), (21), and (22) ~~(3),~~  
21 ~~(7)-(10)-(15)-(17)-(18)-(19)-(20)-(21)-(23)-(25)-~~  
22 ~~(27)-and-(28)~~ apply to the same terms as used in this part.

23 Section 35. Section 31 of chapter 87-6, Laws of  
24 Florida, as amended by section 18 of chapter 87-101, Laws of  
25 Florida, is hereby repealed.

26 Section 36. Section 32 of chapter 87-6, Laws of  
27 Florida, as amended by section 19 of chapter 87-101, Laws of  
28 Florida, is amended to read:

29 Section 32. Rule 12A-1.091(6) of the Department of  
30 Revenue is hereby repealed. However, the Department of  
31 Revenue is hereby authorized to provide by rule for self-

1 accrual of the sales tax under one or more of the following  
 2 circumstances:  
 3 ~~(1) Where authorized by law for purchasers of~~  
 4 ~~services;~~  
 5 (1)(2) Where authorized by law for holders of direct  
 6 pay permits;  
 7 (2)(3) Where tangible personal property is subject to  
 8 tax on a prorated basis, and the proration factor is based  
 9 upon characteristics of the purchaser;  
 10 (3)(4) Where the taxable status of types of tangible  
 11 personal property will be known only upon use;  
 12 (4)(5) For commercial rentals where the purchaser  
 13 rents from a number of independent property owners who, apart  
 14 from rentals to the purchaser in question, would otherwise not  
 15 be obligated to register as dealers.  
 16 (5)(6) Where the purchaser makes purchases in excess  
 17 of \$10 million per year of tangible personal property in any  
 18 county.

19 Section 37. Section 37 of chapter 87-6, Laws of  
 20 Florida, as amended by section 22 of chapter 87-101, Laws of  
 21 Florida, is hereby repealed.

22 Section 38. Section 47 of chapter 87-6, Laws of  
 23 Florida, as amended by section 26 of chapter 87-101, Laws of  
 24 Florida, is hereby repealed.

25 Section 39. Any person who, before the effective date  
 26 of this section, was required by section 212.13, Florida  
 27 Statutes, as amended by chapters 87-6 and 87-101, Laws of  
 28 Florida, to keep records relating to the sale or use of  
 29 services shall continue to keep such records for a period of 3  
 30 years, and such records shall be available for inspection in  
 31 the same manner as records kept pursuant to section 212.13,

1 Florida Statutes. The failure to keep such records or to  
 2 allow their inspection as required by this section is subject  
 3 to the same penalties provided in section 212.13, Florida  
 4 Statutes.

5 Section 40. Section 212.235, Florida Statutes, as  
 6 created by section 24 of chapter 87-6, Laws of Florida, and  
 7 amended by section 17 of chapter 87-101, Laws of Florida, is  
 8 amended to read:

9 212.235 State Infrastructure Trust Fund; deposits.--  
 10 (1) Notwithstanding the provisions of ss. 212.20(1)  
 11 and 218.61, in fiscal year 1987-1988 an amount equal to 2  
 12 percent, and in each fiscal year thereafter an amount equal to  
 13 5 percent, of the proceeds remitted pursuant to this part by a  
 14 dealer, or the sums sufficient to provide the maximum receipts  
 15 specified herein, shall be transferred into the State  
 16 Infrastructure Trust Fund, which is created in the State  
 17 Treasury. "Proceeds" means all funds collected and received  
 18 by the Department of Revenue, including any interest and  
 19 penalties. However, any receipts of the trust fund, including  
 20 those received pursuant to ss. 201.15(5) and 206.875(3) and  
 21 interest earned, in excess of \$200 million in fiscal year  
 22 1987-1988, and \$550 \$500 million thereafter, shall revert to  
 23 the General Revenue Fund.

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

- 27 (a) Acquiring the right-of-way for and constructing  
 28 state highways and bridges;  
 29 (b) Constructing public education capital facilities;  
 30  
 31

1 (c) Financing state projects for beach restoration or  
 2 renourishment or lake, river, or other water body restoration,  
 3 including the restoration of bays and estuaries;  
 4 (d) Constructing state correctional facilities;  
 5 (e) Matching grants to local government to assist in  
 6 meeting the requirements as set forth in s. 163.3177.  
 7 (f)(e) Constructing other infrastructure projects; or  
 8 (g)(f) Issuing revenue bonds to finance state capital  
 9 outlay projects authorized by this section. Such bonds shall  
 10 be payable solely from legislative appropriations from the  
 11 State Infrastructure Trust Fund and shall not be a debt of the  
 12 state, and the state shall not be liable thereon. Neither the  
 13 taxing power, the credit, nor the revenues of the state shall  
 14 be pledged to pay any obligation issued pursuant to this  
 15 subsection.

16 Section 41. Notwithstanding sections 218.61 and  
 17 212.20(1), Florida Statutes, for fiscal year 1987-1988, the  
 18 distribution of the proceeds remitted pursuant to part I of  
 19 chapter 212, Florida Statutes, into the Local Government Half-  
 20 cent Sales Tax Clearing Trust Fund and earmarked for  
 21 distribution to counties and municipalities shall be such that  
 22 for that fiscal year as a whole the total transfer shall equal  
 23 9.846 percent of the proceeds remitted.

24 Section 42. Effective July 1, 1988, section 218.61,  
 25 Florida Statutes, is amended to read:  
 26 218.61 Local government half-cent sales tax;  
 27 designated proceeds; trust fund.--  
 28 (1) Each participating county or municipal government  
 29 shall receive a portion of the local government half-cent  
 30 sales tax, as provided in this part.  
 31

1 (2) Notwithstanding the provisions of s. 212.20(1),  
 2 9.888 9+697 percent of the proceeds remitted pursuant to part  
 3 I of chapter 212 by a sales tax dealer located within the  
 4 county shall be transferred into the Local Government Half-  
 5 cent Sales Tax Clearing Trust Fund and earmarked for  
 6 distribution to the governing body of that county and of each  
 7 municipality within that county. Such moneys shall be known  
 8 as the "local government half-cent sales tax." "Proceeds"  
 9 means all funds collected and received by the Department of  
 10 Revenue, including any interest or penalties.

11 (3) There is created in the State Treasury the Local  
 12 Government Half-cent Sales Tax Clearing Trust Fund. Moneys in  
 13 the fund are hereby appropriated to the Department of Revenue  
 14 and shall be distributed monthly to participating units of  
 15 local government.

16 Section 43. Section 201.15, Florida Statutes, as  
 17 amended by section 35 of chapter 87-6 and section 4 of chapter  
 18 87-96, Laws of Florida is reenacted to read:  
 19 201.15 Distribution of taxes collected.--All taxes  
 20 collected under the provisions of this chapter shall be  
 21 distributed as follows:  
 22 (1) Sixty and eight-tenths percent of the total taxes  
 23 collected under the provisions of this chapter shall be paid  
 24 into the State Treasury to the credit of the General Revenue  
 25 Fund of the state, to be used and expended for the purposes  
 26 for which the General Revenue Fund was created and exists by  
 27 law.  
 28 (2) Eleven and eight-tenths percent of the total taxes  
 29 collected under the provisions of this chapter shall be paid  
 30 into the State Treasury to the credit of the Land Acquisition  
 31 Trust Fund. Sums deposited in such fund pursuant to this

1 subsection may be used for any purpose for which funds  
2 deposited in the Land Acquisition Trust Fund may lawfully be  
3 used and may be used to pay the cost of the collection and  
4 enforcement of the tax levied by this chapter.

5 (3) Three percent of the total taxes collected under  
6 the provisions of this chapter shall be paid into the State  
7 Treasury to the credit of the Land Acquisition Trust Fund.  
8 Moneys deposited in the trust fund pursuant to this section  
9 shall be used for the following purposes:

10 (a) Sixty percent of the moneys shall be used to  
11 acquire coastal lands or to pay debt service on bonds issued  
12 to acquire coastal lands; and

13 (b) Forty percent of the moneys shall be used to  
14 develop and manage lands acquired with moneys from the Land  
15 Acquisition Trust Fund.

16 (4) Nine and two-tenths percent of the total taxes  
17 collected under the provisions of this chapter shall be paid  
18 into the State Treasury to the credit of the Water Management  
19 Lands Trust Fund. Sums deposited in that fund may be used for  
20 any purpose authorized in s. 373.59 and may be used to pay the  
21 cost of the collection and enforcement of the tax levied by  
22 this chapter.

23 (5) Six percent of the total taxes collected under the  
24 provisions of this chapter shall be paid into the State  
25 Treasury to the credit of the State Infrastructure Trust Fund.

26 (6) Nine and two-tenths percent of the total taxes  
27 collected under the provisions of this chapter shall be paid  
28 into the State Treasury to the credit of the Conservation and  
29 Recreation Lands Trust Fund to carry out the purposes set  
30 forth in s. 253.023.

31

1 Section 44. Paragraph (d) of subsection (2) of section  
2 215.32, Florida Statutes, as amended by section 31 of chapter  
3 87-247 and section 8 of chapter 87-331, Laws of Florida, is  
4 amended to read:

5 215.32 State funds; segregation.--

6 (2) The source and use of each of these funds shall be  
7 as follows:

8 (d) The State Infrastructure Fund shall consist of all  
9 moneys received from proceeds earmarked for this fund pursuant  
10 to ss. 201.157-206.875 and 212.235. Such moneys shall only  
11 be expended pursuant to legislative appropriations for  
12 infrastructure facilities listed in s. 212.235(2).

13 Section 45. Paragraph (b) of subsection (1) of section  
14 206.87, Florida Statutes, as amended by section 39 of chapter  
15 87-6, Laws of Florida, and subsection (3) of section 206.875,  
16 Florida Statutes, as amended by section 40 of chapter 87-6,  
17 Laws of Florida, are hereby repealed.

18 Section 46. Section 207.026, Florida Statutes, as  
19 amended by section 41 of chapter 87-6, Laws of Florida, is  
20 amended to read:

21 207.026 Allocation of tax.--All moneys derived from  
22 the taxes and fees imposed by this chapter shall be paid into  
23 the State Treasury by the department for deposit in the Gas  
24 Tax Collection Trust Fund, from which the following transfers  
25 shall be made: After withholding \$50,000 from the proceeds  
26 therefrom, to be used as a revolving cash balance, the funds  
27 for the purpose of conducting the study as set forth in s. 4  
28 of chapter 80-415, Laws of Florida, and the amount of funds  
29 necessary for the administration and enforcement of this tax,  
30 all other moneys shall be transferred in the same manner and

31

1 for the same purpose as provided in ss. 206.41, 206.45,  
2 206.60, 206.605, ~~206.875~~ and 212.69.

3 Section 47. Effective March 1, 1988, section 207.026,  
4 Florida Statutes, as amended by section 41 of chapter 87-6,  
5 Laws of Florida, and section 13 of chapter 87-198, Laws of  
6 Florida, is amended to read:

7 207.026 Allocation of tax.--All moneys derived from  
8 the taxes and fees imposed by this chapter shall be paid into  
9 the State Treasury by the department for deposit in the Gas  
10 Tax Collection Trust Fund, from which the following transfers  
11 shall be made: After withholding \$50,000 from the proceeds  
12 therefrom, to be used as a revolving cash balance, and the  
13 amount of funds necessary for the administration and  
14 enforcement of this tax, all other moneys shall be transferred  
15 in the same manner and for the same purpose as provided in ss.  
16 206.41, 206.45, 206.60, 206.605, ~~206.875~~ and 212.69.

17 Section 48. The increased sales or use tax provided in  
18 this act shall not apply to any transaction occurring before  
19 February 1, 1988, except that with respect to utility services  
20 regularly billed on a monthly cycle basis, the increased sales  
21 or use tax provided in this act shall apply to any such cycle  
22 beginning on or after February 1, 1988.

23 Section 49. In the case of any written contract signed  
24 prior to May 1, 1987, or any offer submitted prior to such  
25 date which was binding on the offeror and was accepted, or any  
26 contract funded by government bonds sold before May 1, 1987,  
27 or contracted prior to such date to be sold, for constructing  
28 improvements to real property, the prime contractor, as  
29 defined in s. 212.0594, Florida Statutes, as created by  
30 chapter 87-101, Laws of Florida, responsible for performing  
31 the contract shall pay the sales or use tax on materials

1 necessary to complete the contract at the rate provided in  
2 this act. Such contractor, within 3 years after the effective  
3 date of this section, may apply for one refund of the  
4 additional sales or use tax paid on materials necessary to  
5 complete the contract. Application for such refund shall be  
6 pursuant to Department of Revenue rule. The application shall  
7 contain a sworn statement, signed by the applicant or its  
8 representative, attesting to the validity of the application.  
9 The Department of Revenue shall, within 30 days after approval  
10 of a complete application, certify to the Comptroller  
11 information necessary for issuance of a refund to the  
12 applicant of said additional sales or use taxes.  
13 Alternatively, for up to a 3-year period after the effective  
14 date of this section, pursuant to Department of Revenue rule,  
15 a contractor may apply quarterly for a refund of taxes paid  
16 pursuant to the contract during the previous quarter. Any  
17 person who fraudulently obtains or attempts to obtain a refund  
18 pursuant to this section, in addition to being liable for  
19 repayment of any refund fraudulently obtained plus a penalty  
20 of 100 percent of the refund, is guilty of a misdemeanor of  
21 the second degree, punishable as provided in s. 775.082, s.  
22 775.083, or s. 775.084, Florida Statutes. This section shall  
23 take effect February 1, 1988.

24 Section 50. All services subject to tax under the  
25 provisions of chapter 87-6, Laws of Florida, as amended, which  
26 were performed or used in the state prior to the effective  
27 date of this section remain taxable under the provisions of  
28 said chapter, notwithstanding that payment for those services  
29 was received by the dealer on or after the effective date of  
30 this section. This act shall not be construed in any way to  
31 prohibit subsequent collection or enforcement of taxes due

1 prior to the effective date of this section under the  
 2 provisions of said chapter. To this end, the audit,  
 3 collection, and enforcement powers of the Department of  
 4 Revenue shall be construed to ensure that all taxes imposed by  
 5 said chapter prior to the effective date of this section are  
 6 received by the state.

7 Section 51. Of the appropriations provided in chapter  
 8 87-98, Laws of Florida, to the Department of Revenue for the  
 9 purpose of implementing chapter 87-6, Laws of Florida, the  
 10 Executive Office of the Governor shall place in reserve all  
 11 currently vacant positions and related funding. In addition,  
 12 all remaining positions and related funding provided for the  
 13 implementation of chapter 87-6, Laws of Florida, shall be  
 14 placed in reserve as soon as they can be vacated without  
 15 implementing layoff procedures.

16 Section 52. Section 28 of chapter 87-101, Laws of  
 17 Florida, is amended to read:

18 Section 28. There is hereby appropriated from the  
 19 General Revenue Fund the sum of \$364,757 to the Division of  
 20 Administrative Hearings of the Department of Administration  
 21 and six positions are hereby authorized, for purposes of  
 22 implementing the provisions of chapter 87-6, Laws of Florida,  
 23 and this act.

24 Section 53. The Legislature hereby finds that the  
 25 failure to promptly implement the provisions of this act would  
 26 present an immediate threat to the welfare of the state  
 27 because revenue needed for operation of the state would not  
 28 be collected. Therefore, the Executive Director of the  
 29 Department of Revenue is hereby authorized to adopt emergency  
 30 rules pursuant to s. 120.54(9), Florida Statutes, for purposes  
 31 of implementing this act. Notwithstanding any other provision

1 of law, such emergency rules shall remain effective for 6  
 2 months from the date of adoption. Other rules of the  
 3 Department of Revenue related to and in furtherance of the  
 4 orderly implementation of this act shall not be subject to a  
 5 s. 120.54(4), Florida Statutes, rule challenge or a s.  
 6 120.54(17), Florida Statutes, drawout proceeding, but, once  
 7 adopted, shall be subject to a s. 120.56, Florida Statutes,  
 8 invalidity challenge. Such rules shall be adopted by the  
 9 Governor and Cabinet and shall become effective upon filing  
 10 with the Department of State, notwithstanding the provisions  
 11 s. 120.54(13), Florida Statutes. This section shall take  
 12 effect upon this act becoming a law.

13 Section 54. To expedite the acquisition of goods and  
 14 services for implementing the provisions of this act, the  
 15 Department of Revenue is exempt from the provisions of chapter  
 16 287, Florida Statutes, when contracting for the purchase or  
 17 lease of goods or services for such purposes. This section  
 18 shall take effect upon this act becoming a law and shall  
 19 expire July 1, 1988.

20 Section 55. The repeal by this act of any statute or  
 21 part of a statute does not affect the prosecution or continued  
 22 prosecution of any cause of action that accrued prior to the  
 23 effective date of that repeal.

24 Section 56. Notwithstanding section 212.12(1)(b)2.,  
 25 Florida Statutes, the gross sales, taxable sales, taxable  
 26 purchases, and tax collected or due under chapter 212, Florida  
 27 Statutes, are not required to be reported by major sales tax  
 28 source as specified in said section, except that the  
 29 Department of Revenue shall require that transient rentals and  
 30 agricultural equipment transactions be separately shown. This  
 31



1 section shall take effect upon this act becoming a law and  
 2 shall expire February 1, 1988.

3 Section 57. Section 216.175, Florida Statutes, is  
 4 created to read:

5 216.175 State infrastructure fund appropriations.--Any  
 6 project or activity including defined locations funded from  
 7 the State Infrastructure Fund with its specific appropriations  
 8 shall be separately identified in the General Appropriations  
 9 Act. No State Infrastructure Fund Appropriation allocation  
 10 into any project or activity or defined location shall be  
 11 outside of the General Appropriations Act.

12 Section 58. Present paragraphs (ee), (ff), (gg), (hh),  
 13 (ii), (jj), (kk), and (ll) of subsection (1) of section  
 14 216.011, Florida Statutes, as amended by section 3 of chapter  
 15 87-137, Laws of Florida, are redesignated as paragraphs (ff),  
 16 (gg), (hh), (ii), (jj), (kk), (ll), and (mm), respectively,  
 17 and a new paragraph (ee) is added to said subsection to read:

18 216.011 Definitions.--

19 (1) For the purpose of fiscal affairs of the state,  
 20 appropriations acts, legislative budgets, and approved  
 21 budgets, each of the following terms has the meaning  
 22 indicated:

23 (ee) "Proviso" means language that qualifies or  
 24 restricts a specific appropriation and which can be logically  
 25 and directly related to the specific appropriation.

26 Section 59. Subsection (7) of section 216.031, Florida  
 27 Statutes, as amended by section 5 of chapter 87-137, Laws of  
 28 Florida, is hereby repealed.

29 Section 60. Section 216.046, Florida Statutes, is  
 30 amended to read:

31

1 216.046 Governor's supplemental recommendations.--The  
 2 Governor may make supplemental revenue and appropriation  
 3 recommendations to the Legislature at least 45 days prior to  
 4 the annual session in any even-numbered year. The  
 5 supplemental recommendations shall include the information  
 6 required in ss. 216.162-216.168 and shall use as a base the  
 7 most recent legislative-appropriations-act-er approved  
 8 operating budget.

9 Section 61. Section 216.081, Florida Statutes, is  
 10 amended to read:

11 216.081 Data on legislative expenses.--

12 (1) On or before November 1 in each even-numbered  
 13 year, in sufficient time to be included in the Governor's  
 14 recommended budget report-to-the-legislature, estimates of the  
 15 financial needs of the legislative branch during the ensuing  
 16 biennium shall be furnished to the Governor pursuant to  
 17 chapter 11.

18 (2) All of the data relative to the legislative branch  
 19 shall be for information and guidance in estimating the total  
 20 financial needs of the state for the ensuing biennium; but  
 21 none of these estimates shall be subject to revision or review  
 22 by the Governor, and they must be included in his recommended  
 23 budget report-to-the-legislature.

24 Section 62. Section 216.167, Florida Statutes, is  
 25 amended to read:

26 216.167 Governor's recommendations.--The Governor's  
 27 recommendations shall include a financial schedule which shall  
 28 provide:

29 (1) His estimate of the recommended recurring revenues  
 30 available in the Working Capital Fund, the State  
 31 Infrastructure Fund, and the General Revenue Fund.

1 (2) His estimate of the recommended nonrecurring  
 2 revenues available in the Working Capital Fund, the State  
 3 Infrastructure Fund, and the General Revenue Fund.

4 (3) His recommended recurring and nonrecurring  
 5 appropriations from the Working Capital Fund, the State  
 6 Infrastructure Fund, and the General Revenue Fund; ~~and the~~  
 7 ~~Federal Revenue Sharing Fund~~.

8 (4) His estimates of any interfund loans or temporary  
 9 obligations of the Working Capital Fund or trust funds, which  
 10 loans or obligations are needed to implement his recommended  
 11 budget.

12 (5) His estimates of the debt service and reserve  
 13 requirements for any recommended new bond issue or reissues  
 14 and his recommended debt service appropriations for all  
 15 outstanding fixed capital outlay bond issues.

16 Section 63. Subsection (1) of section 216.181, Florida  
 17 Statutes, as amended by section 58 of chapter 87-224, Laws of  
 18 Florida, is amended to read:

19 216.181 Approved budgets for operations and fixed  
 20 capital outlay.--

21 (1) On or before the fifth day before the end of the  
 22 period allowed by law for veto consideration in July ~~1~~ ~~of any~~  
 23 year in which an appropriation is made, the chairmen of the  
 24 legislative appropriations committees shall jointly transmit a  
 25 statement of intent, including performance and workload  
 26 measures as appropriate and the official list of General  
 27 Revenue Fund appropriations determined in consultation with  
 28 the Executive Office of the Governor to be nonrecurring, to  
 29 the Executive Office of the Governor, the Comptroller, the  
 30 Auditor General, and each state agency. The statement of  
 31 intent may not allocate or appropriate any funds, or amend or

1 correct any provision<sub>2</sub> in the General Appropriations Act, but  
 2 may provide additional direction and explanation to the  
 3 Executive Office of the Governor, the Administration  
 4 Commission, and each affected state agency relative to the  
 5 purpose, objectives, spending philosophy, and restrictions  
 6 associated with any specific appropriation category. The  
 7 statement of intent shall compare the request of the agency or  
 8 the recommendation of the Governor to the funds appropriated  
 9 for the purpose of establishing intent in the development of  
 10 the approved operating budget. A request for additional  
 11 explanation and direction regarding the legislative intent of  
 12 the General Appropriations Act during the fiscal year may be  
 13 made only by and through the Executive Office of the Governor  
 14 as is deemed necessary. However, the Comptroller may also  
 15 request further clarification of legislative intent pursuant  
 16 to his responsibilities related to his preaudit function of  
 17 expenditures.

18 Section 64. Subsection (5) of section 216.292, Florida  
 19 Statutes, as amended by section 7 of chapter 87-137, Laws of  
 20 Florida, is amended to read:

21 216.292 Appropriations nontransferable; exceptions.--

22 (5) The Executive Office of the Governor may approve  
 23 any transfer from the Working Capital Fund to the General  
 24 Revenue Fund provided such transfer was identified or  
 25 contemplated by the Legislature in the original approved  
 26 operating budget.

27 Section 65. Paragraph (c) of subsection (1) of section  
 28 216.301, Florida Statutes, is amended to read:

29 216.301 Appropriations; undischarged balances.--

30 (1)

31

1 (c) Each department shall maintain the integrity of  
 2 the general revenue fund. Appropriations from the general  
 3 revenue fund for any state agency contained in the original  
 4 approved operating budget may, with the approval of the  
 5 Executive Office of the Governor, be transferred to the proper  
 6 trust fund for disbursement. However, all transferred general  
 7 revenue funds which are unexpended on June 30 are subject to  
 8 the general revenue reversion provision of this chapter.

9 Section 66. Subsections (2) and (3) of section 235.41,  
 10 Florida Statutes, as amended by section 47 of chapter 87-329,  
 11 Laws of Florida, are amended to read:

12 235.41 Legislative capital outlay budget request.--

13 (2) The commissioner shall submit to the Governor and  
 14 to the Legislature an integrated, comprehensive budget request  
 15 for educational facilities construction and fixed capital  
 16 outlay needs for all boards, including the Board of Regents,  
 17 pursuant to the provisions of s. 235.435 and applicable  
 18 provisions of chapter 216. Each board, including the Board of  
 19 Regents, shall submit to the commissioner a 3-year plan and  
 20 data required in the development of the annual capital outlay  
 21 budget. No further disbursements shall be made from the  
 22 Public Education Capital Outlay and Debt Service Trust Fund to  
 23 a board that fails to timely submit the required data until  
 24 such board submits the data.

25 (3) The commissioner shall submit an integrated,  
 26 comprehensive budget request to the Executive Office of the  
 27 Governor and to the Legislature no later than 60 45 days prior  
 28 to the legislative session each fiscal year. Notwithstanding  
 29 the provisions of s. 216.043, the integrated, comprehensive  
 30 budget request shall include:

1 (a) For the Public Education Capital Outlay and Debt  
 2 Service Trust Fund and all sinking and investment accounts  
 3 which are in receipt of any portion of the revenue sources  
 4 listed in s. 235.42(2)(a):

5 1. A schedule for each fund showing the actual  
 6 beginning cash balance for each of the 2 prior fiscal years  
 7 and showing for the current fiscal year the estimated  
 8 beginning cash balance and a listing of all disbursements and  
 9 receipts.

10 2. For the budget fiscal year for each fund, the  
 11 projected beginning cash balance, a monthly projection of all  
 12 receipts, and a monthly projection of all disbursements.

13 3. For the budget fiscal year, necessary forecasting  
 14 data to enable the commissioner to prepare and submit a  
 15 monthly gross receipts tax forecast, a monthly bond proceeds  
 16 estimate, the interest rate assumption used in the bond  
 17 proceeds estimate, a monthly interest earnings forecast, the  
 18 interest rate assumption used in the calculation of interest  
 19 to be received on the idle balances invested, and any other  
 20 reports as deemed necessary by the Legislature.

21 ~~(b)(4)~~ Recommendations for the priority of expenditure  
 22 of funds in the state system of public education, with reasons  
 23 for the recommended priorities, and other recommendations  
 24 which relate to the effectiveness of the educational  
 25 facilities construction program.

26

27 All items in s. 235.435 shall be part of the legislative  
 28 budget request submitted by the commissioner.

29 Section 67. Nothing contained herein shall affect the  
 30 legality of bonds issued pursuant to local option elections  
 31 held prior to the effective date of this act.

1           Section 68. Except as otherwise expressly provided in  
2 this act, this act shall take effect January 1, 1988, or upon  
3 becoming a law, whichever occurs later.  
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# Proclamation

State of Florida  
Executive Department  
Tallahassee

7 SEP -3 11 22

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE AND THE HOUSE OF REPRESENTATIVES:

WHEREAS, the Tenth Legislature of the State of Florida, under the Florida Constitution, 1968, Revision, convened in regular session for the year 1987 on April 7, 1987, and adjourned on June 6, 1987, and

WHEREAS, the Tenth Legislature of the State of Florida, while convened in regular session for the year 1987, passed and the Governor signed Committee Substitute for Senate Bill 777, which imposed a general tax on the sale and use of services consumed or enjoyed in the state, and

WHEREAS, on May 12, 1987, the Governor requested that the Supreme Court of Florida advise him on the constitutionality of Committee Substitute for Senate Bill 777, and

WHEREAS, on July 14, 1987, the Supreme Court of Florida advised the Governor that Committee Substitute for Senate Bill 777 does not violate any provision of the Florida Constitution, and

WHEREAS, there is nevertheless widespread public controversy with respect to the imposition, administration, and economic effect of the general tax on the sale and use of services consumed or enjoyed in the state, and

WHEREAS, public confidence in the tax policy of the state is essential if the commonly shared goals of improved public works, public health, public safety, and public education in the state are to be achieved, and

WHEREAS, action by the Legislature with respect to the general tax on the sale and use of services consumed or enjoyed in the state is required in order to restore the confidence of the public in the tax policy of the state.

NOW, THEREFORE, I, BOB MARTINEZ, Governor of the State of Florida, in obedience to my constitutional duty and by virtue of the power authority vested in me by Article III, Section 3(c)(1), Florida Constitution, do hereby proclaim as follows:

1. That the Legislature of the State of Florida is hereby convened in special session at the Capitol, Tallahassee, Florida, commencing at approximately 9:00 a.m. on Monday, the 21st day of September, 1987, and ending at noon on Wednesday, the 23rd of September, 1987.
2. That the Legislature is convened for the purpose of considering such action with respect to the recently enacted general tax on the sale or use of services consumed or enjoyed in the state as may be appropriate under the circumstances.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed to this proclamation convening the Legislature in special session at the Capitol, this 3rd day of September, 1987.

*Bob Martinez*  
GOVERNOR

TEST:

*J. J. Smith*  
SECRETARY OF STATE