CHAPTER 2002-218

Committee Substitute for Senate Bill No. 426

An act relating to taxation; amending s. 45.031, F.S.; requiring the clerk of court to give notice to the Department of Revenue if there is a surplus resulting from the foreclosure of an unemployment compensation tax lien; amending s. 55.202, F.S.; enabling a designee of the Department of Revenue to enter lien information into the Secretary of State's database without incurring a fee; amending s. 69.041, F.S.; permitting the department to participate in the disbursement of unemployment compensation tax lien foreclosure funds; amending s. 72.011, F.S.; providing for the venue and jurisdiction of taxpayer actions in circuit court; amending s. 199.052, F.S.; eliminating the requirement that a corporation file an intangibles tax return when no tax is due; amending s. 199.218, F.S.; eliminating the requirement that a corporation maintain records relating to certain information; amending s. 199.282, F.S.; eliminating the penalty imposed upon a corporation for failure to file a certain required notice; amending s. 201.02, F.S.; specifying nonapplication of the tax on deeds and other instruments relating to real property to contracts to sell certain residences under certain circumstances; amending s. 201.08, F.S.; specifying a maximum tax on unsecured obligations; specifying payment of tax on certain excess aggregate amounts; conforming cross references; reenacting and amending s. 206.9825(1)(b), F.S.; authorizing the continuation of an aviation fuel tax credit for certain wholesalers or terminal suppliers; amending s. 211.3103, F.S.; specifying the basis for annual calculations of county distributions of the severance tax on phosphate rock; amending s. 212.02, F.S.; revising definitions; amending s. 212.06, F.S.; revising a definition; providing legislative intent; prohibiting certain assessments or refunds under certain circumstances; amending s. 212.07, F.S.; providing for dealer reliance on resale certificates without seeking certain verification; specifying vendor nonliability for certain taxes, interest, or penalties under certain circumstances; requiring the Department of Revenue to impose certain mandatory, nonwaivable penalties in lieu of certain taxes, interest, and penalties under certain circumstances; authorizing the department to adopt certain rules and forms; providing legislative intent as to application; amending s. 212.08, F.S.; requiring a purchaser to file an affidavit stating the exempt nature of a purchase with the selling vendor instead of the department; providing for retroactive application; revising definitions of industrial machinery and equipment, motion picture or video equipment, and sound recording equipment; providing legislative intent; providing purposes; clarifying application of exemptions to taxable transactions; specifying requirements for eligibility for exemptions; specifying tax liability for noncompliance; authorizing the department to adopt rules; reinstating the sales tax exemption for parent-teacher organizations and parent-teacher associations; eliminating obsolete provisions; eliminating the specific sales tax exemption for organizations providing crime

prevention, drunk-driving prevention, and juvenile-delinquency-prevention services; imposing certain requirements, for purposes of taxation, on the removal of a motor vehicle from this state; providing residency requirements of corporate officers, corporate stockholders, and partners in a partnership relating to the taxable status of sales of motor vehicles; providing for retroactive operation of certain provisions; providing for nonliability of tax on certain transactions; providing an exception; providing requirements for a specified exemption; replacing the Interstate Commerce Commission with the Surface Transportation Board as the entity that licenses certain railroads as common carriers; providing that, for a vessel, railroad, or motor carrier engaged in interstate or foreign commerce, sales tax applies to taxable purchases in this state and applies even if the vessel, railroad, or motor carrier has operated for less than a fiscal year; amending s. 212.096, F.S.; clarifying definitions; specifying a time requirement for applications for an enterprise zone jobs credit for leased employees; amending s. 212.098, F.S.; clarifying Rural Job Tax Credit Program provisions; amending s. 212.11, F.S.; authorizing the Department of Revenue to require a report to be submitted when filing a sales and use tax return that claims certain credits; requiring the department to adopt rules regarding the forms and documentation required to verify these credits; requiring the department to disallow any credit not supported by the required report and to impose penalties and interest; amending s. 212.12, F.S.; limiting liability of dealers for certain additional tax, penalty, and interest under certain circumstances; providing legislative intent relating to application; providing for methods of determining overpayments by persons paying the tax on sales, use, and other transactions; amending ss. 212.18 and 376.70, F.S.; authorizing the Department of Revenue to waive registration fees for applications made using the department's Internet registration process; amending s. 213.015, F.S.; specifying additional taxpayer rights; amending s. 213.053, F.S.; authorizing the Department of Revenue and the Department of Management Services to release certain unemployment tax rate information under certain circumstances; amending s. 213.0535, F.S.; providing for additional disclosures of certain tax information under the Registration Information Sharing and Exchange Program; requiring maintenance of confidentiality of certain information under certain circumstances; amending s. 213.21, F.S.; requiring settlement or compromise of a taxpayer's liability for certain interest under certain circumstances; providing for de novo review of certain facts and circumstances in certain proceedings; extending a future repeal of department authority to settle or compromise certain penalty liabilities; specifying additional circumstances for settling or compromising certain penalties; providing prospective operation; providing requirements, criteria, and procedures; requiring the Department of Revenue to adopt rules; amending s. 213.24, F.S.; including automated refunds in provisions for certain billing cost limitations; amending s. 213.255, F.S.; clarifying application of certain interest determination limitations; amending s. 213.285, F.S.; extending a future repeal of a certified audits project; amending s. 213.30, F.S.; specifying preemption for seeking or obtaining

compensation for certain tax law violation information; amending s. 213.755, F.S.; requiring certain taxpayers to file returns and pay taxes electronically; amending s. 220.03, F.S.; revising definitions; amending s. 220.15, F.S., which provides for apportionment of adjusted federal income to this state; revising the conditions for determining when sales of tangible personal property occur in this state for certain industries; providing for retroactive effect; amending s. 220.181, F.S.; clarifying eligibility for claiming an enterprise zone jobs credit; amending s. 220.187, F.S.; providing for an additional class of "qualified student"; providing application; amending s. 220.22, F.S.; requiring the Department of Revenue to designate certain entities not required to file certain returns; amending s. 220.23, F.S.; specifying determination of interest on deficiencies; amending s. 220.809, F.S.; providing an exception to certain determinations of interest on deficiencies; amending s. 290.00677, F.S.; correcting a cross reference; amending ss. 336.021 and 336.025, F.S.; revising time limitations on imposition and rate changes of certain local option fuel taxes; amending s. 443.131, F.S.; providing for payment of employer contributions to the Agency for Workforce Innovation instead of the Division of Unemployment Compensation of the Department of Labor and Employment Security; revising procedures and requirements for such payments by employers of employees providing domestic services; reducing trust fund balance thresholds used in computing contribution rate adjustment factors; creating s. 443.1315, F.S.; providing definitions; providing for treatment of Indian tribes under the Unemployment Compensation Law; providing that Indian tribes or tribal units thereof may elect to make payments in lieu of contributions and providing requirements with respect thereto; providing that such Indian tribe or tribal unit may be required to file a bond or deposit security at the discretion of the director of the Agency for Workforce Innovation; providing effect of failure of such tribe or unit to make required payments; providing requirements for notices; providing responsibility for certain extended benefits; requiring the agency to adopt rules; providing for retroactive application; amending s. 443.163, F.S.; requiring certain employers to file unemployment compensation reports and taxes electronically; amending s. 608.471, F.S.; providing for the tax treatment of certain types of limited liability companies; amending s. 681.117, F.S.; requiring motor vehicle dealers to remit directly to the Department of Revenue the Lemon Law Fee for vehicles registered and titled outside of Florida; amending ss. 3 and 4 of ch. 2000-345, Laws of Florida; extending the effective date of such sections; amending s. 11(4)(f) of ch. 2000-165, Laws of Florida; revising application of certain sections to collections of unemployment compensation contributions by the Department of Revenue; providing a revised calculation for revenue sharing distributions to municipalities; repealing s. 9 of ch. 2001-225, Laws of Florida, relating to an incorrect statutory reference; providing application; repealing s. 220.331, F.S., relating to application of certain credits to certain estimated payments; providing application; repealing s. 199.062(1) and (2), F.S., relating to a requirement that a corporation file an annual

information return regarding stock value; repealing s. 201.05, F.S., relating to tax on stock certificates; repealing s. 212.084(6), F.S., relating to temporary exemption certificates; repealing s. 624.509(10), F.S., relating to an exemption from the insurance premium tax for insurers who write monoline flood insurance policies; providing effective dates.

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

Section 1. Subsection (7) of section 45.031, Florida Statutes, is amended to read:

45.031 Judicial sales procedure.—In any sale of real or personal property under an order or judgment, the following procedure may be followed as an alternative to any other sale procedure if so ordered by the court:

(7) DISBURSEMENTS OF PROCEEDS.—On filing a certificate of title, the clerk shall disburse the proceeds of the sale in accordance with the order or final judgment, and shall file a report of such disbursements and serve a copy of it on each party not in default, and on the Department of Revenue if the department ~~it~~ was named as a defendant in the action or if the Agency for Workforce Innovation or the Department of Labor and Employment Security was named as a defendant while the Department of Revenue was performing unemployment compensation tax collection services pursuant to a contract with the Agency for Workforce Innovation, in substantially the following form:

(Caption of Action)

CERTIFICATE OF DISBURSEMENTS

The undersigned clerk of the court certifies that he or she disbursed the proceeds received from the sale of the property as provided in the order or final judgment to the persons and in the amounts as follows:

Name Amount

Total

WITNESS my hand and the seal of the court on ...., ...(year)....

...(Clerk)...

By ...(Deputy Clerk)...

If no objections to the report are served within 10 days after it is filed, the disbursements by the clerk shall stand approved as reported. If timely objections to the report are served, they shall be heard by the court. Service of objections to the report does not affect or cloud the title of the purchaser of the property in any manner.

Section 2. Subsection (5) of section 55.202, Florida Statutes, is amended to read:

55.202 Judgments, orders, and decrees; lien on personal property.—

(5) Liens, assessments, warrants, or judgments filed pursuant to paragraph (2)(b) may be filed directly into the central database by the Department of Revenue, or its designee as determined by its executive director, through electronic or information data exchange programs approved by the Department of State. Such filings must contain the information set forth in s. 55.203(1).

Section 3. Paragraph (a) of subsection (4) of section 69.041, Florida Statutes, is amended to read:

69.041 State named party; lien foreclosure, suit to quiet title.—

(4)(a) The Department of Revenue has the right to participate in the disbursement of funds remaining in the registry of the court after distribution pursuant to s. 45.031(7). The department shall participate in accordance with applicable procedures in any mortgage foreclosure action in which the department has a duly filed tax warrant, or interests under a lien arising from a judgment, order, or decree for support, as defined in s. 409.2554, or interest in an unemployment compensation tax lien pursuant to a contract with the Agency for Workforce Innovation, against the subject property and with the same priority, regardless of whether a default against the department, the Agency for Workforce Innovation, or the Department of Labor and Employment Security has been entered for failure to file an answer or other responsive pleading.

Section 4. Effective January 1, 2003, paragraph (a) of subsection (4) and subsection (5) of section 72.011, Florida Statutes, are amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(4)(a) Except as provided in paragraph (b), an action initiated in circuit court pursuant to subsection (1) shall be filed in the Second Judicial Circuit Court in and for Leon County or in the circuit court in the county where the taxpayer resides, ~~or~~ maintains its principal commercial domicile in this state, or, in the ordinary course of business, regularly maintains its books and records in this state.

(5) The requirements of subsections (1), (2), and (3) ~~this section~~ are jurisdictional.

Section 5. Subsection (2) of section 199.052, Florida Statutes, is amended to read:

199.052 Annual tax returns; payment of annual tax.—

(2) No person, corporation, agent, or fiduciary shall be required to pay the annual tax in any year when the aggregate annual tax upon the ~~person's~~ intangible personal property, after exemptions but before application of any discount for early filing, would be less than $60. In such case, an annual return is not required ~~unless the taxpayer is a corporation or an agent or fiduciary of whom the department requires an informational return~~. Agents and fiduciaries shall report for each person for whom they hold intangible personal property if the aggregate annual tax on such person is $60 or more.

Section 6. Subsection (2) of section 199.218, Florida Statutes, is amended to read:

199.218 Books and records.—

(2) Each ~~corporation and~~ broker subject to the provisions of s. 199.062 shall preserve all books and other records relating to the information reported under s. 199.062 or otherwise required by rule of the department for a period of 3 years from the due date of the report.

Section 7. Paragraph (a) of subsection (6) of section 199.282, Florida Statutes, is amended to read:

199.282 Penalties for violation of this chapter.—

(6) Late reporting penalties shall be imposed as follows:

(a) A penalty of $100 upon any corporation that ~~which~~ does not timely file a written notice required under s. 199.057(2)(c) ~~or s. 199.062(2)~~.

Section 8. Subsection (8) is added to section 201.02, Florida Statutes, to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.—

(8) Taxes imposed by this section do not apply to a contract to sell the residence of an employee relocating at his or her employer's direction or to documents related to the contract, which contract is between the employee and the employer or between the employee and a person in the business of providing employee relocation services. In the case of such transactions, taxes apply only to the transfer of the real property comprising the residence by deed that vests legal title in a named grantee.

Section 9. Subsections (1), (2), (4), and (5) of section 201.08, Florida Statutes, are amended to read:

201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.—

(1)(a) On promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of salaries, wages, or other compensation made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same, the tax shall be 35 cents on each $100 or fraction thereof of the indebtedness or obligation evidenced thereby. The tax on any document described in this paragraph shall not exceed $2,450.

(b) On mortgages, trust deeds, security agreements, or other evidences of indebtedness filed or recorded in this state, and for each renewal of the same, the tax shall be 35 cents on each $100 or fraction thereof of the indebtedness or obligation evidenced thereby. Mortgages, including, but not limited to, mortgages executed without the state and recorded in the state, which incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are subject to the same tax at the same rate. When

there is both a mortgage, trust deed, or security agreement and a note, certificate of indebtedness, or obligation, the tax shall be paid on the mortgage, trust deed, or security agreement at the time of recordation. A notation shall be made on the note, certificate of indebtedness, or obligation that the tax has been paid on the mortgage, trust deed, or security agreement. Where a mortgage, trust deed, security agreement, or other evidence of indebtedness is subsequently filed or recorded in this state to evidence an indebtedness or obligation upon which tax was paid pursuant to paragraph (a) or paragraph (2)(a), tax shall be paid on the mortgage, trust deed, security agreement, or other evidence of indebtedness on the amount of the indebtedness or obligation evidenced which exceeds the aggregate amount upon which tax was previously paid pursuant to this paragraph and paragraph (a) or paragraph (2)(a). If the mortgage, trust deed, security agreement, or other evidence of indebtedness subject to the tax levied by this section secures future advances, as provided in s. 697.04, the tax shall be paid at the time of recordation on the initial debt or obligation secured, excluding future advances; at the time and so often as any future advance is made, the tax shall be paid on all sums then advanced regardless of where such advance is made. Notwithstanding the aforestated general rule, any increase in the amount of original indebtedness caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months shall be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed. Failure to pay the tax shall not affect the lien for any such future advance given by s. 697.04, but any person who fails or refuses to pay such tax due by him or her is guilty of a misdemeanor of the first degree. The mortgage, trust deed, or other instrument shall not be enforceable in any court of this state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.

(2)(a) On promissory notes, nonnegotiable notes, written obligations to pay money, or other compensation, made, executed, delivered, sold, transferred, or assigned in the state, in connection with sales made under retail charge account services, incident to sales which are not conditional in character and which are not secured by mortgage or other pledge of purchaser, the tax shall be 35 cents on each $100 or fraction thereof of the gross amount of the indebtedness evidenced by such instruments, payable quarterly on such forms and under such rules and regulations as may be promulgated by the Department of Revenue. The tax on any document described in this paragraph shall not exceed $2,450.

(b) Any receipt, charge slip, or other record of a transaction effected with the use of a credit card, charge card, or debit card shall be exempt from the tax imposed by this section.

(4) Notwithstanding paragraph (1)(b) ~~subsection (1)~~, a supplement or an amendment to a mortgage, deed of trust, indenture, or security agreement, which supplement or amendment is filed or recorded in this state in connection with a new issue of bonds, shall be subject to the tax imposed by paragraph (1)(b) ~~subsection (1)~~ only to the extent of the aggregate amount of the new issue of bonds or other evidence of indebtedness and not to the

extent of the aggregate amount of bonds or other evidence of indebtedness previously issued under the instrument being supplemented or amended. In order to qualify for the tax treatment provided for in this subsection, the document which evidences the increase in indebtedness must show the official records book and page number in which, and the county in which, the original obligation and any prior increase in that obligation were recorded.

(5) For purposes of this section, a renewal shall only include modifications of an original document which change the terms of the indebtedness evidenced by the original document by adding one or more obligors, increasing the principal balance, or changing the interest rate, maturity date, or payment terms. Modifications to documents which do not modify the terms of the indebtedness evidenced such as those given or recorded to correct error; modify covenants, conditions, or terms unrelated to the debt; sever a lien into separate liens; provide for additional, substitute, or further security for the indebtedness; consolidate indebtedness or collateral; add, change, or delete guarantors; or which substitute a new mortgagee or payee are not renewals and are not subject to tax pursuant to this section. If the taxable amount of a mortgage is limited by language contained in the mortgage or by the application of rules limiting the tax base when there is collateral in more than one state, then a modification which changes such limitation or tax base shall be taxable only to the extent of any increase in the limitation or tax base attributable to such modification. This subsection shall not be interpreted to exempt from taxation an original mortgage that ~~which~~ would otherwise be subject to tax pursuant to paragraph (1)(b) ~~subsection (1)~~.

Section 10. Paragraph (b) of subsection (1) of section 206.9825, Florida Statutes, is reenacted and amended to read:

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, increases the air carrier's Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(17)(a), (b)1., 2., (18)(a), (b)1., 4., (20)(a), (b)5., (22)(a), (b)1., 2., 4., 7., 9., and 12. ~~This paragraph will expire on July 1, 2001.~~

Section 11. Paragraph (b) of subsection (2), paragraph (b) of subsection (3), and paragraph (b) of subsection (4) of section 211.3103, Florida Statutes, are amended to read:

211.3103 Levy of tax on severance of phosphate rock; rate, basis, and distribution of tax.—

(2) The proceeds of all taxes, interest, and penalties imposed under this section shall be paid into the State Treasury through June 30, 1995, as follows:

(b) The remaining revenues collected from the tax during that fiscal year, after the required payment under paragraph (a), shall be paid into the State Treasury as follows:

1. To the credit of the General Revenue Fund of the state, 60 percent. However, from this amount the amounts of $7.4 million, $8.2 million, and $8.1 million, respectively, shall be transferred to the Nonmandatory Land Reclamation Trust Fund on January 1, 1993, January 1, 1994, and January 1, 1995.

2. To the credit of the Nonmandatory Land Reclamation Trust Fund which is established for reclamation and acquisition of unreclaimed lands disturbed by phosphate mining and not subject to mandatory reclamation, 20 percent.

3. To the credit of the Phosphate Research Trust Fund in the Department of Education, Division of Universities, to carry out the purposes set forth in s. 378.101, 10 percent.

4. For payment to counties in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 10 percent. The department shall distribute this portion of the proceeds annually based on production information reported by producers on the ~~most recent~~ annual returns for the taxable ~~filed prior to the beginning of the fiscal~~ year. Any such proceeds received by a county shall be used only for phosphate-related expenses.

(3) Beginning July 1, 1995, the proceeds of all taxes, interest, and penalties imposed under this section shall be paid into the State Treasury as follows:

(b) The remaining revenues collected from the tax during that fiscal year, after the required payment under paragraph (a), shall be paid into the State Treasury as follows:

1. To the credit of the General Revenue Fund of the state, 58 percent.

2. To the credit of the Nonmandatory Land Reclamation Trust Fund for reclamation and acquisition of unreclaimed lands disturbed by phosphate mining and not subject to mandatory reclamation, 14.5 percent.

3. To the credit of the Phosphate Research Trust Fund in the Department of Education, Division of Universities, to carry out the purposes set forth in s. 378.101, 10 percent.

4. For payment to counties in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such

political boundary, 10 percent. The department shall distribute this portion of the proceeds annually based on production information reported by producers on the ~~most recent~~ annual returns for the taxable ~~filed prior to the beginning of the fiscal~~ year. Any such proceeds received by a county shall be used only for phosphate-related expenses.

5. To the credit of the Minerals Trust Fund, 7.5 percent.

(4) If the base rate is reduced pursuant to paragraph (5)(c), then the proceeds of the tax shall be paid into the State Treasury as follows:

(b) The remaining revenues collected from the tax during that fiscal year, after the required payment under paragraph (a), shall be paid into the State Treasury as follows:

1. To the credit of the General Revenue Fund of the state, 55.15 percent.

2. To the credit of the Phosphate Research Trust Fund in the Department of Education, Division of Universities, 12.5 percent.

3. For payment to counties in proportion to the number of tons of phosphate rock produced from a phosphate rock matrix located within such political boundary, 18 percent. The department shall distribute this portion of the proceeds annually based on production information reported by producers on the ~~most recent~~ annual returns for the taxable ~~filed prior to the beginning of the fiscal~~ year. Any such proceeds received by a county shall be used only for phosphate-related expenses.

4. To the credit of the Minerals Trust Fund, 14.35 percent.

Section 12. Paragraph (g) of subsection (10) of section 212.02, Florida Statutes, 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:

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

(g) "Lease," "let," or "rental" also means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein. The term "lease," "let," or "rental" does not mean hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, when such charges are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer, or charges made pursuant to car service agreements. The term "lease," "let," "rental," or "license" does not include payments made to an owner of high-voltage bulk transmission facilities in connection with the possession or control of

such facilities by a regional transmission organization, independent system operator, or similar entity under the jurisdiction of the Federal Energy Regulatory Commission. However, where two taxpayers, in connection with the interchange of facilities, rent or lease property, each to the other, for use in providing or furnishing any of the services mentioned in s. 166.231, the term "lease or rental" means only the net amount of rental involved.

Section 13. Effective July 1, 2002, paragraph (b) of subsection (14) of section 212.06, Florida Statutes, is 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.—

(14) For the purpose of determining whether a person is improving real property, the term:

(b) "Fixtures" means items that are an accessory to a building, other structure, or land and that do not lose their identity as accessories when installed but that do become permanently attached to realty. However, the term does not include the following items, whether or not such items are attached to real property in a permanent manner: ~~trade fixtures;~~ property of a type that is required to be registered, licensed, titled, or documented by this state or by the United States Government, including, but not limited to, mobile homes, except mobile homes assessed as real property,~~;~~ or industrial machinery or equipment. For purposes of this paragraph, industrial machinery or equipment is not limited to machinery and equipment used to manufacture, process, compound, or produce tangible personal property. For an item to be considered a fixture, it is not necessary that the owner of the item also own the real property to which it is attached.

Section 14. It is the intent of the Legislature that the amendment made by this act to section 212.06(14)(b), Florida Statutes, relating to industrial machinery or equipment, is remedial in nature and merely clarifies existing law. However, nothing contained in this act shall authorize an assessment of additional tax, penalty, or interest against any taxpayer that complied with section 212.06(14)(b), Florida Statutes, as amended by chapter 98-141, Laws of Florida, effective July 1, 1998, nor shall any taxpayer be entitled to a refund of taxes previously paid due to the retroactive effect of this act.

Section 15. Effective July 1, 2002, paragraph (b) of subsection (1) of section 212.07, Florida Statutes, is amended, and subsection (9) is added to said section, 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 if the dealer makes recurring sales to a purchaser in the normal course of business on a continual basis. For purposes of this paragraph, "recurring sales to a purchaser in the normal course of business" refers to a sale in which the dealer extends credit to the purchaser and records the debt as an account receivable, or in which the dealer sells to a purchaser who has an established cash or C.O.D. account, similar to an open credit account. For purposes of this paragraph, purchases are made from a selling dealer on a continual basis if the selling dealer makes, in the normal course of business, sales to the purchaser no less frequently than once in every 12-month period. 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. Consumer certificates of exemption executed by those exempt entities that 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.

(9)(a) If a purchaser engaging in transactions taxable under this chapter did not pay tax to a vendor based on a good faith belief that the transaction was a nontaxable purchase for resale or the transaction was exempt as a purchase by an organization exempt from tax under this chapter, except as provided in paragraph (b), neither the purchaser nor the vendor is directly liable for any tax, interest, or penalty that would otherwise be due if the following conditions are met:

1. At the time of the purchase, the purchaser was not registered as a dealer with the department or did not hold a consumer's certificate of exemption from the department.

2. At the time of the purchase, the purchaser was qualified to register with the department as a dealer or to receive a consumer's certificate of exemption from the department.

3. Before applying for treatment under this subsection, the purchaser has registered with the department as a dealer or has applied for and received a consumer's certificate of exemption from the department.

4. The purchaser establishes justifiable cause for failure to register as a dealer or to obtain a consumer's certificate of exemption before making the

purchase. Whether a purchaser has established justifiable cause for failure to register depends on the facts and circumstances of each case, including, but not limited to, such factors as the complexity of the transaction, the purchaser's business experience and history, whether the purchaser sought advice on its tax obligations, whether any such advice was followed, and any remedial action taken by the purchaser.

5. The transaction would otherwise qualify as exempt under this chapter except for the fact that at the time of the purchase the purchaser was not registered as a dealer with the department or did not hold a consumer's certificate of exemption from the department.

6. Relief pursuant to this subsection is applied for:

a. Before the department has initiated any audit or other action or inquiry in regard to the purchaser or the vendor; or

b. If any audit or other action or inquiry of the purchaser or the vendor has already been initiated, within 7 days after being informed in writing by the department that the purchaser was required to be registered or to hold a consumer's certificate of exemption at the time the transaction occurred.

(b) In lieu of the tax, penalties, and interest that would otherwise have been due, the department shall impose and collect the following mandatory penalties, which the department may not waive:

1. If a purchaser or vendor applies for relief before the department initiates any audit or other action or inquiry, the mandatory penalty is the lesser of $1,000 or 10 percent of the total tax due on transactions that qualify for treatment under this subsection.

2. If a purchaser or vendor applies for relief after an audit or other action or inquiry has already been initiated by the department, the mandatory penalty is the lesser of $5,000 or 20 percent of the total tax due on transactions that qualify for treatment under this subsection.

The department may impose and collect the mandatory penalties from either the purchaser or the vendor that failed to obtain proper documentation at the time of the transaction.

(c) The department may adopt forms and rules to administer this subsection.

Section 16. It is the intent of the Legislature that section 212.07(9), Florida Statutes, created by this act, applies to all pending sales and use tax audits or other actions or inquiries, including those currently under protest or in litigation. Taxpayers in such pending audits or other actions or inquiries have until the later of the date provided by section 212.07(9)(b), Florida Statutes, or 90 days after the effective date of this act to apply for the treatment provided in such paragraph. This section does not create any right to refund for taxes previously assessed and paid in regard to audits or other actions or inquires that are no longer pending.

Section 17. Effective upon this act becoming a law and operating retroactively to July 1, 1996, paragraph (c) of subsection (5) of section 212.08, Florida Statutes, 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.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(c) Machinery and equipment used in production of electrical or steam energy.—

1. The purchase of machinery and equipment for use at a fixed location which machinery and equipment 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. Use of a de minimis amount of residual fuel to facilitate the burning of nonresidual fuel shall not reduce the exemption otherwise available under this paragraph.

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

3. The department may adopt rules that provide for implementation of this exemption. Purchasers of machinery and equipment qualifying for the exemption provided in this paragraph shall furnish the <u>vendor</u> ~~department~~ with an affidavit stating that the item or items to be exempted are for the 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. Purchasers with self-accrual authority shall maintain all documentation necessary to prove the exempt status of purchases.

Section 18. Effective July 1, 2002, paragraphs (b), (d), and (f) of subsection (5) of section 212.08, Florida Statutes, 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.

(5) EXEMPTIONS; ACCOUNT OF USE.—

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

1. Industrial machinery and equipment purchased for exclusive use by a new business in spaceport activities as defined by s. 212.02 or for use in new businesses which manufacture, process, compound, or produce for sale 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.a. Industrial machinery and equipment purchased for exclusive use by an expanding facility which is engaged in spaceport activities as defined by s. 212.02 or for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state 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 facility or business by not less than 10 percent.

b. Notwithstanding any other provision of this section, industrial machinery and equipment purchased for use in expanding printing manufacturing facilities or plant units that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter 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 an 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 adopt ~~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, 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 items of tangible personal property or which does not use such machinery and equipment in spaceport activities as required by this paragraph. The exemptions provided in subparagraphs 1. and 2. shall apply to machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations only by way of a prospective credit against taxes due under chapter 211 for taxes paid under this chapter on such machinery and equipment.

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 tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities ~~"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 spaceport activities or of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property~~. The ~~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.

(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 tangible personal property or other property that has a depreciable life of 3 years or more, that qualifies as an eligible cost under federal procurement regulations, and that is used as an integral part of the process of production of tangible personal property. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities ~~"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~~. The ~~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.

(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. The exemption provided by this paragraph shall inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

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

a. "Motion picture or video equipment" and "sound recording equipment" includes only tangible personal property or other property that has a depreciable life of 3 years or more and ~~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. Furthermore, a building and its structural components are not motion picture or video equipment and sound recording equipment unless the building or structural component is so closely related to the motion picture or video equipment and sound recording equipment that it houses or supports that the building or structural component can be expected to be replaced when the motion picture or video equipment and sound recording equipment are replaced. Heating and air conditioning systems are not motion picture or video equipment and sound recording equipment unless the sole justification for their installation is to meet the requirements of the production activities, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities.

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.

Section 19. (1) It is the intent of the Legislature to provide guidance in tax matters which is current and useful. Accordingly, the Legislature finds that continued reference to a federal regulation that no longer exists causes confusion and an undue burden on persons affected by section 212.08, Florida Statutes.

(2) It is the purpose of the amendments made by this act to section 212.08(5)(b), (d), and (f), Florida Statutes, to replace specific references in such paragraphs to "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code with a general description of such property, and such new description shall have the same meaning as the former federal Internal Revenue Code regulation without limitation.

Section 20. Effective July 1, 2002, subsections (7) and (10) of section 212.08, Florida Statutes, 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.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(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) Organizations providing special educational, cultural, recreational, and social benefits to minors.—Also exempt from the tax imposed by this chapter are sales or leases to and sales of donated property by nonprofit organizations which are incorporated pursuant to chapter 617 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. For the purpose of this paragraph, the term "donated property" means any property transferred to such nonprofit organization for less than 50 percent of its fair market value.

(m) Religious institutions.—

1. There are exempt from the tax imposed by this chapter transactions involving sales or leases directly to religious institutions when used in carrying on their customary nonprofit religious activities or sales or leases of tangible personal property by religious institutions having an established physical place for worship at which nonprofit religious services and activities are regularly conducted and carried on.

2. As used in this paragraph, the term "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 nonprofit state, nonprofit district, or other nonprofit governing or administrative offices the function of which is to assist

or regulate the customary activities of religious institutions. The term "religious institutions" also includes any nonprofit corporation that is qualified as nonprofit under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that 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 that is qualified as nonprofit under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, the primary activity of which is making and distributing audio recordings of religious scriptures and teachings to blind or visually impaired persons at no charge. The term "religious institutions" also includes any nonprofit corporation that is qualified as nonprofit under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, the sole or primary function of which is to provide, upon invitation, nonprofit religious services, evangelistic services, religious education, administrative assistance, or missionary assistance for a church, synagogue, or established physical place of worship at which nonprofit religious services and activities are regularly conducted.

(n) Veterans' organizations.—

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

2. As used in this paragraph, the term "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, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code of 1986, as amended.

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

(p) Section 501(c)(3) organizations.—Also exempt from the tax imposed by this chapter are sales or leases to organizations determined by the Internal Revenue Service to be currently exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, when such leases or purchases are used in carrying on their customary nonprofit activities.

(q) 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.

(r) School books and school lunches.—This exemption applies to school books used in regularly prescribed courses of study, and to school lunches

served in public, parochial, or nonprofit schools operated for and attended by pupils of grades K through 12. Yearbooks, magazines, newspapers, directories, bulletins, and similar publications distributed by such educational institutions to their students are also exempt. School books and food sold or served at community colleges and other institutions of higher learning are taxable.

(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.

(t) Boats temporarily docked in state.—

1. Notwithstanding the provisions of chapter 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; however, the sales tax levied under this chapter 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 fur-

nishing 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)(j).

(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 nonprofit corporation qualified as nonprofit pursuant to s. 501(c)(3) or (4) of the 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 nonprofit 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) Works of art.—

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

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

4. 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 in preparation for loan for purposes of this exemption if it is displayed at any place other than an educational institution.

5. 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.

6. The exemption for loans 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. However, tax shall not become due if the work of art is donated to an educational institution after the loan ceases.

7. Any educational institution to which a work of art has been donated pursuant to this paragraph shall make available to the department the title

to the work of art and any other relevant information. Any educational institution which has received a work of art on loan 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 which has been loaned to it must notify the Department of Revenue within 60 days after the transfer.

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

a. "Educational institutions" includes state tax-supported, parochial, church, and nonprofit private schools, colleges, or universities that conduct regular classes and courses of study required for accreditation by or membership in the Southern Association of Colleges and Schools, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc.; nonprofit private schools that 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 Health; or nonprofit libraries, art galleries, performing arts centers that provide educational programs to school children, which programs involve performances or other educational activities at the performing arts center and serve a minimum of 50,000 school children a year, and museums open to the public.

b. "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.

(dd) 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.

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

(ff) 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 75 percent or more of the electricity or steam used at the fixed location is 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 used at the fixed location is used to operate qualifying machinery or equipment, 50 percent of the charges for electricity or steam used at the fixed location are exempt. 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 and Industry Group Number 212. 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: 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.~~

(gg) Fair associations.—Also exempt from the tax imposed by this chapter 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 an amusement ride, as those terms are used in ss. 616.15(1)(b) and 616.242(3)(a), for the furnishing of amusement rides 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 rides, which transactions are exempt.

(hh) Citizen support organizations.—Also exempt from the tax imposed by this chapter are sales or leases to nonprofit organizations that are incorporated under chapter 617 and that have been designated citizen support organizations in support of state-funded environmental programs or the management of state-owned lands in accordance with s. 20.2551, or to support one or more state parks in accordance with s. 258.015.

(ii) 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.

(jj) Solar energy systems.—Also exempt are solar energy systems or any component thereof. The Florida Solar Energy Center shall from time to time certify to the department a list of equipment and requisite hardware considered to be a solar energy system or a component thereof. This exemption is repealed July 1, 2005.

(kk) Nonprofit cooperative hospital laundries.—Also exempt from the tax imposed by this chapter are sales or leases to nonprofit organizations that are incorporated under chapter 617 and which are treated, for federal income tax purposes, as cooperatives under subchapter T of the Internal Revenue Code, whose sole purpose is to offer laundry supplies and services to their members, which members must all be exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code.

(ll) Complimentary meals.—Also exempt from the tax imposed by this chapter are food or drinks that are furnished as part of a packaged room rate by any person offering for rent or lease any transient living accommodations as described in s. 509.013(4)(a) which are licensed under part I of chapter 509 and which are subject to the tax under s. 212.03, if a separate charge or specific amount for the food or drinks is not shown. Such food or drinks are considered to be sold at retail as part of the total charge for the transient living accommodations. Moreover, the person offering the accommodations is not considered to be the consumer of items purchased in furnishing such food or drinks and may purchase those items under conditions of a sale for resale.

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

(nn) Parent-teacher organizations, parent-teacher associations, and schools having grades K through 12.—

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

2. Parent-teacher organizations and associations described in subparagraph 1. ~~qualified as educational institutions as defined by sub-subparagraph (cc)8.a. associated with schools having grades K through 12~~, and schools having grades K through 12, may pay tax to their suppliers on the cost price of school materials and supplies purchased, rented, or leased for resale or rental to students in grades K through 12, of items sold for fundraising purposes, and of items sold through vending machines located on the school premises, in lieu of collecting the tax imposed by this chapter from the purchaser. This paragraph also applies to food or beverages sold through vending machines located in the student lunchroom or dining room of a school having kindergarten through grade 12.

(oo) Mobile home lot improvements.—Items purchased by developers for use in making improvements to a mobile home lot owned by the developer may be purchased tax-exempt as a sale for resale if made pursuant to a contract that requires the developer to sell a mobile home to a purchaser, place the mobile home on the lot, and make the improvements to the lot for a single lump-sum price. The developer must collect and remit sales tax on the entire lump-sum price.

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

(qq) Complimentary items.—There is exempt from the tax imposed by this chapter:

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

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

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

(rr) Donated foods or beverages.—Any food or beverage donated by a dealer that sells food products at retail to a food bank or an organization that holds a current exemption from federal corporate income tax pursuant to s. 501(c) of the Internal Revenue Code of 1986, as amended, is exempt from the tax imposed by this chapter.

(ss) Racing dogs.—The sale of a racing dog by its owner is exempt if the owner is also the breeder of the animal.

(tt) Equipment used in aircraft repair and maintenance.—There shall be exempt from the tax imposed by this chapter replacement engines, parts,

and equipment used in the repair or maintenance of aircraft of more than 15,000 pounds maximum certified takeoff weight and rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight, when such parts or equipment are installed on such aircraft that is being repaired or maintained in this state.

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

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

(ww) Library cooperatives.—Sales or leases to library cooperatives certified under s. 257.41(2) are exempt from the tax imposed by this chapter.

(xx) Advertising agencies.—

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

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

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

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

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

The exemption provided by this subparagraph does not apply when tangible personal property such as film, paper, and videotapes is purchased to create items such as photographic negatives and positives, videos, films, galleys, mechanicals, veloxes, illustrations, and artwork that are sold to an advertis-

ing agency or produced in-house by an advertising agency on behalf of its clients.

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

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

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

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

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

(zz) Certain repair and labor charges.—

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

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 and Industry Group Number 212. As used in this subparagraph, "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. This exemption shall be applied as follows:

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

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

c. Beginning July 1, 2002, 100 percent of such charges for repair parts and labor shall be exempt.

(aaa) Film and other printing supplies.—Also exempt are the following materials purchased, produced, or created by businesses classified under SIC Industry Numbers 275, 276, 277, 278, or 279 for use in producing graphic matter for sale: film, photographic paper, dyes used for embossing and engraving, artwork, typography, lithographic plates, and negatives. 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.

(bbb) People-mover systems.—People-mover systems, and parts thereof, which are purchased or manufactured by contractors employed either directly by or as agents for the United States Government, the state, a county, a municipality, a political subdivision of the state, or the public operator of a public-use airport as defined by s. 332.004(14) are exempt from the tax imposed by this chapter when the systems or parts go into or become part of publicly owned facilities. In the case of contractors who manufacture and install such systems and parts, this exemption extends to the purchase of component parts and all other manufacturing and fabrication costs. The department may provide a form to be used by contractors to provide to suppliers of people-mover systems or parts to certify the contractors' eligibility for the exemption provided under this paragraph. As used in this paragraph, "people-mover systems" includes wheeled passenger vehicles and related control and power distribution systems that are part of a transportation system for use by the general public, regardless of whether such vehicles are operator-controlled or driverless, self-propelled or propelled by external power and control systems, or conducted on roads, rails, guidebeams, or other permanent structures that are an integral part of such transportation system. "Related control and power distribution systems" includes any electrical or electronic control or signaling equipment, but does not include the embedded wiring, conduits, or cabling used to transmit electrical or electronic signals among such control equipment, power distribution equipment, signaling equipment, and wheeled vehicles.

~~(ccc) Organizations providing crime prevention, drunk driving prevention, or juvenile delinquency prevention services.—Sales or leases to any nonprofit organization that provides crime prevention services, drunk driving prevention services, or juvenile delinquency prevention services that benefit society as a whole are exempt from the tax imposed by this chapter, if the organization holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code and the organization has as its sole or primary purpose the provision of services that contribute to the prevention of hardships caused by crime, drunk driving, or juvenile delinquency.~~

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

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

~~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.—

(a) 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 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.

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

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

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

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

However, if the vehicle is removed from this state within 45 days after purchase and remains outside the state for a minimum of 180 days, the vehicle may qualify for the partial exemption allowed in paragraph (a) despite the residency of owners or stockholders of the purchasing entity.

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

Section 21. (1) The amendments made by this act to section 212.08(7)(ff) and (nn), Florida Statutes, shall operate retroactively to July 1, 2000.

(2) No tax imposed by chapter 212, Florida Statutes, on the transactions exempted by section 212.08(7)(nn), Florida Statutes, by this act, and not actually paid or collected by a taxpayer before the effective date of this act, shall be due from such taxpayer. However, any tax actually paid or collected shall be remitted to the Department of Revenue and no refund shall be due. Taxpayers must obtain a sales tax exemption certificate from the department to secure the exemption granted by section 212.08(7)(nn)1., Florida Statutes.

(3) The amendments made by this act to the introductory paragraph and to the final, flush-left passage of section 212.08(7), Florida Statutes, are made to clarify rather than change existing law and shall operate retroactively to January 1, 2001.

Section 22. Paragraph (a) of subsection (8) and subsection (9) of section 212.08, Florida Statutes, 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.

(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, including commercial fishing vessels, 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. However, during the fiscal year in which the vessel begins its initial operations in this state, the vessel's mileage apportionment factor may be determined on the basis of an estimated ratio of anticipated miles in this state to anticipated total miles for that year and, subsequently, additional tax shall be paid on the vessel, or a refund may be applied for, on the basis of the actual ratio of the vessel's miles in this state to its total miles for that 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. The basis for imposition of any discretionary surtax shall be as set forth in s. 212.054. 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. Vessels and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

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

(a) Railroads that ~~which~~ are licensed as common carriers by the Surface Transportation Board ~~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. However, during the fiscal year in which the railroad begins its initial operations in this state, the railroad's mileage apportionment factor may be determined on the basis of an estimated ratio of anticipated miles in this state to anticipated total miles for that year and, subsequently, additional tax shall be paid on the railroad, or a refund may be applied for, on the basis of the actual ratio of the railroad's miles in this state to its total miles for that year. This ratio shall be applied each month to the ~~total~~ purchases of the railroad in this state 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. The basis for imposition of any discretionary surtax is set forth in s. 212.054. Railroads that ~~which~~ are licensed as common carriers by the Surface Transportation Board ~~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.

(b) Motor vehicles that ~~which~~ are engaged in interstate commerce as common carriers, 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. However, during the fiscal year in which the carrier begins its initial operations in this state, the carrier's mileage apportionment factor may be determined on the basis of an estimated ratio of anticipated miles in this state to anticipated total miles for that year and, subsequently, additional tax shall be paid on the carrier, or a refund may be applied for, on the basis of the actual ratio of the carrier's miles in this state to its total miles for that

year. This ratio shall be applied each month to the ~~total~~ purchases in this state 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. The basis for imposition of any discretionary surtax is set forth in s. 212.054. Motor vehicles that ~~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. Motor vehicles and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax. For purposes of this paragraph, parts of a motor vehicle engaged in interstate commerce include a separate tank not connected to the fuel supply system of the motor vehicle into which diesel fuel is placed to operate a refrigeration unit or other equipment.

Section 23. Paragraphs (a) and (d) of subsection (1) and paragraph (i) of subsection (3) of section 212.096, Florida Statutes, are amended to read:

212.096 Sales, rental, storage, use tax; enterprise zone jobs credit against sales tax.—

(1) For the purposes of the credit provided in this section:

(a) "Eligible business" means any sole proprietorship, firm, partnership, corporation, bank, savings association, estate, trust, business trust, receiver, syndicate, or other group or combination, or successor business, located in an enterprise zone. The business must demonstrate to the department that the total number of full-time jobs defined under paragraph (d) has increased from the average of the previous 12 months. ~~The term "eligible business" includes~~ A business that created ~~added~~ a minimum of five new full-time jobs in an enterprise zone between July 1, 2000, and December 31, 2001, is also an eligible business for purposes of the credit provided beginning January 1, 2002. An eligible business does not include any business which has claimed the credit permitted under s. 220.181 for any new business employee first beginning employment with the business after July 1, 1995.

(d) "Jobs" means full-time positions, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from a business operation in this state. These terms ~~This number~~ may not include temporary construction jobs involved with the construction of facilities or any jobs that have previously been included in any application for tax credits under s. 220.181(1). The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468 if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

A person shall be deemed to be employed if the person performs duties in connection with the operations of the business on a regular, full-time basis, provided the person is performing such duties for an average of at least 36

hours per week each month. The person must be performing such duties at a business site located in the enterprise zone.

(3) In order to claim this credit, an eligible 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, a statement which includes:

(i) All applications for a credit pursuant to this section must be submitted to the department within 6 months after the new employee is hired, except applications for credit for leased employees. Applications for credit for leased employees must be submitted to the department within 7 months after the employee is leased.

Section 24. Subsections (2) and (3) and paragraph (d) of subsection (6) of section 212.098, Florida Statutes, are amended to read:

212.098 Rural Job Tax Credit Program.—

(2) A new eligible business may apply for a tax credit under this subsection once at any time during its first year of operation. A new eligible business in a ~~tier-one~~ qualified area that has at least 10 qualified employees on the date of application shall receive a $1,000 tax credit for each such employee.

(3) An existing eligible business may apply for a tax credit under this subsection at any time it is entitled to such credit, except as restricted by this subsection. An existing eligible business with fewer than 50 employees in a qualified area that on the date of application has at least 20 percent more qualified employees than it had 1 year prior to its date of application shall receive a $1,000 tax credit for each such additional employee. An existing eligible business that has 50 employees or more in a qualified area that, on the date of application, has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a $1,000 tax credit for each additional employee. Any existing eligible business that received a credit under subsection (2) may not apply for the credit under this subsection sooner than 12 months after the application date for the credit under subsection (2).

(6)

(d) A business may not receive more than $500,000 of tax credits under this section during any one calendar year ~~for its efforts in creating jobs~~.

Section 25. Subsection (5) is added to section 212.11, Florida Statutes, to read:

212.11 Tax returns and regulations.—

(5)(a) Each dealer that claims any credits granted in this chapter against that dealer's sales and use tax liabilities shall submit to the department, upon request, documentation that provides all of the information required to verify the dealer's entitlement to such credits, excluding credits authorized pursuant to the provisions of s. 212.17. All information must be broken

down as prescribed by the department and shall be submitted in a manner that enables the department to verify that the credits are allowable by law. With respect to any credit that is granted in the form of a refund of previously paid taxes, supporting documentation must be provided with the application for refund and the penalty provisions of paragraph (c) do not apply.

(b) The department shall adopt rules regarding the forms and documentation required to verify credits against sales and use tax liabilities and the format in which documentation is to be submitted, which format may include magnetic tape or other means of electronic transmission.

(c) The department shall disallow any credit that is not supported by the information required under this subsection. In addition, the disallowed credit or any part of the credit disallowed is subject to a mandatory penalty of 25 percent and interest as provided for in s. 212.12. A specific penalty of 25 percent of the otherwise available credit shall be applied to any credit for which the required information report is not received within 30 days after a written request from the department.

Section 26. Subsection (14) is added to section 212.12, Florida Statutes, 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.—

(14) If it is determined upon audit that a dealer has collected and remitted taxes by applying the applicable tax rate to each transaction as described in subsection (9) and rounding the tax due to the nearest whole cent rather than applying the appropriate bracket system provided by law or department rule, the dealer shall not be held liable for additional tax, penalty, and interest resulting from such failure if:

(a) The dealer acted in a good faith belief that rounding to the nearest whole cent was the proper method of determining the amount of tax due on each taxable transaction.

(b) The dealer timely reported and remitted all taxes collected on each taxable transaction.

(c) The dealer agrees in writing to future compliance with the laws and rules concerning brackets applicable to the dealer's transactions.

Section 27. It is the intent of the Legislature that the amendment made by this act to add subsection (14) to section 212.12, Florida Statutes, applies to all pending sales and use tax audits or other actions or inquiries, including those currently under protest or in litigation. The amendment made by this act to add subsection (14) to section 212.12, Florida Statutes, does not create any right to refund for taxes previously assessed and paid in regard to audits or other actions or inquiries that are no longer pending.

Section 28. Effective January 1, 2003, paragraph (c) of subsection (6) of section 212.12, Florida Statutes, is amended to read:

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

(6)

(c)1. If the records of a dealer are adequate but voluminous in nature and substance, the department may sample such records, except for fixed assets, and project the audit findings derived therefrom over the entire audit period to determine the proportion that taxable retail sales bear to total retail sales or the proportion that taxable purchases bear to total purchases. In order to conduct such a sample, the department must first make a good faith effort to reach an agreement with the dealer, which agreement provides for the means and methods to be used in the sampling process. In the event that no agreement is reached, the dealer is entitled to a review by the executive director.

2. For the purposes of sampling pursuant to subparagraph 1., the department shall project any deficiencies and overpayments derived therefrom over the entire audit period. In determining the dealer's compliance, the department shall reduce any tax deficiency as derived from the sample by the amount of any overpayment derived from the sample. In the event the department determines from the sample results that the dealer has a net tax overpayment, the department shall provide the findings of this overpayment to the Comptroller for repayment of funds paid into the State Treasury through error pursuant to s. 215.26.

3.a. A taxpayer is entitled, both in connection with an audit and in connection with an application for refund filed independently of any audit, to establish the amount of any refund or deficiency through statistical sampling when the taxpayer's records, other than those regarding fixed assets, are adequate but voluminous. Alternatively, a taxpayer is entitled to establish any refund or deficiency through any other sampling method agreed upon by the taxpayer and the department when the taxpayer's records, other than those regarding fixed assets, are adequate but voluminous. Whether done through statistical sampling or any other sampling method agreed upon by the taxpayer and the department, the completed sample must reflect both overpayments and underpayments of taxes due. The sample shall be conducted through:

(I) A taxpayer request to perform the sampling through the certified audit program pursuant to s. 213.285;

(II) Attestation by a certified public accountant as to the adequacy of the sampling method utilized and the results reached using such sampling method; or

(III) A sampling method that has been submitted by the taxpayer and approved by the department before a refund claim is submitted. This sub-sub-subparagraph does not prohibit a taxpayer from filing a refund claim prior to approval by the department of the sampling method; however, a refund claim submitted before the sampling method has been approved by

the department cannot be a complete refund application pursuant to s. 213.255 until the sampling method has been approved by the department.

b. The department shall prescribe by rule the procedures to be followed under each method of sampling. Such procedures shall follow generally accepted auditing procedures for sampling. The rule shall also set forth other criteria regarding the use of sampling, including, but not limited to, training requirements that must be met before a sampling method may be utilized and the steps necessary for the department and the taxpayer to reach agreement on a sampling method submitted by the taxpayer for approval by the department.

Section 29. Paragraph (a) of subsection (3) of section 212.18, Florida Statutes, 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. The department may waive the registration fee for applications submitted through the department's Internet registration process.

Section 30. Section 213.015, Florida Statutes, is amended to read:

213.015 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights to guarantee that the rights, privacy, and property of Florida taxpayers are adequately safeguarded and protected during tax assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements which explain, in simple, nontechnical terms, the rights and obligations of the Department of Revenue and taxpayers. Section 192.0105 provides additional rights afforded to payors of property taxes and

assessments. The rights afforded taxpayers to ensure ~~assure~~ that their privacy and property are safeguarded and protected during tax assessment and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed Florida taxpayers in the Florida Statutes and the departmental rules are:

(1) The right to available information and prompt, accurate responses to questions and requests for tax assistance.

(2) The right to request assistance from a taxpayers' rights advocate of the department, who shall be responsible for facilitating the resolution of taxpayer complaints and problems not resolved through the normal administrative channels within the department, including any taxpayer complaints regarding unsatisfactory treatment by department employees. The taxpayers' rights advocate may issue a stay order if a taxpayer has suffered or is about to suffer irreparable loss as a result of an action by the department (see ss. 20.21(3) and 213.018).

(3) The right to be represented or advised by counsel or other qualified representatives at any time in administrative interactions with the department, the right to procedural safeguards with respect to recording of interviews during tax determination or collection processes conducted by the department, the right to be treated in a professional manner by department personnel, and the right to have audits, inspections of records, and interviews conducted at a reasonable time and place except in criminal and internal investigations (see ss. 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3), 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (13), 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

(4) The right to freedom from penalty attributable to any taxes administered by the Department of Revenue; freedom from payment of uncollected sales, use, motor or diesel fuel, or other transaction-based excise taxes administered by the Department of Revenue; and to abatement of interest attributable to any taxes administered by the Department of Revenue, when the taxpayer reasonably relies upon binding written advice furnished to the taxpayer by the department through authorized representatives in response to the taxpayer's specific written request which provided adequate and accurate information (see ss. 120.565 and 213.22).

(5) The right to obtain simple, nontechnical statements which explain the reason for audit selection and the procedures, remedies, and rights available during audit, appeals, and collection proceedings, including, but not limited to, the rights pursuant to this Taxpayer's Bill of Rights and the right to be provided with a narrative description which explains the basis of audit changes, proposed assessments, assessments, and denials of refunds; identifies any amount of tax, interest, or penalty due; and states the consequences of the taxpayer's failure to comply with the notice.

(6) The right to be informed of impending collection actions which require sale or seizure of property or freezing of assets, except jeopardy assessments, and the right to at least 30 days' notice in which to pay the liability or seek further review (see ss. 198.20, 199.262, 201.16, 206.075, 206.24, 211.125(5),

212.03(5), 212.0305(3)(j), 212.04(7), 212.14(1), 213.73(3), 213.731, and 220.739).

(7) The right to have all other collection actions attempted before a jeopardy assessment unless delay will endanger collection and, after a jeopardy assessment, the right to have an immediate review of the jeopardy assessment (see ss. 212.15, 213.73(3), 213.732, and 220.719(2)).

(8) The right to seek review, through formal or informal proceedings, of any adverse decisions relating to determinations in the audit or collections processes and the right to seek a reasonable administrative stay of enforcement actions while the taxpayer pursues other administrative remedies available under Florida law (see ss. 120.80(14)(b), 213.21(1), 220.717, and 220.719(2)).

(9) The right to have the taxpayer's tax information kept confidential unless otherwise specified by law (see s. 213.053).

(10) The right to procedures for retirement of tax obligations by installment payment agreements which recognize both the taxpayer's financial condition and the best interests of the state, provided that the taxpayer gives accurate, current information and meets all other tax obligations on schedule (see s. 213.21(4)).

(11) The right to procedures for requesting cancellation, release, or modification of liens filed by the department and for requesting that any lien which is filed in error be so noted on the lien cancellation filed by the department, in public notice, and in notice to any credit agency at the taxpayer's request (see ss. 198.22, 199.262, 212.15(4), 213.733, and 220.819).

(12) The right to procedures which assure that the individual employees of the department are not paid, evaluated, or promoted on the basis of the amount of assessments or collections from taxpayers (see s. 213.30(2)).

(13) The right to an action at law within the limitations of s. 768.28, relating to sovereign immunity, to recover damages against the state or the Department of Revenue for injury caused by the wrongful or negligent act or omission of a department officer or employee (see s. 768.28).

(14) The right of the taxpayer or the department, as the prevailing party in a judicial or administrative action brought or maintained without the support of justiciable issues of fact or law, to recover all costs of the administrative or judicial action, including reasonable attorney's fees, and of the department and taxpayer to settle such claims through negotiations (see ss. 57.105 and 57.111).

(15) The right to have the department begin and complete its audits in a timely and expeditious manner after notification of intent to audit (see s. 95.091).

(16) The right to have the department actively identify and review multistate proposals that offer more efficient and effective methods for administering the revenue sources of this state (see s. 213.256).

(17) The right to have the department actively investigate and, where appropriate, implement automated or electronic business methods that enable the department to more efficiently and effectively administer the revenue sources of this state at less cost and effort for taxpayers.

(18) The right to waiver of interest that accrues as the result of errors or delays caused by a department employee (see s. 213.21(3)).

(19) The right to participate in free educational activities that help the taxpayer successfully comply with the revenue laws of this state.

(20) The right to pay a reasonable fine or percentage of tax, whichever is less, to reinstate an exemption from any tax which a taxpayer would have been entitled to receive but which was lost because the taxpayer failed to properly register as a tax dealer in this state or obtain the necessary certificates entitling the taxpayer to the exemption (see s. 212.07(9)).

(21) The right to fair and consistent application of the tax laws of this state by the Department of Revenue.

Section 31. Subsection (3) and paragraphs (n) and (r) of subsection (7) of section 213.053, Florida Statutes, are amended, and paragraph (w) is added to subsection (7) of said section, to read:

213.053 Confidentiality and information sharing.—

(3) The department shall permit a taxpayer, his or her authorized representative, or the personal representative of an estate to inspect the taxpayer's return and may furnish him or her an abstract of such return. A taxpayer may authorize the department in writing to divulge specific information concerning the taxpayer's account. The department, while performing unemployment compensation tax collection services pursuant to a contract with the Agency for Workforce Innovation, may release unemployment tax rate information to the agent of an employer, which agent provides payroll services for more than 500 employers, pursuant to the terms of a memorandum of understanding. The memorandum of understanding shall state that the agent affirms, subject to the criminal penalties contained in ss. 443.171 and 443.1715, that the agent will retain the confidentiality of the information, that the agent has in effect a power of attorney from the employer which permits the agent to obtain unemployment tax rate information, and that the agent shall provide the department with a copy of the employer's power of attorney upon request.

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

(n) Information contained in returns, reports, accounts, or declarations to the Board of Accountancy in connection with a disciplinary proceeding conducted pursuant to chapter 473 when related to a certified public accountant participating in the certified audits project, or to the court in connection with a civil proceeding brought by the department relating to a claim for recovery of taxes due to negligence on the part of a certified public accountant participating in the certified audits project. In any judicial proceeding brought by the department, upon motion for protective order, the

court shall limit disclosure of tax information when necessary to effectuate the purposes of this section. This paragraph is repealed on July 1, 2006 ~~2002~~.

(r) Information relative to the returns required by ss. 175.111 and 185.09 to the Department of Management Services in the conduct of its official duties. The Department of Management Services is, in turn, authorized to disclose payment information to a governmental agency or the agency's agent for purposes related to budget preparation, auditing, revenue or financial administration, or ~~as necessary in the~~ administration of chapters 175 and 185.

(w) Tax registration information to the Agency for Workforce Innovation for use in the conduct of its official duties, which information may not be redisclosed by the Agency for Workforce Innovation.

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 32. Effective July 1, 2002, paragraph (c) is added to subsection (4) of section 213.0535, Florida Statutes, to read:

213.0535 Registration Information Sharing and Exchange Program.—

(4) There are two levels of participation:

(c) A level-two participant may disclose information as provided in paragraph (b) in response to a request for such information from any other level-two participant. Information relative to specific taxpayers shall be requested or disclosed under this paragraph only to the extent necessary in the administration of a tax or licensing provision as enumerated in paragraph (a). When a disclosure made under this paragraph involves confidential information provided to the participant by the Department of Revenue, the participant who provides the information shall maintain records of the disclosures, which records shall be subject to review by the Department of Revenue for a period of 5 years after the date of the disclosure.

Section 33. Paragraph (a) of subsection (3) and subsection (8) of section 213.21, Florida Statutes, are amended, and subsections (9) and (10) are added to said section, to read:

213.21 Informal conferences; compromises.—

(3)(a) A taxpayer's liability for any tax or interest specified in s. 72.011(1) may be compromised by the department upon the grounds of doubt as to liability for or collectibility of such tax or interest. A taxpayer's liability for interest under any of the chapters specified in s. 72.011(1) shall be settled or compromised in whole or in part whenever or to the extent that the department determines that the delay in the determination of the amount due is attributable to the action or inaction of the department. A taxpayer's

liability for penalties under any of the chapters specified in s. 72.011(1) may be settled or compromised if it is determined by the department that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. The facts and circumstances are subject to de novo review to determine the existence of reasonable cause in any administrative proceeding or judicial action challenging an assessment of penalty under any of the chapters specified in s. 72.011(1). A taxpayer who establishes reasonable reliance on the written advice issued by the department to the taxpayer will be deemed to have shown reasonable cause for the noncompliance. In addition, a taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) in excess of 25 percent of the tax shall be settled or compromised if the department determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. The department shall maintain records of all compromises, and the records shall state the basis for the compromise. The records of compromise under this paragraph shall not be subject to disclosure pursuant to s. 119.07(1) and shall be considered confidential information governed by the provisions of s. 213.053.

(8) In order to determine whether certified audits are an effective tool in the overall state tax collection effort, the executive director of the department or the executive director's designee shall settle or compromise penalty liabilities of taxpayers who participate in the certified audits project. As further incentive for participating in the program, the department shall abate the first $25,000 of any interest liability and 25 percent of any interest due in excess of the first $25,000. A settlement or compromise of penalties or interest pursuant to this subsection shall not be subject to the provisions of paragraph (3)(a), except for the requirement relating to confidentiality of records. The department may consider an additional compromise of tax or interest pursuant to the provisions of paragraph (3)(a). This subsection does not apply to any liability related to taxes collected but not remitted to the department. This subsection is repealed on July 1, 2006 ~~2002~~.

(9) A penalty for failing to collect a tax imposed by chapter 212 shall be settled or compromised upon payment of tax and interest if a taxpayer failed to collect the tax due to a good faith belief that tax was not due on the transaction and, because of that good faith belief, the taxpayer is now unable to charge and collect the tax from the taxpayer's purchaser. The Department of Revenue shall adopt rules necessary to implement and administer this subsection, including rules establishing procedures and forms.

(10)(a) Effective July 1, 2003, notwithstanding any other provision of law and solely for the purpose of administering the tax imposed by chapter 212, under the circumstances set forth in this subsection, the department shall settle or compromise a taxpayer's liability for penalty without requiring the taxpayer to submit a written request for compromise or settlement.

(b) For taxpayers who file returns and remit tax on a monthly basis:

1. Any penalty related to a noncompliant filing event shall be settled or compromised if the taxpayer has:

a. No noncompliant filing event in the immediately preceding 12-month period and no unresolved chapter 212 liability resulting from a noncompliant filing event; or

b. One noncompliant filing event in the immediately preceding 12-month period, resolution of the current noncompliant filing event through payment of tax and interest and the filing of a return within 30 days after notification by the department, and no unresolved chapter 212 liability resulting from a noncompliant filing event.

2. If a taxpayer has two or more noncompliant filing events in the immediately preceding 12-month period, the taxpayer shall be liable, absent a showing by the taxpayer that the noncompliant filing event was due to extraordinary circumstances, for the penalties provided in s. 212.12, including loss of collection allowance, and shall be reported to a credit bureau.

(c) For taxpayers who file returns and remit tax on a quarterly basis, any penalty related to a noncompliant filing event shall be settled or compromised if the taxpayer has no noncompliant filing event in the immediately preceding 12-month period and no unresolved chapter 212 liability resulting from a noncompliant filing event.

(d) For purposes of this subsection:

1. "Noncompliant filing event" means a failure to timely file a complete and accurate return required under chapter 212 or a failure to timely pay the amount of tax reported on a return required by chapter 212.

2. "Extraordinary circumstances" means the occurrence of events beyond the control of the taxpayer, such as, but not limited to, the death of the taxpayer, acts of war or terrorism, natural disasters, fire, or other casualty, or the nonfeasance or misfeasance of the taxpayer's employees or representatives responsible for compliance with the provisions of chapter 212. With respect to the acts of an employee or representative, the taxpayer must show that the principals of the business lacked actual knowledge of the noncompliance and that the noncompliance was resolved within 30 days after actual knowledge.

Section 34. Subsection (2) of section 213.24, Florida Statutes, is amended to read:

213.24 Accrual of penalties and interest on deficiencies; deficiency billing costs.—

(2)(a) Billings for deficiencies or automated refunds of tax, penalty, or interest shall not be issued for any amount less than the actual costs incurred ~~by the department~~ to produce a billing or automated refund.

(b) The cost of issuing billings or automated refunds for any tax enumerated in s. 213.05 shall be computed in a study performed by the inspector general of the department. The study shall be conducted every 3 years and at such other times as deemed necessary by the inspector general. A minimum billing and automated refund amount shall be established and adjusted in accordance with the results of such study.

(c) Any change in minimum billing or automated refund amounts ~~amount~~ shall be made effective on July 1 following the completion of the study.

Section 35. Subsection (4) of section 213.255, Florida Statutes, is amended to read:

213.255 Interest.—Interest shall be paid on overpayments of taxes, payment of taxes not due, or taxes paid in error, subject to the following conditions:

(4) Interest shall not commence until 90 days after a complete refund application has been filed and the amount of overpayment has not been refunded to the taxpayer or applied as a credit to the taxpayer's account. However, if there is a prohibition against refunding a tax overpayment before the first day of the state fiscal year, interest on the tax overpayment shall not commence until August 1 of the year the tax was due. If the department and the taxpayer mutually agree that an audit or verification is necessary in order to determine the taxpayer's entitlement to the refund, interest shall not commence until the audit or verification of the claim is final.

Section 36. Paragraph (c) of subsection (2) of section 213.285, Florida Statutes, is amended to read:

213.285 Certified audits.—

(2)

(c) The certified audits project is repealed on July 1, 2006 ~~2002~~, or upon completion of the project as determined by the department, whichever occurs first.

Section 37. Subsection (3) is added to section 213.30, Florida Statutes, to read:

213.30 Compensation for information relating to a violation of the tax laws.—

(3) Notwithstanding any other provision of law, this section is the sole means by which any person may seek or obtain any moneys as the result of, in relation to, or founded upon the failure by another person to comply with the tax laws of this state. A person's use of any other law to seek or obtain moneys for such failure is in derogation of this section and conflicts with the state's duty to administer the tax laws.

Section 38. Effective January 1, 2003, section 213.755, Florida Statutes, is amended to read:

213.755 Filing of returns and payment of taxes by electronic means ~~funds transfer~~.—

(1) The executive director of the Department of Revenue shall have authority to require a taxpayer to file returns and remit payments ~~taxes~~ by

electronic means ~~funds transfer~~ where the taxpayer~~, including consolidated filers,~~ is subject to tax and has paid that tax in the prior state fiscal year in an amount of $30,000 ~~$50,000~~ or more. Any taxpayer who operates two or more places of business for which returns are required to be filed with the department shall combine the tax payments for all such locations in order to determine whether they are obligated under this section. This subsection does not override additional requirements in any provision of a revenue law which the department has the responsibility for regulating, controlling, and administering.

(2) As used in any revenue law administered by the department, the term:

(a) "Payment" means any payment or remittance required to be made or paid within a prescribed period or on or before a prescribed date under the authority of any provision of a revenue law which the department has the responsibility for regulating, controlling, and administering. The term does not include any remittance unless the amount of the remittance is actually received by the department.

(b) "Return" means any report, claim, statement, notice, application, affidavit, or other document required to be filed within a prescribed period or on or before a prescribed date under the authority of any provision of a revenue law which the department has the responsibility of regulating, controlling, and administering.

(c) "Electronic means" includes, but is not limited to, electronic data interchange; electronic funds transfer; or use of the Internet, telephone, or other technology specified by the department.

(3) Solely for the purposes of administering this section:

(a) Taxes levied under parts I and II of chapter 206 shall be considered a single tax.

(b) A person required to remit a tax acting as a collection agent or dealer for the state shall nonetheless be considered the taxpayer.

(4) The executive director may require a taxpayer to file by electronic means returns for which no tax is due for the specific taxing period.

(5) Beginning January 1, 2003, consolidated filers shall file returns and remit taxes by electronic means.

(6) A taxpayer required to file returns by electronic means shall also remit payments by electronic means. A taxpayer who fails to file returns pursuant to this section is liable for a penalty of $10 for each report submitted, which is in addition to any other penalty that may be applicable, unless the taxpayer has first obtained a waiver of such requirement from the department. A taxpayer who fails to remit payments pursuant to this section is liable for a penalty of $10 for each remittance submitted, which is in addition to any other penalty that may be applicable.

(7) The department shall give due regard to developing uniform standards for formats as adopted by the American National Standards Institute for encryption and taxpayer authentication to ensure that the return and payment information is kept confidential. The department shall also provide several options for filing reports and remitting payments by electronic means in order to make compliance with the requirements of this section as simple as possible for the taxpayer.

(8) The department shall prescribe by rule the format and instructions necessary for filing returns and reports and for remitting payments in accordance with this section to ensure a full collection of taxes, interest, and penalties due. The acceptable method of transfer; the method, form, and content of the electronic filing of returns or remittance of payments of tax, penalty, or interest; and the means, if any, by which the taxpayer will be provided with an acknowledgment of receipt shall be prescribed by the department.

(9) The department may waive the requirement to file a return by electronic means for taxpayers that are unable to comply despite good faith efforts or due to circumstances beyond the taxpayer's reasonable control.

(a) As prescribed by the department, grounds for approving the waiver include, but are not limited to, circumstances in which the taxpayer, the owner, or an officer of the business, or the taxpayer's accountant or bookkeeper, does not:

1. Currently file information or data electronically with any business or government agency; or

2. Have a compatible computer that meets or exceeds the department's minimum standards.

(b) The department shall accept other reasons for requesting a waiver from the requirement to submit a return by electronic means, including, but not limited to:

1. That the taxpayer needs additional time to program his or her computer;

2. That complying with this requirement causes the taxpayer financial hardship; or

3. That complying with this requirement conflicts with the taxpayer's business procedures.

(c) The department may establish by rule the length of time a waiver is valid and may determine whether subsequent waivers will be authorized, based on the provisions of this subsection.

Section 39. Paragraphs (q) and (gg) of subsection (1) of section 220.03, Florida Statutes, is amended 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:

(q) "New employee," for the purposes of the enterprise zone jobs credit, means a person residing in an enterprise zone or a participant in the welfare transition program who is employed at a business located in an enterprise zone who begins employment in the operations of the business after July 1, 1995, and who has not been previously employed full-time within the preceding 12 months by the business or a successor business claiming the credit pursuant to s. 220.181. A person shall be deemed to be employed by such a business if the person performs duties in connection with the operations of the business on a full-time basis, provided she or he is performing such duties for an average of at least 36 hours per week each month. ~~The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.~~ The person must be performing such duties at a business site located in an enterprise zone. The provisions of this paragraph shall expire and be void on June 30, 2005.

(gg) "Jobs" means full-time positions, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from business operations in this state. <u>These terms</u> ~~This number~~ may not include temporary construction jobs involved with the construction of facilities or any jobs that have previously been included in any application for tax credits under s. <u>212.096</u> ~~220.181(1)~~. <u>The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468 if the employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.</u>

Section 40. Effective upon this act becoming a law, and applying to tax years beginning on or after January 1, 2002, paragraph (b) of subsection (5) of section 220.15, Florida Statutes, is amended to read:

220.15 Apportionment of adjusted federal income.—

(5) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(b)1. Sales of tangible personal property occur in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property, unless shipment is made via a common or contract carrier. <u>However, for industries in SIC Industry Number 2037, if the ultimate destination of the product is to a location outside this state, regardless of the method of shipment or f.o.b. point, the sale shall not be deemed to occur in this state.</u>

2. When citrus fruit is delivered by a cooperative for a grower-member, by a grower-member to a cooperative, or by a grower-participant to a Florida processor, the sales factor for the growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.

3. Reimbursement of expenses under an agency contract between a cooperative, a grower-member of a cooperative, or a grower and a processor is not a sale within this state.

Section 41. Paragraph (a) of subsection (1) of section 220.181, Florida Statutes, is amended to read:

220.181 Enterprise zone jobs credit.—

(1)(a) Beginning January 1, 2002, there shall be allowed a credit against the tax imposed by this chapter to any business located in an enterprise zone which demonstrates to the department that the total number of full-time jobs has increased from the average of the previous 12 months. ~~This credit is also available for~~ A business that created ~~added~~ a minimum of five new full-time jobs in an enterprise zone between July 1, 2000, and December 31, 2001, may also be eligible to claim the credit for eligible employees under the provisions that took effect January 1, 2002. The credit shall be computed as 20 percent of the actual monthly wages paid in this state to each new employee hired when a new job has been created, as defined under s. 220.03(1)(ff), unless the business is located in a rural enterprise zone, pursuant to s. 290.004(8), in which case the credit shall be 30 percent of the actual monthly wages paid. 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 credit shall be computed as 30 percent of the actual monthly wages paid in this state to each new employee hired when a new job has been created, unless the business is located in a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid, for a period of up to 24 consecutive months. If the new employee hired when a new job is created is a participant in the welfare transition program, the following credit shall be a percent of the actual monthly wages paid: 40 percent for $4 above the hourly federal minimum wage rate; 41 percent for $5 above the hourly federal minimum wage rate; 42 percent for $6 above the hourly federal minimum wage rate; 43 percent for $7 above the hourly federal minimum wage rate; and 44 percent for $8 above the hourly federal minimum wage rate.

Section 42. Effective upon this act becoming a law and applying to tax years beginning on or after January 1, 2002, paragraph (e) of subsection (2) of section 220.187, Florida Statutes, is amended to read:

220.187 Credits for contributions to nonprofit scholarship-funding organizations.—

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

(e) "Qualified student" means a student who qualifies for free or reduced-price school lunches under the National School Lunch Act and who:

1. Was counted as a full-time-equivalent student during the previous state fiscal year for purposes of state per-student funding; ~~or~~

2. Received a scholarship from an eligible nonprofit scholarship-funding organization during the previous school year; or~~.~~

3. Is eligible to enter kindergarten or first grade.

Section 43. Subsection (4) of section 220.22, Florida Statutes, is amended to read:

220.22 Returns; filing requirement.—

(4) The department shall designate by rule certain not-for-profit entities and others that are not required to file a return under this code, including an initial information return, unless the entities have taxable income as defined in s. 220.13(2). These entities shall include subchapter S corporations, tax-exempt entities, and others that do not usually owe federal income tax. ~~For the year in which an election is made pursuant to s. 1361(b)(3) of the Internal Revenue Code, the qualified subchapter S subsidiary shall file an informational return with the department, which return shall be restricted to information identifying the subsidiary, the electing S corporation parent, and the effective date of the election.~~

Section 44. Effective January 1, 2003, paragraph (c) of subsection (2) of section 220.23, Florida Statutes, is amended to read:

220.23 Federal returns.—

(2) In the event the taxable income, any item of income or deduction, or the income tax liability reported in a federal income tax return of any taxpayer for any taxable year is adjusted by amendment of such return or as a result of any other recomputation or redetermination of federal taxable income or loss, if such adjustment would affect any item or items entering into the computation of such taxpayer's net income subject to tax for any taxable year under this code, the following special rules shall apply:

(c) In any case where notification of an adjustment is required under paragraph (a), then notwithstanding any other provision contained in s. 95.091(3):

1. A notice of deficiency may be issued at any time within 5 years after the date such notification is given; or

2. If a taxpayer either fails to notify the department or fails to report a change or correction which is treated in the same manner as if it were a deficiency for federal income tax purposes, a notice of deficiency may be issued at any time;

3. In either case, the amount of any proposed assessment set forth in such notice shall be limited to the amount of any deficiency resulting under this code from recomputation of the taxpayer's income for the taxable year after giving effect only to the item or items reflected in the adjustment.

Interest in accordance with s. 220.807 is due on the amount of any deficiency from the date fixed for filing the original return for the taxable year, determined without regard to any extension of time for filing the original return, until the date of payment of the deficiency.

Section 45. Subsection (1) of section 220.809, Florida Statutes, is amended to read:

220.809 Interest on deficiencies.—

(1) Except as provided in s. 220.23(2)(c), if any amount of tax imposed by this chapter is not paid on or before the date, determined without regard to any extensions, prescribed for payment of such tax, interest shall be paid in accordance with the provisions of s. 220.807 on the unpaid amount from such date to the date of payment.

Section 46. Subsection (2) of section 290.00677, Florida Statutes, is amended to read:

290.00677 Rural enterprise zones; special qualifications.—

(2) Notwithstanding the enterprise zone residency requirements set out in s. 220.03(1)(q), ~~eligible~~ businesses as defined by s. 220.03(1)(c) ~~212.096(1)(a)~~, located in rural enterprise zones as defined in s. 290.004, may receive the basic minimum credit provided under s. 220.181 for creating a new job and hiring a person residing within the jurisdiction of a rural county, as defined by s. 288.106(1)(r). All other provisions of s. 220.181, including, but not limited to, those relating to the award of enhanced credits apply to such businesses.

Section 47. Subsection (5) of section 336.021, Florida Statutes, is amended to read:

336.021 County transportation system; levy of ninth-cent fuel tax on motor fuel and diesel fuel.—

(5) All impositions of the tax shall be levied ~~imposed before November 1, 1993, to be effective January 1, 1994, and~~ before July 1 of each year ~~thereafter~~ to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 2002 ~~1996~~, and which expire on August 31 of any year may be reimposed at the current authorized rate to be effective September 1 of the year of expiration. All impositions shall be required to end on December 31 of a year. A ~~No~~ decision to rescind the tax shall not take effect on any date other than December 31 and shall require a minimum of ~~until at least~~ 60 days' notice to ~~days after the county notifies~~ the department of such decision.

Section 48. Paragraphs (a) and (b) of subsection (1) and paragraph (a) of subsection (5) of section 336.025, Florida Statutes, are amended to read:

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.—

(1)(a) In addition to other taxes allowed by law, there may be levied as provided in ss. 206.41(1)(e) and 206.87(1)(c) a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option fuel tax upon every gallon of motor fuel and diesel fuel sold in a county and taxed under the provisions of part I or part II of chapter 206.

1. All impositions and rate changes of the tax shall be levied before July 1 to be effective January 1 of the following year for a period not to exceed 30 years, and the applicable method of distribution shall be established pursuant to subsection (3) or subsection (4). However, levies of the tax which were in effect on July 1, 2002 ~~1996~~, and which expire on August 31 of any year may be reimposed at the current authorized rate effective September 1 of the year of expiration. Upon expiration, the tax may be relevied provided that a redetermination of the method of distribution is made as provided in this section.

2. County and municipal governments shall utilize moneys received pursuant to this paragraph only for transportation expenditures.

3. Any tax levied pursuant to this paragraph may be extended on a majority vote of the governing body of the county. A redetermination of the method of distribution shall be established pursuant to subsection (3) or subsection (4), if, after July 1, 1986, the tax is extended or the tax rate changed, for the period of extension or for the additional tax.

(b) In addition to other taxes allowed by law, there may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.

1. All impositions and rate changes of the tax shall be levied before July 1, to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 2002 ~~1996~~, and which expire on August 31 of any year may be reimposed at the current authorized rate effective September 1 of the year of expiration.

2. The county may, prior to levy of the tax, establish by interlocal agreement with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county. If no interlocal agreement is adopted before the effective date of the tax, tax revenues shall be distributed pursuant to the provisions of subsection (4). If no interlocal agreement exists, a new interlocal agreement may be established prior to June 1 of any year pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial levy of the tax or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding

bonds which are backed by taxes authorized by this paragraph, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

3. County and municipal governments shall utilize moneys received pursuant to this paragraph only for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan. For purposes of this paragraph, expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures for purposes of this paragraph shall not include routine maintenance of roads.

(5)(a) By July 1 of each year, the county shall notify the Department of Revenue of the rate of the taxes ~~tax~~ levied pursuant to paragraphs (1)(a) and (b), and of its decision to rescind or change the rate of a ~~the~~ tax, if applicable, and shall provide the department with a certified copy of the interlocal agreement established under subparagraph (1)(b)2. or subparagraph (3)(a)1. with distribution proportions established by such agreement or pursuant to subsection (4), if applicable. A ~~No~~ decision to rescind a ~~the~~ tax shall not take effect on any date other than December 31 and shall require a minimum of ~~until at least~~ 60 days' notice to ~~days after the county notifies~~ the Department of Revenue of such decision.

Section 49. Subsection (2) of section 376.70, Florida Statutes, is amended to read:

376.70 Tax on gross receipts of drycleaning facilities.—

(2) Each drycleaning facility or dry drop-off facility imposing a charge for the drycleaning or laundering of clothing or other fabrics is required to register with the Department of Revenue and become licensed for the purposes of this section. The owner or operator of the facility shall register the facility with the Department of Revenue. Drycleaning facilities or dry drop-off facilities operating at more than one location are only required to have a single registration. The fee for registration is $30. The owner or operator of the facility shall pay the registration fee to the Department of Revenue. The department may waive the registration fee for applications submitted through the department's Internet registration process.

Section 50. Subsection (1) and paragraph (e) of subsection (3) of section 443.131, Florida Statutes, are amended to read:

443.131 Contributions.—

(1) WHEN PAYABLE.—Contributions shall accrue and become payable by each employer for each calendar quarter in which he or she is subject to this chapter, with respect to wages paid during such calendar quarter for employment. Such contributions shall become due and be paid by each

employer to the Agency for Workforce Innovation or its designee ~~division~~ for the fund, in accordance with such rules as the Agency for Workforce Innovation or its designee ~~division~~ may prescribe. However, nothing in this subsection shall be construed to prohibit the Agency for Workforce Innovation or its designee ~~division~~ from allowing, ~~on a limited basis,~~ at the request of the employer, ~~certain~~ employers of employees performing domestic services, as defined in s. 443.036(21)(g) ~~and by rule of the division~~, to pay contributions or report wages at intervals other than quarterly when such payment or reporting is to the advantage of the Agency for Workforce Innovation or its designee ~~division and the employers~~, and when such nonquarterly payment and reporting is authorized under federal law. This provision gives employers of employees performing domestic services the option to elect to report wages and pay taxes annually, with a due date of January ~~April~~ 1 and a delinquency date of February 1 ~~April 30~~. In order to qualify for this election, the employer must employ ~~have~~ only employees who perform domestic services ~~employees~~, be eligible for a variation from the standard rate as computed pursuant to subsection (3) ~~in good standing~~, apply to this program no later than December 1 ~~30~~ of the preceding calendar year, and agree to provide the Agency for Workforce Innovation or its designee ~~division~~ with any special reports which might be requested, as required by rule 60BB-2.025(5) ~~38B-2.025(5)~~, including copies of all federal employment tax forms. Failure to timely furnish any wage information when required by the Agency for Workforce Innovation or its designee shall ~~may~~ result in the employer's loss of the privilege to elect participation in this program, effective the calendar quarter immediately following the calendar quarter in which such failure occurred. The employer is eligible to reapply for annual reporting after 1 complete calendar year has elapsed since the employer's disqualification if the employer timely furnished any requested wage information during the period in which annual reporting was denied. Contributions shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.—

(e)1. Variations from the standard rate of contributions shall be assigned with respect to each calendar year to employers eligible therefor. In determining the contribution rate, varying from the standard rate to be assigned each employer, adjustment factors provided for in sub-subparagraphs a.-c. will be added to the benefit ratio. This addition will be accomplished in two steps by adding a variable adjustment factor and a final adjustment factor as defined below. The sum of these adjustment factors provided for in sub-subparagraphs a.-c. will first be algebraically summed. The sum of these adjustment factors will then be divided by a gross benefit ratio to be determined as follows: Total benefit payments for the previous 3 years, as defined in subparagraph (b)1., charged to employers eligible to be assigned a contribution rate different from the standard rate minus excess payments for the same period divided by taxable payroll entering into the computation of individual benefit ratios for the calendar year for which the contribution rate is being computed. The ratio of the sum of the adjustment factors provided for in sub-subparagraphs a.-c. to the gross benefit ratio will be

multiplied by each individual benefit ratio below the maximum tax rate to obtain variable adjustment factors; except that in any instance in which the sum of an employer's individual benefit ratio and variable adjustment factor exceeds the maximum tax rate, the variable adjustment factor will be reduced so that the sum equals the maximum tax rate. The variable adjustment factor of each such employer will be multiplied by his or her taxable payroll entering into the computation of his or her benefit ratio. The sum of these products will be divided by the taxable payroll of such employers that entered into the computation of their benefit ratios. The resulting ratio will be subtracted from the sum of the adjustment factors provided for in sub-subparagraphs a.-c. to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor will be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor will be added to the variable adjustment factor and benefit ratio of each employer to obtain each employer's contribution rate; however, at no time shall an employer's contribution rate be rounded to less than 0.1 percent.

a. An adjustment factor for noncharge benefits will be computed to the fifth decimal place, and rounded to the fourth decimal place, by dividing the amount of benefit payments noncharged in the 3 preceding years as defined in subparagraph (b)1. by the taxable payroll of employers eligible to be considered for assignment of a contribution rate different from the standard rate that have a benefit ratio for the current year less than the maximum contribution rate. The taxable payroll of such employers will be the taxable payrolls for the 3 years ending June 30 of the current calendar year that had been reported to the division by September 30 of the same calendar year. Noncharge benefits for the purpose of this section shall be defined as benefit payments to an individual which were paid from the Unemployment Compensation Trust Fund but which were not charged to the unemployment record of any employer.

b. An excess payments adjustment factor will be computed to the fifth decimal place, and rounded to the fourth decimal place, by dividing the total excess payments during the 3 preceding years as defined in subparagraph (b)1. by the taxable payroll of employers eligible to be considered for assignment of a contribution rate different from the standard rate that have a benefit ratio for the current year less than the maximum contribution rate. The taxable payroll of such employers will be the same as used in computing the noncharge adjustment factor as described in sub-subparagraph a. The term "excess payments" for the purpose of this section is defined as the amount of benefit payments charged to the employment record of an employer during the 3 preceding years, as defined in subparagraph (b)1., less the product of the maximum contribution rate and his or her taxable payroll for the 3 years ending June 30 of the current calendar year that had been reported to the division by September 30 of the same calendar year. The term "total excess payments" is defined as the sum of the individual employer excess payments for those employers that were eligible to be considered for assignment of a contribution rate different from the standard rate.

c. If the balance in the Unemployment Compensation Trust Fund as of June 30 of the calendar year immediately preceding the calendar year for

which the contribution rate is being computed is less than 3.7 4 percent of the taxable payrolls for the year ending June 30 as reported to the division by September 30 of that calendar year, a positive adjustment factor will be computed. Such adjustment factor shall be computed annually to the fifth decimal place, and rounded to the fourth decimal place, by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the division by September 30 of such calendar year into a sum equal to one-fourth of the difference between the amount in the fund as of June 30 of such calendar year and the sum of 4.7 ~~5~~ percent of the total taxable payrolls for that year. Such adjustment factor will remain in effect in subsequent years until a balance in the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of such contribution rate equals or exceeds 3.7 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the division by September 30 of that calendar year. If the balance in the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 4.7 ~~5~~ percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the division by September 30 of that calendar year, a negative adjustment factor will be computed. Such adjustment factor shall be computed annually to the fifth decimal place, and rounded to the fourth decimal place, by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the division by September 30 of such calendar year into a sum equal to one-fourth of the difference between the amount in the fund as of June 30 of the current calendar year and 4.7 ~~5~~ percent of the total taxable payrolls of such year. Such adjustment factor will remain in effect in subsequent years until the balance in the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of such contribution rate is less than 4.7 ~~5~~ percent but more than 3.7 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the division by September 30 of that calendar year.

d. The maximum contribution rate that can be assigned to any employer shall be 5.4 percent, except those employers participating in an approved short-time compensation plan in which case the maximum shall be 1 percent above the current maximum contribution rate, with respect to any calendar year in which short-time compensation benefits are in the employer's employment record.

2. In the event of the transfer of employment records to an employing unit pursuant to paragraph (g) which, prior to such transfer, was an employer, the division shall recompute a benefit ratio for the successor employer on the basis of the combined employment records and reassign an appropriate contribution rate to such successor employer as of the beginning of the calendar quarter immediately following the effective date of such transfer of employment records.

Section 51. Effective upon this act becoming a law and operating retroactively to December 21, 2000, section 443.1315, Florida Statutes, is created to read:

443.1315 Treatment of Indian tribes.—

(1) As used in this section:

(a) "Employer" includes any Indian tribe for which service in employment as defined by this chapter is performed.

(b) "Employment" includes service performed in the employ of an Indian tribe, as defined by s. 3306(u) of the Federal Unemployment Tax Act, provided such service is excluded from employment as defined by that act solely by reason of s. 3306(c)(7) of such act and is not otherwise excluded from employment under this chapter. For purposes of this section, the exclusions from employment under s. 443.036(21)(d) apply to services performed in the employ of an Indian tribe.

(2) Benefits based on service in employment shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this chapter.

(3)(a) Indian tribes or tribal units thereof, including subdivisions, subsidiaries, or business enterprises wholly owned by such Indian tribes, subject to this chapter shall pay contributions under the same terms and conditions as all other subject employers unless they elect to pay into the Unemployment Compensation Trust Fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe.

(b) Indian tribes electing to make payments in lieu of contributions must make such election in the same manner and under the same conditions as provided by s. 443.131 for state and local governments and nonprofit organizations subject to this chapter. Indian tribes shall determine whether reimbursement for benefits paid will be elected by the tribe as a whole, by individual tribal units thereof, or by combinations of individual tribal units.

(c) Indian tribes or tribal units thereof shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

(d) At the discretion of the director of the Agency for Workforce Innovation or his or her designee, any Indian tribe or tribal unit thereof that elects to become liable for payments in lieu of contributions shall be required, within 90 days after the effective date of such election, to:

1. Execute and file with the director or his or her designee a surety bond approved by the director or his or her designee; or

2. Deposit with the director or his or her designee money or securities on the same basis as other employers with the same election option.

(4)(a)1. Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalty, within 90 days after receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions as provided in subsection (3) for

the following tax year unless payment in full is received before contribution rates for the next tax year are computed.

2. Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment pursuant to subparagraph 1. shall have such option reinstated if, after a period of 1 year, all contributions have been made timely, provided no contributions, payments in lieu of contributions for benefits paid, penalties, or interest remain outstanding.

(b)1. Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalty, after all collection activities deemed necessary by the director of the Agency for Workforce Innovation or his or her designee have been exhausted will cause services performed for such tribe to not be treated as employment for purposes of paragraph (1)(b).

2. The director or his or her designee may determine that any Indian tribe that loses coverage under subparagraph 1. may have services performed for such tribe again included as employment for purposes of paragraph (1)(b) if all contributions, payments in lieu of contributions, penalties, and interest have been paid.

(c) If an Indian tribe fails to make payments required under this section, including assessments of interest and penalty, within 90 days after a final notice of delinquency, the director of the Agency for Workforce Innovation shall immediately notify the United States Internal Revenue Service and the United States Department of Labor.

(5) Notices of payment and reporting delinquency to Indian tribes or tribal units thereof shall include information that failure to make full payment within the prescribed timeframe:

(a) Will cause the Indian tribe to be liable for taxes under the Federal Unemployment Tax Act.

(b) Will cause the Indian tribe to lose the option to make payments in lieu of contributions.

(c) Could cause the Indian tribe to be excepted from the definition of "employer" provided in paragraph (1)(a) and services in the employ of the Indian tribe provided in paragraph (1)(b) to be excepted from employment.

(6) Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the Federal Government shall be financed in their entirety by such Indian tribe.

(7) The Agency for Workforce Innovation shall adopt any rules necessary to administer this section.

Section 52. Effective January 1, 2003, section 443.163, Florida Statutes, is amended to read:

443.163 Electronic reporting and remitting of taxes.—

(1) An employer may choose to file any report and remit any taxes required by this chapter by electronic means ~~in a form initiated through an electronic data interchange using an advanced encrypted transmission by means of the Internet or other suitable transmission~~. The Agency for Workforce Innovation or its designee ~~division~~ shall prescribe by rule the format and instructions necessary for such filing of reports and remitting of taxes to ensure a full collection of contributions due. The acceptable method of transfer, the method, form, and content of the electronic means ~~data interchange~~, and the method ~~means~~, if any, by which the employer will be provided with an acknowledgment~~,~~ shall be prescribed by the agency or its designee ~~division~~. However, any employer who employed 10 or more employees in any quarter during the preceding state fiscal year, or any person that prepared and reported for 5 or more employers in the preceding state fiscal year, must submit the Employers Quarterly Reports (UCT-6) for the current calendar year and remit the taxes due by electronic means approved by the agency or its designee.

(2) Any employer or person who fails to file an Employers Quarterly Report (UCT-6) by electronic means required by law is liable for a penalty of 10 percent of the tax due, but not less than $10 for each report, which is in addition to any other penalty provided by this chapter which may be applicable, unless the employer or person has first obtained a waiver for such requirement from the agency or its designee. Any employer or person who fails to remit tax by electronic means as required by law is liable for a penalty of $10 for each remittance submitted, which is in addition to any other penalty provided by this chapter which may be applicable.

(3) The agency or its designee may waive the requirement to file an Employers Quarterly Report (UCT-6) by electronic means for employers or persons that are unable to comply despite good faith efforts or due to circumstances beyond the employer's or person's reasonable control.

(a) As prescribed by the agency or its designee, grounds for approving the waiver include, but are not limited to, circumstances in which the employer or person does not:

1. Currently file information or data electronically with any business or government agency; or

2. Have a compatible computer that meets or exceeds the standards prescribed by the agency or its designee.

(b) The agency or its designee shall accept other reasons for requesting a waiver from the requirement to submit the Employers Quarterly Report (UCT-6) by electronic means, including, but not limited to:

1. That the employer or person needs additional time to program his or her computer;

2. That complying with this requirement causes the employer or person financial hardship; or

3. That complying with this requirement conflicts with the employer's business procedures.

(c) The agency or its designee may establish by rule the length of time a waiver is valid and may determine whether subsequent waivers will be authorized, based on the provisions of this subsection; however, the agency or its designee shall only grant a waiver from electronic reporting if the employer or person timely files the Employers Quarterly Report (UCT-6) by telefile, unless the employer wage detail exceeds the agency's or its designee's telefile system capabilities.

(4) For purposes of this section, the term "electronic means" includes, but is not limited to, electronic data interchange; electronic funds transfer; and use of the Internet, telephone, or other technology specified by the agency or its designee.

Section 53. Effective January 1, 2003, subsection (3) is added to section 608.471, Florida Statutes, to read:

608.471 Tax exemption on income of certain limited liability companies.—

(3) Single-member limited liability companies and other entities that are disregarded for federal income tax purposes must be treated as separate legal entities for all non-income-tax purposes. The Department of Revenue shall adopt rules to take into account that single-member disregarded entities such as limited liability companies and qualified subchapter S corporations may be disregarded as separate entities for federal tax purposes and therefore may report and account for income, employment, and other taxes under the taxpayer identification number of the owner of the single-member entity.

Section 54. Effective July 1, 2002, subsection (1) of section 681.117, Florida Statutes, is amended to read:

681.117 Fee.—

(1) A $2 fee shall be collected by a motor vehicle dealer, or by a person engaged in the business of leasing motor vehicles, from the consumer at the consummation of the sale of a motor vehicle or at the time of entry into a lease agreement for a motor vehicle. Such fees shall be remitted to the county tax collector or private tag agency acting as agent for the Department of Revenue. If the purchaser or lessee removes the motor vehicle from the state for titling and registration outside this state, the fee shall be remitted to the Department of Revenue. All fees, less the cost of administration, shall be transferred monthly to the Department of Legal Affairs for deposit into the Motor Vehicle Warranty Trust Fund. The Department of Legal Affairs shall distribute monthly an amount not exceeding one-fourth of the fees received to the Division of Consumer Services of the Department of Agriculture and Consumer Services to carry out the provisions of ss. 681.108 and 681.109. The Department of Legal Affairs shall contract with the Division of Consumer Services for payment of services performed by the division pursuant to ss. 681.108 and 681.109.

Section 55. Sections 3 and 4 of chapter 2000-345, Laws of Florida, are amended to read:

Section 3. Effective July 1, 2006 ~~2003~~, subsection (10) of section 212.031, Florida Statutes, as created by this act, is repealed, and paragraph (a) of subsection (1) and subsection (3) of said section, as amended by this act, are amended to read:

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

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

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

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

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

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way, occupied or used by a utility or franchised cable television company for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, excluding buildings, wherever located, on which antennas, cables, adjacent accessory structures, or adjacent accessory equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communications services are placed.

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

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

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant.

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

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

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

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

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

11. Property occupied pursuant to an instrument calling for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

~~12. Rented, leased, subleased, or licensed to a concessionaire by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic cen-~~

~~ter, performing arts center, or publicly owned recreational facility, during an event at the facility, to be used by the concessionaire to sell souvenirs, novelties, or other event-related products. This subparagraph applies only to that portion of the rental, lease, or license payment which is based on a percentage of sales and not based on a fixed price.~~

(3) The tax imposed by this section shall be in addition to the total amount of the rental or license fee, shall be charged by the lessor or person receiving the rent or payment in and by a rental or license fee arrangement with the lessee or person paying the rental or license fee, and shall be due and payable at the time of the receipt of such rental or license fee payment by the lessor or other person who receives the rental or payment. ~~Notwithstanding any other provision of this chapter, the tax imposed by this section on the rental, lease, or license for the use of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility to hold an event of not more than 7 consecutive days' duration shall be collected at the time of the payment for that rental, lease, or license but is not due and payable to the department until the first day of the month following the last day that the event for which the payment is made is actually held, and becomes delinquent on the 21st day of that month.~~ The owner, lessor, or person receiving the rent or license fee shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage any leases or operate real property, hotels, apartment houses, roominghouses, or tourist and trailer camps and all persons who collect or receive rents or license fees taxable under this chapter on behalf of owners or lessors.

Section 4. Effective July 1, 2006 ~~2003~~, paragraph (b) of subsection (1), paragraph (a) of subsection (2), and subsection (3) of section 212.04, Florida Statutes, as amended by this act, are amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)

(b) For the exercise of such privilege, a tax is levied at the rate of 6 percent of sales price, or the actual value received from such admissions, which 6 percent shall be added to and collected with all such admissions from the purchaser thereof, and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket must show on its face the actual sales price of the admission, or each dealer selling the admission must prominently display at the box office or other place where the admission charge is made a notice disclosing the price of the admission, and the tax shall be computed and collected on the basis of the actual price of the admission charged by the dealer. The sale price or actual value of admission shall, for the purpose of this chapter, be that price remaining after deduction of federal taxes ~~and state or locally imposed or authorized~~

~~seat surcharges, taxes, or fees~~, if any, imposed upon such admission, and~~.~~ ~~The sale price or actual value does not include separately stated ticket service charges that are imposed by a facility ticket office or a ticketing service and added to a separately stated, established ticket price.~~ the rate of tax on each admission shall be according to the brackets established by s. 212.12(9).

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

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

b. No tax imposed by this section and not actually collected before August 1, 1992, shall be due from any museum or historic building owned by any political subdivision of the state.

~~c. No tax shall be levied on admission charges to an event sponsored by a governmental entity, sports authority, or sports commission when held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility and when 100 percent of the risk of success or failure lies with the sponsor of the event and 100 percent of the funds at risk for the event belong to the sponsor, and student or faculty talent is not exclusively used. As used in this sub-subparagraph, the terms "sports authority" and "sports commission" mean a nonprofit organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts.~~

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

4. No tax shall be levied on admissions to the National Football League championship game, on admissions to any semifinal game or championship game of a national collegiate tournament, or on admissions to a Major League Baseball all-star game.

5. A participation fee or sponsorship fee imposed by a governmental entity as described in s. 212.08(6) for an athletic or recreational program is exempt when the governmental entity by itself, or in conjunction with an organization exempt under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, sponsors, administers, plans, supervises, directs, and controls the athletic or recreational program.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education in the communities which it serves, and will receive at least 20 percent of the net profits, if any, of the events which the organization sponsors and will bear the risk of at least 20 percent of the losses, if any, from the events which it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of $1.5 million multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations shall not reflect the tax otherwise imposed under this section.

7. Also exempt from the tax imposed by this section are entry fees for participation in freshwater fishing tournaments.

8. Also exempt from the tax imposed by this section are participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event.

9. No tax shall be levied on admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

(3) Such taxes shall be paid and remitted at the same time and in the same manner as provided for remitting taxes on sales of tangible personal property, as hereinafter provided. ~~Notwithstanding any other provision of this chapter, the tax on admission to an event at a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility shall be collected at the time of payment for the admission but is not due to the department until the first day of the month following the actual date of the event for which the admission is sold and becomes delinquent on the 21st day of that month.~~

Section 56. Paragraph (f) of subsection (4) of section 11 of chapter 2000-165, Laws of Florida, is amended to read:

Section 11.

(4) Effective October 1, 2000, the following programs and functions are transferred to the Agency for Workforce Innovation:

(f) The Division of Unemployment Compensation is transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Agency for Workforce Innovation. The resources, data, records, property, and unexpended balances of appropriations, allocations, and other funds within the Office of the Secretary or any other division, office, bureau, or unit within the Department of Labor and Employment Security that support the Division of Unemployment Compensation are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security. By January 1, 2001, the Agency for Workforce Innovation shall enter into a contract with the Department of Revenue which shall provide for the Department of Revenue to provide unemployment tax collection services. The Department of Revenue, in consultation with the Department of Labor and Employment Security, shall determine the number of positions needed to provide unemployment tax collection services within the Department of Revenue. The number of unemployment tax collection service positions the Department of Revenue determines are needed shall not exceed the number of positions that, prior to the contract, were authorized to the Department of Labor and Employment Security for this purpose. Upon entering into the contract with the Agency for Workforce Innovation to provide unemployment tax collection services, the number of required positions, as determined by the Department of Revenue, shall be authorized within the Department of Revenue. Beginning January 1, 2002, the Office of Program Policy Analysis and Government Accountability shall conduct a feasibility study regarding privatization of unemployment tax collection services. A report on the conclusions of this study shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives. <u>The Department of Revenue is considered to be administering a revenue law of this state when the department provides unemployment compensation tax collection services pursuant to a contract of the department with the Agency for Workforce Innovation. Sections 213.018, 213.025, 213.051, 213.053, 213.055, 213.071, 213.10, 213.2201, 213.23, 213.24(2), 213.27, 213.28, 213.285, 213.37, 213.50, 213.67, 213.69, 213.73, 213.733, 213.74, and 213.757, Florida Statutes, apply to the collec-</u>

tion of unemployment contributions by the Department of Revenue unless prohibited by federal law.

Section 57. Notwithstanding the percentage increase provided in section 218.21(6), Florida Statutes, for the purpose of calculating distributions made under section 212.20(6)(d)6., Florida Statutes, for the 2001-2002 fiscal year, the percentage increase for any government exercising municipal powers under section 6(f), Article VIII of the State Constitution shall be calculated as the revenues from the Revenue Sharing Trust Fund for Municipalities for the 2000-2001 fiscal year, divided by the sum of revenues from the Revenue Sharing Trust Fund for Municipalities for the 1999-2000 fiscal year and revenues from the Municipal Financial Assistance Trust Fund for the 1999-2000 fiscal year, minus one. Notwithstanding this section, actual payments during fiscal year 2001-2002 shall not be affected by this provision and such recalculated amount shall be used to determine the percentage increase for the 2002-2003 fiscal year, as provided in section 218.21(6)(b), Florida Statutes. Any adjustment because of an overpayment during the 2001-2002 fiscal year shall be treated as a credit to the payment in fiscal year 2002-2003.

Section 58. Effective upon this act becoming a law and applying to tax years beginning on or after January 1, 2002, section 9 of chapter 2001-225, Laws of Florida, is repealed.

Section 59. Effective upon this act becoming a law and applying to tax years beginning on or after January 1, 2002, section 220.331, Florida Statutes, is repealed.

Section 60. (1) Subsections (1) and (2) of section 199.062, section 201.05, and subsection (6) of section 212.084, Florida Statutes, are repealed.

(2) Effective July 1, 2002, subsection (10) of section 624.509, Florida Statutes, is repealed.

Section 61. Except as otherwise provided herein, this act shall take effect upon becoming a law.

Approved by the Governor May 1, 2002.

Filed in Office Secretary of State May 1, 2002.