

## CHAPTER 99-208

### Committee Substitute for Committee Substitute for Senate Bill No. 888

An act relating to tax administration; creating s. 166.235, F.S.; providing procedures and requirements for purchasers to obtain a refund of or credit for municipal public service tax collected in error; providing duties of sellers and of municipalities; specifying that these procedures must be exhausted before an action may be brought; providing defenses and time limitations with respect to such actions; providing application and effect on pending litigation; amending s. 196.1975, F.S.; deleting provisions relating to conditions under which certain corporations qualify as a nonprofit home for the aged for ad valorem tax exemption purposes; specifying nonprofit homes for the aged to which such revision does not apply; repealing s. 198.12, F.S., which requires a personal representative to give preliminary notice of a decedent's death to the Department of Revenue; amending s. 198.13, F.S.; transferring to said section provisions relating to issuance of a certificate by the department that no estate taxes are owed, and providing that said provisions apply when an estate has filed a return; amending s. 198.23, F.S., to conform; amending s. 198.26, F.S.; removing limitations on those estates with respect to which the personal representative may not be discharged until all estate taxes have been paid; specifying that the court may consider the personal representative's affidavit that the estate is not taxable; amending s. 198.32, F.S.; providing that the personal representative of an estate that is not subject to estate tax and not required to file a return may execute an affidavit to that effect; amending s. 198.33, F.S.; conforming provisions relating to when an estate is deemed discharged of liability for estate taxes; amending s. 198.39, F.S.; providing a penalty for making a false statement in any affidavit under ch. 198, F.S.; amending s. 199.106, F.S.; revising the applicability of provisions which allow a credit against the annual intangible personal property tax for a like tax imposed by another state, a territory of the United States, or the District of Columbia; creating s. 201.165, F.S.; providing such a credit for a like tax paid in such jurisdictions against any excise tax on documents; providing for rules; providing for retroactive application; amending s. 212.02, F.S.; revising provisions relating to the conditions under which the tax on sales, use, and other transactions does not apply to the sale of materials used in repairing a motor vehicle, airplane, or boat; amending s. 212.04, F.S.; specifying applicability to sellers of admissions of the same penalties applicable to dealers in tangible personal property for failure to file returns, pay taxes, or maintain or produce records under ch. 212, F.S.; amending ss. 212.12 and 212.13, F.S.; revising penalties for failure to file returns and for false or fraudulent returns under ch. 212, F.S.; providing penalties for subsequent offenses involving destruction of records with an intent to evade payment of tax; amending s. 212.11, F.S.; correcting a reference; creating s. 213.757, F.S.; providing penalties for willful failure to

remit tax payments, and for intentional destruction of records to deprive the state of tax revenues, by a taxpayer's agent; amending s. 212.07, F.S.; providing requirements with respect to sales for resale and documentation thereof; amending s. 212.18, F.S.; providing for issuance of initial and annual resale certificates to active sales tax dealers; amending s. 213.053, F.S.; authorizing the Department of Revenue to disclose certain information regarding registration certificate numbers; directing the department to establish a toll-free number for verification of registration numbers and resale certificates, to establish a system to receive information from dealers regarding certificate numbers of purchasers for resale, and to expand its dealer education program regarding resale certificates; providing appropriations and authorizing positions; amending s. 212.08, F.S.; revising provisions relating to the sales tax exemption for charges for electricity or steam used to operate machinery and equipment under specified conditions; specifying application of a condition relating to percentage of use; providing intent; revising provisions which specify application of tax to the sale of a motor vehicle in this state to a resident of another state; revising the time period within which the purchaser must license the vehicle in his or her home state and providing construction regarding removal of the vehicle from this state; amending s. 213.27, F.S.; authorizing the executive director of the department to contract with vendors to develop and implement systems to enhance tax collections where compensation to the vendor is funded through increased tax collections; providing restrictions; providing for application of confidentiality requirements and providing a penalty; amending s. 213.67, F.S.; specifying the amount of credits, other personal property, or debts of a delinquent taxpayer held by another person which are subject to garnishment when the taxpayer has no prior tax delinquencies; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; defining "citrus processing company"; amending s. 220.151, F.S.; revising the method for apportioning to this state for corporate income tax the tax base of an insurance company whose principal source of premiums is from reinsurance policies; allowing certain citrus processing companies to elect to determine the apportionment of their adjusted federal income to this state solely by use of the sales factor; amending ss. 220.21, 220.221, and 220.222, F.S.; authorizing filing of corporate income tax returns in a form initiated through a telephonic or electronic data interchange; providing duties of the department; amending ss. 193.052 and 199.052, F.S.; authorizing filing of tangible personal property and intangible personal property returns in a form initiated through electronic data interchange; providing duties of the department; creating s. 443.163, F.S.; authorizing filing of required reports relating to unemployment compensation by employers in such form; providing duties of the Division of Unemployment Compensation; providing procedures for the alteration, amendment, or expansion of the boundaries of certain downtown development districts; providing for notice and public hearing; providing for severability; providing effective dates.

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

Section 1. (1) Section 166.235, Florida Statutes, is created to read:

166.235 Procedure on purchaser's request for refund or credit—

(1) A purchaser seeking a refund of or credit for public service tax shall submit a written request therefor to the seller within the time prescribed in s. 166.234(6) and in accordance with this section. No such request shall be granted unless the amount claimed was collected from the purchaser and was not due to any municipality.

(a) The request shall be signed by the purchaser and shall be deemed completed for purposes of this section and the limitation period if it states the purchaser's name, mailing address, account number, the tax amounts claimed, the specific months during which those amounts were collected, and the reason for the purchaser's claim that such amounts were not due to any municipality. Upon receipt of a completed request, the seller shall ascertain whether it collected the tax claimed from the purchaser and whether the request is timely.

(b) Within 30 days following receipt of a completed request, the seller shall determine whether lists available pursuant to s. 166.233(3) support the purchaser's claim and whether all or any portion of the tax timely claimed was not due to any municipality and was collected solely as a result of the seller's error. The seller shall refund or credit the purchaser's account for any such amount within 45 days following its determination thereof.

(c) With respect to all amounts timely claimed which the seller collected from the purchaser and which the seller has not determined to be subject to refund or credit pursuant to paragraph (b), the seller shall, within 30 days following receipt of the completed request, provide a copy thereof to each municipality to which the taxes claimed were remitted and to each municipality which has asserted in writing the right to impose the tax in a geographic area that includes the purchaser's billing address or service address, as the case may be. Within 30 days following receipt of such information, each such municipality shall notify the seller in writing if it approves the issuance of a refund or credit for all or a specified portion of the purchaser's claim. A municipality shall approve the refund or credit except to the extent the tax was due to such municipality. Within 45 days following receipt of notifications establishing that all of the municipalities receiving the request have approved a refund or credit, the seller shall issue a refund or credit the purchaser's account for the amount approved by all such municipalities. The seller's obligation to issue a refund or credit the purchaser's account shall be limited to amounts approved in accordance with this section. The seller shall be entitled to a corresponding refund or credit from any municipality to which the tax was remitted.

(d) The seller shall issue a written response advising the purchaser of the disposition of his or her request. The response shall specify any portion of the tax claimed that is being refunded or credited to the purchaser's account, and the reason for denial of any portion of the request. Reasons for denial include untimely submission of the request, that the seller did not collect the

tax claimed, the absence of municipal approval to issue a refund or credit, that the purchaser previously received a refund of or credit for the same tax, and failure to provide information required to complete the request. A copy of each notification received from a municipality pursuant to paragraph (c) shall accompany the response. If the seller submitted the request to a municipality but received no such notification, the response shall so state. With respect to any portion of the request that is granted, the response shall be issued at the time of the refund or credit to the purchaser's account. With respect to any portion of the request which is denied, the response shall be issued within 90 days following receipt of a purchaser's completed request.

(e) The seller may deduct from any refund or credit under this section any amount owed by the purchaser to the seller which is delinquent.

(2) This section provides the sole and exclusive procedure and remedy for a purchaser who claims that a seller has collected municipal public service taxes that were not due. No action arising as a result of the claimed collection of municipal public service taxes that were not due may be commenced or maintained by or on behalf of a purchaser against a seller or municipality unless the purchaser pleads and proves that he or she has exhausted the procedures in subsection (1) and that the defendant has failed to comply with said subsection; however, no determination of a seller under paragraph (1)(b) shall be deemed a failure to comply with subsection (1) if the seller has complied with paragraphs (1)(c) and (d). In any such action it shall be a complete defense that the seller or municipality has refunded the taxes claimed or credited the purchaser's account therewith; further, in such an action against a seller it shall be a complete defense that the seller collected the tax in reliance upon written information provided by a municipality pursuant to s. 166.233(3) or supplementing such information. Such action shall be commenced no later than 180 days following the purchaser's submission of a completed request, or shall be barred. The relief available to a purchaser as a result of collection of municipal public service taxes that were not due shall be limited to a refund of or credit for such taxes.

(2) This section is remedial in nature, and shall apply to all claims asserted by purchasers prior or subsequent to the effective date of this section based upon the alleged collection of municipal public service taxes that were not due, except for claims that have been finally resolved by judgment, settlement, or the issuance of refunds or credits prior to the effective date of this section. With respect to any claim which was properly asserted prior to the effective date of this section and which is the subject of pending litigation in a trial or appellate court on or after the effective date of this section, the court shall upon motion direct the parties to comply with the procedures prescribed in s. 166.235, Florida Statutes, and allow such amendments of the pleadings and enter such other orders as are appropriate to dispose of the cause in a manner consistent with said section.

Section 2. (1) Subsection (1) of section 196.1975, Florida Statutes, is amended to read:

196.1975 Exemption for property used by nonprofit homes for the aged.—Nonprofit homes for the aged are exempt to the extent that they meet the following criteria:

(1) ~~The applicant must be a corporation not for profit or a Florida limited partnership, the sole general partner of which is a corporation not for profit, and the corporation not for profit must have that has been exempt as of January 1 of the year for which exemption from ad valorem property taxes is requested from federal income taxation by having qualified as an exempt charitable organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954 or of the corresponding section of a subsequently enacted federal revenue act. A corporation will not be disqualified under this subsection if, for purposes of allocating tax credits, under s. 42(h)(5) of the Internal Revenue Code of 1986, by the Florida Housing Finance Agency as defined by s. 420.0004(4), the property is leased to a Florida limited partnership, the sole general partner of which is the nonprofit corporation, and the home for the aged was in existence or under construction on or before April 1, 1995.~~

(2) Notwithstanding anything contained in this section to the contrary, any nonprofit home for the aged that was subject to ad valorem taxation for the year ending December 31, 1998, because of a failure to qualify for exemption under the provisions of s. 196.1975(1), Florida Statutes, shall not become exempt from ad valorem taxation by virtue of the amendment to s. 196.1975(1), Florida Statutes, by this section.

Section 3. (1) Section 198.12, Florida Statutes, is repealed.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 4. (1) Subsection (2) of section 198.13, Florida Statutes, is renumbered as subsection (3), and a new subsection (2) is added to said section to read:

198.13 Tax return to be made in certain cases; certificate of nonliability.—

(2) Whenever it is made to appear to the department that an estate that has filed a return owes no taxes under this chapter, the department shall issue to the personal representative a certificate in writing to that effect, which certificate shall have the same force and effect as a receipt showing payment. The certificate shall be subject to record and admissible in evidence in like manner as a receipt showing payment of taxes. A fee of \$5 shall be paid to the department for each certificate so issued.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 5. (1) Section 198.23, Florida Statutes, is amended to read:

198.23 Personal liability of personal representative.—If any personal representative shall make distribution either in whole or in part of any of the property of an estate to the heirs, next of kin, distributees, legatees, or devisees without having paid or secured the tax due the state under this chapter, or having obtained the release of such property from the lien of such tax either by the department or pursuant to s. 198.32(2), he or she shall

become personally liable for the tax so due the state, or so much thereof as may remain due and unpaid, to the full extent of the full value of any property belonging to such person or estate which may come into the personal representative's hands, custody, or control.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 6. (1) Section 198.26, Florida Statutes, is amended to read:

198.26 No discharge of personal representative until tax is paid.—No final account of a personal representative ~~of the estate of a nonresident, nor of the estate of a resident when the value of the gross estate wherever situate exceeds \$60,000~~ shall be allowed by any court unless and until such account shows, and the judge of said court finds, that the tax imposed by the provisions of this chapter upon the personal representative, which has become payable, has been paid. The certificate of the department of nonliability for the tax or its receipt for the amount of tax therein certified shall be conclusive in such proceedings as to the liability or the payment of the tax to the extent of said certificate. In the case of a nontaxable estate, the court may consider the affidavit prepared pursuant to s. 198.32(2) as evidence of the nonliability for tax.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 7. (1) Section 198.32, Florida Statutes, is amended to read:

198.32 Prima facie liability for tax.—

(1) The estate of each decedent whose property is subject to the laws of the state shall be deemed prima facie liable for estate taxes under this chapter and shall be subject to a lien therefor in such amount as may be later determined to be due and payable on the estate as provided in this chapter. This presumption of liability shall begin on the date of the death of the decedent and shall continue until the full settlement of all taxes which may be found to be due under this chapter, the settlement to be shown by receipts for all taxes due to be issued by the department as provided for in this chapter. ~~Whenever it is made to appear to the department that an estate is not subject to any tax under this chapter, the department shall issue to the personal representative, administrator, or curator, or to the heirs, devisees, or legatees of the decedent, a certificate in writing to that effect, showing such nonliability to tax, which certificate of nonliability shall have the same force and effect as a receipt showing payment. The certificate of nonliability shall be subject to record and admissible in evidence in like manner as receipts showing payment of taxes. A fee of \$5 shall be paid to the department for each certificate so issued.~~

(2) Whenever an estate is not subject to tax under this chapter and is not required to file a return, the personal representative may execute an affidavit attesting that the estate is not taxable. The form of the affidavit shall be prescribed by the department, and shall include, but not be limited to, statements regarding the decedent's domicile and whether a federal estate

tax return will be filed, and acknowledgment of the personal representative's personal liability under s. 198.23. This affidavit shall be subject to record and admissible in evidence to show nonliability for tax.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 8. (1) Subsection (1) of section 198.33, Florida Statutes, is amended to read:

198.33 Discharge of estate, notice of lien, limitation on lien, etc.—

(1) Where no receipt for the payment of taxes, or no affidavit or certificate ~~receipt~~ of nonliability for taxes has been issued or recorded as provided for in this chapter, the property constituting the estate of the decedent in this state shall be deemed fully acquitted and discharged of all liability for estate and inheritance taxes under this chapter after a lapse of 10 years ~~from the date of the filing with the department of notice of the decedent's death, or after a lapse of 10 years from the date of the filing with the department of an estate tax return, whichever date shall be earlier,~~ unless the department shall make out and file and have recorded in the public records of the county wherein any part of the estate of the decedent may be situated in this state, a notice of lien against the property of the estate, specifying the amount or approximate amount of taxes claimed to be due to the state under this chapter, which notice of lien shall continue said lien in force for an additional period of 5 years or until payment is made. Such notice of lien shall be filed and recorded in the book of deeds in the office of the clerk of the circuit court; provided, where no receipt for the payment of taxes, or no affidavit or certificate of nonliability for taxes, has been issued or recorded as provided for in this chapter, the property constituting the estate of the decedent in this state, if said decedent was a resident of this state at the time of death, shall be deemed fully acquitted and discharged of all liability for tax under this chapter after a lapse of 10 years from the date of the death of the decedent, unless the department shall make out and file and have recorded notice of lien as herein provided, which notice shall continue said lien in force against such property of the estate as is situate in the county wherein said notice of lien was recorded for an additional period of 5 years or until payment is made.

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 9. (1) Section 198.39, Florida Statutes, is amended to read:

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

(2) This section shall take effect January 1, 2000, and shall apply with respect to decedents whose death occurs on or after that date.

Section 10. Subsections (2) and (3) of section 199.106, Florida Statutes, are amended to read:

199.106 Credit for taxes imposed by other states.—

(2) For intangible personal property that has a taxable situs in this state under s. 199.175(1) or any similar predecessor statute, a credit against the tax imposed by s. 199.032 is allowed to a taxpayer, ~~other than a natural person,~~ in an amount equal to a like tax lawfully imposed and paid by that taxpayer on the same property in another state, territory of the United States, or the District of Columbia when the other taxing authority is also claiming situs under provisions similar or identical to those in s. 199.175(1) or any similar predecessor statute. For purposes of this subsection, “like tax” means an ad valorem tax on intangible personal property which is also subject to tax under s. 199.032. The credit may not exceed the tax imposed on the property under s. 199.032. Proof of entitlement to such a credit must be made pursuant to rules and forms adopted by the department.

(3) The credits provided by this section ~~subsections (1) and (2)~~ apply retroactively to ~~December 31, 1979~~. However, notwithstanding the retroactivity of these credit provisions, this section does not reopen a closed period of nonclaim under s. 215.26 or any other statute or extend the period of nonclaim under s. 215.26 or any other statute.

Section 11. Section 201.165, Florida Statutes, is created to read:

201.165 Credit for tax paid to other states.—

(1) For a tax imposed by any section of this chapter, a credit against the specific tax imposed by that section is allowed in an amount equal to a like tax lawfully imposed and paid on the same document or instrument in another state, territory of the United States, or the District of Columbia. For purposes of this subsection, “like tax” means an excise tax on documents that is in substance identical to the tax imposed by this chapter on the same document. The credit may not exceed the tax imposed by this chapter on the document. Proof of entitlement to such a credit must be provided to the department. The department may adopt rules to implement this credit and designate forms that establish what proof is required.

(2) The credit provided by this section applies retroactively. Notwithstanding the retroactivity of this credit provision, this section does not reopen a closed period of nonclaim under s. 215.26 or any other statute or extend the period of nonclaim under s. 215.26 or any other statute.

Section 12. Paragraph (c) of subsection (14) of section 212.02, Florida Statutes, 1998 Supplement, is 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:

(14)

(c) “Retail sales,” “sale at retail,” “use,” “storage,” and “consumption” do not include materials, containers, labels, sacks, bags, or similar items intended to accompany a product sold to a customer without which delivery



of the product would be impracticable because of the character of the contents and be used one time only for packaging tangible personal property for sale or for the convenience of the customer or for packaging in the process of providing a service taxable under this chapter. When a separate charge for packaging materials is made, the charge shall be considered part of the sales price or rental charge for purposes of determining the applicability of tax. ~~The terms do term also does 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 and do not include the sale, use, storage, or consumption of materials for use in repairing a motor vehicle, airplane, or boat, when such materials are incorporated into the repaired vehicle, airplane, or boat.~~ However, the 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 such 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. The terms do not include the sale of materials to a registered repair facility for use in repairing a motor vehicle, airplane, or boat, when such materials are incorporated into and sold as part of the repair. Such a sale shall be deemed a purchase for resale by the repair facility, even though every material is not separately stated or separately priced on the repair invoice.

Section 13. Effective January 1, 2000, subsections (4) and (5) of section 212.04, Florida Statutes, 1998 Supplement, are amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(4) Each person who exercises the privilege of charging admission taxes, as herein defined, shall apply for, and at that time shall furnish the information and comply with the provisions of s. 212.18 not inconsistent herewith and receive from the department, a certificate of right to exercise such privilege, which certificate shall apply to each place of business where such privilege is exercised and shall be in the manner and form prescribed by the department. Such certificate shall be issued upon payment to the department of a registration fee of \$5 by the applicant. Each person exercising the privilege of charging such admission taxes as herein defined shall cause to be kept records and accounts showing the admission which shall be in the form as the department may from time to time prescribe, inclusive of records of all tickets numbered and issued for a period of not less than the time within which the department may, as permitted by s. 95.091(3), make an assessment with respect to any admission evidenced by such records and accounts, and inclusive of all bills or checks of customers who are charged any of the taxes defined herein, showing the charge made to each for that period. The department is empowered to use each and every one of the powers granted herein to the department to discover the amount of tax to be paid by each such person and to enforce the payment thereof as are hereby granted the department for the discovery and enforcement of the

~~payment of taxes hereinafter levied on the sales of tangible personal property. The failure of any person to pay such taxes before the 21st day of the succeeding month after the taxes are collected shall render such person liable to the same penalties that are hereafter imposed upon such person for being delinquent in the payment of taxes imposed upon the sales of tangible personal property; the failure of any person to render returns and to pay taxes as prescribed herein shall render such person subject to the same penalties, by way of charges for delinquencies, at the rate of 10 percent per month for a total amount of tax delinquent up to a total of 50 percent of such tax and at the rate of 100 percent penalty for attempted evasion of payment of any such tax or for any attempt to file false or misleading returns that are required to be filed by the department.~~

(5) All of the provisions of this chapter relating to collection, investigation, discovery, and aids to collection of taxes upon sales of tangible personal property shall likewise apply to all privileges described or referred to in this section, and the obligations imposed in this chapter upon retailers are hereby imposed upon the seller of such admissions. All penalties applicable to a dealer in tangible personal property for failure to meet any such obligation, including, but not limited to, any failure related to the filing of returns, the payment of taxes, or the maintenance and production of records, are applicable to the seller of admissions. When tickets or admissions are sold and not used but returned and credited by the seller, the seller may apply to the department for a credit allowance for such returned tickets or admissions if advance payments have been made by the buyer and have been returned by the seller, upon such form and in such manner as the department may from time to time prescribe. The department may, upon obtaining satisfactory proof of the refunds on the part of the seller, credit the seller for taxes paid upon admissions that have been returned unused to the purchaser of those admissions. The seller of admissions, upon the payment of the taxes before they become delinquent and the rendering of the returns in accordance with the requirement of the department and as provided in this law, shall be entitled to a discount of 2.5 percent of the amount of taxes upon the payment thereof before such taxes become delinquent, in the same manner as permitted the sellers of tangible personal property in this chapter. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,200, no discount shall be allowed for all amounts in excess of \$1,200.

Section 14. Effective January 1, 2000, subsections (2) and (13) of section 212.12, Florida Statutes, 1998 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.—

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax or fee imposed by this chapter fails to timely file such return or fails to pay the tax or fee due within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes or fees, a specific penalty shall be added to the tax or fee in the amount of 10 percent of any unpaid tax or fee if the

failure is for not more than 30 days, with an additional 10 percent of any unpaid tax or fee for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of 50 percent, in the aggregate, of any unpaid tax or fee. In no event may the penalty be less than \$10 for failure to timely file a tax return required by s. 212.11(1)(b) or \$5 for failure to timely file a tax return authorized by s. 212.11(1)(c) or (d). ~~In the case of a false or fraudulent return or a willful intent to evade payment of any tax or fee imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax or fee shall be liable for a specific penalty of 100 percent of the tax bill or fee and for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree.~~

(b) Any person who knowingly and with a willful intent to evade any tax imposed under this chapter fails to file six consecutive returns as required by law commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Any person who makes a false or fraudulent return with a willful intent to evade payment of any tax or fee imposed under this chapter shall, in addition to the other penalties provided by law, be liable for a specific penalty of 100 percent of the tax bill or fee and, upon conviction, for fine and punishment as provided in s. 775.082, s. 775.083, or s. 775.084.

1. If the total amount of unreported taxes or fees is less than \$300, the first offense resulting in conviction is a misdemeanor of the second degree, the second offense resulting in conviction is a misdemeanor of the first degree, and the third and all subsequent offenses resulting in conviction are felonies of the third degree.

2. If the total amount of unreported taxes or fees is \$300 or more but less than \$20,000, the offense is a felony of the third degree.

3. If the total amount of unreported taxes or fees is \$20,000 or more but less than \$100,000, the offense is a felony of the second degree.

4. If the total amount of unreported taxes or fees is \$100,000 or more, the offense is a felony of the first degree.

~~(d)(b)~~ When any person, firm, or corporation fails to timely remit the proper estimated payment required under s. 212.11, a specific penalty shall be added in an amount equal to 10 percent of any unpaid estimated tax. Beginning with January 1, 1985, returns, the department, upon a showing of reasonable cause, is authorized to waive or compromise penalties imposed by this paragraph. However, other penalties and interest shall be due and payable if the return on which the estimated payment was due was not timely or properly filed.

~~(e)(c)~~ Dealers filing a consolidated return pursuant to s. 212.11(1)(e)(d) shall be subject to the penalty established in paragraph ~~(d)~~ ~~(b)~~ unless the dealer has paid the required estimated tax for his or her consolidated return as a whole without regard to each location. If the dealer fails to pay the

required estimated tax for his or her consolidated return as a whole, each filing location shall stand on its own with respect to calculating penalties pursuant to paragraph (d) ~~(b)~~.

(13) In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners; property managers; lessors; landlords; hotel, apartment house, and roominghouse operators; and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records as long as required by s. 213.35, subject to the inspection of the department and its agents. Upon the failure by such owner; property manager; lessor; landlord; hotel, apartment house, roominghouse, tourist or trailer camp operator; or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner; property manager; lessor; landlord; hotel, apartment house, roominghouse, tourist or trailer camp operator; receiver of rent or license fees; or real estate agent is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for the first offense; for subsequent offenses, they are each guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If, however, any subsequent offense involves intentional destruction of such records with an intent to evade payment of or deprive the state of any tax revenues, such subsequent offense shall be a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 15. Effective January 1, 2000, paragraph (e) of subsection (4) of section 212.11, Florida Statutes, 1998 Supplement, is amended to read:

212.11 Tax returns and regulations.—

(4)

(e) The penalty provisions of this chapter, except s. 212.12(2)~~(e)~~, apply to the provisions of this subsection.

Section 16. Effective January 1, 2000, subsections (1) and (2) of section 212.13, Florida Statutes, are amended to read:

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

(1) For the purpose of enforcing the collection of the tax levied by this chapter, the department is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all transportation companies, agencies, or firms that conduct their business by truck, rail, water, aircraft, or otherwise, in order to determine what dealers, or other persons charged with the duty to report or pay a tax under this chapter, are importing or are otherwise shipping in articles or tangible

personal property which are liable for said tax. In the event said transportation company, agency, or firm refuses to permit such examination of its books, records, or other documents by the department as aforesaid, it is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If, however, any subsequent offense involves intentional destruction of such records with an intent to evade payment of or deprive the state of any tax revenues, such subsequent offense shall be a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. The department shall have the right to proceed in any chancery court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such transportation company or carrier.

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep as long as required by s. 213.35 a complete record of tangible personal property or services received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If, however, any subsequent offense involves intentional destruction of such records with an intent to evade payment of or deprive the state of any tax revenues, such subsequent offense shall be a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 17. Effective January 1, 2000, section 213.757, Florida Statutes, is created to read:

213.757 Willful failure to pay over funds or destruction of records by agent.—Any person who accepts money from a taxpayer that is due to the department, for the purpose of acting as the taxpayer's agent to make the payment to the department, but who willfully fails to remit such payment to the department when due, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who has possession as a taxpayer's agent of the taxpayer's records that are required to be maintained under the revenue laws of this state and who intentionally destroys those records with the intent of depriving the state of tax revenues commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 18. Effective February 1, 2000, paragraph (b) of subsection (1) of section 212.07, Florida Statutes, 1998 Supplement, 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.—

(1)

(b) A resale must be in strict compliance with s. 212.18 and the rules and regulations, and any dealer who makes a sale for resale which is not in strict compliance with s. 212.18 and the rules and regulations shall himself or herself be liable for and pay the tax. Any dealer who makes a sale for resale shall document the exempt nature of the transaction, as established by rules promulgated by the department, by retaining a copy of the purchaser's resale certificate. In lieu of maintaining a copy of the certificate, a dealer may document, prior to the time of sale, an authorization number provided telephonically or electronically by the department, or by such other means established by rule of the department. The department shall adopt rules that provide that, for purchasers who purchase on account from a dealer on a continual basis, the dealer may rely on a resale certificate issued pursuant to s. 212.18(3)(c), valid at the time of receipt from the purchaser, without seeking annual verification of the resale certificate. A dealer may, through the informal protest provided for in s. 213.21 and the rules of the Department of Revenue, provide the department with evidence of the exempt status of a sale. The Department of Revenue shall adopt rules which provide that valid ~~resale certificates~~ and consumer certificates of exemption executed by those ~~dealers~~ or exempt entities which were registered with the department at the time of sale, resale certificates provided by purchasers who were active dealers at the time of sale, and verification by the department of a purchaser's active dealer status at the time of sale in lieu of a resale certificate shall be accepted by the department when submitted during the protest period but may not be accepted in any proceeding under chapter 120 or any circuit court action instituted under chapter 72.

Section 19. Effective January 1, 2000, subsection (3) of section 212.18, Florida Statutes, 1998 Supplement, is 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. However, owners and operators of vending machines or newspaper rack machines are required to obtain only one certificate of registration for each county in which such machines are located. The department, by rule, may authorize a dealer that uses independent sellers to sell its merchandise to remit tax on the retail sales price charged to the ultimate consumer in lieu of having the independent seller register as a dealer and remit the tax. 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.

(b) 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 ~~subsection~~ 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, 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~~ (a). However, the department may waive the increase in the registration fee if it is determined by the department that the failure to register was due to reasonable cause and not to willful negligence, willful neglect, or fraud.

(c) In addition to the certificate of registration, the department shall provide to each newly registered dealer an initial resale certificate that will be valid for the remainder of the period of issuance. The department shall provide each active dealer with an annual resale certificate. For purposes of this section, "active dealer" means a person who is currently registered with the department and who is required to file at least once during each applicable reporting period.

~~(d)~~(b) The department may revoke any dealer's certificate of registration when the dealer fails to comply with this chapter. Prior to revocation of a dealer's certificate of registration, the department must schedule an informal conference at which the dealer may present evidence regarding the

department's intended revocation or enter into a compliance agreement with the department. The department must notify the dealer of its intended action and the time, place, and date of the scheduled informal conference by written notification sent by United States mail to the dealer's last known address of record furnished by the dealer on a form prescribed by the department. The dealer is required to attend the informal conference and present evidence refuting the department's intended revocation or enter into a compliance agreement with the department which resolves the dealer's failure to comply with this chapter. The department shall issue an administrative complaint under s. 120.60 if the dealer fails to attend the department's informal conference, fails to enter into a compliance agreement with the department resolving the dealer's noncompliance with this chapter, or fails to comply with the executed compliance agreement.

(e)(e) 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:

1. An exhibitor whose agreement prohibits the sale of tangible personal property or services subject to the tax imposed in this chapter 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 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 must register as a dealer and collect the tax imposed under this chapter 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.

Section 20. Effective January 1, 2000, subsection (10) of section 213.053, Florida Statutes, 1998 Supplement, is amended to read:

213.053 Confidentiality and information sharing.—

(10) Notwithstanding any other provision of this section, with respect to a request for verification of a certificate of registration issued pursuant to s. 212.18 to a specified dealer or taxpayer or with respect to a request by a law enforcement officer for verification of a certificate of registration issued pursuant to s. 538.09 to a specified secondhand dealer or pursuant to s. 538.25 to a specified secondary metals recycler, the department may disclose whether the specified person holds a valid certificate or whether a specified certificate number is valid or whether a specified certificate number has



been canceled or is inactive or invalid and the name of the holder of such certificate. This subsection shall not be construed to create a duty to request verification of any certificate of registration.

Section 21. Effective January 1, 2000, the Department of Revenue shall establish a toll-free number for verification of valid registration numbers and resale certificates. The system must be sufficient to guarantee a low busy rate and must respond to keypad inquiries, and data must be updated daily.

Section 22. Effective January 1, 2000, the Department of Revenue shall establish a system for receiving information from dealers regarding certificate numbers of those seeking to make purchases for resale. The department must provide such dealers with verification of those numbers which are canceled or invalid. This information must be provided by the department free of charge.

Section 23. Effective July 1, 1999, the Department of Revenue shall expand its dealer education program regarding the proper use of resale certificates. The expansion shall include, but not be limited to, revision of the registration application for clarity, development of industry-specific brochures, development of a media campaign to heighten awareness of resale fraud and its consequences, outreach to business and professional organizations, and creation of seminars and continuing education programs for taxpayers and licensed professionals.

Section 24. (1) The sums of \$211,065 to be used for salaries, benefits, and expenses and \$23,455 to be used for operating capital outlay are appropriated from the General Revenue Fund to the Department of Revenue, and 1.5 FTEs are authorized, to implement the provisions of this act regarding resale certificates under chapter 212, Florida Statutes.

(2) This section shall take effect July 1, 1999.

Section 25. (1) Paragraph (ii) of subsection (7) and subsection (10) of section 212.08, Florida Statutes, 1998 Supplement, are 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.

(7) MISCELLANEOUS EXEMPTIONS.—

(ii) Certain electricity or steam uses.—

1. Subject to the provisions of subparagraph 4., charges for electricity or steam used to operate machinery and equipment at a fixed location in this state when such machinery and equipment is used to manufacture, process, compound, produce, or prepare for shipment 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 to the extent provided in this paragraph. ~~If In order to qualify for this exemption, 75 percent or more of the electricity or steam used at the fixed location is must be used to operate qualifying machinery or equipment, 100 percent of the charges for electricity or steam used at the fixed location are exempt.~~ If less than 75 percent but 50 percent or more of the electricity or steam is used at the a fixed location is used to operate qualifying machinery or equipment, then it is presumed that 50 percent of the charges for electricity or steam used at the fixed location are exempt charge for electricity is for nonexempt purposes. If less than 50 percent of the electricity or steam used at the fixed location is used to operate qualifying machinery or equipment, none of the charges for electricity or steam used at the fixed location are exempt.

2. This exemption applies only to industries classified under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 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.

3. 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.

4. Such exemption shall be applied as follows:

a. Beginning July 1, 1996, 20 percent of the charges for such electricity shall be exempt.

b. Beginning July 1, 1997, 40 percent of the charges for such electricity shall be exempt.

c. Beginning July 1, 1998, 60 percent of the charges for such electricity or steam shall be exempt.

d. Beginning July 1, 1999, 80 percent of the charges for such electricity or steam shall be exempt.

e. Beginning July 1, 2000, 100 percent of the charges for such electricity or steam shall be exempt.

5. Notwithstanding any other provision in this paragraph to the contrary, in order to receive the exemption provided in this paragraph a taxpayer must first 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.

6.a. In order to determine whether the exemption provided in this paragraph from the tax on charges for electricity or steam 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.

b. 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.

c. 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.

d. 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.

Exemptions provided to any entity by this subsection shall not inure to any transaction otherwise taxable under this chapter when payment is made by a representative or employee of such entity by any means, including, but not limited to, cash, check, or credit card even when that representative or employee is subsequently reimbursed by such entity.

(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 ~~45~~ 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. Nothing in this subsection shall be construed to require the removal of the vehicle from this state following the filing of an intent to license the vehicle in the purchaser's home state if the purchaser licenses the vehicle in his or her home state within 45 days after the date of sale.

(2) It is the intent of the Legislature that the amendments to s. 212.08(7)(ii), Florida Statutes, 1998 Supplement, by this section are remedial in nature and merely clarify existing law.

Section 26. Subsection (8) is added to section 213.27, Florida Statutes, to read:

213.27 Contracts with debt collection agencies and certain vendors.—

(8)(a) The executive director of the department may enter into contracts with private vendors to develop and implement systems to enhance tax collections where compensation to the vendors is funded through increased tax collections. The amount of compensation paid to a vendor shall be based on a percentage of increased tax collections attributable to the system after all administrative and judicial appeals are exhausted, and the total amount of compensation paid to a vendor shall not exceed the maximum amount stated in the contract.

(b) A person acting on behalf of the department under a contract authorized by this subsection does not exercise any of the powers of the department, except that the person is an agent of the department for the purposes of developing and implementing a system to enhance tax collection.

(c) Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the private vendors. The vendors shall be bound by the same requirements of confidentiality as the department. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 27. Subsection (1) of section 213.67, Florida Statutes, 1998 Supplement, is amended to read:

213.67 Garnishment.—

(1) If a person is delinquent in the payment of any taxes, penalties, and interest owed to the department, the executive director or his or her designee may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or personal property, exclusive of wages, belonging to the delinquent taxpayer, or owing any debts to such delinquent taxpayer at the time of receipt by them of such notice. Thereafter, any person who has been notified may not transfer or make any other disposition of such credits, other personal property, or debts until the executive director or his or her designee consents to a transfer or disposition or until 60 days after the receipt of such notice, except that the credits, other personal property, or debts which exceed the delinquent amount stipulated in the notice shall not be subject to the provisions of this section, wherever held, in any case in which the taxpayer does not have a prior history of tax delinquencies. If during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, he or she is liable to the state for any indebtedness owed to the department by the person with respect to whose obligation the notice was given to the extent of the value of the property or the amount of the debts thus transferred or paid if, solely by reason of such transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. If the delinquent taxpayer contests the intended levy in circuit court or under chapter 120, the notice under this

section remains effective until that final resolution of the contest. Any financial institution receiving such notice will maintain a right of setoff for any transaction involving a debit card occurring on or before the date of receipt of such notice.

Section 28. (1) Paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, 1998 Supplement, are amended, and paragraph (hh) is added to subsection (1) of said section, to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) “Internal Revenue Code” means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, ~~1999~~ 1998, except as provided in subsection (3).

(hh) “Citrus processing company” means a corporation which, during the 60-month period ending on December 31, 1997, had derived more than 50 percent of its total gross receipts from the processing of citrus products and the manufacture of juices.

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, ~~1999~~ 1998. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

(2) This section shall take effect upon this act becoming a law, and the amendments to s. 220.03(1)(n) and (2)(c), Florida Statutes, 1998 Supplement, shall operate retroactively to January 1, 1999.

Section 29. Effective January 1, 2000, paragraph (b) of subsection (1) of section 220.151, Florida Statutes, is amended, and, effective upon this act becoming a law, subsection (3) is added to said section, to read:

220.151 Apportionment; methods for special industries.—

(1)

(b) If the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the tax base of such company shall be apportioned to this state by multiplying such base by a fraction the numerator of which is the sum of:

1. Direct premiums written for insurance upon properties and risks in this state, plus
2. Premiums written for reinsurance, accepted in respect to properties and risks in this state,

and the denominator of which is the sum of direct premiums written for insurance upon properties and risks everywhere plus premiums written for reinsurance accepted in respect to properties and risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect to properties and risks in this state, whether or not otherwise determinable, ~~shall may, at the election of the company, either~~ be determined on the basis of the proportion which premiums written for reinsurance accepted from companies resident in or having a regional home office in the state bears to premiums written for reinsurance accepted from all sources ~~or, alternatively, on the basis of the proportion which the sum of the direct premiums written for insurance upon properties and risks in this state by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.~~

(3) For any taxable year beginning on or after January 1, 1999, a citrus processing company may, if required to apportion its taxable net income pursuant to the three-factor apportionment method set forth in s. 220.15(1), elect to have such apportionment determined for that taxable year solely by use of the sales factor, as set forth in s. 220.15(5). The election shall be made by the filing of a return for the taxable year utilizing this method.

Section 30. Section 220.21, Florida Statutes, is amended to read:

220.21 Returns and records; regulations.—

(1) Every taxpayer liable for the tax imposed by this code shall keep such records, render such statements, make such returns and notices, and comply with such rules and regulations, as the department may from time to time prescribe. The director may require any taxpayer or class of taxpayers, by notice or by regulation, to make such returns and notices, render such statements, and keep such records as the director deems necessary to determine whether such taxpayer or taxpayers are liable for tax under this code.

(2) A taxpayer may choose to file a return required by this code in a form initiated through a telephonic or electronic data interchange using an advanced encrypted transmission by means of the Internet or other suitable transmission. The department shall prescribe by rule the format and instructions necessary for such filing to ensure a full collection of taxes due. The acceptable method of transfer, the method, form, and content of the electronic data interchange, and the means, if any, by which the taxpayer will be provided with an acknowledgment shall be prescribed by the department.

Section 31. Subsection (3) of section 220.221, Florida Statutes, is amended to read:

220.221 Returns; signing and verification.—

(3) Each return or notice required to be filed under this code shall be verified by a ~~written~~ declaration that it is made under the penalties of perjury, and if prepared by someone other than the taxpayer the return shall also contain a declaration by the preparer that it was prepared on the basis of all information of which the preparer had knowledge.

Section 32. Paragraphs (a) and (b) of subsection (2) of section 220.222, Florida Statutes, 1998 Supplement, are amended to read:

220.222 Returns; time and place for filing.—

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a ~~written~~ request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until 15 days after the expiration of the federal extension or until the expiration of 6 months from the original due date, whichever first occurs.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior ~~written~~ request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraphs (a) and (b) shall not exceed 6 months. No extension granted under this paragraph shall be valid unless the taxpayer complies with the requirements of s. 220.32.

Section 33. Subsection (7) is added to section 193.052, Florida Statutes, to read:

193.052 Preparation and serving of returns.—

(7) A property appraiser may accept a tangible personal property tax return in a form initiated through an electronic data interchange. The department shall prescribe by rule the format and instructions necessary for such filing to ensure that all property is properly listed. The acceptable method of transfer, the method, form, and content of the electronic data interchange, the method by which the taxpayer will be provided with an acknowledgment, and the duties of the property appraiser with respect to such filing shall be prescribed by the department. The department's rules shall provide: a uniform format for all counties; that the format shall resemble form DR-405 as closely as possible; and that adequate safeguards for verification of taxpayers' identities are established to avoid filing by unauthorized persons.

Section 34. Subsection (16) of section 199.052, Florida Statutes, 1998 Supplement, is amended to read:

199.052 Annual tax returns; payment of annual tax.—

(16)(a) Except as provided in paragraph (b), all banks and financial organizations filing annual intangible tax returns for their customers shall file

return information for taxes due January 1, 1999, and thereafter using machine-sensible media. The information required by this subsection must be reported by banks or financial organizations on machine-sensible media, using specifications and instructions of the department. A bank or financial organization that demonstrates to the satisfaction of the department that a hardship exists is not required to file intangible tax returns for its customers using machine-sensible media. The department shall adopt rules necessary to administer this paragraph subsection.

(b) A taxpayer may choose to file an annual intangible personal property tax return in a form initiated through an electronic data interchange using an advanced encrypted transmission by means of the Internet or other suitable transmission. The department shall prescribe by rule the format and instructions necessary for such filing to ensure a full collection of taxes due. The acceptable method of transfer, the method, form, and content of the electronic data interchange, and the means, if any, by which the taxpayer will be provided with an acknowledgment shall be prescribed by the department.

Section 35. Section 443.163, Florida Statutes, is created to read:

443.163 Electronic reporting.—An employer may choose to file any report required by this chapter in a form initiated through an electronic data interchange using an advanced encrypted transmission by means of the Internet or other suitable transmission. The division shall prescribe by rule the format and instructions necessary for such filing to ensure a full collection of contributions due. The acceptable method of transfer, the method, form, and content of the electronic data interchange, and the means, if any, by which the employer will be provided with an acknowledgment, shall be prescribed by the division.

Section 36. (1) Whenever the governing body of a municipality that has created a downtown development district pursuant to chapter 65-1090, Laws of Florida, determines that it is necessary to alter, amend, or expand the boundaries of the established district by the inclusion of additional territory or the exclusion of lands from the limits of the established district, in order to revitalize and preserve property values or to prevent deterioration in the original district or its surrounding areas, it shall, by resolution, declare its intention to do so.

(2) In the resolution of intent, the governing body shall set a date for a public hearing on adoption of an ordinance altering, amending, or expanding the district and describing the new proposed district. Upon the adoption of the resolution, the governing body shall cause a notice of the public hearing to be published in a newspaper of general circulation published in the municipality, which notice shall be published one time not less than 30 nor more than 60 days prior to the date of the hearing. The notice shall set forth the date, time, and place of the hearing and shall describe the new proposed boundaries of the district. Any citizen, taxpayer, or property owner shall have the right to be heard in opposition to the proposed amendment or expansion of the district. After the public hearing, if the governing body intends to proceed with the amendment or expansion of the district, it shall,



in the manner authorized by law, adopt an ordinance defining the new district. The governing body shall not incorporate land into the district not included in the description contained in the resolution and the notice of public hearing, but it may eliminate any lands from that description when it adopts the ordinance containing the final determination of the boundaries.

Section 37. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 38. Except as otherwise provided herein, this act shall take effect upon becoming a law.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.