

CHAPTER 97-99

Senate Bill No. 432

An act relating to the Florida Statutes; amending ss. 125.0108(2)(a), 212.0506(3), (4), (9), (10), 212.0596(1), (2), (3), (4), 212.0598(1), (3), (5), 212.06(1)(a), (b), (2)(k), (l), (5)(a), (11)(a), (c), 212.0601(2), 212.0606(1), (3), 212.07(9), 212.095(1), (2)(a), (b), (d), (3)(c), (10), 212.14(7)(a), 212.15(2), 403.718(1), 403.7185(1), and 681.117(2), Florida Statutes, and ss. 125.0104(3)(m), (10), 163.3184(11)(a), 212.02(2), (14)(a), (c), 212.0305(3)(c), (l), (5), 212.04(1)(c), 212.05(1)(e), (j), (k), (l), (4), 212.0515(4)(a), (b), (5)(c), (7), 212.054(2)(a), 212.08, 212.084(6)(a), 212.11(1)(a), (4), 212.12(1)(c), (3), (5)(b), (6)(b), 212.18(3), (5), 212.20(1), (6), 213.053(1), (7)(m), 288.1045(2)(f), (3)(b), (c), (d), 288.106(3)(c), (4)(a), 288.1162(4)(e), 288.1168(2)(e), 376.75(9)(a), and 538.11, Florida Statutes (1996 Supplement), pursuant to the directive of the Legislature in s. 30, ch. 96-323, Laws of Florida, to conform the Florida Statutes to the repeal of part II of chapter 212, Florida Statutes, by chapter 95-417, Laws of Florida.

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

Section 1. Paragraph (a) of subsection (2) of section 125.0108, Florida Statutes, is amended to read:

125.0108 Areas of critical state concern; tourist impact tax.—

(2)(a) The person receiving the consideration for such taxable privilege and the person doing business within such area or areas of critical state concern shall receive, account for, and remit the tourist impact tax to the Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under ~~part I~~ of chapter 212. The same duties and privileges imposed by ~~part I~~ of chapter 212 upon dealers in tangible property, respecting the collection and remission of tax; the making of returns; the keeping of books, records, and accounts; and compliance with the rules of the Department of Revenue in the administration of that chapter part shall apply to and be binding upon all persons who are subject to the provisions of this section. However, the Department of Revenue may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$25.

Section 2. Subsections (3), (4), (9), and (10) of section 212.0506, Florida Statutes, are amended to read:

212.0506 Taxation of service warranties.—

(3) For purposes of this section, “service warranty” means any contract or agreement which indemnifies the holder of the contract or agreement for the cost of maintaining, repairing, or replacing tangible personal property. The term “service warranty” does not include contracts or agreements to

repair, maintain, or replace tangible personal property if such property when sold at retail in this state would not be subject to the tax imposed by this ~~chapter part~~, nor does it include such contracts or agreements covering tangible personal property which becomes a part of real property.

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

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

(10) Any duties imposed by this ~~chapter part~~ upon dealers of tangible personal property with respect to collecting and remitting taxes; making returns; keeping books, records, and accounts; and complying with the rules and regulations of the department apply to all dealers as defined in s. 212.06(2)(l).

Section 3. Subsections (1), (2), (3), and (4) of section 212.0596, Florida Statutes, are amended to read:

212.0596 Taxation of mail order sales.—

(1) For purposes of this ~~chapter part~~, a “mail order sale” is a sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported, whether or not by mail, from any jurisdiction of the United States, including this state, to a person in this state, including the person who ordered the property.

(2) Every dealer as defined in s. 212.06(2)(c) who makes a mail order sale is subject to the power of this state to levy and collect the tax imposed by this ~~chapter part~~ when:

(a) The dealer is a corporation doing business under the laws of this state or a person domiciled in, a resident of, or a citizen of, this state;

(b) The dealer maintains retail establishments or offices in this state, whether the mail order sales thus subject to taxation by this state result from or are related in any other way to the activities of such establishments or offices;

(c) The dealer has agents in this state who solicit business or transact business on behalf of the dealer, whether the mail order sales thus subject to taxation by this state result from or are related in any other way to such solicitation or transaction of business, except that a printer who mails or

delivers for an out-of-state print purchaser material the printer printed for it shall not be deemed to be the print purchaser's agent for purposes of this paragraph;

(d) The property was delivered in this state in fulfillment of a sales contract that was entered into in this state, in accordance with applicable conflict of laws rules, when a person in this state accepted an offer by ordering the property;

(e) The dealer, by purposefully or systematically exploiting the market provided by this state by any media-assisted, media-facilitated, or media-solicited means, including, but not limited to, direct mail advertising, unsolicited distribution of catalogs, computer-assisted shopping, television, radio, or other electronic media, or magazine or newspaper advertisements or other media, creates nexus with this state;

(f) Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of this state's taxing power;

(g) The dealer consents, expressly or by implication, to the imposition of the tax imposed by this chapter part;

(h) The dealer is subject to service of process under s. 48.181;

(i) The dealer's mail order sales are subject to the power of this state to tax sales or to require the dealer to collect use taxes under a statute or statutes of the United States;

(j) The dealer owns real property or tangible personal property that is physically in this state, except that a dealer whose only property (including property owned by an affiliate) in this state is located at the premises of a printer with which the vendor has contracted for printing, and is either a final printed product, or property which becomes a part of the final printed product, or property from which the printed product is produced, is not deemed to own such property for purposes of this paragraph;

(k) The dealer, while not having nexus with this state on any of the bases described in paragraphs (a)-(j) or paragraph (l), is a corporation that is a member of an affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code, whose members are includable under s. 1504(b) of the Internal Revenue Code and whose members are eligible to file a consolidated tax return for federal corporate income tax purposes and any parent or subsidiary corporation in the affiliated group has nexus with this state on one or more of the bases described in paragraphs (a)-(j) or paragraph (l); or

(l) The dealer or the dealer's activities have sufficient connection with or relationship to this state or its residents of some type other than those described in paragraphs (a)-(k) to create nexus empowering this state to tax its mail order sales or to require the dealer to collect sales tax or accrue use tax.

(3) Every dealer engaged in the business of making mail order sales is subject to the requirements of this ~~chapter part~~ for cooperation of dealers in collection of taxes and in administration of this ~~chapter part~~, except that no fee shall be imposed upon such dealer for carrying out any required activity.

(4) The department shall, with the consent of another jurisdiction of the United States whose cooperation is needed, enforce this ~~chapter part~~ in that jurisdiction, either directly or, at the option of that jurisdiction, through its officers or employees.

Section 4. Subsections (1), (3), and (5) of section 212.0598, Florida Statutes, are amended to read:

212.0598 Special provisions; air carriers.—

(1) Notwithstanding other provisions of this ~~chapter part~~ to the contrary, any air carrier utilizing mileage apportionment for corporate income tax purposes in this state pursuant to chapter 220 may elect, upon the conditions prescribed in subsection (4), to be subject to the tax imposed by this ~~chapter part~~ on tangible personal property according to the provisions of this section.

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

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

Section 5. Paragraphs (a) and (b) of subsection (1), paragraphs (k) and (l) of subsection (2), paragraph (a) of subsection (5), and paragraphs (a) and (c) of subsection (11) of section 212.06, Florida Statutes, are amended to read:

212.06 Sales, storage, use tax; collectible from dealers; “dealer” defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1)(a) The aforesaid tax at the rate of 6 percent of the retail sales price as of the moment of sale, 6 percent of the cost price as of the moment of purchase, or 6 percent of the cost price as of the moment of commingling with the general mass of property in this state, as the case may be, shall be collectible from all dealers as herein defined on the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of tangible personal property or services taxable under this ~~chapter part~~. The full amount of the tax on a credit sale, installment sale, or sale made on any kind of deferred payment plan shall be due at the moment of the transaction in the same manner as on a cash sale.

(b) Except as otherwise provided, any person who manufactures, produces, compounds, processes, or fabricates in any manner tangible personal

property for his or her own use shall pay a tax upon the cost of the product manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges, notwithstanding the provisions of s. 212.02 defining "cost price." However, the tax levied under this paragraph shall not be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy at a single location, when such power or energy is used directly and exclusively at such location, or at other locations if the energy is transferred through facilities of the owner in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations. The manufacture or production of electrical power or energy that is used for space heating, lighting, office equipment, or air-conditioning or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonfabricating, or nonshipping activity is taxable. Electrical power or energy consumed or dissipated in the transmission or distribution of electrical power or energy for resale is also not taxable. Fabrication labor shall not be taxable when a person is using his or her own equipment and personnel, for his or her own account, as a producer, subproducer, or coproducer of a qualified motion picture. For purposes of this chapter part, the term "qualified motion picture" means all or any part of a series of related images, either on film, tape, or other embodiment, including, but not limited to, all items comprising part of the original work and film-related products derived therefrom as well as duplicates and prints thereof and all sound recordings created to accompany a motion picture, which is produced, adapted, or altered for exploitation in, on, or through any medium or device and at any location, primarily for entertainment, commercial, industrial, or educational purposes. A person who manufactures factory-built buildings for his or her own use in the performance of contracts for the construction or improvement of real property shall pay a tax only upon the person's cost price of items used in the manufacture of such buildings.

(2)

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

(l) "Dealer" also means any person who solicits, offers, provides, enters into, issues, or delivers any service warranty taxable under this chapter part, or who receives, on behalf of such a person, any consideration from a service warranty holder.

(5)(a)1. Except as provided in subparagraph 2., it is not the intention of this chapter to levy a tax upon tangible personal property imported, produced, or manufactured in this state for export, provided that tangible personal property may not be considered as being imported, produced, or manufactured for export unless the importer, producer, or manufacturer delivers

the same to a licensed exporter for exporting or to a common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by submission to the department of a duly signed and validated United States customs declaration, showing the departure of the aircraft from the continental United States; and further with respect to aircraft, the canceled United States registry of said aircraft; or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on any sale which the state is prohibited from taxing under the Constitution or laws of the United States. Every retail sale made to a person physically present at the time of sale shall be presumed to have been delivered in this state.

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

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

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

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

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

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

(V) Such state agrees to provide to the department records obtained by it from retailers or dealers in such state showing delivery of tangible per-

sonal property into this state upon which no sales or use tax has been paid in a manner similar to that provided in sub-subparagraph g.

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

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

e. The tax levied by sub-subparagraph a., when collected, shall be held in the State Treasury in trust for the benefit of the cooperating state and shall be paid to it at a time agreed upon between the department, acting for this state, and the cooperating state or the department or agency designated by it to act for it; however, such payment shall in no event be made later than 30 days from the last day of the calendar quarter after the tax was collected. Funds held in trust for the benefit of a cooperating state shall not be subject to the service charges imposed by s. 215.20.

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

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

(11)(a) Notwithstanding any other provision of this chapter part, the taxes imposed by this chapter part shall not be imposed on promotional materials, which are imported, purchased, sold, used, manufactured, fabricated, processed, printed, imprinted, assembled, distributed, or stored in this state, if the promotional materials are subsequently exported outside this state, and regardless of whether the exportation process is continuous and unbroken, a separate consideration is charged for the material so exported, or the taxpayer keeps, retains, or exercises any right, power, dominion, or control over the promotional materials before or for the purpose of subsequently transporting them outside this state.

(c) After July 1, 1992, this exemption inures to the taxpayer only through refund of previously paid taxes or by self-accruing taxes as provided in s. 212.183 and applies only where the seller of subscriptions to publications sold in the state:

1. Is registered with the department pursuant to this chapter part; and
2. Remits the taxes imposed by this chapter part on such publications.

Section 6. Subsection (2) of section 212.0601, Florida Statutes, is amended to read:

212.0601 Use taxes of vehicle dealers.—

(2) There shall be no additional tax imposed by this chapter part for the use of a dealer license plate for which, after July 1, 1987, a dealer use tax has been paid under this section. This exemption shall apply to the time period before the sale or any other disposition of the vehicle throughout the year for which the dealer license plate required by s. 320.08(12) is purchased.

Section 7. Subsections (1) and (3) of section 212.0606, Florida Statutes, are amended to read:

212.0606 Rental car surcharge.—

(1) A surcharge of \$2.00 per day or any part of a day is imposed upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers regardless of whether such motor vehicle is licensed in Florida. The surcharge applies to only the first 30 days of the term of any lease or rental. The surcharge is subject to all applicable taxes imposed by this chapter part.

(3) Except as provided in this section, the department shall administer, collect, and enforce the surcharge as provided in this chapter part. The provisions of this chapter part which apply to interest and penalties on delinquent taxes shall apply to the surcharge. The surcharge shall not be included in the calculation of estimated taxes pursuant to s. 212.11. The dealer's credit provided in s. 212.12 shall not apply to any amount collected under this section.

Section 8. Subsection (9) of section 212.07, Florida Statutes, is amended to read:

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

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

Section 9. Subsection (1), paragraphs (a), (b), and (d) of subsection (2), paragraph (c) of subsection (3), and subsection (10) of section 212.095, Florida Statutes, are amended to read:

212.095 Refunds.—

(1) No exemption granted on a refund basis pursuant to this chapter part is authorized except as provided in this section.

(2)(a) No person may secure a refund under this chapter part unless such person is the holder of an unrevoked refund permit issued by the department before the purchase for which a refund is sought, which permit shall be numbered and issued annually.

(b) To procure a permit, a person must file with the department an application, on forms furnished by the department, stating that he or she is entitled to a refund according to the provisions of this chapter part and that he or she intends to file an application for refund for the current calendar year, and must furnish the department such other information as the department requests.

(d) If an applicant for a refund permit has violated any provision of this section or any regulation pursuant hereto, or has been convicted of bribery, theft, or false swearing within the period of 5 years preceding the application, or if the department has evidence of the financial irresponsibility of the applicant, the department may require the applicant to execute a corporate surety bond of \$1,000 to be approved by the department, conditioned upon the payment of all taxes, penalties, and fines for which such applicant may become liable under this chapter part.

(3)

(c) No person may execute a sales invoice, as described in paragraph (a), except a dealer duly registered pursuant to this chapter part, or an authorized agent thereof.

(10) The refund permit of any person who violates any provision of this section shall be revoked by the department and may not be reissued until 2 years have elapsed from the date of such revocation. The refund permit of any person who violates any other provision of this chapter part may be suspended by the department for any period, in its discretion, not exceeding 6 months.

Section 10. Paragraph (a) of subsection (7) of section 212.14, Florida Statutes, is amended to read:

212.14 Departmental powers; hearings; distress warrants; bonds; subpoenas and subpoenas duces tecum.—

(7)(a) For purposes of collection and enforcement of taxes, penalties, and interest levied under this chapter part, the department may issue subpoenas or subpoenas duces tecum compelling the attendance and testimony of witnesses and the production of books, records, written materials, and electronically recorded information. Subpoenas shall be issued with the written

and signed approval of the executive director or his or her designee on written and sworn application by any employee of the department. The application must set forth the reason for the application, the name of the person subpoenaed, the time and place of appearance of the witness, and a description of any books, records, or electronically recorded information to be produced, together with a statement by the applicant that the department has unsuccessfully attempted other reasonable means of securing information and that the testimony of the witness or the written or electronically recorded materials sought in the subpoena are necessary for the collection of taxes, penalty, or interest or the enforcement of the taxes levied under this chapter part. A subpoena shall be served in the manner provided by law and by the Florida Rules of Civil Procedure and shall be returnable only during regular business hours and at least 20 calendar days after the date of service of the subpoena. Any subpoena to which this subsection applies shall identify the taxpayer to whom the subpoena relates and to whom the records pertain and shall provide other information to enable the person subpoenaed to locate the records required under the subpoena. The department shall give notice to the taxpayer to whom the subpoena relates within 3 days of the day on which the service of the subpoena is made. Within 14 days after service of the subpoena, the person to whom the subpoena is directed may serve written objection to inspection or copying of any of the designated materials. If objection is made, the department shall not be entitled to inspect and copy the materials, except pursuant to an order of the circuit court. If an objection is made, the department may petition any circuit court for an order to comply with the subpoena. The subpoena shall contain a written notice of the right to object to the subpoena. Every subpoena served upon the witness or records custodian must be accompanied by a copy of the provisions of this subsection. If a person refuses to obey a subpoena or subpoena duces tecum, the department may apply to any circuit court of this state to enforce compliance with the subpoena. Witnesses shall be paid mileage and witness fees as authorized for witnesses in civil cases.

Section 11. Subsection (2) of section 212.15, Florida Statutes, is amended to read:

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

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

(a) If the total amount of stolen revenue is less than \$300, the offense is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Upon a second conviction, the offender is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Upon a third or subsequent conviction, the offender is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the total amount of stolen revenue is \$300 or more, but less than \$20,000, the offense is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the total amount of stolen revenue is \$20,000 or more, but less than \$100,000, the offense is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the total amount of stolen revenue is \$100,000 or more, the offense is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 12. Subsection (1) of section 403.718, Florida Statutes, is amended to read:

403.718 Waste tire fees.—

(1) For the privilege of engaging in business, a fee for each new motor vehicle tire sold at retail is imposed on any person engaging in the business of making retail sales of new motor vehicle tires within this state. For the period January 1, 1989, through December 31, 1989, such fee shall be imposed at the rate of 50 cents for each new tire sold. The fee imposed under this section shall be stated separately on the invoice to the purchaser. Beginning January 1, 1990, and thereafter, such fee shall be imposed at the rate of \$1 for each new tire sold. The fee imposed shall be paid to the Department of Revenue on or before the 20th day of the month following the month in which the sale occurs. For purposes of this section, a motor vehicle tire sold at retail includes such tires when sold as a component part of a motor vehicle. The terms “sold at retail” and “retail sales” do not include the sale of new motor vehicle tires to a person solely for the purpose of resale provided the subsequent retail sale in this state is subject to the fee. This fee does not apply to recapped tires. Such fee shall be subject to all applicable taxes imposed in ~~part I~~ of chapter 212.

Section 13. Subsection (1) of section 403.7185, Florida Statutes, is amended to read:

403.7185 Lead-acid battery fees.—

(1) For the privilege of engaging in business, a fee for each lead-acid battery sold at retail is imposed on any person engaging in the business of making retail sales of lead-acid batteries within this state. Beginning October 1, 1989, and thereafter, such fee shall be imposed at the rate of \$1.50 for each lead-acid battery sold. However, the fee shall not be imposed on any battery which has previously been taxed pursuant to s. 206.9935(2), provided the person claiming exemption from the tax can document payment of such tax. The fee imposed shall be paid to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs. The department may authorize a quarterly return under the conditions described in s. 212.11(1)(c). A dealer selling motor vehicles, vessels, or aircraft at retail can purchase lead-acid batteries exempt as a sale for resale by presenting a sales tax resale certificate. However, if a dealer thereafter withdraws any such battery from inventory to put into a new or used motor vehicle, vessel, or aircraft for sale, to use on his own motor vehicle, vessel, or aircraft, to give away, or any purpose other than for resale, the dealer will owe the fee at the time the battery is withdrawn from inventory. If the dealer sells the battery at retail, that sale will be subject to the

fee. If the dealer sells it to a purchaser who presents him a sales tax resale certificate, the dealer will owe no fee. The terms "sold at retail" and "retail sales" do not include the sale of lead-acid batteries to a person solely for the purpose of resale; however, a subsequent retail sale in this state is subject to the fee. Such fee shall be subject to all applicable taxes imposed in ~~part I~~ of chapter 212. The provisions of s. 212.07(4) shall not apply to the provisions of this section. When a sale of a lead-acid battery, upon which the fee has been paid, is canceled or the battery is returned to the seller, and the sale price, taxes, and fees are refunded in full to the purchaser, the seller may take credit for the fee previously paid. If, instead of refunding the purchase price of the battery, the customer is given a new battery in exchange for the returned battery, the dealer cannot take credit for the fee on the returned battery, but no fee is due on the new battery that is given in exchange. However, no credit shall be taken by the dealer for returns resulting in partial refunds or partial credits on purchase of replacement batteries.

Section 14. Subsection (2) of section 681.117, Florida Statutes, is amended to read:

681.117 Fee.—

(2) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the provisions of ~~part I~~ of chapter 212. The fee shall not be included in the computation of estimated taxes pursuant to s. 212.11(1)(a), nor shall the dealer's credit provided under s. 212.12 apply to the fee. The provisions of ~~part I~~ of chapter 212 regarding the authority to audit and make assessments, the keeping of books and records, and interest and penalties on delinquent fees apply to the fee imposed by this section.

Section 15. Paragraph (m) of subsection (3) and subsection (10) of section 125.0104, Florida Statutes (1996 Supplement), are amended to read:

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

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(m)1. In addition to any other tax which is imposed pursuant to this section, a high tourism impact county may impose an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by extraordinary vote of the governing board of the county. The tax revenues received pursuant to this paragraph shall be used for one or more of the authorized uses pursuant to subsection (5).

2. A county is considered to be a high tourism impact county after the Department of Revenue has certified to such county that the sales subject to the tax levied pursuant to this section exceeded \$600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under ~~part I~~ of chapter 212 where the sales subject to the tax levied pursuant to this section were a minimum of \$200 million, except that no county authorized to levy a convention development tax pursuant to s.

212.0305 shall be considered a high tourism impact county. Once a county qualifies as a high tourism impact county, it shall retain this designation for the period the tax is levied pursuant to this paragraph.

3. The provisions of paragraphs (4)(a) through (d) shall not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(10) LOCAL ADMINISTRATION OF TAX.—

(a) A county levying a tax under this section or s. 125.0108 may be exempted from the requirements of the respective section that:

1. The tax collected be remitted to the Department of Revenue before being returned to the county; and

2. The tax be administered according to ~~part I of~~ chapter 212,

if the county adopts an ordinance providing for the local collection and administration of the tax.

(b) The ordinance shall include provision for, but need not be limited to:

1. Initial collection of the tax to be made in the same manner as the tax imposed under ~~part I of~~ chapter 212.

2. Designation of the local official to whom the tax shall be remitted, and that official's powers and duties with respect thereto. Tax revenues may be used only in accordance with the provisions of this section.

3. Requirements respecting the keeping of appropriate books, records, and accounts by those responsible for collecting and administering the tax.

4. Provision for payment of a dealer's credit as required under ~~part I of~~ chapter 212.

5. A portion of the tax collected may be retained by the county for costs of administration, but such portion shall not exceed 3 percent of collections.

(c) A county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. If the county elects to assume such responsibility, it shall be bound by all rules promulgated by the Department of Revenue pursuant to paragraph (3)(k), as well as those rules pertaining to the sales and use tax on transient rentals imposed by s. 212.03. The county may use any power granted in this section

to the department to determine the amount of tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest. If the county delegates such authority to the department, the department shall distribute any collections so received, less costs of administration, to the county. The amount deducted for costs of administration by the department shall be used only for those costs which are solely and directly attributable to auditing, assessing, collecting, processing, and enforcing payments of delinquent taxes authorized in this section. If a county elects to delegate such authority to the department, the department shall audit only those businesses in the county that it audits pursuant to ~~part I~~ of chapter 212.

Section 16. Paragraph (a) of subsection (11) of section 163.3184, Florida Statutes (1996 Supplement), is amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(11) ADMINISTRATION COMMISSION.—

(a) If the Administration Commission, upon a hearing pursuant to subsection (9) or subsection (10), finds that the comprehensive plan or plan amendment is not in compliance with this act, the commission shall specify remedial actions which would bring the comprehensive plan or plan amendment into compliance. The commission may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within the boundaries of those local governmental entities which have comprehensive plans or plan elements that are determined not to be in compliance. The commission order may also specify that the local government shall not be eligible for grants administered under the following programs:

1. The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.049.
2. The Florida Recreation Development Assistance Program, as authorized by chapter 375.
3. Revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and ~~part I~~ of chapter 212, to the extent not pledged to pay back bonds.

Section 17. Subsection (2) and paragraphs (a) and (c) of subsection (14) of section 212.02, Florida Statutes (1996 Supplement), are amended to read:

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

(2) “Business” means any activity engaged in by any person, or caused to be engaged in by him or her, with the object of private or public gain, benefit, or advantage, either direct or indirect. Except for the sales of any aircraft, boat, mobile home, or motor vehicle, the term “business” shall not be construed in this chapter to include occasional or isolated sales or transactions involving tangible personal property or services by a person who

does not hold himself or herself out as engaged in business, but includes other charges for the sale or rental of tangible personal property, sales of services taxable under this chapter part, sales of or charges of admission, communication services, all rentals and leases of living quarters, other than low-rent housing operated under chapter 421, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, and all rentals of or licenses in real property, other than low-rent housing operated under chapter 421, all leases or rentals of or licenses in parking lots or garages for motor vehicles, docking or storage spaces for boats in boat docks or marinas as defined in this chapter and made subject to a tax imposed by this chapter. The term "business" shall not be construed in this chapter to include the leasing, subleasing, or licensing of real property by one corporation to another if all of the stock of both such corporations is owned, directly or through one or more wholly owned subsidiaries, by a common parent corporation; the property was in use prior to July 1, 1989, title to the property was transferred after July 1, 1988, and before July 1, 1989, between members of an affiliated group, as defined in s. 1504(a) of the Internal Revenue Code of 1986, which group included both such corporations and there is no substantial change in the use of the property following the transfer of title; the leasing, subleasing, or licensing of the property was required by an unrelated lender as a condition of providing financing to one or more members of the affiliated group; and the corporation to which the property is leased, subleased, or licensed had sales subject to the tax imposed by this chapter part of not less than \$667 million during the most recent 12-month period ended June 30. Any tax on such sales, charges, rentals, admissions, or other transactions made subject to the tax imposed by this chapter shall be collected by the state, county, municipality, any political subdivision, agency, bureau, or department, or other state or local governmental instrumentality in the same manner as other dealers, unless specifically exempted by this chapter.

(14)(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter part, and includes all such transactions that may be made in lieu of retail sales or sales at retail.

(c) "Retail sales," "sale at retail," "use," "storage," and "consumption" do not include materials, containers, labels, sacks, or bags intended to be used one time only for packaging tangible personal property for sale or for packaging in the process of providing a service taxable under this chapter part and do not include the sale, use, storage, or consumption of industrial materials, including chemicals and fuels except as provided herein, for future processing, manufacture, or conversion into articles of tangible personal property for resale when such industrial materials, including chemicals and fuels except as provided herein, become a component or ingredient of the finished product. However, said terms include the sale, use, storage, or consumption of tangible personal property, including machinery and equipment or parts thereof, purchased electricity, and fuels used to power machinery, when said items are used and dissipated in fabricating, converting, or processing tangible personal property for sale, even though they may become ingredients or

components of the tangible personal property for sale through accident, wear, tear, erosion, corrosion, or similar means.

Section 18. Paragraphs (c) and (l) of subsection (3) and subsection (5) of section 212.0305, Florida Statutes (1996 Supplement), are amended to read:

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

(3) APPLICATION; ADMINISTRATION; PENALTIES.—

(c) The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the department at the time and in the manner provided for persons who collect and remit taxes under s. 212.03. The same duties and privileges imposed by this chapter part upon dealers in tangible property respecting the collection and remission of tax; the making of returns; the keeping of books, records, and accounts; and compliance with the rules of the department in the administration of this chapter part apply to and are binding upon all persons who are subject to the provisions of this section. However, the department may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$25.

(l) Any tax levied pursuant to this section shall be in addition to any other tax imposed pursuant to this chapter part and in addition to all other taxes and fees and the consideration for the rental or lease.

(5) LOCAL ADMINISTRATION OF TAX.—

(a) A county levying a tax under the provisions of this section may be exempt from the requirements of this section that the tax collected be remitted to the Department of Revenue before being returned to the county and that such tax be administered according to the provisions of this chapter part, if the county adopts an ordinance providing for the collection and administration of the tax on a local basis.

(b) The ordinance shall include provision for, but need not be limited to:

1. Initial collection of the tax to be made in the same manner as the tax imposed under this chapter part.

2. Designation of the local official to whom the tax shall be remitted and that official's powers and duties with respect thereto. Tax revenues may be used only in accordance with the provisions of this section.

3. Requirements respecting the keeping of appropriate books, records, and accounts by those responsible for collecting and administering the tax.

4. Payment of a dealer's credit as required under this chapter part.

5. A portion of the tax collected may be retained by the county for costs of administration, but such portion shall not exceed 2 percent of collections.

(c) A county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing

either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. If the county elects to assume such responsibility, it shall be bound by the rules promulgated by the Department of Revenue pursuant to paragraph (3)(f), as well as those rules pertaining to the sales and use tax on transient rentals imposed by s. 212.03. The county may use any power granted in this chapter part to the department to determine the amount of tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest. If the county delegates such authority to the department, the department shall distribute any collections so received, less costs of administration, to the county. The amount deducted for costs of administration by the department shall be used only for those costs which are solely and directly attributable to auditing, assessing, collecting, processing, and enforcing payments of delinquent taxes authorized in this section. If a county elects to delegate such authority to the department, the department shall audit only those businesses in the county that it audits pursuant to this chapter part.

Section 19. Paragraph (c) of subsection (1) of section 212.04, Florida Statutes (1996 Supplement), is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)

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

Section 20. Paragraphs (e), (j), (k), and (l) of subsection (1) and subsection (4) of section 212.05, Florida Statutes (1996 Supplement), are amended to read:

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

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

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

a. All telegraph messages and long-distance telephone calls beginning and terminating in this state, telecommunication service as defined in s.

203.012, and those services described in s. 203.012(2)(a), except that the tax rate for charges for telecommunication service is 7 percent.

- b. Any television system program service.
- c. The installation of telecommunication and telegraphic equipment.
- d. Electrical power or energy, except that the tax rate for charges for electrical power or energy is 7 percent.

2. For purposes of this ~~chapter part~~, "television system program service" means the transmitting, by any means, of any audio or video signal to a subscriber for other than retransmission, or the installing, connecting, re-connecting, disconnecting, moving, or changing of any equipment related to such service. For purposes of this ~~chapter part~~, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

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

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

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

- c. The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the summation of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

4. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunica-

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

5. If the sale of a television system program service, as defined in this paragraph, also involves the sale of an item exempt under s. 212.08(7)(j), the tax shall be applied to the value of the taxable service when it is sold separately. If the company does not offer this service separately, the consideration paid shall be separately identified and stated with respect to the taxable and exempt portions of the transaction as a condition of the exemption, except that the amount identified as taxable shall not be less than the cost of the service.

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

2. As used in this paragraph, the term "operator" means any person who possesses a coin-operated amusement machine for the purpose of generating sales through that machine and who is responsible for removing the receipts from the machine.

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

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

c. If the proprietor of the business where the machine is located does not own the machine, he shall be deemed to be the lessee and operator of the machine and is responsible for the payment of the tax on sales, unless such

responsibility is otherwise provided for in a written agreement between him and the machine owner.

3.a. An operator of a coin-operated amusement machine may not operate or cause to be operated in this state any such machine until the operator has registered with the department and has conspicuously displayed an identifying certificate issued by the department. The identifying certificate shall be issued by the department upon application from the operator. The identifying certificate shall include a unique number, and the certificate shall be permanently marked with the operator's name, the operator's sales tax number, and the maximum number of machines to be operated under the certificate. An identifying certificate shall not be transferred from one operator to another. The identifying certificate must be conspicuously displayed on the premises where the coin-operated amusement machines are being operated.

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

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

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

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

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

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

(k)1. At the rate of 6 percent on charges for all:

a. Detective, burglar protection, and other protection services (SIC Industry Numbers 7381 and 7382). Any law enforcement officer, as defined in s. 943.10, who is performing approved duties as determined by his or her local law enforcement agency in his or her capacity as a law enforcement officer, and who is subject to the direct and immediate command of his or her law enforcement agency, and in the law enforcement officer's uniform as authorized by his or her law enforcement agency, is performing law enforcement and public safety services and is not performing detective, burglar protection, or other protective services, if the law enforcement officer is performing his or her approved duties in a geographical area in which the law enforcement officer has arrest jurisdiction. Such law enforcement and public safety services are not subject to tax irrespective of whether the duty is characterized as "extra duty," "off-duty," or "secondary employment," and irrespective of whether the officer is paid directly or through the officer's agency by an outside source. The term "law enforcement officer" includes full-time or part-time law enforcement officers, and any auxiliary law enforcement officer, when such auxiliary law enforcement officer is working under the direct supervision of a full-time or part-time law enforcement officer.

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

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

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

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

5. Each seller of services subject to sales tax pursuant to this paragraph shall maintain a monthly log showing each transaction for which sales tax was not collected because the services meet the requirements of subparagraph 3. for out-of-state use. The log must identify the purchaser's name, location and mailing address, and federal employer identification number,

if a business, or the social security number, if an individual, the service sold, the price of the service, the date of sale, the reason for the exemption, and the sales invoice number. The monthly log shall be maintained pursuant to the same requirements and subject to the same penalties imposed for the keeping of similar records pursuant to this chapter.

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

- a. Is not legal tender;
- b. If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or
- c. Is sold, exchanged, or traded at a rate based on its precious metal content.

2. Such tax shall be at a rate of 6 percent of the price at which the coin or currency is sold, exchanged, or traded, except that, with respect to a coin or currency which is legal tender of the United States and which is sold, exchanged, or traded at a rate in excess of its face value, the tax shall be at a rate of 6 percent of the difference between the price at which it is sold, exchanged, or traded and its face value.

3. There are exempt from this tax exchanges of coins or currency which are in general circulation in, and legal tender of, one nation for coins or currency which are in general circulation in, and legal tender of, another nation when exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange.

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

Section 21. Paragraphs (a) and (b) of subsection (4), paragraph (c) of subsection (5), and subsection (7) of section 212.0515, Florida Statutes (1996 Supplement), are amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; quarterly reports; penalties.—

(4)(a) Each operator shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report in a format prescribed by the department which provides: the number of vending machines being operated by that operator in this state, which number is coded to indicate whether the machines are food or beverage machines; separate statements for food machines and for beverage machines which indicate the gross receipts from the operation of the machines during the quarterly period; and the amount of tax remitted pursuant to this ~~chapter part~~ with respect to such receipts. All information shall be broken down by county.

(b) A penalty of \$250 per machine is imposed on an operator who fails to properly obtain and display the required notice on any machine. A penalty of \$250 is imposed on an operator who fails to timely file a quarterly report or who files false information. Penalties accrue interest as provided for delinquent taxes under this chapter part and apply in addition to all other applicable taxes, interest, and penalties.

(5)

(c) A penalty of \$250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so or who files false information. A penalty of \$250 is imposed on any operator who fails to comply with the requirements of this subsection or who provides the dealer with false information. Penalties accrue interest as provided for delinquent taxes under this chapter part and apply in addition to all other applicable taxes, interest, and penalties.

(7) In addition to any other penalties imposed by this chapter part, a person who knowingly and willfully violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 22. Paragraph (a) of subsection (2) of section 212.054, Florida Statutes (1996 Supplement), is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by this chapter part. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times the amount of taxable sales and taxable purchases representing such transactions. If the surtax is levied on the sale of an item of tangible personal property or on the sale of a service, the surtax shall be computed by multiplying the rate imposed by the county within which the sale occurs by the amount of the taxable sale. The sale of an item of tangible personal property or the sale of a service is not subject to the surtax if the property, the service, or the tangible personal property representing the service is delivered within a county that does not impose a discretionary sales surtax.

Section 23. Section 212.08, Florida Statutes (1996 Supplement), is amended to read:

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

(1) EXEMPTIONS; GENERAL GROCERIES.—

(a) There are exempt from the tax imposed by this chapter food and drinks for human consumption except candy. Unless the exemption provided by paragraph (7)(q) for school lunches, paragraph (7)(i) for meals to certain patients or inmates, paragraph (7)(k) for meals provided by certain non-profit organizations, or paragraph (7)(z) for food or drinks sold through vending machines pertains, none of such items of food or drinks means:

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

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

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

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

5. Sandwiches sold ready for immediate consumption.

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

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

2. This paragraph is effective only while federal law prohibits a state's participation in the federal food coupon program or Special Supplemental Food Program for Women, Infants, and Children if there is an official deter-

mination that state or local sales taxes are collected within that state on purchases of food or drinks with such coupons.

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

4. Notwithstanding any other provision of law, the department shall make refunds or allow credits to a distributor equal to the fee imposed and paid under s. 403.7197 on containers purchased by consumers with food coupons or Special Supplemental Food Program for Women, Infants, and Children vouchers issued under authority of federal law.

(2) EXEMPTIONS; MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state, according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; and funerals. In addition, any items intended for one-time use which transfer essential optical characteristics to contact lenses shall be exempt from the tax imposed by this chapter; however, this exemption shall apply only after \$100,000 of the tax imposed by this chapter on such items has been paid in any calendar year by a taxpayer who claims the exemption in such year. Funeral directors shall pay tax on all tangible personal property used by them in their business.

(b) For the purposes of this subsection:

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

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

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

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

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

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

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

(a) Also exempt are:

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

2. All fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale. Fuel other than motor fuel and diesel fuel is taxable as provided in this chapter ~~part~~ with the exception of fuel expressly exempt herein. Motor fuels and diesel fuels are taxable as provided in chapter 206, with the exception of those motor fuels and diesel fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce, which are taxable under this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's railroad locomotives or vessels that were used in interstate or foreign commerce and that had at least some Florida mileage during the previous fiscal year of the carrier, such ratio to be determined at the close of the fiscal year of the carrier. This ratio shall be applied each month to the total Florida purchases made in this state of motor and diesel fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. Fuels used exclusively in intrastate commerce do not qualify for the proration of tax.

3. The transmission or wheeling of electricity.

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

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

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

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

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale, or for exclusive use in spaceport activities as defined in s. 212.02, items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter in excess of \$50,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

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

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

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

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

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

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, publishing firms that do not export at least 50 percent of their finished product out of the state, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, or any firm which does not manufacture, process, compound, or produce for sale, or for exclusive use in spaceport activities as defined in s. 212.02, items of tangible personal property.

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

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale, or for exclusive use in spaceport activities as defined in s. 212.02, of items of tangible personal property. Such term includes parts and

accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

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

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

(c) Machinery and equipment used in production of electrical or steam energy.—The purchase of machinery and equipment for use at a fixed location which equipment and machinery are necessary in the production of electrical or steam energy resulting from the burning of boiler fuels other than residual oil is exempt from the tax imposed by this chapter. Such electrical or steam energy must be primarily for use in manufacturing, processing, compounding, or producing for sale items of tangible personal property in this state. However, the exemption provided for in this paragraph shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed under this chapter shall be subject to the penalty set forth in s. 212.085 and as otherwise provided by law.

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

1. Industrial machinery and equipment purchased by an expanding business which manufactures tangible personal property pursuant to federal procurement regulations at fixed locations in this state are partially exempt from the tax imposed in this chapter on that portion of the tax which is in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the implicit productive output of the expanded business by not less

than 10 percent. The percentage of increase is measured as deflated implicit productive output for the calendar year during which the installation of the machinery or equipment is completed or during which commencement of production utilizing such items is begun divided by the implicit productive output for the preceding calendar year. In no case may the commencement of production begin later than 2 years following completion of installation of the machinery or equipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. “Motion picture or video equipment” and “sound recording equipment” includes only equipment meeting the definition of “section 38 property” as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is used by the lessee or purchaser exclusively as an integral part of production activities; however, motion picture or video equipment and sound recording equipment does not include supplies, tape, records, film, or video tape used in productions or other similar items; vehicles or vessels; or general office equipment not specifically suited to production activities. In addition, the term does not include equipment purchased or leased by television or radio broadcasting or cable companies licensed by the Federal Communications Commission.

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

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

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

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

1. Beginning July 1, 1995, building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, which includes:

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

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

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

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

e. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon

is documented by a general contractor or by the applicant in this manner, the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

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

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

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

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

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

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

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the rehabilitation of the property is deemed to be substantially completed by the local building inspector.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. No more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any one parcel of real property. No refund shall be granted pursuant to this paragraph unless the amount to be refunded exceeds \$500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. or \$5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount of refund granted pursuant to this paragraph shall not exceed the lesser of 97 percent of the sales tax paid on the cost of such building materials or \$10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund.

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

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

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

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

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

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

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

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

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

1. Beginning July 1, 1995, business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

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

- a. The name and address of the business claiming the refund.
- b. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.
- c. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.
- d. The location of the property.
- e. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.
- f. Whether the business is a small business as defined by s. 288.703(1).
- g. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

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

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

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or \$5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or \$10,000. A refund approved pursuant to this paragraph shall be made within 30 days

of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds \$100 in sales tax paid on purchases made within a 60-day time period.

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

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

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

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

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

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

c. Building materials as defined in sub-subparagraph (g)8.a.

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

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

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also exempt from the tax imposed by this chapter sales made to the United States Government, a state, or any county, municipality, or political subdivision of a state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or

political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision thereof. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state for transmission or distribution expansion. Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, videotapes, and transcriptions used in producing radio or television broadcasts.

(7) MISCELLANEOUS EXEMPTIONS.—

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

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

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

(d) Feeds.—Feeds for poultry, ostriches, and livestock, including racehorses and dairy cows, are exempt.

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

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

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

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

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

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

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

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

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

(l) Military museums.—Also exempt are sales to nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), United States Internal Revenue Code of 1954, as amended, and whose primary purpose is to raise money for military museums.

(m) Nonprofit corporations; homes for the aged, nursing homes, or hospices.—Nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), United States Internal Revenue Code of 1954, as amended, and which either qualify as homes for the aged pursuant to s. 196.1975(2) or are licensed as a nursing home or hospice under the provisions of chapter 400, are exempt from the tax imposed by this chapter.

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

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

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

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

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

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

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

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

which is qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code of 1986, as amended, which owns and operates a Florida television station, at least 90 percent of the programming of which station consists of programs of a religious nature, and the financial support for which, exclusive of receipts for broadcasting from other nonprofit organizations, is predominantly from contributions from the general public. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code of 1986, as amended, which provides regular religious services to Florida state prisoners and which from its own established physical place of worship, operates a ministry providing worship and services of a charitable nature to the community on a weekly basis.

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

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

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

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

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

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

(VI) Legal services; or

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

and the term includes groups providing volunteer staff to organizations designated as charitable institutions under this sub-subparagraph; nonprofit organizations the sole or primary purpose of which is to coordinate, network, or link other institutions designated as charitable institutions under this sub-subparagraph with those persons, animals, or organizations in need of their services; and nonprofit national, state, district, or other governing, coordinating, or administrative organizations the sole or primary purpose of which is to represent or regulate the customary activities of other institutions designated as charitable institutions under this sub-subparagraph. Notwithstanding any other requirement of this section, any blood bank that relies solely upon volunteer donations of blood and tissue,

that is licensed under chapter 483, and that qualifies as tax exempt under s. 501(c)(3) of the Internal Revenue Code constitutes a charitable institution and is exempt from the tax imposed by this chapter part.

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

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or nonprofit private schools which conduct regular classes and courses of study accepted for continuing education credit by a Board of the Division of Medical Quality Assurance of the Department of Business and Professional Regulation or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members. The term "educational institutions" also includes a nonprofit educational cable consortium which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations which hold a valid consumer certificate of exemption and which are either an educational institution as defined in this sub-subparagraph, or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Depart-

ment of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code.

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

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

(r) State theater contract organizations.—Nonprofit organizations incorporated in accordance with chapter 617 which have qualified under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which have been designated as state theater contract organizations as provided in s. 265.289 are exempt from the tax imposed by this chapter.

(s) Tasting beverages.—Vinous and alcoholic beverages provided by distributors or vendors for the purpose of “wine tasting” and “spirituous beverage tasting” as contemplated under the provisions of ss. 564.06 and 565.12, respectively, are exempt from the tax imposed by this chapter part.

(t) Boats temporarily docked in state.—

1. Notwithstanding the provisions of chapters 327 and 328, pertaining to the registration of vessels, a boat upon which the state sales or use tax has not been paid is exempt from the use tax under this chapter if it enters and remains in this state for a period not to exceed a total of 20 days in any calendar year calculated from the date of first dockage or slippage at a facility, registered with the department, that rents dockage or slippage space in this state. If a boat brought into this state for use under this paragraph is placed in a facility, registered with the department, for repairs, alterations, refitting, or modifications and such repairs, alterations, refitting, or modifications are supported by written documentation, the 20-day period shall be tolled during the time the boat is physically in the care, custody, and control of the repair facility, including the time spent on sea trials conducted by the facility. The 20-day time period may be tolled only once within a calendar year when a boat is placed for the first time that year in the physical care, custody, and control of a registered repair facility; however, the owner may request and the department may grant an additional tolling of the 20-day period for purposes of repairs that arise from a written guarantee given by the registered repair facility, which guarantee covers only those repairs or modifications made during the first tolled period. Within 72 hours after the date upon which the registered repair facility took possession of the boat, the facility must have in its possession, on forms prescribed by the department, an affidavit which states that the boat is under its care, custody, and control and that the owner does not use the boat while in the facility. Upon completion of the repairs, alterations, refitting, or modifications, the registered repair facility must, within 72 hours after

the date of release, have in its possession a copy of the release form which shows the date of release and any other information the department requires. The repair facility shall maintain a log that documents all alterations, additions, repairs, and sea trials during the time the boat is under the care, custody, and control of the facility. The affidavit shall be maintained by the registered repair facility as part of its records for as long as required by s. 213.35. When, within 6 months after the date of its purchase, a boat is brought into this state under this paragraph, the 6-month period provided in s. 212.05(1)(a)2. or s. 212.06(8) shall be tolled.

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

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

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

a. A full-service facility that:

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

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

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

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

b. A marina that:

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

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

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

c. A shoreside facility that:

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

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

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

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

(v) Professional services.—

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

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

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

4. This exemption does not apply to any service transaction taxable under s. 212.05(1)(k).

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

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

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

(z) Vending machines sponsored by nonprofit or charitable organizations.—Also exempt are food or drinks for human consumption sold for 25

cents or less through a coin-operated vending machine sponsored by a non-profit corporation qualified as nonprofit pursuant to s. 501(c)(3) or (4) of the United States Internal Revenue Code of 1986, as amended.

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

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

(bb) Community cemeteries.—Also exempt are purchases by any non-profit corporation that has qualified under s. 501(c)(13) of the Internal Revenue Code of 1986, as amended, and is operated for the purpose of maintaining a cemetery that was donated to the community by deed.

(cc) Coast Guard auxiliaries.—A nonprofit organization that is affiliated with the Coast Guard, that is exempt from federal income tax pursuant to s. 501(a) and (c)(3) of the United States Internal Revenue Code of 1986, as amended, and the primary purpose of which is to promote safe boating and to conduct free public education classes in basic seamanship is exempt from the tax imposed by this chapter part.

(dd) Works of art.—

1. Also exempt are works of art sold to or used by an educational institution, as defined in sub-subparagraph (o)2.d.

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

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

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

5. The exemption provided by subparagraph 2. applies only for the period during which a work of art is in the possession of the educational institution or is in storage before transfer of possession to that institution; and when it ceases to be so possessed or held, tax based upon the sales price paid by the owner is payable, and the statute of limitations provided in s. 95.091 shall begin to run at that time. Any educational institution which has received a work of art pursuant to this paragraph shall make available to the department information relating to the work of art. Any educational institution that transfers from its possession a work of art as defined by this paragraph must notify the Department of Revenue within 60 days after the transfer.

6. For purposes of the exemptions provided by this paragraph, the term "work of art" includes pictorial representations, sculpture, jewelry, antiques, stamp collections and coin collections, and other tangible personal property, the value of which is attributable predominantly to its artistic, historical, political, cultural, or social importance.

7. This paragraph is a remedial clarification of legislative intent and applies to all taxes that remain open to assessment or contest on July 1, 1992.

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

(ff) Aircraft repair and maintenance labor charges.—There shall be exempt from the tax imposed by this chapter part all labor charges for the repair and maintenance of aircraft of more than 20,000 pounds maximum certified takeoff weight. Charges for parts and equipment furnished in connection with such labor charges are taxable.

(gg) Athletic event sponsors.—There shall be exempt from the tax imposed by this chapter part sales or leases to those organizations which:

1.a. Are incorporated pursuant to chapter 617; and

b. Hold a current exemption from federal corporate income tax liability pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

2. Sponsor golf tournaments sanctioned by the PGA Tour, PGA of America, or the LPGA.

(hh) Electric vehicles.—Effective July 1, 1995, through June 30, 2000, the sale of an electric vehicle, as defined in s. 320.01, is exempt from the tax imposed by this chapter part.

(ii) Certain electricity uses.—Charges for electricity used directly and exclusively at a fixed location in this state to operate machinery and equipment that is used to manufacture, process, compound, or produce items of

tangible personal property for sale, or to operate pollution control equipment, recycling equipment, maintenance equipment, or monitoring or control equipment used in such operations are exempt from the tax imposed by this chapter part as provided in subparagraph 2. The exemption provided for herein is applicable if the electricity that is used for the exempt purposes is separately metered, or if it is not separately metered, it is irrevocably presumed that 50 percent of the charge for electricity is for nonexempt purposes. This exemption only applies to industries classified under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39. As used in this paragraph, "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President. Possession by a seller of a written certification by the purchaser, certifying the purchaser's entitlement to an exemption permitted by this subsection, relieves the seller from the responsibility of collecting the tax on the nontaxable amounts, and the department shall look solely to the purchaser for recovery of such tax if it determines that the purchaser was not entitled to the exemption. Such exemption shall be applied as follows:

1. Beginning July 1, 1996, 20 percent of the charges for such electricity shall be exempt.
2. Beginning July 1, 1997, 40 percent of the charges for such electricity shall be exempt.
3. Beginning July 1, 1998, 60 percent of the charges for such electricity shall be exempt.
4. Beginning July 1, 1999, 80 percent of the charges for such electricity shall be exempt.
5. Beginning July 1, 2000, 100 percent of the charges for such electricity shall be exempt.

Notwithstanding any other provision in this paragraph to the contrary, in order to receive the exemption provided in this paragraph a taxpayer must register with the WAGES Program Business Registry established by the local WAGES coalition for the area in which the taxpayer is located. Such registration establishes a commitment on the part of the taxpayer to hire WAGES program participants to the maximum extent possible consistent with the nature of their business. In order to determine whether the exemption provided in this paragraph from the tax on charges for electricity has an effect on retaining or attracting companies to this state, the Office of Program Policy Analysis and Governmental Accountability shall periodically monitor and report on the industries receiving the exemption. The first report shall be submitted no later than January 1, 1997, and must be conducted in such a manner as to specifically determine the number of companies within each SIC Industry Major Group receiving the exemption as of September 1, 1996, and the number of individuals employed by companies within each SIC Industry Major Group receiving the exemption as of September 1, 1996. The second report shall be submitted no later than January

1, 2001, and must be comprehensive in scope, but, at a minimum, must be conducted in such a manner as to specifically determine the number of companies within each SIC Industry Major Group receiving the exemption as of September 1, 2000, the number of individuals employed by companies within each SIC Industry Major Group receiving the exemption as of September 1, 2000, whether the change, if any, in such number of companies or employees is attributable to the exemption provided in this paragraph, whether it would be sound public policy to continue or discontinue the exemption, and the consequences of doing so. Both reports shall be submitted to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.

(jj) Fair associations.—Also exempt from the tax imposed by this ~~chapter~~ part is the sale, use, lease, rental, or grant of a license to use, made directly to or by a fair association, of real or tangible personal property; any charge made by a fair association, or its agents, for parking, admissions, or for temporary parking of vehicles used for sleeping quarters; rentals, subleases, and sublicenses of real or tangible personal property between the owner of the central amusement attraction and any owner of amusement devices and amusement attractions, as those terms are used in ss. 616.15(1)(b) and 616.242(3)(a) and (i), for the furnishing of amusement devices and amusement attractions at a public fair or exposition; and other transactions of a fair association which are incurred directly by the fair association in the financing, construction, and operation of a fair, exposition, or other event or facility that is authorized by s. 616.08. As used in this paragraph, the terms “fair association” and “public fair or exposition” have the same meaning as those terms are defined in s. 616.001. This exemption does not apply to the sale of tangible personal property made by a fair association through an agent or independent contractor; sales of admissions and tangible personal property by a concessionaire, vendor, exhibitor, or licensee; or rentals and subleases of tangible personal property or real property between the owner of the central amusement attraction and a concessionaire, vendor, exhibitor, or licensee, except for the furnishing of amusement devices or amusement attractions, which transactions are exempt.

(kk) Citizen support organizations.—Beginning July 1, 1996, nonprofit organizations that are incorporated under chapter 617 or hold a current exemption from federal corporate income tax under s. 501(c)(3) of the United States Internal Revenue Code, as amended, and that have been designated citizen support organizations to support one or more state parks in accordance with s. 258.015 are exempt from the tax imposed by this chapter.

(ll) Florida Folk Festival.—There shall be exempt from the tax imposed by this chapter income of a revenue nature received from admissions to the Florida Folk Festival held pursuant to s. 267.16 at the Stephen Foster State Folk Culture Center, a unit of the state park system.

(8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.—

(a) The sale or use of vessels and parts thereof used to transport persons or property in interstate or foreign commerce is subject to the taxes imposed

in this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year. The ratio would be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total Florida purchases of such vessels and parts thereof which are used in Florida to establish that portion of the total used and consumed in intrastate movement and subject to the tax at the applicable rate. Items, appropriate to carry out the purposes for which a vessel is designed or equipped and used, purchased by the owner, operator, or agent of a vessel for use on board such vessel shall be deemed to be parts of the vessel upon which the same are used or consumed. Vessels and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this chapter part. Vessels and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

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

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

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

(a) Railroads which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate or foreign commerce are subject to tax imposed in this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases of the railroad which are used in this state to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter part. Railroads which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this chapter part.

(b) Motor vehicles which are engaged in interstate commerce, and parts thereof, used to transport persons or property in interstate or foreign commerce are subject to tax imposed in this chapter only to the extent provided

herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's motor vehicles which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases of such motor vehicles and parts thereof which are used in this state to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter part. Motor vehicles which are engaged in interstate commerce, and parts thereof, used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this chapter part. Motor vehicles and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

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

(11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.—

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

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

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

(d) The purchaser shall execute a sworn affidavit attesting that he or she is not a resident of this state and stating where the aircraft will be domiciled.

If the aircraft is subsequently used in this state within 6 months of the time of purchase, in violation of the intent of this subsection, the purchaser shall be liable for payment of the full use tax imposed by this chapter and shall be subject to the penalty imposed by s. 212.12(2), which penalty shall be mandatory.

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

(a) There are exempt from the taxes imposed by this chapter ~~part~~ the gross receipts from the sale or lease of, and the storage, use, or other consumption in this state of, master tapes or master records embodying sound, or master films or master video tapes; except that amounts paid to recording studios or motion picture or television studios for the tangible elements of such master tapes, records, films, or video tapes are taxable as otherwise provided in this chapter ~~part~~.

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

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

2. “Master films or master video tapes” means films or video tapes utilized by the motion picture and television production industries in making visual images for reproduction.

3. “Master tapes or master records embodying sound” means tapes, records, and other devices utilized by the recording industry in making recordings embodying sound.

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

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

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

7. “Motion picture or television production industry” means any person engaged in an occupation or business for a livelihood or for profit of making visual motion picture or television visual images for showing on screen or television for theatrical, commercial, advertising, or educational purposes.

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

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

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

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

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

1. The name and location of the business.
2. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

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

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

5. The date of the application.

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

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

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

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

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

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

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

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

2. Newly occupying an existing, remodeled, renovated, or rehabilitated structure to which electrical service, other than that used for remodeling,

renovation, or rehabilitation of the structure, has not been provided or furnished in the three preceding billing periods; or

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

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

1. Paragraph (d) shall not expire; and

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

(16) EXEMPTIONS; SPACE ACTIVITIES.—

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

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

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

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

Section 24. Paragraph (a) of subsection (6) of section 212.084, Florida Statutes (1996 Supplement), is amended to read:

212.084 Review of exemption certificates; reissuance; specified expiration date; temporary exemption certificates.—

(6)(a) The Department of Revenue may issue temporary exemption certificates to newly organized charitable organizations applying for exemption under s. 212.08(7)(o)2.b. when a lack of historical information prevents the applicant from qualifying immediately for an exemption certificate. The department may require the applicant to submit the information necessary to demonstrate that the organization's proposed activities will qualify for exemption under this chapter part. The application must include an estimate of the organization's expenditures that would be taxable except for the temporary exemption certificate. If at any time the amount of actual expenditures otherwise subject to tax exceeds the anticipated amount, the applicant must file with the department a supplemental application stating the actual expenditures and the estimated expenditures for the duration of the period covered by the temporary certificate.

Section 25. Paragraph (a) of subsection (1) and subsection (4) of section 212.11, Florida Statutes (1996 Supplement), are amended to read:

212.11 Tax returns and regulations.—

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

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

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

3. Sixty-six percent of the average tax liability pursuant to this chapter part for those months during the preceding calendar year in which the dealer reported taxable transactions.

(4)(a) Each dealer who is subject to the tax imposed by this chapter part and who paid such tax for the preceding state fiscal year in an amount greater than or equal to \$100,000 shall calculate the amount of estimated tax due pursuant to this section for any month as provided in paragraph (1)(a).

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

(c) Any dealer who is eligible to file a consolidated return and who paid the tax imposed by this chapter part for the immediately preceding state fiscal year in an amount greater than or equal to \$100,000 or would have paid the tax in such amount if he or she had filed a consolidated return shall be subject to the provisions of this subsection notwithstanding an election by the dealer in any month to file a separate return.

(d) The penalty provisions of this chapter part, except s. 212.12(2)(c), apply to the provisions of this subsection.

Section 26. Paragraph (c) of subsection (1), subsection (3), paragraph (b) of subsection (5), and paragraph (b) of subsection (6) of section 212.12, Florida Statutes (1996 Supplement), are amended to read:

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

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in

tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter (except dealers who make mail order sales) shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his or her report and paying the amount due by him or her; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him or her, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,200, no allowance shall be allowed for all amounts in excess of \$1,200. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

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

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

(5)

(b) In the event any dealer or other person charged herein fails or refuses to make his or her records available for inspection so that no audit or examination has been made of the books and records of such dealer or person, fails or refuses to register as a dealer, fails to make a report and pay the tax as provided by this chapter, makes a grossly incorrect report or makes a report that is false or fraudulent, then, in such event, it shall be the duty of the department to make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of such dealer, the gross proceeds from rentals, the total admissions received, amounts received from leases of tangible personal property by such

dealer, or of the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in this state, or of the sales or cost price of all services the sale or use of which is taxable under this chapter part, together with interest, plus penalty, if such have accrued, as the case may be. Then the department shall proceed to collect such taxes, interest, and penalty on the basis of such assessment which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the dealer, seller, owner, or lessor, as the case may be.

(6)

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

Section 27. Subsections (3) and (5) of section 212.18, Florida Statutes (1996 Supplement), are amended to read:

212.18 Administration of law; registration of dealers; rules.—

(3)(a) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps that are subject to tax under s. 212.03, or to lease, rent, or let or grant licenses in real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, must file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The department may appoint the county tax collector as the department's agent to accept applications for registrations. The application must be made to the department before the person, firm, copartnership, or corporation may engage in such business, and it must be accompanied by a registration fee of \$5. However, a registration fee is not required to accompany an application to engage in or conduct business to make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate is not assignable and is valid only for the person, firm, copartnership, or corporation to which issued. The certificate must be placed in a conspicuous place in the business or businesses for which it is issued and must be displayed at all times. Except as provided in this paragraph, no person shall engage

in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, or tourist or trailer camps that are taxable under this ~~chapter part~~, or real property, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department, is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, or subject to injunctive proceedings as provided by law. Such failure or refusal also subjects the offender to a \$100 initial registration fee in lieu of the \$5 registration fee authorized in this paragraph.

(b) As used in this paragraph, the term “exhibitor” means a person who enters into an agreement authorizing the display of tangible personal property or services at a convention or a trade show. The following provisions apply to the registration of exhibitors as dealers under this ~~chapter part~~:

1. An exhibitor whose agreement prohibits the sale of tangible personal property or services subject to the tax imposed in this ~~chapter part~~ is not required to register as a dealer.

2. An exhibitor whose agreement provides for the sale at wholesale only of tangible personal property or services subject to the tax imposed in this ~~chapter part~~ must obtain a resale certificate from the purchasing dealer but is not required to register as a dealer.

3. An exhibitor whose agreement authorizes the retail sale of tangible personal property or services subject to the tax imposed in this ~~chapter part~~ must register as a dealer and collect the tax imposed under this ~~chapter part~~ on such sales.

4. Any exhibitor who makes a mail order sale pursuant to s. 212.0596 must register as a dealer.

Any person who conducts a convention or a trade show must make their exhibitor’s agreements available to the department for inspection and copying.

(5) In addition to any other fee imposed under this ~~chapter part~~, persons who hold a certificate of registration granted under subsection (3) and who had taxable sales or purchases during the preceding calendar year of

\$30,000 or more shall pay an additional annual registration fee for each certificate of registration granted. For certificateholders with taxable sales or purchases during the preceding calendar year of at least \$30,000 but not more than \$200,000, the fee shall be \$25. For certificateholders with taxable sales or purchases during the preceding calendar year of \$200,000 or more the fee shall be \$50. However, the fee pursuant to this subsection shall not exceed \$10,000 for any dealer who files a consolidated return pursuant to s. 212.11. The fee shall be due and payable with the person's January return or first quarterly return each year. Failure to comply with the provisions of this subsection shall subject such person to penalties provided under s. 212.12(2).

Section 28. Subsections (1) and (6) of section 212.20, Florida Statutes (1996 Supplement), are amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(1) The department shall pay over to the Treasurer of the state all funds received and collected by it under the provisions of this chapter part, to be credited to the account of the General Revenue Fund of the state, except the proceeds of the fee imposed pursuant to s. 212.18(5).

(6) Distribution of all proceeds under this chapter part shall be as follows:

(a) Proceeds from the convention development taxes authorized under s. 212.0305 shall be reallocated to the Convention Development Tax Clearing Trust Fund.

(b) Proceeds from discretionary sales surtaxes imposed pursuant to ss. 212.054 and 212.055 shall be reallocated to the Discretionary Sales Surtax Clearing Trust Fund.

(c) Proceeds from the tax imposed pursuant to s. 212.06(5)(a)2. shall be reallocated to the Mail Order Sales Tax Clearing Trust Fund.

(d) Proceeds from the fee imposed pursuant to s. 212.18(5) shall be deposited in the Solid Waste Management Clearing Trust Fund, which is hereby created to be used by the department, and shall be subsequently transferred to the State Treasurer to be deposited into the Solid Waste Management Trust Fund.

(e) Proceeds from the fees imposed under ss. 212.05(1)(j)3. and 212.18(3) shall remain with the General Revenue Fund.

(f) The proceeds of all other taxes and fees imposed pursuant to this chapter part shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter part shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.653 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.054 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. Of the remaining proceeds:

a. Beginning July 1, 1992, \$166,667 shall be distributed monthly by the department to each applicant that has been certified as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" pursuant to s. 288.1162 and \$41,667 shall be distributed monthly by the department to each applicant that has been certified as a "new spring training franchise facility" pursuant to s. 288.1162. Distributions shall begin 60 days following such certification and shall continue for 30 years. Nothing contained herein shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(7). However, a certified applicant shall receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

b. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, \$166,667 shall be distributed monthly, for up to 300 months, to the applicant.

c. Beginning 30 days after notice by the Department of Commerce to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, \$83,333 shall be distributed monthly, for up to 180 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169.

6. All other proceeds shall remain with the General Revenue Fund.

Section 29. Subsection (1) and paragraph (m) of subsection (7) of section 213.053, Florida Statutes (1996 Supplement), are amended to read:

213.053 Confidentiality and information sharing.—

(1) The provisions of this section apply to s. 125.0104, county government; s. 125.0108, tourist impact tax; chapter 198, estate taxes; chapter 199, intangible personal property taxes; chapter 201, excise tax on documents; chapter 203, gross receipts taxes; chapter 211, tax on severance and produc-

tion of minerals; ~~part I of~~ chapter 212, tax on sales, use, and other transactions; chapter 220, income tax code; chapter 221, emergency excise tax; s. 370.07(3), Apalachicola Bay oyster surcharge; chapter 376, pollutant spill prevention and control; s. 403.718, waste tire fees; s. 403.7185, lead-acid battery fees; s. 403.7195, waste newsprint disposal fees; s. 403.7197, advance disposal fees; s. 538.09, registration of secondhand dealers; s. 538.25, registration of secondary metals recyclers; ss. 624.509-624.514, insurance code: administration and general provisions; s. 681.117, motor vehicle warranty enforcement; and s. 896.102, reports of financial transactions in trade or business.

(7) Notwithstanding any other provision of this section, the department may provide:

(m) Information relative to ~~part I of~~ chapter 212 to the Office of Agriculture Law Enforcement of the Department of Agriculture and Consumer Services in the conduct of the Bill of Lading Program. This information is limited to the business name and whether the business is in compliance with ~~part I of~~ chapter 212.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 30. Paragraph (f) of subsection (2) and paragraphs (b), (c), and (d) of subsection (3) of section 288.1045, Florida Statutes (1996 Supplement), are amended to read:

288.1045 Qualified defense contractor tax refund program.—

(2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—

(f) After entering into a tax refund agreement pursuant to subsection (4), a qualified applicant may receive refunds from the Economic Development Trust Fund for the following taxes due and paid by the qualified applicant beginning with the applicant's first taxable year that begins after entering into the agreement:

1. Taxes on sales, use, and other transactions paid pursuant to ~~part I of~~ chapter 212.

2. Corporate income taxes paid pursuant to chapter 220.

3. Intangible personal property taxes paid pursuant to chapter 199.

4. Emergency excise taxes paid pursuant to chapter 221.

5. Excise taxes paid on documents pursuant to chapter 201.

6. Ad valorem taxes paid, as defined in s. 220.03(1)(a) on June 1, 1996.

However, a qualified applicant may not receive a tax refund pursuant to this section for any amount of credit, refund, or exemption granted such contractor for any of such taxes. If a refund for such taxes is provided by the Department of Commerce, which are subsequently adjusted by the application of any credit, refund, or exemption granted to the qualified applicant other than that provided in this section, the qualified applicant shall reimburse the Economic Development Trust Fund for the amount of such credit, refund, or exemption. A qualified applicant must notify and tender payment to the Department of Commerce within 20 days after receiving a credit, refund, or exemption, other than that provided in this section.

(3) APPLICATION PROCESS; REQUIREMENTS; AGENCY DETERMINATION.—

(b) Applications for certification based on the consolidation of a Department of Defense contract or a new Department of Defense contract must be submitted to the division as prescribed by the Department of Commerce and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a notarized signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The Department of Defense contract numbers of the contract to be consolidated, the new Department of Defense contract number, or the "RFP" number of a proposed Department of Defense contract.

4. The date the contract was executed or is expected to be executed, and the date the contract is due to expire or is expected to expire.

5. The commencement date for project operations under the contract in this state.

6. The number of full-time equivalent jobs in this state which are or will be dedicated to the project during the year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The amount of:

a. Taxes on sales, use, and other transactions paid pursuant to ~~part I of~~ chapter 212;

- b. Corporate income taxes paid pursuant to chapter 220;
- c. Intangible personal property taxes paid pursuant to chapter 199;
- d. Emergency excise taxes paid pursuant to chapter 221;
- e. Excise taxes paid on documents pursuant to chapter 201; and
- f. Ad valorem taxes paid

during the 5 fiscal years immediately preceding the date of the application, and the projected amounts of such taxes to be due in the 3 fiscal years immediately following the date of the application.

10. The estimated amount of tax refunds to be claimed in each fiscal year.

11. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

12. A resolution adopted by the county commissioners of the county in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

13. Any additional information requested by the division.

(c) Applications for certification based on the conversion of defense production jobs to nondefense production jobs must be submitted to the division as prescribed by the Department of Commerce and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a notarized signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The Department of Defense contract numbers of the contract under which the defense production jobs will be converted to nondefense production jobs.

4. The date the contract was executed, and the date the contract is due to expire or is expected to expire, or was canceled.

5. The commencement date for the nondefense production operations in this state.

6. The number of full-time equivalent jobs in this state which are or will be dedicated to the nondefense production project during the year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The amount of:

a. Taxes on sales, use, and other transactions paid pursuant to ~~part I of~~ chapter 212;

b. Corporate income taxes paid pursuant to chapter 220;

c. Intangible personal property taxes paid pursuant to chapter 199;

d. Emergency excise taxes paid pursuant to chapter 221;

e. Excise taxes paid on documents pursuant to chapter 201; and

f. Ad valorem taxes paid

during the 5 fiscal years immediately preceding the date of the application, and the projected amounts of such taxes to be due in the 3 fiscal years immediately following the date of the application.

10. The estimated amount of tax refunds to be claimed in each fiscal year.

11. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

12. A resolution adopted by the county commissioners of the county in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

13. Any additional information requested by the division.

(d) Applications for certification based on a contract for reuse of a defense-related facility must be submitted to the division as prescribed by the

Department of Commerce and must include, but are not limited to, the following information:

1. The applicant's Florida sales tax registration number and a notarized signature of an officer of the applicant.
2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.
3. The business entity holding a valid Department of Defense contract or branch of the Armed Forces of the United States that previously occupied the facility, and the date such entity last occupied the facility.
4. A copy of the contract to reuse the facility, or such alternative proof as may be prescribed by the department that the applicant is seeking to contract for the reuse of such facility.
5. The date the contract to reuse the facility was executed or is expected to be executed, and the date the contract is due to expire or is expected to expire.
6. The commencement date for project operations under the contract in this state.
7. The number of full-time equivalent jobs in this state which are or will be dedicated to the project during the year and the average wage of such jobs.
8. The total number of full-time equivalent employees employed by the applicant in this state.
9. The amount of:
 - a. Taxes on sales, use, and other transactions paid pursuant to ~~part I of~~ chapter 212.
 - b. Corporate income taxes paid pursuant to chapter 220.
 - c. Intangible personal property taxes paid pursuant to chapter 199.
 - d. Emergency excise taxes paid pursuant to chapter 221.
 - e. Excise taxes paid on documents pursuant to chapter 201.
 - f. Ad valorem taxes paid during the 5 fiscal years immediately preceding the date of the application, and the projected amounts of such taxes to be due in the 3 fiscal years immediately following the date of the application.
10. The estimated amount of tax refunds to be claimed in each fiscal year.
11. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

12. A resolution adopted by the county commissioners of the county in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

13. Any additional information requested by the division.

Section 31. Paragraph (c) of subsection (3) and paragraph (a) of subsection (4) of section 288.106, Florida Statutes (1996 Supplement), are amended to read:

288.106 Tax refund program for qualified target industry businesses.—

(3) TAX REFUND; ELIGIBLE AMOUNTS.—

(c) After entering into a tax refund agreement under subsection (5), a qualified target industry business may receive refunds from the account for the following taxes due and paid by that business beginning with the first taxable year of the business which begins after entering into the agreement:

1. Taxes on sales, use, and other transactions under ~~part I of~~ chapter 212.
2. Corporate income taxes under chapter 220.
3. Intangible personal property taxes under chapter 199.
4. Emergency excise taxes under chapter 221.
5. Excise taxes on documents under chapter 201.
6. Ad valorem taxes paid, as defined in s. 220.03(1).
7. Insurance premium tax under s. 624.509.

However, a qualified target industry business may not receive a refund under this section for any amount of credit, refund, or exemption granted to that business for any of such taxes. If a refund for such taxes is provided by the office, which taxes are subsequently adjusted by the application of any credit, refund, or exemption granted to the qualified target industry business other than as provided in this section, the business shall reimburse the account for the amount of that credit, refund, or exemption. A qualified target industry business shall notify and tender payment to the office within 20 days after receiving any credit, refund, or exemption other than one provided in this section.

(4) APPLICATION AND APPROVAL PROCESS.—

(a) To apply for certification as a qualified target industry business under this section, the business must file an application with the office before the business has made the decision to locate a new business in this state or before the business had made the decision to expand an existing business in this state. The application shall include, but is not limited to, the following information:

1. The applicant's federal employer identification number and the applicant's state sales tax registration number.

2. The permanent location of the applicant's facility in this state at which the project is or is to be located.

3. A description of the type of business activity or product covered by the project, including four-digit SIC codes for all activities included in the project.

4. The number of full-time equivalent jobs in this state that are or will be dedicated to the project and the average wage of those jobs. If more than one type of business activity or product is included in the project, the number of jobs and average wage for those jobs must be separately stated for each type of business activity or product.

5. The total number of full-time equivalent employees employed by the applicant in this state.

6. The anticipated commencement date of the project.

7. The amount of:

a. Taxes on sales, use, and other transactions paid under ~~part I of~~ chapter 212;

b. Corporate income taxes paid under chapter 220;

c. Intangible personal property taxes paid under chapter 199;

d. Emergency excise taxes paid under chapter 221; and

e. Excise taxes on documents paid under chapter 201.

8. The estimated amount of tax refunds to be claimed in each fiscal year.

9. A brief statement concerning the role that the tax refunds requested will play in the decision of the applicant to locate or expand in this state.

10. An estimate of the proportion of the sales resulting from the project that will be made outside this state.

11. A resolution adopted by the governing board of the county or municipality in which the project will be located, which resolution recommends that certain types of businesses be approved as a qualified target industry business and states that the commitments of local financial support necessary for the target industry business exist. Before adoption of the resolution,

the governing board may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided.

12. Any additional information requested by the office.

Section 32. Paragraph (e) of subsection (4) of section 288.1162, Florida Statutes (1996 Supplement), is amended to read:

288.1162 Professional sports franchises; spring training franchises; duties.—

(4) Prior to certifying an applicant as a “facility for a new professional sports franchise” or a “facility for a retained professional sports franchise,” the Office of Tourism, Trade, and Economic Development must determine that:

(e) The applicant has an independent analysis or study, verified by the Office of Tourism, Trade, and Economic Development, which demonstrates that the amount of the revenues generated by the taxes imposed under ~~part I of~~ chapter 212 with respect to the use and operation of the professional sports franchise facility will equal or exceed \$2 million annually.

Section 33. Paragraph (e) of subsection (2) of section 288.1168, Florida Statutes (1996 Supplement), is amended to read:

288.1168 Professional golf hall of fame facility; duties.—

(2) Prior to certifying the professional golf hall of fame facility, the Department of Commerce must determine that:

(e) There is an independent analysis or study, using methodology approved by the department, which demonstrates that the amount of the revenues generated by the taxes imposed under ~~part I of~~ chapter 212 with respect to the use and operation of the professional golf hall of fame facility will equal or exceed \$2 million annually.

Section 34. Paragraph (a) of subsection (9) of section 376.75, Florida Statutes (1996 Supplement), is amended to read:

376.75 Tax on production or importation of perchloroethylene.—

(9)(a) The Department of Revenue shall administer, collect, and enforce the tax authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of ~~part I of~~ chapter 212 regarding the authority to audit and make assessments, the keeping of books and records, and interest and penalties on delinquent taxes shall apply. The tax shall not be included in the computation of estimated taxes pursuant to s. 212.11, nor shall the dealer’s credit for collecting taxes or fees in s. 212.12 apply to the tax. The provisions of s. 212.07(4) shall not apply to the tax imposed by this section.

Section 35. Section 538.11, Florida Statutes (1996 Supplement), is amended to read:

538.11 Powers and duties of department; rules.—The same duties and privileges imposed by ~~part I of~~ chapter 212 upon dealers of tangible personal property respecting the keeping of books and records and accounts and compliance with rules of the department shall apply to and be binding upon all persons who are subject to the provisions of this chapter. The department shall administer, collect, and enforce the registration authorized under this chapter pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of ~~part I of~~ chapter 212 regarding the keeping of records and books shall apply. The department, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules, and shall prescribe and publish such forms, as may be necessary to effectuate the purposes of this chapter. The Legislature hereby finds that the failure to promptly implement the provisions of this chapter would present an immediate threat to the welfare of the state. Therefore, the executive director of the department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4), for purposes of implementing this chapter. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the department related to and in furtherance of the orderly implementation of the chapter shall not be subject to a rule challenge under s. 120.56(2) or a drawout proceeding under s. 120.54(3)(c)2. but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3). Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

Reviser's note.—Amended pursuant to the directive of the Legislature in s. 30, ch. 96-323, Laws of Florida, to conform the Florida Statutes to the repeal of part II of chapter 212, Florida Statutes, by chapter 95-417, Laws of Florida.

Became a law without the Governor's approval May 24, 1997.

Filed in Office Secretary of State May 23, 1997.