12-ER-87-1    Sales Tax On Services.

(1) A tax is imposed on the sale at retail of any service in this state at the rate of 5 percent of the sales price of the service. The tax shall be computed on each taxable sale of a service for the purpose of remitting the amount of tax due the state, and shall include each and every retail sale of a service.

(2) The sale of a service is in this state if the service is performed wholly within this state, or if the service is performed partly within and partly outside this state but the greater proportion of the service is performed within this state, based on costs of performance.

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

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33, Chapter 87-6 Laws of Florida.
Law Implemented Sections 1 and 7, Chapter 87-6, Laws of Florida.
History - New 7-1-87.
12-ER-87-2 Use Tax On Services.

(1) A tax is imposed on the use of any service in this state when the sale of the service is at retail outside this state, at the rate of 5 percent of the cost price of the service. The use of a service is in this state, if the benefit of the service is enjoyed in this state.

(2)(a) For purposes of determining where the benefit of the services is enjoyed, if the purchaser of the service is an individual (a natural person not conducting business), and the service is not interstate or international transportation or interstate advertising, the following shall apply:

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

2. If the service is not directly related to real property, the benefit of the service shall be presumed to be enjoyed in the state where the greater proportion of the service is performed, based on costs of performance.

3. However, if the purchaser can demonstrate to the satisfaction of the department on a case by case basis that the benefit of the service was enjoyed in another state, the service shall be deemed used or consumed in that state. In determining whether the benefit of a service is enjoyed in this state the Department shall consider whether the result of the service could give rise to a cause of action in Florida under s. 48.193, F.S.

(b) For purposes of determining where the benefit of the services is enjoyed, if the purchaser is a business, and the service is not interstate or international transportation or advertising, the following shall apply:

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

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

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

4. If subparagraphs 1., 2., and 3. of this paragraph are not applicable, and the purchaser of the service is doing business in this state and in one or more other states, the service shall be presumed to be enjoyed in this state to the extent that the purchaser is doing business in this state. In the case of an affiliated group, the affiliated group shall be considered the purchaser for purposes of this subparagraph. For purposes of determining the extent to which the purchaser is doing business in this state, an apportionment formula shall be utilized.

a. The apportioned sales or use tax base to which this paragraph applies shall be determined by multiplying the entire sales or cost price of the service by a fraction which is the sum of the Florida property, payroll, and sales factors which have been weighted as outlined in sub-subparagraph b below. The determination of the sale, property and payroll factors shall be in accordance with ss. 214.71, 214.72, 214.73, F.S. The apportionment fraction applied to transactions occurring during the purchaser's tax year shall be calculated with payroll, property and sales data representing the most recent tax year for which the purchaser has filed a Florida or federal income tax return prior to the beginning of the current tax year. Since
payments made on ordinary tax returns (DR-15) filed during
the current year represent historic apportionment data
applied to current taxable transactions, these payments
shall operate as estimated or tentative payments in the
context of Chapter 214 apportionment provisions. A
reconciliation is therefore necessary after the close of the
current year once apportionment data is available for said
year. On or before the due date including any extension
granted by Department of Revenue for filing a Florida or
federal income tax return for the current year, the taxpayer
shall file a supplementary sales tax return. The
supplementary return shall summarize taxable purchases of
services and shall show recalculated tax liabilities for
apportionable services purchased during said year utilizing
payroll, property and sales data for said year. These
liabilities shall operate as final payments in the context
of the Chapter 214 apportionment provisions. If the
recalculated liabilities are greater than the amounts shown
on the original tax returns, the taxpayer shall remit the
difference. If the recalculated liabilities are less, the
taxpayer may claim an equivalent credit on his subsequent
sales tax return or apply for a refund.

b. The weighted three-factor apportionment fraction
shall be calculated as the sum of the sales factor
multiplied by 50 percent, plus the property factor
multiplied by 25 percent, plus the payroll factor multiplied
by 25 percent.

Example: Corporation is a small loan company having 75
offices in Florida and 150 additional offices in Georgia and
South Carolina. Corporation B purchases computer services
from a company doing business exclusively in Georgia.
The prior years sales, payroll, and property of corporation
B was as follows:

\[
\text{(Florida)} \quad \$25,000,000 \times 0.50 = 1.92308
\]
\[
\text{Sales: (Everywhere)} \quad \$65,000,000
\]

4
Payroll: (Florida) $600,000 X .25 = .100000
(Everywhere) $1,500,000

Property: (Florida) $3,500,000 X .25 = .087500
(Everywhere)$10,000,000

Total Apportionment Fraction: .379008

The charge made to corporation B for
the computer services was: $8,450.00

The Apportioned Tax Base Is: $3,209.38

Florida Use Tax Payment is: $ 160.47
(Note: A subsequent adjustment may be necessary when the
apportionment factor, for the current year is calculated.)

c. In the event the property or payroll factor has a
denominator which is zero or is determined by the department
to be insignificant, the weighting percentage for the sales
factor shall be 67% of the apportionment and the weighting
percentage for the other non-zero or significant factor
shall be 33%. Similar adjustment shall be made for other
insignificant denominators.

d. The term "everywhere" which is used in the
computation of apportionment factor denominators, means in
all states of the United States, the District of Columbia,
the Commonwealth of Puerto Rico, any territory or possession
of the United States, and any foreign country, or any
political subdivision of the foregoing.

e. If the purchaser of a service is a new business,
and the apportionment formulas are unknown, an estimate will
be acceptable for the period for which the apportionment
formulas remain unknown. The estimate shall be based upon a
reasonable calculation utilizing sales, property, and
payroll (except insurance companies). This estimate shall
be applied each month to the total services. Upon
determination of known apportionment factors a correction is required for purposes of any overpayment or underpayment of tax.

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

6. However, if the purchaser can demonstrate to the satisfaction of the department on a case by case basis that the benefit of the service was enjoyed in another state, the service shall be deemed used or consumed in that state. In determining whether the benefit of a service is enjoyed in this state the Department shall consider whether the result of the service could give rise to a cause of action in Florida under s. 48.193, F.S.

(c) Interstate and international transportation services shall be presumed to be enjoyed in this state to the extent of the provisions of s. 212.095(5), F.S., Advertising services shall be presumed to be enjoyed in this state to the extent of the provisions of s. 212.0595(3) and (4).

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33, Chapter 87-6 Laws of Florida. Law Implemented Sections 1 and 2, Chapter 87-6, Laws of Florida.

History - New 7-1-87.
INITIAL DRAFT/SALES TAX EMERGENCY RULES - 5/17/87

12-ER-87-3 Services Sold for Use Outside this State.

(1) Services sold in this state for use outside of this state are exempt. Services are sold for use outside of this state when the benefit of the service is enjoyed outside this state. For the purpose of determining where the benefit of the services is enjoyed, the provisions of Rule 12-ER-87-2(2) shall apply.

(2)(a) In order to claim the exemption on services sold in this state for use outside this state under Rule 12-ER-87-3(1), F.A.C., any business or group of businesses without tax nexus in this state, and any individual resident in another state, prior to claiming the exemption under Rule 12-ER-87-3(1), F.A.C., must obtain from the Department of Revenue an Exempt Service Purchase Permit (DR-11T) or an Exempt Individual Service Permit (DR-14P), and consent to be subject to the jurisdiction of this state solely for the purpose of enforcement of the sales tax on services, or shall execute and present to the selling dealer at the time of sale an Exempt Service Purchase Affidavit ascribed in paragraph (e).

(b) To procure an Exempt Service Purchase Permit (DR-11T), the business or group of businesses without tax nexus in this state, must file with the Department an Application for Exempt Purchase Permit and/or Service Resale Permit (DR-1EP), dated July, 1987, which is hereby incorporated in this rule and made part of the rule by reference. The effective date of the Exempt Service Purchase Permit (DR-11T) shall be the postmark date of the Application for Exempt Purchase Permit and/or Service Resale Permit (DR-1EP), if mailed, or the date received by the Department, if delivered by means other than mail. Applications for Exempt Service Purchase Permits (DR-1EP) are available, without cost, upon written request directed
to the Department of Revenue, Supply Section, Tallahassee, Florida 32399-0100.

(c) To procure an Exempt Individual Service Purchase Permit (DR-14P), an individual resident of another state must file with the Department an Application for Exempt Service Purchase Permit (DR-15API), dated July 1, 1987, which is hereby incorporated in this rule and made part of the rule by reference. The effective date of the Exempt Individual Service Permit (DR-14P) shall be the postmark date of the Application for Exempt Service Permit (DR-15API) if mailed, or the date received by the Department if delivered by means other than mail. Applications for Exempt Service Purchase Permits (DR-15API) are available, without cost, upon written request directed to the Department of Revenue, Supply Section, Tallahassee, Florida 32399-0100.

(d) Acceptance of a valid Exempt Service Purchase Permit (DR-11T), or Exempt Individual Service Purchase Permit (DR-14P), or Exempt Service Purchase Affidavit ascribed in paragraph (e) shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service.

(e) The following is a suggested affidavit to be completed by a business or group of businesses without tax nexus in this state and an individual resident of another state claiming exemption under section 212.0592(1), F.S.

EXEMPT SERVICE PURCHASE AFFIDAVIT

Affidavit for claiming an exemption under services.
212.0592(1), F.S.

Section 1. To Be Completed By The Seller:

Selling dealers sales tax number: __ __ ______ __
Name of selling dealer: ________________________
Address of selling dealer: ________________________
City, state and zip ____________________________
Type of service sold: ____________________________
Price of the service sold for which exemption is claimed: _______________________

Section 2. To Be Completed In The Case Of A Business Without A Tax Nexus In Florida, Purchasing Services To Be Used Outside Of Florida.

Name of Business ____________________________
Federal Employee Identification Number or Social Security Number

Name of Owner, Officer or Director (Same As Person Making Affidavit)

Business Location Address ____________________________
Business Mailing Address ____________________________

City State Zip
City State Zip

I, the undersigned authority, hereby certify as follows:

1. The business that I represent is purchasing said services for use outside of the State of Florida.

2. The business that I represent does not have a tax nexus in the State of Florida.

3. The business that I represent does consent to be subject to the jurisdiction of the State of Florida solely for the purpose of enforcement of sales tax on services imposed pursuant to Chapter 212 of the Florida
Statutes.

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Section 3. To Be Completed By A Resident Of Another State, Purchasing Services To Be Used Outside Of Florida.

Name of Individual                      Social Security Number
(Same as Person Making Affidavit)

Residence Location Address              Telephone Number

Residence City State Zip

I, the undersigned individual, hereby certify as follows:

1. I am purchasing said services for use outside of the State of Florida.

2. I am not a resident of the State of Florida.

3. I consent to be subject to the jurisdiction of the State of Florida solely for the purpose of enforcement of sales tax on services imposed pursuant to Chapter 212 of the Florida Statutes.

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Section 4.
Under the penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

Signature of person executing the affidavit
Sworn to and subscribed before me this _____ day of _____, 19__.

(Notary Public for Florida)

(3)(a) In order to claim the exemption for services sold in this state for use outside this state under s. 212.0592(1), F.S., each multistate business having tax nexus in this state, prior to claiming the exemption, must obtain from the Department an Exempt Service Purchase Permit, (DR-11T), dated July 1, 1987, which is hereby incorporated in this rule and made part of the rule by reference, prior to claiming the exemption.

(b) To procure an Exempt Service Purchase Permit (DR-11T), the multistate business having nexus in this state must file with the Department an Application for Exempt Purchase Permit and/or Service Resale Permit (DR-1EP), dated July, 1987, which is hereby incorporated in this rule and made part of the rule by reference. The effective date of the Exempt Service Purchase Permit (DR-11T) shall be the postmark date of the Application for Exempt Purchase Permit and/or Service Resale Permit (DR-1EP), if mailed, or the date received by the Department, if delivered by means other than mail. Applications for Exempt Service Purchase Permits (DR-1EP) are available, without cost, upon written request directed to the Department of Revenue, Supply Section, Tallahassee, Florida 32399-0100.

(c) Upon purchasing a service from a dealer registered with the Department, presentation by the multistate business having nexus with this state of a valid Exempt Service Purchase Permit, (DR-11T), shall absolve the selling dealer
from the responsibility of collecting any sales tax which
may be due on the service. The multistate business shall
self-accrue any taxes which are due on services used in this
state and remit the tax to the Department in the manner and
under the requirements applicable to dealers under the
provisions of Part I of Chapter 212, F.S.

(4)(a) If a purchaser fails to obtain an Exempt Service
Purchase Permit (DR-11T), Exempt Individual Service
Purchase Permit (DR-14P) or execute an Exempt Service
Purchase Affidavit but otherwise qualifies for an exemption,
the purchaser may apply to the Department for a refund of
taxes paid on the exempt amount of the purchase.

(b) To receive a refund of tax authorized pursuant to
Rule 12-ER-87-3(4)(a), F.A.C., the purchaser of the service
for which the refund is sought must:

1. File an Application for Refund from the State
of Florida (DR-26);

2. Execute an Exempt Service Purchase Affidavit
described in paragraph (e) of subsection (2), which shall
be attached to the Application for Refund; and

3. Attach a copy of the sales invoice, executed
by the seller of the service, to the Application for Refund,
which invoice shall contain the following information:

a. The name and address of the purchaser;

b. A description of the service rendered;

c. The date on which the purchase was made;

d. The price and amount of Florida sales tax paid
for said service; and

e. The name and place of business of the provider
of the service.

(c) The Application for Refund shall be submitted
within 1 year of the purchaser's payment of the tax for
which the refund is sought.

(d) The refund amount recommended by the Department
shall be 97 percent of the first $1,000 of Florida tax paid
on the exempt amount of the purchase and 99 percent of the
all amounts in excess of $1,000.

(e) Applications for Refund from the State of Florida
(DR-26) are available, without cost, upon written request
directed to the Department of Revenue, Supply Section,
Tallahassee, Florida 32399-0100.

(5) Each selling dealer shall maintain a monthly log
showing each transaction for which sales tax was not
collected because of the presentation of an Exempt Service
Purchase Permit (DR-11T), an Exempt Individual Service
Permit (DR-14P), or an Exempt Service Purchase Affidavit.
The log shall identify the name and address of the
purchaser, the exempt purchase permit number if applicable,
the description of service sold, the sales invoice number,
the basis for the exemption, the date on which the sale was
made, and the price of the service. The logs and all Exempt
Service Purchase Affidavits described in paragraph (e) of
subsection (2) accepted by the dealer shall be retained by
the dealer for 5 years and made available to the department
upon request. Failure to maintain these records or to make
them available to the department shall subject the dealer to
the penalties provided in s. 212.13, F.S.

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33,
Chapter 87-6 Laws of Florida.
Law Implemented Sections 2, 3, 4, and 18, Chapter 87-6, Laws
of Florida.

History - New 7-1-87.
12-ER-87-4  Sale of Service for Resale.

(1) A sale of a service, except for construction
services, shall be considered a sale for resale only if:

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

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

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

(d) The service, with its value separately stated, will
be taxed under this part in a subsequent sale; and

(e) The service is purchased pursuant to a service
Resale Permit (DR-11T), dated July 1, 1987, hereby
incorporated and made part of this rule by reference, by a
person who is primarily engaged in the business of selling
services.

Example #1: Courier services purchased by a law firm would
be taxable because they are consumed by a law firm in
performing its services for its client. The fact that such
services might be separately stated on the law firm's bill
to its client would not transform such services into those
that are "resold" to the client. The law firm uses or
consumes the courier services in the performance of the law
firm's duties to its client, delivery of legal services in a
timely fashion.

Example #2: Spotless Cleaners is asked to remove a spot on
a suede coat. It has no equipment to clean suede so it
sends the coat to Acme Cleaners which has such equipment.
Spotless is not required to pay the tax to Acme since
Spotless is not using or consuming Acme's services, but is merely acting as broker. When Spotless bills the coat owner, Spotless must charge the tax on the full amount of its bill to coat owner, including any mark-up of Spotless's costs.

Example #3: Environmentalist asks Lawyer to get court reporter to transcribe a hearing on an environmental matter held several months earlier. Environmentalist believes the hearing was improperly conducted and wishes to find out for himself. Lawyer may extend a service resale permit to court reporter and purchase the transcript tax free since he is not using court reporter's services, but merely brokering them. Lawyer must however charge the tax on the full amount of his bill to environmentalist including any mark-up of Lawyer's costs.

Example #4: In the example in #3 above, several days later, after reading the transcript, Environmentalist retains Lawyer to challenge permit issued as a result of the hearing. Lawyer later learns of an additional hearing on the matter. Lawyer has the 2nd hearing transcribed and determines that the permit was lawfully issued and so advises Environmentalist. Here Lawyer uses Court Reporter's services and therefore must pay the tax to Court Reporter. When Lawyer bills Environmentalist with the cost of Reporter's services included, Environmentalist must pay the tax on Lawyer's full charge, including Lawyer's costs (the amount Lawyer paid to Reporter).

Example #5: Speculator asks Lawyer to do a title search on some land. Lawyer doesn't do title searches but indicates he can get Title Company to do one. Lawyer does not guarantee title work, offer title opinion, or otherwise represent to Speculator that Lawyer warrants titles. Lawyer may buy the title search for the Speculator tax free so long as Lawyer charges Speculator the tax on Lawyer's full charge, including costs.
Example #8: In the example in #5 above, Speculator asks Lawyer to give title opinion. Again, Lawyer does not search titles but does issue opinions based on title searches. Here, since Lawyer uses title search to render his opinion, Lawyer must pay tax when he purchases the title search and Speculator must pay a tax on Lawyer's full charge, including Lawyer's costs (the amount Lawyer paid to Title Company).

(2) Service Resale Permits (DR-11T) shall be issued by the Department to any person who is primarily engaged in the business of selling services upon such person filing with the Department an Application for Certificate of Registration (DR-1), incorporated by reference in Rule 12A-1.097(1), F.A.C., (See 12-ER-87-6).

12A-1.097(1), F.A.C. Applications for Certificate of Registration (DR-1) are available, without cost, upon written request directed to the Department of Revenue, Supply Section, Tallahassee, Florida 32399-0100. Upon formal approval of the completed application, the Department shall issue a Service Resale Permit (DR-11T). The effective date of the Service Resale Permit (DR-11T) shall be the postmark date of the Application for Certificate of Registration (DR-1), if mailed, or the date received by the Department, if delivered by means other than mail. The purchase of a service for resale shall not be authorized for purchases made prior to the effective date of the Service Resale Permit (DR-11T).

(3)(a) When a sale of a service is made to a person who claims to be entitled to purchase services for resale, the seller of the service being a duly registered dealer pursuant to Part I of Chapter 212, F.S., shall obtain from the purchaser of the service a service resale certificate. The resale certificate, executed by the purchaser of the service, shall contain a statement to the effect that the service is being purchased exclusively for resale pursuant to s. 212.02(19), F.S., as amended by section 7 of Chapter...
87-6, Laws of Florida and the statement shall include the following information:

1. The name of the person selling the service;
2. The purchaser's Service Resale Permit Number;
3. The effective date of the purchaser's Service Resale Permit;
4. The date on which the purchase was made;
5. The purchaser's name and address;
6. A description of the service purchased;
7. The sales price of the service purchased;
8. The signature of the person executing the statement; and
9. The date of execution of the statement.

(b) The following is a suggested service resale certificate form to be completed by the purchaser and presented to the seller. This certificate is to continue in force until revoked by written notice to the supplier and the Department of Revenue.

SUGGESTED BLANKET SERVICE RESALE CERTIFICATE

This is to certify that the service described below purchased from ______________ (name of selling dealer) is purchased exclusively for resale pursuant to s. 212.02(19), F.S., as amended by section 7 of Chapter 87-6, Laws of Florida.

Date of Purchase ____________________________

Description of service purchased ____________________________

Sales price of the service purchased $ ____________________________

Purchaser's Name ____________________________

Purchaser's Address ____________________________

Purchaser's Service Resale Permit No. ____________________________

Effective Date of Resale Service Permit ____________________________

By ____________________________

(Signature)
(c) Any dealer who makes a sale for resale of a service which is not in compliance with the provisions of this subsection shall himself be liable for and pay the tax.

(d) Any person who fraudulently issues to any dealer or agent of the State a service resale certificate or statement in writing for the purpose of evading payment of sales tax, in addition to being liable for payment of the sales tax, plus a mandatory penalty of 100% of the tax, shall also be liable for fine and punishment as provided by law for conviction of a misdemeanor of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

(4) Notwithstanding the provisions of subsection (1), a sale of telecommunication services to other than an end user consisting of a right of access for which an access charge, as defined in s. 203.012(1), F.S., is imposed, is a sale for resale.

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33, Chapter 87-6 Laws of Florida.
Law Implemented Sections 212.07(1)(b), 212.085 FS., Chapter 87-6, Laws of Florida.
History - New 7-1-87.
12-ER-87-4.1 "Retail sale" or a "sale at retail"

(1) The terms: "retail sale", "sale at retail", "ucc", "storage", and "consumption", do not include the following:

(a) Fee-sharing between real-estate agents and real estate brokers when said fees were earned solely for the services listed in 475.01(c) P.S. If the fee is received in a lump sum and includes remuneration for services not listed in said statute, a portion of the lump sum representing the nonlisted services should be separately, stated from the lump sum and regarded as taxable unless otherwise exempt.

(b) The materials, containers, labels, sacks, or bags intended to be used one time only for packaging tangible personal property for sale even if the packaging occurs in providing a service taxable under this part.
12-ER-87-5  Combined Transactions - Application of Resale Provisions.--

(1)(a) If a transaction involves both the sale or use of a taxable service and the sale or use of intangible or real property which is not subject to tax, the charges shall be separately identified and stated with respect to the taxable and nontaxable portions of the transaction. The tax shall apply to the transaction to the extent that the consideration paid in connection with the transaction is payment for the sale or use of services. Failure to separately state the charges shall create a presumption that the entire transaction is taxable.

(b) If a transaction involves both the sale or use of a taxable service and the sale or use of an exempt service, the consideration paid shall be separately identified and stated with respect to the taxable and exempt portions of the transaction as a condition of the exemption.

(2)(a) The purchase of services to alter, remodel, maintain, adjust, or repair tangible personal property of the type which is normally sold in the regular course of the retailer's business is subject to tax. The purchase of tangible personal property which becomes an ingredient or component part of the altered, remodeled, maintained, adjusted, or repaired item may be purchased for resale tax exempt, except for tangible personal property physically incorporated into improvements to realty through new construction, additions to existing improvements or repairs to existing improvements.

(b) EXAMPLE: C owns a retail appliance store and contracts with D to repair a refrigerator that C is going to resell. D uses no parts in repairing the refrigerator. C cannot purchase the repair service tax exempt from D.

(c) EXAMPLE: P owns a retail appliance store and
contracts with G to repair a stove that F is going to resell. G uses parts and labor to repair the stove. The labor charge is capable of being separately billed and calculated, as is the cost of the parts. F cannot purchase the repair service from G tax exempt. The tangible personal property may be purchased tax exempt for resale provided a valid resale certificate is issued in lieu of tax at the time of sale.

(3) Tangible personal property purchased by a person who is engaged in the business of performing or providing a service is purchased for resale and not subject to tax at the time of purchase when:

(a) The purchaser extends a valid resale certificate to the dealer at the time of sale;

(b) The property is transferred to the customer in conjunction with the performance of the service in a form and quantity to which a fixed or definite sales price can be ascribed and in a form and quantity typically associated with sales of such property; and

(c) The property is actually sold to the customer in conjunction with the performance of the service as indicated by a separate charge for the specifically described and identifiable items.

1. EXAMPLE: A television repairman may purchase television tubes for resale tax exempt where the repairman makes a separate charge for the tube to the customer, since the tube is transferred to the customer in a form or quantity capable of a fixed or definite sales price.

2. EXAMPLE: A person engaged in lawn mowing service may purchase fertilizer for resale tax exempt where the person makes a separate charge for the fertilizer to the consumer, since the fertilizer is transferred to the customer in a form or quantity capable of a fixed or definite sales price.

(4) Tangible personal property which is not sold in the

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manner set forth in subsection (3) is not purchased for resale and is subject to tax at the time of purchase by a person engaged in the performance of a service. Such tangible personal property is considered to be consumed by the person who is engaged in the performance of a service. The subsequent sale of service is subject to tax on the entire sales price, even though the previously taxed tangible personal property is included in the transaction.

(a) EXAMPLE: A car wash company purchases electricity, gas, soaps, and solvents to use in washing cars. The car wash company would be the consumer of the electricity, gas, soap and solvents and tax is due at the time of purchase. The items purchased by the car wash company are not transferred to the customer in a form or quantity capable of a fixed or definite sales price, nor in a quantity typically associated with sales of soap, solvents, etc., and the customer is not separately billed for the items.

(b) EXAMPLE: A law firm purchases word processing equipment, paper, ribbons and other supplies for use in providing or performing its services. The law firm would be the consumer of the word processing equipment, paper, ribbons and supplies it uses. Such tangible personal property is considered to be consumed by the law firm. It is not transferred to the customer in the same form or quantity as purchased by the law firm.

(5) Materials, containers, labels, sacks or bags intended to be used one time only exclusively for packaging materials in the process of providing a taxable service are exempt, provided such items accompany the service product to the final buyer without which delivery of the services product is impracticable on account of the character of the contents and for which there is no separate charge.

(a) EXAMPLE: A dry cleaner purchases plastic bags and hangers. These bags and hangers are placed on the items cleaned and are given to the customer. These plastic bags
and hangers would not be subject to tax at the time of
purchase by the dry cleaner, provided they are used one time
only and such items are transferred to the customer in
conjunction with the performance of the service.

(b) EXAMPLE: A sanitary service provider purchases
plastic bags. These plastic bags are given to the customer
for garbage and refuse collection and disposal. These
plastic bags would not be subject to tax at the time of
purchase by the provider sanitary service, provided they are
intended to be used one time only and are transferred to the
customer in conjunction with the performance of the
service.

Specific Authority 212.17(6), 212.18(2) P.S.; Section 33,
Chapter 87-6 Laws of Florida.
Law Implemented Sections 2 and 7, Chapter 87-6, Laws of
Florida.
History - New 7-1-87.
12-ER-87-6  Registration.

(1)(a) Every person desiring to engage in the business of selling, providing, or performing a service in this state shall file with the Department an Application for Certificate of Registration (DR-1), incorporated by reference in Rule 12A-1.097(1), F.A.C. A separate Application for Registration (DR-1) shall be filed for each place of business or location. Each application shall be made to the Department before the service provider may engage in business, and shall be accompanied by a registration fee of $5.00. The Department, upon receipt of such application will grant to the applicant a separate Certificate of Registration (DR-11T) for each place of business. Engaging in the business of selling of services without first obtaining a Certificate of Registration (DR-11T) or after such certificate has been canceled by the Department is prohibited. The failure or refusal of any person to register as a dealer is a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S., or subject to injunctive proceeding as provided by law.

(b) No person selling, providing, or performing a taxable service in Florida shall be issued any license from any authority within the State of Florida to engage in business unless such person is the holder of a valid Certificate of Registration (DR-11T).

(c) Applications for Registration (DR-1) are available, without cost, upon written request directed to the Department of Revenue, Supply Section, Tallahassee, Florida 32399-0100.

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33, Chapter 87-6 Laws of Florida.

Law Implemented Section 21, Chapter 87-6, Laws of Florida.

History - New 7-1-87.
12-ER-87-7  Remittance of Tax; Penalties; Interest; Estimated Taxes; Quarterly Filing.

(1) The service provider shall charge, collect and remit the sales and use tax on services. If a service is used in Florida and the service provider fails to collect and remit the tax, the purchaser of the service shall remit the use tax on services.

(2) The provisions of this section shall not apply to construction services or advertising services.

(3) Multistate businesses are not required to collect the use tax on services they sell.

See 12-ER-87-3, 12-ER-87-( ) and 12-ER-87-( ).

(3)(a) The sales and use tax on services is in addition to the total amount of the consideration for services, including all other fees and taxes levied, and shall be separately stated as Florida tax on any charge ticket, sales slip, invoice or other tangible evidence of sale. However, where it is impractical, due to the nature of the business practice within an industry, to separately state the tax, the Department may establish an effective tax rate for such industry.

(b) Notwithstanding the rate of tax imposed upon the sale or use of services, the following brackets shall be applicable to all taxable service transactions:

1. On single sales of less than 10 cents, no tax shall be added;

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

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

4. On sales in amounts from 41 cents to 60 cents, both inclusive, 3 cents shall be added for taxes;

5. On sales in amounts from 61 cents to 80 cents, both
inclusive, 4 cents shall be added for taxes;

6. On sales in amounts from 81 cents to $1, both
inclusive, 5 cents shall be added for taxes; and

7. On sales in amounts of more than $1, 5 percent shall
be charged upon each dollar of price, plus the above bracket
charges upon any fractional part of a dollar.

(c) The sales and use tax on services shall be due and
payable at the time of the sale or use of the service unless
the service provider, other than a provider of construction
services, elects to remit the tax on a service at the time
consideration is paid for such service and on the amount of
consideration paid. If such election is made, it shall be
applicable to all taxable service transactions of such
dealer. This election is available only to businesses which
are primarily providers of services.

1. A service provider electing to remit the tax on a
service at the time the consideration is paid for a service
and on the amount of consideration paid shall make his
election request in writing setting out the trade name of his
business, mailing address, the dealer's certificate of
registration number assigned by the Department, the effective
month of the election and the reason the election is
requested. The request must be addressed to the Department
of Revenue, Carlton Building, Tallahassee, Florida
32399-0100. All requests must be received by the Department
before the tax return for which the election is made becomes
delinquent. Alternatively, the election may be made by
completing the relevant portion of DR-1EP. If such election
is made, it shall be applicable to all taxable service
transactions of such dealer for a minimum of 12 consecutive
months.

2. A service provider making an election to remit the
tax on a service at the time the consideration is paid for a
service and on the amount of the consideration paid may
change his election and remit the tax on an accrual basis by
a written request setting out the trade name of the business, 
mailing address, the dealer's certificate of registration 
number assigned by the Department, and the effective month of 
the election change and the reason the election change is 
requested. The request must be addressed to the Department 
of Revenue, Carlton Building, Tallahassee, Florida 
32399-0100. All requests must be received by the Department 
before the tax return for which the change in election is 
made becomes delinquent. If such election to change is made, 
it shall be applicable to all taxable service transactions of 
such dealer for a minimum of 12 consecutive months.

(4) If a transaction involves both the sale or use of 
services and the sale or use of tangible personal property, 
and the tangible personal property is not an inconsequential 
element of the transaction, the sales and use tax on services 
shall be due and payable at the time of the sale or use 
regardless of the time consideration is paid for such 
services.

(5) All taxes shall for each month be due the 
Department on the first day of the month following the date 
of sale or transaction and shall be delinquent on the 
twenty-first day of each month; however, when a service 
provider elects to remit the tax on a service at the time 
consideration is paid for services and on the amount of 
consideration, such taxes shall for each month be due the 
Department on the first day of the month following the date 
the consideration for the service is paid and shall be 
delinquent on the twenty-first day of each month. Taxes due 
in any given month must either reach the office of the 
Department or be postmarked on or before the 20th day of the 
month following the date of sale, or of the month following 
the date the consideration for the service is paid the 
service provider if the election is made to remit tax in 
such a manner, to be entitled to the collection allowance 
and to avoid penalty and interest for late filing. In those
cases where the 20th day falls on Saturday, Sunday or a
federal or state legal holiday, returns shall be accepted as
timely filed if postmarked or delivered to the Department on
the next succeeding day which is not a Saturday, Sunday, or
legal holiday. For this purpose, a legal holiday shall mean
holidays observed by federal or state agencies.

(6) As compensation for the keeping of prescribed
records, accounting for and remitting the tax, dealers are
allowed a collection allowance. The dealer's collection
allowance shall be computed at the rate of 3% on the first
$1,000 of tax and 1% for all amounts in excess of $1,000 for
the dealer's reporting period. The collection allowance
shall not be allowed if the tax is delinquent at the time of
payment or where there is a manifest failure to maintain
proper records or make proper prescribed reports.
Furthermore, the collection allowance may be reduced by 10%
or $50, whichever is less, if a dealer files an incomplete
return. An "incomplete return" means a return which is
lacking such uniformity, completeness, and arrangement that
the physical handling, verification, or review may not be
readily accomplished, including but not limited to, the
failure to provide the amount of gross sales, exempt sales,
taxable sales, tax collected or due, lawful refunds,
deductions, or credits claimed, dealer's collection
allowance, penalty, interest, and total tax due with the
return.

(7) A tax return on forms provided by the Department of
Revenue shall be filed by the 20th day of each month,
whether or not any taxes are due, by all persons required
under Chapter 212, F.S., to file returns except in those
instances where the Department of Revenue has specifically
granted permission to file returns on some other basis. Tax
returns shall be filed and taxes paid to the Department of
Revenue at Tallahassee or to designated offices throughout
the state. Any person or any duly authorized corporation
officer or agent, members of any firm or incorporated
society or organization who refuses to make a return and pay
the taxes due shall, upon conviction, be deemed guilty of a
misdemeanor. Multistate purchasers of services subject to
tax on an apportioned basis are required to annually file a
supplemental sales tax return. See Rule
12-ER-87-2(2)(b)4.a.

(8) The department is not authorized to extend the time
for any dealer under Part I, Chapter 212, P.S., to make any
return or pay any tax. Any dealer or other person who fails
to make a return and pay the tax due, on or before the due
date, is liable for penalties, interest and loss of
collection allowance, regardless of any particular problems
encountered in assembling the necessary data for filing a
return and paying the tax.

(9)(a) Interest shall accrue on any delinquent sales
or use tax at the rate of 1% per month (pro-rated daily) of
the amount due from the date of delinquency until the date
on which the tax is paid.

(b) However, the Executive Director of the Department
of Revenue may waive interest for taxes due and payable on
newly imposed services for the period between July 1, 1987,
and September 30, 1987, if he determines the interest will
cause an undue hardship on the taxpayer. This will be
reviewed on a case by case basis.

(10)(a) When any dealer or other person required to do
so under Part I, Chapter 212, P.S., shall fail to make a
return or pay the taxes due within the time required, a
delinquent penalty shall be added to the tax in the amount
of 5% if the failure is for not more than 30 days, with an
additional 5% delinquent penalty for each additional 30
days, or fraction thereof, during the time the failure
continues, not to exceed, however, a total delinquent
penalty of 25% in the aggregate.

(b) However, the Executive Director of the Department
of Revenue shall waive delinquent penalties for returns for
taxes due and payable on newly imposed services for the

(11) The estimated tax filing requirements imposed by s.
212.11(1), F.S., shall not apply to any dealer who is
required to first remit taxes to the Department on or after
July 1, 1987.

(12) Beginning October 1, 1987 instead of 12 monthly
reporting periods the department may authorize a quarterly
return and payment for dealers collecting tax solely from
the provision of services, when the tax remitted by the
dealer for the preceding quarter was less than $500 in each
month.

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33,
Chapter 87-6 Laws of Florida.
Law Implemented Sections 1, 2, 16, 17 and 36, Chapter 87-6,
Laws of Florida.

History - New 7-1-87.
12-ER-87-8 Transition Rule.

(1) When a service that is taxable beginning July 1, 1987, is provided prior to July 1, 1987, it shall not be taxed, notwithstanding that compensation for the service was paid or payable on or after July 1, 1987.

(2) When a service that is taxable beginning July 1, 1987, is provided on or after July 1, 1987, the service shall be taxed unless it was prepaid in full prior to April 1, 1987.

(3) When a service that is taxable beginning on July 1, 1987, is provided over a period of time beginning prior to July 1, 1987, and ending after July 1, 1987, the service shall be taxed only upon that portion of the service provided on or after July 1, 1987.

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33, Chapter 87-6 Laws of Florida.

Law Implemented Section 37, Chapter 87-6, Laws of Florida.

History - New 7-1-87.
12-ER-87-9  Bad Debts And Return Payments For Services.

(1) A dealer who has paid taxes on the sale of services may take credit or obtain a refund for any tax paid by him on the unpaid balance due on worthless accounts within 12 months following the month in which the bad debt was charged off for federal income tax purposes. If an account so charged off is thereafter in whole or in part paid to the dealer, the amount so paid shall be included in the first return filed after such collection and the tax paid accordingly.

(2) When any sale of a service, upon which a tax has been paid to the dealer by the purchaser is cancelled and the sales price of the service is refunded to the purchaser the dealer shall also refund to the purchaser the tax paid by the purchaser. If in lieu of a refund of the sales price, the dealer credits such amount on the purchaser's account, a corresponding credit for sales tax previously paid by the customer shall be made.

(3) Any dealer who refunds taxes paid to any purchaser for which he later claims a credit or refund shall keep internal records to support such transactions.

(4) When any dealer refunds the tax paid by a purchaser, the department will refund such tax if application therefore is made in writing within 36 months from the date of payment to the state. The Application For Refund (DR-26), must state in clear and convincing terms the grounds for a refund.

(5) Any dealer who is entitled to a refund of taxes paid to the department may in lieu of applying for a refund, take credit for such a month on any subsequent report filed within 36 months of the date on which the dealer remitted the tax to the state.
(6) Whenever a dealer credits a customer with tax on
cancelled sales of services, he must refund such tax to his
customer before his claim to the state for credit or refund
will be approved.

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33,
Chapter 87-6 Laws of Florida.
Law Implemented Section 20, Chapter 87-6, Laws of Florida.
History - New 7-1-87.
12-ER-87-10 Sales Between Related Entities.

(1) Services of Partners to Partnerships. - The tax on the sale or use of services does not apply to services that partners who are natural persons render to their partnerships, unless the partner renders his services to the partnership in the capacity of an independent contractor.

(a) Example: Brown, an attorney who is also a Certified Public Accountant, is a member of a partnership of attorneys. He and other partners provide services for the partnership, none of which is taxable, although services of the partnership to clients are taxable. The partnership needs a C.P.A. to set up its books and records and to instruct its employees in maintaining them; and engages the services of Brown, as a C.P.A., to do so and to receive a fee from the partnership apart from his share as a partner in the earnings of the partnership. Those services would be provided to the partnership in the capacity of an independent contractor, and would not be exempt.

(b) Example: Green, Black, and White are architects, each of whom has incorporated his practice as a professional corporation. Their corporations form a partnership of architects. Since the partners are corporations, not natural persons, the services of each corporation to the partnership are taxable. Payments made other than for services must be separately indentified and their exemption or nontaxability established to the satisfaction of the Department.

(2) Services Performed between Members of an Affiliated Group of Corporation. -

(a) Services between an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code, whose members are includable under s. 1504(b) of the Internal Revenue Code, and are eligible to file a consolidated return for federal corporate income tax
purposes are exempt from the tax. However this exemption
shall apply only to the sale or use of services between
affiliated members considered purchasers of services doing
business in Florida for the purposes of s. 212.0591(9)(b)4.,
F.S.
(b) If the exemption provided in paragraph (a) is not
applicable, the sales price or cost price of the services
between members of the affiliated group shall be based upon
the fair market value of the service.
(c) The sale or use of services between divisions that
may be separate taxpayers within the same corporation shall
be exempt.
(d) Nothing within the provisions of this subsection
shall be construed to require the filing of the consolidated
return under Chapter 220, F.S., in order to qualify for the
exemption.
Specific Authority 212.17(6), 212.18(2) F.S.; Section 33,
Chapter 87-6 Laws of Florida.
Law Implemented Sections 3 and 7, Chapter 87-6, Laws of
Florida.
History - New 7-1-87.
Exemptions from Tax on Sales or Use of Services. Rules promulgated by the Department of Revenue cannot be construed to extend exemptions beyond the scope of those intended by the statutes. Unless a provision of Part I of Chapter 212, F.S., clearly provides otherwise, references to the SIC Code are intended to describe activities or services and not establishments. Such references shall not be construed to tax or exempt a service solely because it is performed by a person in a referenced establishment. Neither shall such references be construed to preclude taxation or an exemption for a service solely because it is performed by a person not in a referenced establishment. No exemption from the sales and use tax on services shall be deemed to exempt transactions that were subject to taxation pursuant to other provisions of Part I of Chapter 212, F.S., on January 1, 1987.
(1)(a) Occasional or Isolated Sales. - The tax on sale
or use of services does not apply to the occasional or
isolated sale of services by a person who does not hold
himself out as engaged in business or to the use of services
purchased in a transaction that is an isolated sale.

(b) Example: Smith, a retired automobile mechanic,
ocasionally repairs automobiles for friends, for which he
charges less than they would have to pay elsewhere. His
services are exempt as occasional or isolated sales of
services by a person who does not hold himself out as
engaged in business. Later, he decides to improve his
finances, and tells his friends and acquaintances that he
will accept work from the general public, and places notices
on bulletin boards advertising his services. His services
are no longer exempt as occasional or isolated sales of
services by a person who does not hold himself out as
engaged in business.
(2)(a) Employee Services. - Services by employees to
their employers are exempt.

(b) In determining whether a person is an employee, the
department will consider the following indicia:
1. Is the person paid a wage of salary?
2. Is the "employer" required to withhold income tax
from the person's wage or salary?
3. Is F.I.C.A. tax required to be paid by the
"employer"?
4. Is the "employer" required to make unemployment
insurance contributions on behalf of the person?

However, if all of the indicia mentioned above are present,
the person is nevertheless not an employee if he is acting
in the capacity of an independent contractor. A person may
be an employee even if one or more of the indicia are not
present and he is not acting as an independent contractor.

Example: B is a carpenter who works for Y. Y pays him
$8.00 per hour. Y withholds income tax from the money he
pays B. Y treats B as an employee and controls the details
of his work. B is covered by Y's workmen's compensation
insurance. B is an employee working for wage or salary.
His services are not subject to tax.

(c)(1) A salesperson who sells for a company on a
commission basis is not an employee of the company where the
company exercises no direct control over the details of
performance of the salesperson's duties beyond general
statements about the scope and nature of the salesperson's
obligations under the contract between the salesperson and
the company. In addition, where commissions paid to a
salesperson are not subject to withholding taxes or social
security taxes, the salesperson is not considered an
employee of the company. Therefore, such salesperson's
services are subject to tax.
2. Notwithstanding the foregoing provision, a "fee sharing" relationship, as defined in s. 212.02(19), F.S., between real estate agents and real estate brokers shall not be considered a "retail sale".

3. Example: B sells magazines door to door for X Magazine Company, who solely operates in Florida. X pays B a commission, does not control the details of B's work, is not required by applicable law to make unemployment insurance contributions on B. B is not an employee. B is an independent contractor in business for himself. B's services are taxable. B would be required to register as a dealer, to collect the tax from the magazine company, and to remit same to the state.
(3) Agricultural Services. - Agricultural services
described in paragraph (a) are exempt from the tax on the
sale or use of services, but those described in paragraphs
(b), (c), and (d) are not exempt as agricultural services.

(a) Agricultural services enumerated in SIC Major Group
07, including:

1. Soil preparation services in land breaking,
   plowing, application of fertilizer, seed bed preparation,
   and other operations for improving the soil, including, but
   not limited to chemical treatment of soil; fertilizer
   application; lime spreading; plowing; seed bed preparation;
   and weed control, before planting.

2. Crop planting, cultivation, and protection,
   including aerial dusting and spraying; bracing of orchard
   trees and vines; citrus grove cultivation; mechanical and
   flame cultivation; cultivation of sprouts, twigs, etc.;
   detasseling of corn; disease control for crops, with or
   without fertilizing; dusting crops, with or without
   fertilizing; entomological service; hoeing; insect control
   for crops, with or without fertilizing; planting, with or
   without fertilizing; pollinating; pruning of orchard trees
   and vines; seeding crops, with or without fertilizing;
   seeding of sprouts, twigs, etc.; spraying crops, with or
   without fertilizing; surgery on orchard trees and vines;
   thinning of crops, mechanical and chemical; weed control
   after planting; and irrigation system operation service not
   providing water.

3. Crop harvesting, primarily by machine, including
   machine harvesting of berries, cotton, fruits, vegetables,
   grain, peanuts, sugarcane, tree nuts; chopping and silo
   filling; combining; hay mowing, raking, baling, and
   chopping; andthreshing.

4. Crop preparation for market services, including
   bean cleaning; corn shelling; cotton ginning; cotton seed
   delinting; drying of corn, rice, hay, fruits, and
vegetables; flax decorticate and retting; fruit
precooling, not in connection with transportation; grain
cleaning; custom grain grinding; hay baling; moss ginning;
packaging fresh or farm-dried fruits and vegetables; potato
curing; sorting; grading, and packing of fruits and
vegetables; sweet potato curing; tobacco grading; tree nut
hulling and shelling; and vegetable precooling, not in
connection with transportation.

5. Veterinary services provided by licensed
practitioners of veterinary medicine, dentistry, or surgery,
for cattle, hogs, sheep, goats, poultry, pets and other
animal specialties; also including animal hospitals.

6. Livestock services, except for services for animal
specialties (as to which, see subparagraph 7., below, and
paragraph (d)), including only artificial insemination;
breeding of livestock, except animal specialties (see
paragraph 7.); catching poultry, with no hauling; cattle
spraying; cleaning poultry coops; dairy herd improvement
associations; milk testing, for butterfat, etc.; pedigree
record services for cattle, hogs, sheep, goats, and poultry;
sheep dipping and shearing; showing of cattle, hogs, sheep,
goats, and poultry; custom slaughtering for individuals; and
vaccinating livestock.

7. Animal specialty services that relate to
"agricultural products "as defined in s. 618.01(1), Florida
Statutes, as follows:

"618.01 Definitions

"In construing this chapter, where the context permits,
the word, phrase, or term:

"(1) "Agricultural products" shall include
horticultural, viticultural, forestry, aquatic, dairy,
livestock, poultry, bee, and any farm products;"
Animal specialty services not qualifying for the exemption
include such services as veterinary boarding kennels;
breeding of animals; other than veterinary for cattle, hogs,
sheep, goats and poultry; dog grooming; honey straining (on
the farm); pedigree record services; showing of pets and
other animal specialties; training of pets and other animal
specialties; and vaccinating pets and other animal
specialties, except by veterinarians.

8. Farm labor and management services, which supply
labor for agricultural production or harvesting, or provide
farm management services, including crew leaders for farm
labor on a contract basis; farm labor contractors; citrus
grove management and maintenance, with or without crop
services; farm management services; orchard management and
maintenance, with or without crop services; and vineyard
management and maintenance, with or without crop services.

9. General crop services; that is, a combination of
services from soil preparation through harvest.

(b) Not exempt as agricultural services are landscape
and horticultural services enumerated in SIC Group Number
078, which include:

1. Landscape counseling and planning, including garden
planning; horticultural advisory or counseling services;
landscape architects; landscape counseling; and landscape
planning.

2. Lawn and garden service, including Bermuda
sprigging; cemetery upkeep, independent; garden maintenance;
garden planning; lawn care; lawn fertilizing; lawn mowing;
lawn spraying; lawn sprigging; and mowing highway center
strips and edges.

3. Ornamental shrub and tree services, including
arborist services; ornamental bush planting, pruning,
bracing, spraying, and surgery; ornamental tree planting,
pruning, bracing, spraying, and surgery; and tree trimming
for public utility lines.

(c) Animal specialty services enumerated in SIC
Industry Number 0752 and described in subparagraph 7. of
paragraph (a) are not exempt when they do not relate to
agricultural products, as defined in that subparagraph.

(d) Veterinary services performed by licensed practitioners primarily engaged in the practice of veterinary medicine, dentistry, or surgery are exempt whether they relate to agricultural products. However, where a licensed veterinarian provides a service that can legally be provided by one who is not a licensed veterinarian for animals not his own nor owned by his employer and that, when performed by such an individual is not exempt, the veterinarian's performing it does not make it exempt.

1. Example: A licensed veterinarian keeps a pet dog in his kennel ("animal hospital") over a period of days while performing veterinary services on the animal that can only be legally performed by a licensed veterinarian, and is compensated for these kennel services, in addition to veterinarian fees. The kennel services would be exempt as incident to the veterinary services.

2. Example: The above veterinarian has excess capacity in his kennel, and the owner of a pet dog prevails upon him to board the dog in the kennel while the owner is away from the city, for a charge, without providing veterinarian services. This service would be taxable, since: the service is not a veterinary service; it could be legally provided by anyone who is not a licensed veterinary; and as an animal specialty service, it is not related to an agricultural product.
(4) Transportation and Warehousing Services for
Specified Types of Cargo. - The tax on sale or use of
services does not apply to transportation and warehousing
services described in paragraph (a) for cargo described in
paragraphs (c) and (d) of this subsection.

(a) The services to which this exemption applies are
transportation and warehousing services enumerated in SIC
Major Group Numbers 40, 44, 45, and 47 on pages 220,
224, 225, 226, 228, 229, 230, 231, 233, and 234 of the
Standard Industrial Classification Manual. These include:

1. Rail transportation, such as railroad
transportation, and switching and terminal services;

2. Motor freight transportation and warehousing, such
as local trucking with or without storage; long-distance or
"over-the-road" trucking and other trucking that is not
local; farm product warehousing and storage; refrigerated
warehousing; and terminal service for motor freight
transportation (See Rule 12-ER-87-11(17));

3. Water transportation, such as deep sea domestic
transportation, coastwise and intercoastal transportation,
river and canal transportation, local water transportation;
and services incidental to water transportation (See Rule
12-ER-87-11(19));

4. Air Transportation by both certified and
noncertified carriers, and facilities services and services
related to air transportation; and

5. Transportation services, such as freight forwarding,
arrangement of transportation, rental of railroad cars.

(b) The transportation and warehousing services
enumerated in paragraph (a), above, for agricultural
commodities are exempt. For purposes of this exemption,
goods that were originally agricultural commodities cease
being such when they no longer retain their original
identify, such as after they are processed, packaged in
cans, or frozen.
1. Example: Cotton is ginned and baled. It is still cotton, and retains its original identity.

2. Example: Baled cotton is made into thread, in preparation for making cotton cloth. It has acquired a new identity; something different has emerged. It is no longer cotton, an agricultural commodity the transportation or warehousing of which is exempt. It is now thread, which is not an agricultural commodity.

(c) The transportation and warehousing services enumerated in paragraph (a), above, are exempt when provided for phosphate rock as defined in s. 211.30(9), Florida Statutes; potash, as described in SIC Industry Number 1474; sulfur as described in SIC Industry Number 1477, nitrogenous fertilizers as enumerated in SIC Industry Number 2873, and phosphatic fertilizers as enumerated in SIC Industry Number 2874. S. 211.30(9) and the references in the Standard Industrial Code Manual to these Industry Numbers are reproduced below.

Section 211.30(9), Florida Statutes:

"(9) 'Phosphate rock' means a variable mixture of calcium phosphates and other minerals that have fluorapatite as the dominant phosphatic mineral, found in bedded deposits of marine origin. This term includes the forms of land-pebble and river-pebble phosphates and the phosphate concentrates derived from beneficiation of these forms. This term does not include colloidal phosphatic clays."

Excerpts from pp. 42 and 124, Standard Industrial Classification Manual:

<table>
<thead>
<tr>
<th>Group</th>
<th>Industry</th>
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<tbody>
<tr>
<td>Number</td>
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</tr>
<tr>
<td>CHEMICAL AND FERTILIZER MINERAL MINING—Continued</td>
<td></td>
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<tr>
<td></td>
<td>Potash, Soda, and Borate Minerals</td>
</tr>
<tr>
<td>1474</td>
<td>Services related to and for the purpose of mining, milling, or otherwise preparing natural potassium, sodium, or boron compounds (other than common</td>
</tr>
</tbody>
</table>
salt).
Alum (natural) mining
Borate compounds (natural) mining
Borax, crude: ground and pulverized
Borax mining
Boron mineral mining
Colemanite mining
Glauber's salt mining
Kernite mining
Potash mining
Potassium compounds (natural) mining
Salines (except common salt) mining
Soda ash (natural) mining
Sodium compounds, natural (except common salt) mining
Trona mining
Ulexite mining
(The dictionary definition of potash is, "Any substance containing potassium; especially, salts derived from natural brines, distillery waste, flue dusts of blast furnaces, etc. whose potassium content is expressed in terms of K2O; used in fertilizer, soaps, etc.")

1477  Sulfur

Services related to and for the purpose of mining native sulfur, including the extraction of native sulfur at well operations, and mining and beneficiating sulfur ore. Services involving mining, preparing to mine, or concentrating pyrites are classified in Industry 1479.
Brimstone mining
Sulfur (native) mining
(The dictionary definition of sulfur is, "A pale-yellow, nonmetallic chemical element found in crystalline or amorphous form: it burns with a blue flame and a stifling odor and is used in
vulcanizing rubber, making matches, paper, gunpowder, insecticides, sulfuric acid, etc."

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AGRICULTURAL CHEMICALS—Continued

2873

Nitrogenous Fertilizers

Services related to and involving manufacturing nitrogenous fertilizer materials or mixed fertilizers from nitrogenous materials produced in the same establishment. Included are ammonia fertilizer compounds and anhydrous ammonia, nitric acid, ammonium nitrate, ammonium sulfate and nitrogen solutions, urea, and natural organic fertilizers (except compost) and mixtures.

Ammonia liquor
Ammonium nitrate and sulfate
Anhydrous ammonia
Aqua ammonia, made in ammonia plants
Fertilizers: natural (organic), except compost
Nitric acid
Nitrogen solutions (fertilizer)
Plant foods, mixed: made in plants producing nitrogenous fertilizer
Urea

2874 Phosphatic Fertilizers

Services related to and involving manufacturing phosphatic fertilizer materials, or mixed fertilizers from phosphatic materials produced in the same establishment. Included are phosphoric acid; normal, enriched, and concentrated superphosphates; ammonium phosphates; nitro-phosphates; and calcium meta-phosphates.
Ammonium phosphate
Calcium meta-phosphate
Defluorinated phosphate
Diammonium phosphate
Fertilizers, mixed: made in plants producing
phosphatic fertilizer materials
Phosphoric acid
Plant foods, mixed: made in plants producing
phosphatic fertilizer
Superphosphates, ammoniated and not ammoniated

(d) Some transactions are taxable notwithstanding their
inclusion in the SIC Major Groups listed in paragraph (a),
even when the goods transported or warehoused are those
described in paragraphs (b) and (c). The lease of real or
tangible personal property is a taxable transaction,
notwithstanding the exemption provided in s. 212.0592(7)(a),
P.S., for transportation and warehousing services.

1. Leasing of warehouse space, such as, but not limited
to (Industry Number 4222) cold storage locker rental,
rental of food lockers, and frozen food locker rental, as
distinguished from providing warehouse service on a bailment
basis, which was a non-taxable service on January 1, 1987;

2. Leasing of cargo handling facilities (Industry
Number 6512) (as distinguished from services to make such
facilities available to those needing cargo handling
provided by such facilities), such as, but not limited to
(Industry Number 4463) marine cargo handling;

3. Renting or hiring modes of transportation, such as,
but not limited to (Industry Number 4469) renting, hiring,
or chartering of boats or steamship leasing;

4. Rental or leasing of fixed transportation
facilities, such as, but not limited to (Industry Number
4582) airport hangar rental or airport leasing, if operating
airport; or
5. Rental of railroad cars for services described in SIC Industry Numbers 4742 and 4743, provided in conjunction with rental of railroad cars.
(5) Food or Agricultural Broker Services. -

(a) The tax on sale or use of services does not apply to food or other agricultural broker services for agricultural commodities or agricultural products as defined in s. 618.01, F.S., which section of the Florida Statutes is quoted in subparagraph 7. of subsection (3)(a) of this rule. For purposes of this exemption, a food or other agricultural broker is a person who solicits, negotiates, or arranges for the transfer, transportation, purchase, or sale of agricultural commodities, including both agricultural commodities that retain their original identity and agricultural products meeting the definition in s. 618.01, F.S., whether retaining their original identity. Broker services are exempt whether they relate to food agricultural commodities or products or to non-food agricultural commodities or products.

(b) If a food broker, brokers commodities other than food or agricultural products, such brokerage service is taxable.
(6) Forestry Services. — The tax on sale or use of
services does not apply to forestry services enumerated in
SIC Group 085 and timber cutting, harvesting, estimating, or
transportation services enumerated in SIC Group Numbers 241
and 242. These Groups are described on pages 29, 90, and 91
of the Standard Industrial Classification Manual. The
following services are exempt:

(a) Forestry services, including cruising and
estimating timber; forest fire prevention and fighting;
forest management; forest pest control; timber valuation;
and reforestation;

(b) Logging camp and contractor services, including
cutting timber and producing rough, round, hewn, or riven
primary forest or wood raw materials; bolts, wood: handle,
heading, shingle, stave, etc; booming timber; wood burls;
wood croches; driving timber, excelsior stock, hewn; last
blocks, wood: hewn or riven; logging camps and logging
contractors, not operating sawmills; logs; mine timbers,
hewn; peeler logs; pickets and paling: round or split;
untreated wood piling; pole cutting contractors; untreated
wood poles; hewn, round or split wood posts; pulpwood camps;
pulpwood contractors engaged in cutting, not operating pulp
mills; fence rails: round or split; saw logs; skidding logs;
"stumping" for turpentine or powder manufacturing; stumps;
hewn railroad ties; timber (product of logging camps);
veneer logs; and hewn wheelstock.

(c) Sawmill and planing mill services, including
resawed (lumber) cants; dressed ceiling lumber; chipper
mills; custom sawmills; softwood cut stock; flitches (veneer
stock), made in sawmills; softwood flooring (dressed
lumber); fuelwood from mill waste; kiln drying of lumber;
lath, made in sawmills and lathmills; logging camps combined
with sawmills; lumber, kiln drying of; lumber: rough sawed
or planed; lumber stacking or sticking; planing mills,
independent: except millwork; planing mills, operated in
conjunction with sawmills; resawing lumber into smaller
dimensions; sawdust and shavings; sawmills, except special
product mills; dressed lumber siding; sawed wood silo stock;
snow fence lath; sawed railroad ties; tobacco hogshead
stock; and wood chips manufacturing.

(d) Hardwood dimension and flooring mill services,
including wood blanks for bowling pins, handles, and textile
mach. accessories; wood blocks for bowling pins, handles,
and textiles mach. accessories; bobbin blocks and blanks,
wood; wood brush blocks: turned and shaped; wood furniture
carvings; wood chair frames for upholstered furniture;
hardwood chair seats; hardwood dimension; hardwood flooring;
wood frames for upholstered furniture; hardwood furniture
dimension stock; hardwood furniture squares; wood furniture
turnings and carvings; wood gun stocks; wood handle blanks;
sawed or planed handle stock; hardwood dimension lumber;
hardwood parquet flooring; picker stick blanks; hardwood
rounds or rungs, ladder and furniture; hardwood shuttle
blocks; wood spool blocks and blanks; hardwood chair
stock--turned, shaped, or carved; wood table slides for
extension tables; wood furniture turnings; and hardwood
vehicle stock.

(e) Special product sawmill services, manufacturing and
sawing special products including barrel heading and staves,
sawed or split; cooperage stock mills; sawed or split
cooperage stock: staves, heading, and hoops; excelsior,
including pads and wrapper: wood; sawed or split wood hoops
for tight or slack cooperage; special product sawmills,
except lumber and veneer mills; shakes (hand split
shingles); shingle mills; wood shingles, sawed or hand
split; wood wool (excelsior); and excelsior wrappers.
(7) Educational Services. -

(a) Educational services enumerated in SIC Major Group 82 (except those enumerated in Industry Number 8299 excluding those services provided by bible schools) are exempt from the tax on the sale or use of services. Thus exempt are:

1. Elementary and secondary school services below university grade (ordinarily grades 1 through 12), including denominational and sectarian, such as academies, boarding schools, finishing schools, high schools, preparatory schools, kindergartens; military academies; and schools for the handicapped and retarded;

2. Educational services of colleges, universities, professional schools, and junior colleges, such as dental, engineering, law, and medical; theological seminaries; community and junior colleges; and technical institutes.

3. Library services and information center services; such as lending or circulating libraries; rental of books; centers for documentation;

4. Educational services provided by correspondence schools and vocational schools, such as data processing schools, business colleges and schools; schools training in banking; nursing schools; trade schools, including barber colleges and cosmetologist schools; and commercial art schools.

(b) Also specifically exempt by statute from this tax are educational services by any nonprofit religious organizations described in SIC Industry Number 866. These are religious organizations operated for worship or for promotion of religious activities, operated by religious organizations.

(c) Taxable educational services offered by specialized nondegree granting schools enumerated in SIC Industry Number 8299 are:

1. Art schools that are not commercial art schools;
2. Automobile driving instruction;
3. Baton instruction;
4. Ceramic schools;
5. Charm schools;
6. Civil service schools; and other short term examination preparatory schools;
7. Diction schools;
8. Dramatic schools;
9. Finishing schools (charm and modeling);
10. Flying instruction;
11. Hypnosis schools;
12. Language schools;
13. Modeling (clothes) schools;
14. Music schools (except those of educational institutions exempt under paragraph (a));
15. Personal development schools, including seminars, convention entrance or participation fees and continuing education fees for post-degree courses required for retention of professional designations;
16. Public speaking schools;
17. Reading schools;
18. Short term examination preparation schools;
19. Tutoring schools; and
20. Vocational counseling (except rehabilitation counseling).
(8) Governmental Entity Services. - Governmental Entity Services (except utility or sanitary services) that are enumerated in SIC Major Groups 43 and 91 through 97 are exempt. These Major Groups are described on pages 227 and 336 through 345 of the Standard Industrial Classification Manual.

(a) Included in these major groups, and thus exempt, are:

1. Executive services, such as those of offices of chief executives; city and town managers' offices; Mayors' offices; county commissioners' offices, Governors' office, President's office; and advisory and interdepartmental committees and commissions;

2. Legislative bodies, and their advisory and interdepartmental committees and commissions;

3. General government support services, such as those which provide personnel, building, auditing, and procurement services;

4. Court services;

5. Public order and safety services, such as police and fire protection services.

6. Public finance, taxation, and monetary policy services, such as those of tax and budget agencies and treasurers' offices;

7. Human resources services, such as administration of education, public health, social, manpower, and income maintenance programs, and administration of veterans affairs, except health and insurance.

8. Environmental quality and housing programs;

9. Economic programs;

10. National security and international affairs; and


(b) Services of the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation, though not included in any of the above SIC
Major Groups, are specifically exempt.

(c) Utility and sanitary services are specifically excluded from this exemption. However, sanitary services are, under some circumstances, entitled to the exemption described by subsection (20) of this section and 12-ER-87-(23) and 12-ER-87-(35) for taxable services.

(d) Services that are taxable if provided by a service provider other than a governmental entity and that are not included in the exempt SIC Major Groups enumerated at the beginning of this subsection are taxable unless exempt on some other basis.

Example: A city, in its recreation programs, conducts a dancing school, for which a fee is charged. Since this is a taxable service that is not included in the exempt SIC Major Groups enumerated at the beginning of this subsection, and since it is not exempt on another basis, such fees are taxable.
(9) Financial Services. - Services of a financial nature, of a type customarily performed by a financial institution are exempt.

(a) For purposes of this exemption, "financial institution" means a financial institution as defined in s. 655.005, Florida Statutes; any subsidiary thereof; any holding company, other than a diversified savings and loan holding company as defined in s. 408 of the National Housing Act, which controls a financial institution; and any subsidiary of such holding company. The definition in s. 655.005 F.S., is: "Financial institution means an association, bank, industrial savings bank, trust company, international bank agency or representative office, or credit union."

(b) "Financial charges that are, nevertheless, taxable and not exempt are:

1. Charges for use of safety deposit boxes;
2. Charges for use of night deposit services;
3. Charges for issuing cashier's checks;
4. Charges for issuing traveler's checks;
5. Charges for issuing money orders;
6. Charges for preparation of individual tax returns;
7. Charges for copies of documents;
8. Stop payment charges;
9. Return check charges unless due to insufficient funds. Return check charges, as used in this rule, means charges by a financial institution, when the bank dishonors (bounces) the check;
10. Charges for service as personal representative of estates of decedents;
11. Credit information and reporting services;
12. Overdraft charges. Overdraft charges shall mean fees charged to a customer who overdrafts his account where bank covers the check;
13. Collection fees. Collection fees shall mean fees
customerarily charged by financial institutions for the
collection of coupons, drafts, checks, foreign exchange
items, similar over the counter collection items and other
fees charged for collection services;
14. Hold mail fees;
15. Guardianship fees;
16. Credit and charge card membership fees;
17. Cash vault fees; or
18. Data processing services not otherwise exempt,
except check processing and check clearing services.

(c) A service by a financial institution the charge for
which is waived or imputed is not taxable, either because it
is exempt or because the sale or use of the services is
outside the scope of the tax on the sale or use of
services.

1. Example: A bank imposes a charge of $25 a year for
a type of data processing service, but waives the charge for
each of its customers who, during the year, maintains a
non-interest bearing checking account, the minimum balance
in which has not, during the year, fallen below $1,000.
This service, on which the charge was waived is not subject
to tax.
(10) Health Services. —

(a) Exempt from the tax on the sale or use of services are health services enumerated in SIC Major Group 80 and health services provided by licensed or certified acupuncturists, respiratory therapists and respiratory therapy technicians, audiologists and speech-language pathologists, physical therapists and physical therapist assistants, opticians, hearing aid specialists, and home health agencies and hospices.

(b) Major Group 80 is on pages 321 through 323 of the Standard Industrial Classification Manual, in which the following services are enumerated:

1. Services of licensed physicians, including clinics or dispensaries operated by groups of physicians; psychiatrists and psychoanalysts; and surgeons;

2. Services of licensed dentists, including orthodontists and dental surgeons;

3. Services of licensed osteopathic physicians;

4. Services of licensed chiropractors;

5. Services of other licensed practitioners engaged in practice in health fields, such as optometrists, chiropodists, Christian Science practitioners, dieticians, midwives, naturopaths, nurses (both registered and practical), nutritionists, occupational therapists, podiatrists, physiotherapists, psychologists (clinical), psychotherapists (not M.D.'s);

6. Services of nursing and health related personal care facilities, including extended care facilities, skilled nursing homes, convalescent homes with health care, domiciliary care with health care, homes for retarded with health care, personal care facilities with health care, and rest homes with health care;

7. Hospital services, including general medical and surgical hospital services, mental hospital services, psychiatric hospital services, and specialty hospital services.
8. Medical and dental laboratory services.

9. Medical services provided through outpatient care facilities, including clinics not operated by groups of licensed practitioners, clinics for family planning, dental insurance (providing services through own facilities), dispensaries not operated by groups of licensed health practitioners, group health associations providing medical services only health maintenance organizations, medical insurance (providing services through own facilities), outpatient treatment clinics for alcoholism or drugs, rehabilitation centers, outpatient (medical treatment), and speech defect clinics; and

10. Other health and allied services, including blood banks, blood donor stations, medical photography and art, oxygen tent service, and visiting nurse associations.
Insurance Services.

(a) Exempt from the tax on the sale or use of services are insurance services of agents and brokers, as enumerated in SIC Major Group 64, insurance service companies, and (with the exception discussed in paragraph (d)) consideration paid for insurance, including annuities, as defined under the Florida Insurance Code and Chapter 440, Florida Statutes.

(b) SIC Major Group 64, concerning insurance agents and brokers whose services are exempt, is on page 288 of the Standard Industrial Classification Manual. It describes agents primarily acting as independent contractors in the sale or placement of insurance contracts with one carrier, more than one carrier, or those who do not represent any particular carrier. Agents or brokers who are employees of the insurance carriers they represent are not exempt under this exemption, but are exempt as employees (see subsection (2)).

(c) Services of insurance service companies that are exempt include fire loss appraisal, insurance adjustment, advisory, educational, information, inspection and investigation, loss prevention, patrol, processing of claims, professional standards, reporting, research, pension and retirement plan consulting, policyholders' consulting, and ratemaking services.

(d) Consideration paid for insurance is exempt. Title V of Chapter 624, Florida Statutes, defines and enumerates various types of insurance, as follows: life insurance, health insurance, casualty insurance (including vehicle insurance, liability insurance, workers' compensation insurance, burglary and theft insurance, personal property floater, glass insurance, boiler and machinery insurance, leakage and fire extinguishing equipment insurance, credit insurance, malpractice insurance, animal insurance, elevator insurance, entertainment insurance, insurance against

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failure of certain institutions to record documents or
failure to file certain personal property instruments, and
miscellaneous casualty insurance recognized and regulated by
the Florida Department of Insurance; surety insurance
(including insurance guaranteeing the fidelity of persons
holding positions of public and private trust, guaranteeing
the performance of certain contracts, indemnifying financial
institutions against check alteration or forgery and against
loss of valuable papers or property); marine insurance;
title insurance (but see paragraph (g), below); and funeral
insurance.

(e) Two other chapters of Florida Statutes recognize
the essential nature of other transactions as insurance, and
authorize the Florida Department of Insurance to exercise
jurisdiction over and to regulate them. These are fraternal
benefit societies (Chapter 632) and bail bondsmen (Chapter
648). Payments to them for assuming certain risks are,
therefore, exempt as insurance from this tax.

(f) Also exempt as insurance are "allied lines
insurers" regulated by the Department of Insurance, which
sell insurance-type contracts, including motor vehicle
service agreement companies (Part I of Chapter 634), home
warranty associations (Part II of Chapter 634), service
warranty associations (Part III of Chapter 634), optometric
service plans (Part I of Chapter 637), pharmaceutical
services plans (Part II of Chapter 637), dental service plan
corporations (Part III of Chapter 637), ambulance service
associations (Chapter 638), legal expense corporations
(Chapter 642), and continuing care facilities (Chapter 651).
All of these organizations sell insurance-like contracts for
an initial fee or premium which promise the performance of
certain services or the provision of certain benefits in the
future upon determinable contingencies.

(g) Notwithstanding paragraph (d), above, consideration
paid for title insurance that is in excess of 110 percent of
the risk premium rate promulgated pursuant to 8. 627.782, is not exempt as consideration paid for insurance. Section 627.782, P.S., gives the Florida Department of Insurance the power and duty to promulgate the risk premium rates to be charged in this state by insurers for the respective types of title insurance contracts and services incident thereto, and to promulgate rules on the applicability of such rates. That Department's rules are in Chapter 4-21, Florida Administrative Code. A property owner is more likely to be required to pay more than 110 percent of the risk premium rate if he or she purchases title insurance in a closing. In this event, the excess over 110 percent of the risk premium rate represents charges for such services provided in addition to assumption of risk as title searches, title examination, document preparation, recording, recertification of an abstract, etc.

(h) Transactions that, though involving some assumption or risk, are, considered as a whole, more in the nature of sales of uses of services than insurance transactions are not exempt as insurance. Recognition by the Florida Department of Insurance of such a transaction as insurance will be considered as evidence that it is more in the nature of an insurance than a service transaction, but will not be conclusive in this regard.

1. Example: Brown, an attorney, agree to provide his client, Green, all the legal services he needs for a year for a $5,000 retainer fee. The fee would be taxable when the services are performed.

2. Example: Annoying Pest Control Co., for a charge of $200 eradicates termites in a building, and obligates itself, in the event that any termites are found on the premises within a year after its service, not only to return and carry out eradication activities without further charge, but also to repair at its expense any damage caused by termites since its original service. The charge would be
fully taxable.

(i) Annuities - For purposes of the exemption of
"annuities" from the tax on the sale or use of services, an
annuity is defined as a right to receive payments at regular
intervals during an individual's lifetime, or for a stated
number of years, or in perpetuity.

(j) The exemption of consideration paid for insurance
is only an exemption from the tax on the sale or use of
services, not from the tax on the sale or use of tangible
personal property. Therefore, when insurance is purchased
as part of the sale of tangible personal property, the
portion of the sale attributable to the insurance portion of
the transaction is subject to the tax on the sale of the
property.

Example: Blue purchases an automobile and receives with it
a guarantee of its tires for a period to two years, which
entitles him to have any tire replaced if it should become
unusable at anytime during that period, even if not due to a
defect in the tire. The total cost of the transaction is
taxable, without any reduction based on the value of the
insurance coverage.
(12) Interest.

(a) The tax on sale or use of services does not apply to interest, which is money paid for the use of money. A Federal court, in *Rosen v. U. S.*, C.A.Pa., 288 F.2d 658, 660 defined interest as "the compensation allowed by law or fixed by the parties for the use or forbearance or detention of money." Where a transaction involves compensation both for a service and for interest, the burden of proof is on the person claiming the interest exemption or exclusion to prove how much of the compensation is for interest and how much is for taxable service.

(b) "Points" that constitute prepayment of interest are exempt as interest from the tax on sale or use of services.

(c) Credit card interest is exempt.

(d) Discount charges for the purchase of accounts receivable are exempt.
(13) Coin Operated Laundries. - Exempt from the tax are coin-operated laundries and coin-operated dry cleaning establishments enumerated in SIC Industry Number 7215. As described on page 298 of the Standard Industrial Classification Manual, these are establishments primarily engaged in the operation of coin-operated or similar self-service laundry and dry cleaning equipment for use on the premises, or in apartments, dormitories, and similar locations; that is, coin-operated laundries, coin-operated dry cleaning, laundrettes, laundromats, coin-operated laundry machine routes, and coin operated self-service laundry and coin operated dry cleaning (see 12-ER-87-27).
(14) Maintenance Fees Paid To Homeowners Association. —
maintenance assessments or fees paid by an association
member to a homeowners association, residential condominium
owners association, residential property owners association,
residential mobile homeowners association, or residential
cooperative association are not subject to tax on the sale
or use of services.
(15) Membership Charges. - Dues or fees paid to maintain membership in organizations described in paragraphs (a) through (c) are exempt from tax on the sale or use of services. However, this exemption is only applicable to dues and fees paid to organizations which are not for profit corporations under Chapter 617, P.S., or a comparable law of another state or are exempt organizations under the Internal Revenue Code.

(a) Membership organizations enumerated in SIC Major Group 86, which, as described on pages 330 and 331 of the Standard Industrial Classification Manual, are:

1. Business associations promoting business interests, which includes better business bureaus; boards of trade, other than security and commodity exchanges; business associations, other than civic and social; Chambers of Commerce; contractors' associations; growers' associations that are not engaged in contract buying or selling; growers' marketing advisory services; industrial standards committees; Junior Chambers of Commerce; manufacturers' institutes; merchants' associations, that are not engaged in credit investigations; public utility associations; real estate boards; shipping and steamship company associations; and trade associations.

2. Professional membership organizations of professional persons for the advancement of the interest of their profession, which effectively includes bar associations; dental associations; engineering associations; medical associations; professional membership organizations; and scientific membership associations.

3. Labor unions and similar labor organizations for the improvement of wages and working conditions, which includes labor organizations; labor unions; and local or national trade unions.

4. Civic, social, and fraternal associations, which are limited to alumni associations and clubs; Boy Scout
organizations; businessmen's clubs, civic and social; bars and restaurants owned and operated for members of organizations only; citizens' unions; civic associations; community membership clubs, other than amusement and recreation clubs; fraternal associations, other than insurance offices; fraternities and sororities, except residential; Girl Scout organizations; taxpayers' associations; university clubs; veterans' organizations; parent-teacher associations; singing societies; social clubs, membership; YMCA, YWCA, YMHA, YWHA youth associations, except hotel units.

5. Political organizations established to promote the interests of a national, State, or local political party or candidate, including, but not limited to, Democratic clubs and Republican clubs.

6. Religious organizations operated for worship or for promotion of religious activities, including, but not limited to, churches, convents, monasteries, and religion schools operated by religious organizations.

7. Other membership organizations, limited to automobile owners' associations and clubs; Christian Science reading rooms; farm bureaus; farm granges; historical clubs, other than professional; humane societies, animal; and poetry associations.

8. This exemption does not include dues or fees paid to business establishments operated by membership organizations such as hospitals, hotels, credit unions, concert or opera companies, golf and country clubs, and fraternity and sorority houses.

(b) Membership dues and membership fees paid to arts, historical, and science organizations that are not-for-profit corporations under Chapter 617, P.S., or a comparable law of another state or are exempt organizations under the Internal Revenue Code are not subject to tax.

(c) Membership dues or other fees paid to regulatory athletic associations are not subject to tax.
(16) Motion Picture Qualified Production Services -

(a) Production activities or services performed
directly in connection with the production of qualified
motion pictures performed by any person for a person
principally engaged in the business of producing qualified
motion pictures or for a person who owns or leases property
used primarily for the production of qualified motion
pictures are not subject to tax. As used in this
subsection, the term "production" means that phase of the
process by which qualified motion pictures are made or
fashioned, from (concept) script to finished product.

(b) Production activities or services performed directly
in connection with the production of qualified motion
pictures includes and are limited to;

1. Photography, recording, casting, shooting, creation
of special effects, animation, adaptation (language, media,
electronic or otherwise), technological modifications,
computer graphics, set and stage support, wardrobe, acting,
consulting, writing, directing, dubbing, mixing, editing,
cutting, looping, printing, processing, duplicating,
storing, and distributing;

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

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

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

2. The term "qualified motion picture" for purposes of
this subsection does not mean all or any part of a series of
related images, either on film, tape or other embodiment,
including, but not limited to, all items comprising part of
the original work and film-related products derived
therefrom as well as duplicates and prints thereof and all
sound recordings created to accompany a motion picture,
which is produced, adapted or altered for exploitation in,
on or through any medium or device and at any location, for
advertising purposes or commercially produced for private
use.

(d) The exemption for qualified production services,
shall not be construed to exempt the sale, use, storage,
use, or other consumption in this state of tangible personal
property used or consumed in the production motion
pictures.
(17) Trucking And Warehousing Services. - Trucking and warehousing services, except for the services described in paragraphs (b) and (c), are not subject to sales and use tax on services.

(a) Local and long distance trucking and warehousing services enumerated in SIC Major Group 42, including only:

1. Local trucking without storage in a single municipality, contiguous municipalities, or a municipality and its suburban areas, providing one or more of the following services: baggage transfer; carting, by truck or horse drawn wagon; collecting and transporting refuse, without disposal; debris removal, carting only; delivery service, vehicular; draying, local: without storage; farm to market hauling; furniture moving, local: without storage; garbage and refuse, collecting and transporting: without disposal; hauling, by dump truck; hauling live poultry: on a contract or fee basis; log trucking; mail carriers, contract; motorcycle delivery service; package delivery by truck; parcel delivery by truck; safe moving; star routes, truck rental, with drivers; trucking timber.

2. Trucking, except local, by furnishing "over the road" trucking service either as common carriers or under special and individual contracts or agreements for long-distance trucking, "over the road" trucking, and other types of trucking that is not local.

3. Local trucking, with storage, furnishing trucking and storage services, including household goods, in a single municipality, contiguous municipalities, or a municipality and its suburban areas, including only furniture moving, local: combined with storage; household goods moving: local, combined with storage.

4. Farm product warehousing and storage other than cold storage, including only bean cleaning and warehousing; bean elevators, except sales; cotton compresses and warehouses; grain elevators, storage only; potato cellars; tobacco
warehousing and storage; and wool and mohair warehousing.
(See also subsection (4).)

5. Refrigerated warehousing in the storage of
perishable goods, including only cheese warehouses; cold
storage locker or food locker rental; frozen food locker
rental; other cold storage or refrigerated warehousing;
rental of locker space for the storage of food products for
indivuddal households; and provision of incidental services
for processing, preparing, or packaging food for storage.
(But see paragraph (d).) and see also subsection (7).)

6. Household good warehousing and storage, without
local trucking, including furniture storage and household
goods warehousing and storage.

7. Warehousing and storage of a general line of goods.

8. Warehousing and storage of special products,
including only automobile dead storage; fur storage, for the
trade; lumber terminals (storage for hire); oil and
gasoline storage caverns (for hire); petroleum and chemical
bulk stations and terminals for hire; storage of goods at
foreign trade zones; special storage, except farm product,
cold storage, and household goods; textile warehousing;
special warehousing, except cold storage, farm, and
household goods; whiskey warehousing.

9. Freight trucking terminals, with or without
maintenance facilities.

(b) Not included in Major Group 42, and, therefore, not
exempt as motor freight transportation and warehousing (but,
possibly, exempt on some other basis) are natural gas
storage; field warehousing; collecting and disposing of
refuse by processing or destruction of materials; removal of
overburden from mines or quarries; contractors hauling dirt,
rock, etc., selling frozen food for home freezers;
warehousing primarily engaged in the blending of wines; and
repair of trucks.

(c) Trucking services related to sanitary services are
not exempt as motor freight transportation under this
subsection, but some such services are exempt as sanitary
services under subsection (20).

(d) Warehousing that was taxable before July 1, 1987
as leases, rentals, or licenses of real property or as
storage of tangible personal property remains taxable and is
not exempt as a service under this subsection.
18. Passenger Transportation Services. - Passenger transportation services enumerated in paragraphs (a), (b), (c), and (d) are exempt.

(a) Local and suburban mass passenger transportation over regular routes and on regular schedules, which may involve use of one or more modes of transportation, including only airport transportation service, local; bus line operation, local; city and suburban bus line operation; elevated railway operation; local railway operation; passenger transportation, regular route between airports and terminals; street railway operation; suburban and urban railway operation; subway operation; and trolley coach operation.

(b) Ambulance service.

(c) Hearse and limousine rental, with drivers.

(d) Intercity and rural highway passenger transportation by motor vehicles, the operations of which are principally outside a single municipality, outside one group of contiguous municipalities, and outside a single municipality and its suburban areas, including only intercity bus lines; intercity motor vehicle highway passenger transportation, special services; interstate bus lines; and interurban bus lines.

(e) Not exempt as passenger transportation under this subsection are services rendered by: aerial tramways; automobile rental; cog railways; sightseeing buses; passenger transportation charter services; school buses; and terminal and service facilities for motor vehicle passenger transportation.
(19) Water Transportation Services. - Water transportation services enumerated in paragraphs (a) through (g) are exempt.

(a) Deep sea foreign transportation services of freight or passengers between the United States and foreign ports and to noncontiguous territory, enumerated in SIC Industry Number 4411.

(b) Deep sea domestic transportation services of freight or passengers between the United States mainland and Alaska, Hawaii, the Panama Canal Zone, Puerto Rico, island possessions or protectorates, noncontiguous territories, and between such places, enumerated in SIC Industry Number 4421.

(c) Coastwise transportation services of freight or passengers on the deep seas between mainland United States ports, between those located solely on the Atlantic coast and Gulf coast, enumerated in SIC Industry Number 4422.

(d) Intercostal transportation services of freight or passengers on the deep seas between ports on the United States Atlantic and Gulf coasts on the one hand, and the United States Pacific coast ports on the other, via the Panama Canal, enumerated in SIC Industry Number 4423.

(e) Towing and tugboat services in the performance of auxiliary or terminal services in harbor areas by vessels that do not carry cargo or passengers, including docking of ocean vessels; marine towing; shifting of floating equipment within harbors; and undocking of ocean vessels, enumerated in SIC Industry Number 4454.

(f) Marine cargo handling services from the time cargo, for or from a vessel, arrives at shipside, dock, pier, terminal, staging area, or intranet area until cargo loading or unloading operations are completed, including operation and maintenance of docks, including buildings and facilities; loading vessels; ship hold cleaning; stevedoring; terminal operation, waterfront; unloading
vessels; and cargo handling operations carried on by
transportation companies and separately reported.

(g) Piloting services.
(h) Ship cleaning.
(i) Steamship leasing.
(j) Marine surveying.
(k) Ship repair and maintenance.
(l) Storage of cargo at port facilities.

(m) Freight forwarding services, undertaking the
transportation of goods from shippers to receivers for a
charge covering the entire transportation, and in turn
making use of the services of other transportation
establishments as instrumentalities in effecting delivery.
A forwarding establishment pays transportation charges to
other establishments as part of its costs of doing business
and assumes responsibility for delivery of the goods. There
are no direct relations between shippers and the
transportation establishments performing the movement.
Freight forwarding services that are exempt include customs
 clearance of freight, domestic forwarding, foreign
forwarding, freight consolidation, and preparation of
shipping documents, as enumerated in SIC Industry Number
4712.

(n) Arrangement services of transportation of freight
and cargo by furnishing shipping information and acting as
agents in arranging transportation for freight and cargo,
when separate reports are not available for marine cargo
handling operations performed by transportation arranging
establishments, including only shipping agents or brokers;
transportation brokers; customhouse brokers; railroad
freight agencies that are not operated by railroad
companies; freight rate information service; transport
clearinghouse; transportation rate services; and truck
transportation brokers, as enumerated in SIC Industry Number
4723.
(o) Lighterage services involved with operating lighters and other harbor vessels for transferring goods and passengers between ship and shore or from one ship to another, as described in SIC Industry Number 4453.

(p) Services related to processing and accessorizing of automobiles that are imported through Florida ports.

(q) Services provided in connection with cargo in international trade by any licensed customhouse broker; any bonded warehouse, container freight and examination station, or cartman; or freight consolidator or deconsolidator.
(20) Sanitary Services.

(a) Sanitary services, garbage transportation services, refuse transportation services, and debris transportation services, when such services are sold to residential households or owners of residential models, are exempt from tax.

1. Sanitary services includes: sewerage systems including hook-ups and such treatment processes as may be provided; the collection and disposal of refuse by processing or destruction, including acid waste collection and disposal; ashes collection and disposal; dead animal disposal; dump operation; garbage collecting; destroying, and processing; incinerator operation; radioactive waste material disposal; refuse and rubbish collection and disposal; street refuse system services; waste materials disposal at sea; malaria control and mosquito eradication; sweeping services; and vacuuming of airport runways.

2. Garbage, refuse and debris transportation services include: collecting and transporting refuse, without disposal; debris removal, carting only; garbage and refuse, collecting and transporting without disposal.

(b) Septic tank cleaning service, as enumerated in SIC Industry Number 7699 when such services are sold to residential households or owners of residential models are exempt from tax.
(21) Security and Commodity Brokerage Services. - Exempt
are security and commodity brokerage services that are
described in paragraph (a) involving the transfer of
securities or commodities.

(a) Services enumerated in SIC Major Group 62,
including:

1. Services provided by security brokers, dealers, and
flotation companies, which involve the purchase, sale and
brokerage of securities, and investment bankers services,
which involve the originating, underwriting, and
distributing issues of securities, including only bond
dealers and brokers, security distributors; security floor
traders, sale of investment certificates; general brokerage
investment firms; mutual fund selling by independent
salesmen; note brokers; oil and gas lease brokers; dealers
in oil royalties; sales of partnership shares in real estate
syndicates; security traders; security underwriters; tax
certificate dealers.

2. Services provided by commodity contracts brokers and
dealers, which involve buying and selling commodity
contracts on either a spot or future basis for their own
account or for the account of others, who are members or
associated with members, of recognized commodity exchanges,
including only commodity contracts; futures commodity
brokers and dealers; and commodity contract traders.

(b) For purposes of this exemption, the term, "broker"
is as defined in subsection (7) of s. 517.021, F.S., and
"securities" is as defined in subsection (19) of services.
517.021, F.S.

(c) Taxable security and commodity brokerage services
include, but are not limited to, the following:

1. Security and commodity brokerage services that do
not involve the transfer of securities or commodities, such
as providing investment advice, managing investments, or
services as a trustee, or any other investment service;
2. Financial services taxable under subsection (9) of this section; and

3. Accounting services or other investment services.
(22) Social Services. - Exempt are social services
described in paragraph (a).

(a) Social services enumerated in SIC Major Group 83,
includes;

1. Individual and family social services, including
counseling, welfare, or referral services; refugee,
disaster, and temporary relief services; adoption services
(excluding legal services provided for a fee, as to which
see subsection (28)(b)3.); adult day care services; aid to
families with dependent children; senior centers; child
guidance; community centers services; counseling center
services; family services, including family location and
marriage counseling, Big Brother and Big Sister services;
homemaker services; old age assistance, public welfare
center service; referral services for personal and social
problems; service leagues; settlement houses, Salvation
Army, etc. social service centers, Traveler's Aid Centers,
and youth centers.

2. Job training and vocational rehabilitation services,
including only job counseling, job or manpower training, or
vocational rehabilitation and habilitation services for the
unemployed, the underemployed, the handicapped, and to
persons who have a job market disadvantage because of lack
of education, Job skill or experience, skill obsolescences,
or personal characteristics or problems; sheltered
workshops, skill training; and such work experience centers
as OIC, Good Will, Job Crops, Lighthouse for the Blind,
etc.

3. Child day care services, engaged in the care of
infants or children, or in providing prekindergarten
education where medical care or delinquency correction is
not a major element. Substantial educational services may
or may not be provided. These services are usually designed
for prekindergarten or preschool children, but may be
provided for older children when they are not in school.
This type of social service is provided exclusively by child
care centers; day care centers; group day care centers; Head
Start centers; except in conjunction with schools; nursery
schools; and preschool centers.

4. Residential care, the provision of residential
social and personal care for children, the aged, and special
categories of persons with some limits on ability for
self-care, but where medical care is not a major element.
This type of social service is provided exclusively by
establishments providing 24-hour, year round, care for
children; Boys' town; children's boarding homes; children's
home; children's villages; group foster homes; halfway group
homes for persons with social or personal problems; halfway
homes for delinquents and offenders; homes for destitute men
and women; homes for children with health care incidental;
homes for retarded with health care incidental; homes for
the aged with health care incidental; homes for the deaf or
blind, with health care incidental; homes for the
emotionally disturbed with health care incidental; homes
for the physically handicapped with health care incidental;
juvenile correctional homes; old soldiers' homes;
orphanages; rehabilitation (residential) centers with health
care incidental; rest homes with health care incidental;
self-help group homes for persons with social or personal
problems; and training schools for delinquents.

5. Other social services, including social services of
establishments primarily engaged in community improvement,
social change, and neighborhood development; organizations
primarily engaged in soliciting contributions on their own
account, and administering appropriations and allocating
funds among other agencies engaged in social welfare
services; services involving the prevention of criminal or
anti-social behavior, or rehabilitation services for
ex-prisoner; poverty boards; associations for retarded
children, the blind, the handicapped, etc.; community action
agencies; community chests; community developments groups; councils for social agencies, exceptional children, poverty, etc.; fund raising organization not on a fee basis (united funds, etc.); health and welfare councils; neighborhood development groups; offender rehabilitation agencies; offender self-help organizations; parole offices; probation offices; self-help organizations: alcoholics and gamblers anonymous; senior citizens associations; social change associations: Urban Coalition, Urban League, etc.; social service information exchanges: alcoholism, drug addiction, etc.; United Fund councils; United Givers Funds; Youth self-help agencies; Mobilization for Youth, HARYOU Act, Pride, Inc.

(b) Any person engaged in the business of raising funds on a contract basis such as telephone solicitation is providing a taxable service.
(23) Compensation For Participation In Athletic Or Sporting Events. Exempt are services described in paragraphs (a), (b), and (c).

(a) Remuneration paid to athletes for participation in athletic or sports events.

1. An "athletic or sports event" is a scheduled activity in which one or more athletes perform in public. An "athlete" is an individual who participates in an athletic or sports event requiring physical strength, skill, speed, or training in its performances, including, but not limited to badminton, baseball, basketball, bowling, boxing, fencing, football, golf, gymnastics, hockey, jai alai racing, soccer, swimming, table tennis, tennis, track, volleyball, and wrestling.

2. The following are not athletes for purposes of this exemption and the compensation for their services in this state is taxable unless there exists an employee/employer relationship: referees; umpires; coaches; managers and seconds of professional athletes; promoters; trainers; owners and operators of sport facilities; owners, trainers, and handlers of racing animals (but see paragraph (b)); circus acrobats; and dancers and other stage performers (jugglers, magicians, etc.).

1. Example: A golf professional, for a fee, comes to a golf club to instruct its members on the finer points of the game. While undeniably a professional athlete, his services would not be exempt as related to participation in an athletic or sports event.

2. Example: The same professional is engaged to play an exhibition 18 holes. His services would then be exempt as related to participation in an athletic or sports event.

3. Example: The same professional participates in a golf tournament. Again, it would be related to participation in an athletic or sports event.

4. Example: A famous professional athlete makes a
television commercial for compensation. The service would not be exempt as related to participation in an athletic or sports event.

(b) Remuneration paid to owners of greyhounds or racehorses for participation in pari-mutuel events.

(c) Consideration paid for the right to broadcast athletic or sports events at which admission is charged. However, this does not exempt charges for advertising by those who acquire such rights.
(24) Real Estate Commission. - Also exempt are real
estate commissions when the conditions specified by
paragraphs (a) through (b) are met.

(a) The commission is paid to a real estate broker
registered in compliance with Florida law.

(b) The property seller affirmatively demonstrates to
the realtor who would be responsible for collecting the tax
if the service were not exempt, that at the time of signing
the listing contract on the real estate offered for sale the
property seller resided thereon and was entitled to the
homestead exemption. These facts can be demonstrated by an
affidavit signed by the seller. The following is a
suggested affidavit to serve this purpose:

AFFIDAVIT FOR EXEMPTION OF
REAL ESTATE COMMISSIONS

STATE OF FLORIDA )
COUNTY OF__________)

Before me, the undersigned Notary Public, personally
appeared ________________ who, being duly sworn,
says that he/she:

1. On ________ signed a contract with ________________
   (date) (realtor)
   listing for sale the following real estate:
   ____________________________
   (description)

2. On that date he/she was residing on said real estate;
and

3. On that date he/she was entitled to the homestead
exemption pursuant to section 196.031., Florida Statutes.

______________________________
(signature of seller)

Sworn to and subscribed before me this ________ day of
____________, 19____.

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(Notary Public)

(c) The registered real estate dealer shall retain a copy of this affidavit or other means of affirmative demonstration of the required facts to support each exemption.
(25) Legal Services. Exempt are legal services that meet either of the requirements in paragraphs (a) and (b).

(a) Services rendered by an attorney to a client to the extent that the right to counsel guaranteed pursuant to either the Sixth Amendment to the United States Constitution or Article I, Section 16 of the Florida Constitution is applicable to such legal services.

1. These constitutional provisions guarantee this right only with respect to criminal prosecutions. Therefore, legal services having no relation to past, present, or potential future criminal prosecutions are not exempt as pertinent to these constitutional guarantees (although they may be exempt on some other basis).

2. Exempt as pertinent to these constitutional guarantees are:
   a. services provided in criminal trials or appeals; and
   b. services to a person charged with a crime before trial;

3. Not exempt are:
   a. services to a person who has not been charged with a crime to advise and assist him or her in avoiding being so charged with reference to a past act or to prepare to defend against any prosecution against him or her that may be brought; and
   b. services to advise or assist a person to avoid any future action or activity that may be a crime or that may lead to a criminal prosecution against such person.

4. Legal services pertinent to these constitutional guarantees are exempt only if:
   a. criminal charges brought in the case are dismissed; or
   b. the client is ultimately adjudicated not guilty by a court of competent jurisdiction to the extent that any further prosecution would violate the constitutional
prohibition against double jeopardy. Example: Accused pays
an attorney a fee to represent him in a prosecution by the
state for drug dealing. After a trial, he is found not
guilty. A Federal prosecution is then brought against him
based on the the same act or acts, and he is found guilty.
Legal services in the state prosecution would be exempt;
those in the Federal prosecution would not.

5. Legal services pertinent to these constitutional
guarantees are not initially exempt; and the tax on them
must be collected and remitted. The exemption is only
granted pursuant to a refund of taxes previously paid on the
services, after application by the service provider
demonstrating the facts or events requisite for the
exemption.

6. Confidentiality of attorney-client relations will be
preserved in administering this exemption, as stated in
paragraph (c).

(b) Also exempt are legal services up to $500 per
person per calendar year for natural person that relate to
the types of matters outlined in subparagraphs 1. through
10. of this paragraph.

1. Child support, including services to seek favorable
child support court orders, to enforce such orders, and to
collect child support due.

2. Child custody, including services to obtain
favorable child custody court orders, to amend such orders
to enforce such orders, and to obtain and enforce visitation
rights, including grandparent visitation rights.

3. Adoption, including advice and assistance in finding
a suitable child or children to adopt and in legal
proceedings to make an adoption or adoptions official; but
excluding fees in the nature of brokerage between those who
wish to adopt and those who are willing to make children
available for adoption for compensation.

4. Divorce, including advice and assistance with
divorce and separation, including drafting and negotiation of agreements, advice on tax consequences and implications of divorce, and other problems of terminating a marriage by divorce or separation.

5. Guardianship, including both establishing and termination of guardianships.

6. Juvenile cases, including representation of juveniles in protecting their rights or in defending against criminal prosecutions. Unlike the legal services exemption in paragraph (a), the exemption for legal services in juvenile cases is not dependent upon a favorable outcome.

7. Landlord/tenant relations, including services for both landlords and tenants.

8. Mobile home rentals, including services both for those who rent mobile home and those from who mobile homes are rented.

9. Enforcement of civil rights, including, but not limited to services to redress or prevent actual or alleged discrimination prohibited by:

a. Any State law, including, but not limited to Article I of the Constitution of Florida and Part IX of Chapter 23, Florida Statutes; and

b. Any Federal law, including, but not limited to equal protection and other guarantees of the United States Constitution and Federal statutes, including, but not limited to those that prohibit discrimination in elections, employment, housing, credit, and service by public programs, but excluding rights of persons accused of crimes, to which the exemption in paragraph (a) applies.

10. Recovery of past or future medical expenses, limited to actual medical expenses paid or incurred in the past and actual medical expenses reasonably anticipated in the future, and excluding damages for pain and suffering, loss of future earnings, punitive or exemplary damages, and property damages. If the recovery represents more than one
form of damages, including medical expenses, the burden
shall be the responsibility of the attorney to establish a
reasonable basis for the apportionment of his services that
represents the exempt and nonexempt services.

11. When an attorney provides services of the type
described in subparagraph 1. through 10. during a year for a
natural person, the total compensation for which exceeds
$500, the services performed earliest for which fees
totalling $500 were charged shall be deemed those that are
exempt. When more than one attorney provided such services
for a natural person, those performed earliest for which
fees totaling $500 were charged, regardless of which
attorney or attorneys provided those services, shall be
deemed those that are exempt. No more than $500 of legal
services for one person per calendar year shall be exempt,
even where a person is provided services of more than one of
the types described in subparagraph 1. through 10. by more
than one attorney.

(c) No attorney shall be required to reveal the
identity of a client to claim an exemption under this
subsection, to file a claim for refund based upon such an
exemption, or to receive a refund. However, where the
identity of the client in relation to the service for which
exemption is claimed is a matter of public record, the
attorney will not be deemed to have revealed the client's
identity or to have violated confidentiality of
attorney-client relations when complying with any request by
the department for information of record or that may easily
be deduced from public records, where such information is
reasonably needed by the department to audit the transaction
or to act intelligently in approving or disapproving an
exemption or a claim for refund.

(d) To receive a refund the purchaser of the legal
service for which a refund is sought must:

1. File an application for refund from the State of
Florida (DR-26);  
2. Attach a copy of the sales invoice, executed by the  
seller of the service, to the application for refund, which  
invoice shall contain the following information:  
a. the name and address of the purchaser;  
b. the description of the service rendered;  
c. the date on which the purchase of the service was  
made;  
d. the price and amount of Florida sales tax paid for  
said service; and  
e. the name and place of business of the provider of  
the service.  
(e) Applications for Refund from the State of Florida  
(DR-26) are available, without cost, upon written request  
directed to the Department of Revenue, Supply Section,  
Tallahassee, Florida 32399-0100.  
(f) Where both exempt services and those that are not  
exempt are provided a client, the burden of proof shall be  
on the attorney to prove a reasonable apportionment between  
exempt and non-exempt services as the basis for not  
collecting the tax from the client.  
(g) The measure of the taxability of a legal service is  
the total charge to the client for providing it, without any  
deduction for overhead or other expenses of providing it.  
Example: A Florida attorney who is on a calendar year basis  
for Federal income tax purposes spends an entire calendar  
year on a case, for which he receives a fee of $100,000. On  
his Federal income tax return, he reports $100,000 of gross  
income from his practice for the year, and deducts $30,000  
for overhead (rent, employees, stationery and office  
supplies, etc.) and $10,000 for expenses unrelated to  
functioning of his office (travel, witness fees, printing,  
etc.). He contends that these deductions from his total  
$100,000 fee should also be allowed for purposes of the  
Florida tax on the sale or use of services. He would be
unsuccessful in this contention, and the 5% tax on the legal
service he provided would be based on (measured) by the
total $100,000 fee. It would be so measured whether such
expenses were separately stated and charged to the client
and reimbursed to the attorney.

(h) If an attorney collects a fee on a contingency fee
basis in which a portion of his services were provided prior
to July 1, 1987, and the attorney has made the election to
remit the tax upon receipt of payment as described in
12-ER-87-7(b), the portion of the fee that represents
services provided after July 1, 1987 shall be determined by
multiplying the entire fee by the number of whole months
occurring after July 1, 1987 until collection, divided by
the number of whole months occurring from the initial
representation until collection.

Example: If an attorney agrees to represent a personal
injury claim on 1-1-87 and collects the fee of $5,000 on
1-1-88, $2,500 of the fee is taxable, i.e. $5,000 x 6
(months after 7-1-87 representation)/12 (months total
representation).

This apportionment equation shall be presumed to be
correct, and it shall be the attorney's responsibility to
demonstrate otherwise by appropriate documentation.

(i) If an attorney collects a fee based on an hourly
fee basis and a portion of his services were provided prior
to July 1, 1987, and the attorney has made the election to
remit the tax upon receipt of payment as described in Rule
12-ER-87-7(b), the portion of the fee that represents
services provided after July 1, 1987 shall be determined by
multiplying the entire fee by the number of hours of
services provided after July 1, 1987, divided by the total
hours of services provided.

Example: If an attorney collects a fee of $1,000 for twenty
hours of services and fifteen hours occurred after July 1,
1987, $750 of the fee is taxable, i.e. $1,000 x 15 (hours

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after 7-1-87)/20 (total hours).

This apportionment equation shall be presumed to be correct, and it shall be the attorney's responsibility to demonstrate otherwise by appropriate documentation.
Banking Organization Services. - Exempt is a service described in paragraph (a) by a banking organization defined in paragraph (b).

(a) International banking transaction that meets the definition of that term in s. 199.023(11), Florida Statutes, as follows:

"(11) 'International banking transaction' means:

"(a) The financing of the exportation from, or the importation into, the United States or between jurisdictions abroad of tangible personal property or services;

"(b) The financing of the production, preparation, storage, or transportation of tangible personal property or services which are identifiable as being directly and solely for export from, or import into, the United States or between jurisdictions abroad;

"(c) The financing of contracts, projects, or activities to be performed substantially abroad, except those transactions secured by a mortgage, deed of trust, or other lien upon real property located in the state;

"(d) The receipt of deposits or borrowings or the extensions of credit by an international banking facility, except the loan or deposit of funds secured by mortgage, deed of trust, or other lien upon real property located in the state; or

"(e) Entering into foreign exchange trading or hedging transactions in connection with the activities described in paragraph (d).

"(12) "Abroad" means in one or more foreign nations; in the colonies, dependencies, possessions, or territories of a foreign nation or of the United States; or in the Commonwealth of Puerto Rico."

(b) A "banking organization" is defined as follows by s. 199.023(9), Florida Statutes:

"(9) "Banking organization" means:

"(a) A bank organized and existing under the laws
of this state;

"(b) A national bank organized and existing pursuant to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq., and maintaining its principal office in this state;

"(c) An Edge Act corporation organized pursuant to the provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq., and maintaining an office in this state;

"(d) An international bank agency licensed pursuant to the laws of this state;

"(e) A federal agency licensed pursuant to ss. 4 and 5 of the International Banking Act of 1978 to maintain an office in this state;

"(f) A savings association organized and existing under the laws of this state; or

"(g) A federal association organized and existing pursuant to the provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1461 et seq., and maintaining its principal office in this state."
(27) Travel Agents.

Exempt are services provided by travel agents related to arrangement of transportation and accommodations. For purposes of this exemption, a "travel agent" is a person not operated or controlled by a transportation company who is primarily engaged in furnishing travel information, acting as an agent in arranging tours and transportation for passengers or acting as an independent ticket agency for transportation establishments.
Research and Development Services. - Research and development services described in s. 212.052(1)(a), Florida Statutes, are exempt. That definition is as follows:

"(a) The term 'research or development' means research which has one of the following as its ultimate goal:

1. Basic research in a scientific field of endeavor.

2. Advancing knowledge or technology in a scientific or technical field of endeavor.

3. The development of a new product, whether or not the new product is offered for sale.

4. The improvement of an existing product, whether or not the improved product is offered for sale.

5. The development of new uses of an existing product, whether or not a new use is offered as a rationale to purchase the product.

6. The design and development of prototypes, whether or not a resulting product is offered for sale.

The term 'research or development' does not include ordinary testing or inspection of materials or products used for quality control, market research, efficiency surveys, consumer surveys, advertising and promotions, management studies, or research in connection with literary, historical, social science, psychological, or other similar nontechnical activities."
(29) Religious Services. - Exempt are religious services provided by religious organizations, religious institutions, or religious leaders. However, services that, though altruistic and meritorious, are not performed by religious organizations, institutions, or leaders are taxable unless exempt on some other basis.
(30) Interstate Telecommunication Services. - Exempt is any service performed by or through interstate telecommunications by a holder of a direct pay permit issued pursuant to s. 212.05(1)(e), F.S.
(ji) Taxicab Services. - Taxicab services are exempt. However, services of taxicab associations and similar organizations which do not operate taxicabs, but supply maintenance and repair services to their members, are taxable.
(32) Franchise Payments. - Exempt from tax are payments and contributions described in paragraphs (a) and (b).

(a) Payment by a franchisee, or receipt by a franchisor, of royalties for use of intangible property, including, but not limited to, use of a trade name or trademark or franchise right to use or sale patented products or copyrighted printed material.

(b) Contributions to a marketing fund or account administered by the franchisor, made pursuant to a franchise agreement, which contributions are used solely for the purchase of advertising benefiting franchisees or for the administration of such fund or account.
(33) Data Processing Services for Financial
Institutions. - Exempt are data processing services, where
the requirements of paragraphs (b) through (e) are met,
performed for a financial institution by a service
corporation of a financial institution described in SIC
Major Group 61 which includes establishments engaged in
extending credit in the form of loans.

(a) Credit agencies included in SIC Major Group 61
are:

1. Rediscount and financing institutions for credit
agencies (other than banks) not primarily associated with
agricultural credit, including Federal home loan banks;
national mortgage associations, such as GNMA, FNMA, FHA; and
rediscording and financing for non-agricultural credit
agencies, except banks.

2. Rediscount and financing institutions for credit
agencies (other than banks) primarily associated with
agricultural credit, including Federal Farm Mortgage
Corporation and Federal intermediate credit banks
(agricultural credit).

3. Savings and loan associations, including Federal
Savings and Loan Associations; state annuity savings
institutions and state savings and loan associations that
are insured by the Federal Savings and Loan Insurance
Corporation; state annuity savings institutions that are not
insured but are members of the FHLB; state savings and loan
associations that are not insured but are members of the
FHLB; state annuity savings institutions that are neither
insured nor members of the FHLB; and state savings and loan
associations that are neither insured nor members of FHLB.

4. Agricultural credit institutions, which are
primarily engaged in extending agricultural credit,
including agricultural loan companies; banks for
agricultural cooperatives; Commodity Credit Corporation;
agricultural credit institutions; farm mortgage companies;
Farmers Home Administration; Federal land banks; livestock loan companies; and production credit associations (agricultural).

5. Federally-chartered and state-chartered credit unions.

6. Industrial loan companies not engaged in deposit banking, including industrial loan "banks"; industrial loan companies; and Morris plan companies.

7. Licensed small loan lenders, including licensed small loan lenders and licensed small loan personal finance companies.

8. Installment sales finance companies, which are primarily engaged in financing retail sales made on the installment plan, but some of which are also engaged in financing wholesale sales on the installment plan, including acceptance corporations and dealers; automobile loans (may include automobile insurance); financing of automobiles, airplanes, furniture, appliances, etc; and installment sales finance, other than banks.

9. Miscellaneous personal credit institutions, including Axsas, remedial loan societies, and mutual benefit associations.

10. Short-term business credit institutions, which are establishments primarily engaged in advancing cash to business enterprises for relatively short periods, including business credit institutions, short-term; credit card service, collection by central agency; direct working capital financing; factors of commercial paper; financing of dealers by motor vehicle manufacturers' organizations; buying of installment notes; installment paper dealer; mercantile financing; purchasers of accounts receivable and commercial paper; purchase and sale of trust deeds; and working capital financing.

11. Miscellaneous business credit institutions, which are primarily engaged in furnishing long-term general and
industrial credit, including the finance leasing of
automobiles, trucks, and machinery and equipment; including
car or auto finance leasing; Export-Import Bank; general and
industrial loan institutions; investment companies, small
business; loan institutions, general and industrial;
machinery and equipment finance leasing; pari-mutuel
totalizer equipment finance leasing and maintenance; and
truck finance leasing.

12. Mortgage bankers and loan correspondents, which are
establishments primarily engaged in originating mortgage
loans, selling mortgage loans to permanent investors and
servicing these loans and may also provide real estate
construction loans, including bond and mortgage companies;
loan correspondents; mortgage bankers; mortgage brokers,
using own money and urban mortgage companies.

13. Loan brokers, which are establishments primarily
engaged in arranging loans for others, which operate mostly
on a commission or fee basis and do not ordinarily have any
continuing relationship with either borrower or lender,
including farm or business loan agents; farm or business
loan brokers; loan agents; loan brokers; and mortgage
brokers, arranging for loans but using money of others.

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

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

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

(e) Every eligible savings and loan association or
savings bank may own an equal amount of capital stock or
may, on such uniform basis as the service corporation may
determine, own an amount of such stock equal to a stated
percentage of its assets or savings capital at the time the
stock is purchased, or an amount of such stock equal to its pro-rata share of accounts serviced.
(34) Personal Laundry Services Sold to Residents of Nursing Homes.

(a) Personal laundry services sold to residents of nursing home facilities licensed under Part I of Chapter 400, F.S. are exempt from tax, provided such resident furnishes the service provider a statement declaring he is a resident of a facility licensed under Chapter 400, F.S.

(b) A nursing home facility means any institution, building, residence, private home, or other place, which undertakes to provide for a period exceeding 24 hour nursing care, personal care, or custodial care for 3 or more persons not related to the owner, who by reason of illness, physical infirmity, or advanced age require such service, but does not include any place providing care and treatment primarily for acutely ill. However, a facility offering services for fewer than 3 persons is also required to be licensed if it holds itself out to the public as an establishment which regularly provides such services.
(35) Industrial Machinery and Equipment. - Exempt are services used directly and exclusively for maintenance, retrofitting, repair, or replacement of industrial machinery and equipment at fixed locations, which machinery and equipment is used to manufacture, process, compound, produce, fabricate, or prepare for shipment items of tangible personal property for sale.

(a) For purposes of this exemption, "industrial machinery and equipment" is as defined in s. 212.08(5)(b)6.a., Florida Statutes, as follows:
"Industrial machinery and equipment" means 'section 38 property' as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided 'industrial machinery and equipment' shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph."

(b) No additions to, amendments of, or repeal of the cited provisions of the Internal Revenue Code enacted after April 23, 1987, can be considered as affecting this definition.

(c) This exemption only applies to the tax on such services in excess of $100,000 of tax during each calendar year.

(d) This exemption does not apply to services relating to machinery or equipment purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the State Department of Business Regulation, or any firm which does
not manufacture, process, compound, or produce for sale
items of tangible personal property.

(e) This exemption does not apply to the purchase of
services related to industrial machinery and equipment when
such services are included as a part of the purchase of
tangible personal property or were subject to tax as part of
a sale prior to July 1, 1987; and this exemption does not
expand the exemptions provided in s. 212.08(5)(b)1. or 2.
(relating to sales of industrial machinery and equipment)
beyond their meaning prior to July 1, 1987.
(36) Oil and Gas Field Services. - Exempt are oil and
gas field services described in paragraph (a) and pipeline
transportation services described in paragraphs (b) and
(c).

(a) Oil and gas field services enumerated in SIC Group
Number 138. Included in such services are only:

1. Directional drilling of oil and gas wells on a
contract basis; redrilling oil and gas wells on a contract
basis; reworking oil and gas wells on a contract basis;
"spudding in" oil and gas wells on a contract basis; and
well drilling - gas, oil, service and water intake on a
contract basis.

2. Oil and gas field exploration services, including
aerial geophysical exploration for oil and gas on a contract
basis; exploration for oil and gas fields on a contract
basis; geological exploration for oil and gas fields on a
contract basis; geophysical exploration for oil and gas
fields on a contract basis; and seismograph surveys on a
contract basis;

3. Other oil and gas field services, including
acidizing wells on a contract basis; bailing wells on a
contract basis; building oil and gas well foundations on
site on a contract basis; cementing oil and gas well casings
on a contract basis; chemically treating wells on a contract
basis; cleaning lease tanks, oil field, on a contract basis;
cleaning wells on a contract basis; derrick building,
repairing, and dismantling; oil and gas well--contract;
dismantling of oil well rigs (oil field service) on a
contract basis; erecting lease tanks, oil field, on a
contract basis; excavating slush pits and cellars on a
contract basis; "fishing" for tools, oil and gas fields, on
a contract basis; gas compressing (natural gas) at the
fields on a contract basis; gas well rig building,
repairing, and dismantling on a contract basis; grading oil
and gas well foundations on a contract basis; hydraulic
fracturing wells on a contract basis; impounding and storing salt water in connection with petroleum production; lease tanks, oil field, erecting, cleaning, and repairing on a contract basis; logging wells on a contract basis; mud service, oil field drilling on a contract basis; oil sampling service for oil companies on a contract basis; oil well logging on a contract basis; perforating well casings on a contract basis; pipe testing—oil field service on a contract basis; plugging and abandoning wells on a contract basis; pumping of oil and gas wells on a contract basis; removal of condensate gasoline from field (gathering) lines, contract; running, cutting, and pulling casings, tubes and rods, oil and gas wells; servicing oil and gas wells on a contract basis; shooting wells on a contract basis; shot-hole drilling service (oil field) on a contract basis; surveying wells on a contract basis; and swabbing wells on a contract basis.

(b) Pipe line services, enumerated in SIC Group Number 461, which are services related to the pipe line transportation of petroleum and other commodities, except natural gas (as to which, see paragraph (c)), including crude petroleum pipe lines (excluding field gathering lines); refined petroleum pipe lines; gasoline pipe line common carriers; coal and slurry pipe line operations; and pipe line operations other than petroleum and natural gas pipe lines.

(c) Gas production and distribution services enumerated in SIC Group Number 492.
(37) Rail Transportation. - Exempt are rail transportation services enumerated in SIC Major Group 40, including line-haul railroad, and switching and terminal establishments, including only those described in paragraphs (a) through (b).

(a) Line-haul operating railroads, including only electric railroads, steam railroads, interurban railways, and line-haul operating railroads.

(b) Switching and terminal establishments, which are primarily engaged in the furnishing of terminal facilities for rail passenger or freight traffic for line-haul service, and in the movement of railroad cars between terminal yards, industrial sidings, etc., and which do not necessarily operate any vehicles themselves, but may operate the stations and terminals, including only belt line railroads, logging railroads, railroad terminals; and stations operated by railway terminal companies.
(38) Beauty and Barber Shops Services. - Exempt are
services described in paragraphs (a) and (b).

(a) Services of beauty shops, which are establishments
engaged in furnishing beauty services enumerated in SIC
Group Number 723, including only beauty shops; beauty
culture schools when providing beauty shop services
hairdressers; and combined beauty and barber shops.

(b) Services of barber shops, which are primarily
engaged in furnishing barber and men's hair styling services
enumerated in SIC Group Number 724, including only barber
shops, men's hair stylists, and barber colleges when
providing barber shop services.
(39) Employee Leasing Services. – To the extent specified in paragraph (b), employee leasing services described in paragraph (a) are exempt.

(a) Personnel supply services enumerated in SIC Industry Number 7369, of providing the personnel to perform a range of services in operating specified facilities, or which provide a number of different continuing services on a contract or fee basis, within another business (or government) establishment or installation, including base maintenance (providing personnel on continuing basis) and facilities management, except computers.

(b) This exemption only applies to the extent that the charge for such services consists of payroll and related employment benefits paid or provided to the leased employees. The portion of the charge that exceeds payroll and related employment benefits paid or provided to the leased employees is taxable.

(c) Not included in SIC Industry Number 7369, and thus not eligible for this exemption are:

1. Employment agencies;

2. Temporary help supply services, such as fashion show service, labor pools, manpower pools, modeling service, and usher service;

3. Establishments primarily providing one specialized service, such as janitorial service, guard service, management service; secretarial service, or both management and staff to operate a business.

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33, Chapter 87-6 Laws of Florida.
Law Implemented Sections 2 and 3, Chapter 87-6, Laws of Florida.

History – New 7-1-87.
INITIAL DRAFT/SALES TAX EMERGENCY RULES - 5/17/87

12-ER-87-13 Financial Services.

(1)(a) A "financial institution" means those
institutions referred to by SIC Major Groups 60 and 61 of the

(b) SIC Major Groups 60 and 61 of the 1972 Standard
Industrial Code Manual includes, but is not limited to,
establishments, such as:

1. Commercial banks;
2. Credit services;
3. Mortgage brokers; and
4. Personal finance companies.

(2)(a) Services provided by a financial institution*
are exempt, except as provided in paragraph (b).

(b) Taxable Services provided by financial
institutions include the following:

1. The rental charge on safety deposit boxes and
the use of depository bags;
2. The issuing of travelers checks, cashier's
checks, bank drafts, or money orders;
3. The charges for copies of documents;
4. The charges for stop payment and return
checks, unless due to insufficient funds;
5. The charges for service as personal
representative of estates of decedents;
6. The charges for credit information and
reporting services;
7. The fees charged for overdrafts, collections,
hold mail and guardianship;
8. The charges for use of night deposit services
and vaults;
9. The charges for preparation of individual tax
returns and accounting services;
10. The charge for credit and charge card membership; and

11. The charge for data processing, not otherwise exempt (See 12-ER-87-11(33), except check processing and check clearing services. Check processing and check clearing service are considered exempt pursuant to this subsection.

(3) The charge made to customers which includes both taxable and exempt services, the total charge is taxable unless the exempt service is separately stated.

Example: When a bank charges it customers a single price per month which includes check processing, issuance of travelers checks, issuance of cashier's checks, and other services the total charge is taxable.

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33, Chapter 87-6 Laws of Florida.

Law Implemented Sections 3 and 7, Chapter 87-6, Laws of Florida.

History - New 7-1-87.
12-ER-87-14 Insurance Services.

(1)(a) The only payments for insurance that are taxable are premiums for title insurance that are in excess of 110 percent of the risk premium rate promulgated pursuant to § 627.782, F.S., by the Department of Insurance. That Department’s rules are in Chapter 4-21, Florida Administrative Code. All other consideration for insurance is exempt from the tax on sale or use of services (See Rule 12-ER-87-11(14)).

(b) Annuities are exempt as insurance.

(c) Also exempt are insurance services of agents and brokers and of insurance service companies. (See Rule 12-ER-87-11(14)(a) and (b)).

(d) Taxable as services, not exempt as insurance, are transactions that, though involving some assumption of risk, are, considered as a whole, more in the nature of sales or uses of services than insurance transactions (See Rule 12-ER-87-11(14)(e)).

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33, Chapter 87-6 Laws of Florida.

Law Implemented Sections 3 and 7, Chapter 87-6, Laws of Florida.

History – New 7-1-87.
12-ER-87-15  Security and Commodity Broker Services.

(1)(a) Security and commodity broker services are exempt, except as provided in paragraph (b).

(b) The following security and commodity broker services are subject to tax:

1. The service of a person who advises on investments, but who is not an investment advisor within the definition of subsection (12), of section 517.021, F.S., in advising on investments in tangible or intangible personal property or real property;

2. A quotation service;

3. An exchange clearing house service;

4. Services relating to commitment of money or property in expectation of receiving an economic benefit not involving securities;

5. Accounting services.

(2) Expenses in effecting the transaction are taxable as part of the entire sales price of the sale of service as defined in section 212.02(21) F.S.

(3) This exemption shall not be construed to exempt any financial service taxable under other sections, or any other investment service which does not involve the transfer of securities or commodities, such as providing investment advise, managing investments, or services as a trustee.

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33, Chapter 87-6 Laws of Florida.

Law Implemented Sections 3 and 7, Chapter 87-6, Laws of Florida.

History - New 7-1-87.
Brokerage Services.

(1) Compensation for services relating to sales, leases, licenses, and other transactions concerned with real estate, housing, and business brokerage are taxable. Such taxable services include, but are not limited to, those listed in (a) through (h).

(a) Services of a broker, as that term is defined in paragraph (c) of section 475.01(1), Florida Statutes, which include appraising, auctioning, selling, exchanging, buying, or renting, or offering, attempting, or agreeing to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises, business opportunities, or real property or any interest concerning the same, including mineral rights or leases.

(b) Services of a managing entity, which manages condominiums, timesharing property, office buildings, apartments, or other types of housing or property.

(c) Services of marketers and marketing consultants, who formulate and implement marketing strategies and techniques.

(d) Services of a receiver, whether or not appointed by a court.

(e) Services of an escrow agent, whether such services are compensated by fees for services or by investment income on funds of another or others that are held by it in escrow.

(f) Services of a surveyor.

(g) Services of an investment advisor, who advises on investments in real estate or real estate and other types of property.

(h) Title services, such as, but not limited to, preparation of abstracts of title, title searches, etc.
(2) Compensated services to which this subsection applies are taxable apart from and in addition to any tax collectable by the service provider for himself as a dealer or for another as a dealer on rentals, as to which see Rule 12A-1.061, and 12A-1.073, F.A.C.

(3) Real estate commissions are exempt only when the property seller affirmatively demonstrates to the realtor responsible for collecting the tax that at the time of signing the listing contract on the real estate offered for sale the property seller resided thereon and was entitled to the homestead exemption pursuant to s. 196.031, F.S. (See 12-ER-87-11(24).

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33, Chapter 87-6 Laws of Florida.
Law Implemented Sections 3 and 7, Chapter 87-6, Laws of Florida.
History - New 7-1-87.
INITIAL DRAFT/SALES TAX EMERGENCY RULES - 5/17/87

12-ER-87-17  Lobbying Services.

(1) Effective July 1, 1987, persons engaged in the
business of performing or providing, for compensation,
activities to encourage the passage, defeat, or modification
of legislation or to influence the decision of an individual
legislator, a legislative committee or subcommittee, or
entire legislative body, or representing for compensation on
a regular basis an organization which has as one of its
purposes the encouragement of the passage, defeat or
modification of legislation or influencing legislation
decisions, are performing or providing a taxable service.
The tax also applies to a retainer fee paid for such
lobbying service.

(2) The tax will apply to the total consideration
paid for such lobbying service, even though the lobbying
service charge includes payment of travel, telephone or
often related expenses as an included or separate item.

(3) Tax also applies to purchases by persons providing
the taxable lobbying service including, but not limited to
paper, supplies, office equipment, motor vehicles,
telephones, meals, hotel and motel rentals, etc.

Specific Authority 212.17(6), 212.18(2) F.S.; Section 33,
Chapter 87-6 Laws of Florida.
Law Implemented Sections 3 and 7, Chapter 87-6, Laws of
Florida.

History - New 7-1-87.
12-ER-87-18    Security and Detective Services.

(1) Persons engaged in the business of providing
security or detective services are performing taxable
services.

(b) Security service are characterized as services
provided by any person who is engaged in the business of
providing a service, the purpose of which is to protect
property from theft, vandalism or destruction; or
individuals from physical attack or harassment is providing
a "security service." Persons engaged in the following
services are providing a taxable security service; the list
is not exclusive: Rental of guard dogs, burglar and fire
alarm systems; providing security guards, body guards and
mobile patrols; and protection of computer systems against
unauthorized penetration.

(c) Detective services are characterized as services
provided by any person who engages in the business of
providing a service for the purpose of obtaining information
regarding any one or more of the following matters are
engaged in the business of providing a "detective service",
and their services are subject to tax: investigation of
crimes or wrongs done or threatened; the habits, conducts,
movements, whereabouts, associations, transations, or
reputation or character of any person; the credibility of
witnesses or other persons; the investigation or recovery of
lost or stolen property, or the cause, origin, or
responsibility for fires, accidents, or injuries to
property; the investigation of the truth or falsity of any
statement or representation; the detection of deception; or
the business of securing evidence to be used before
authorized investigating committees, boards of award or
arbitration, or in the trial of civil or criminal cases.
The services of a peace officer engaged privately in
security or detection work are also subject to tax.
Specific Authority 212.17(6), 212.18(2) P.S.; Section 33, Chapter 87-6 Laws of Florida.

Law Implemented Sections 3 and 7, Chapter 87-6, Laws of Florida.

History - New 7-1-87.
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<td>SECURITY AND COMMODITY BROKER SERV.</td>
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<td>12-ER-87-16</td>
<td>REAL ESTATE HOUSING AND BUSINESS BROKERAGE SERVICES.</td>
<td>120-121</td>
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<td>12-ER-87-17</td>
<td>LOBBYING SERVICE.</td>
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<tr>
<td>12-ER-87-18</td>
<td>SECURITY AND DETECTIVE SERVICES.</td>
<td>123-124</td>
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