June 6, 1987

The Honorable John W. Vogt
President of the Senate

The Honorable Jon Mills
Speaker, House of Representatives

Dear Sirs:

Your Conference Committee on the disagreeing votes of the two houses on the Senate amendments to Committee Substitute for House Bill 1506, same being:

An act relating to taxation; relating to the sales and use tax on services;

having met, and after full and free conference, do recommend to their respective Houses as follows:

1. That the House of Representatives recede from its amendments to CS/HB 1506.

2. That the Senate and the House of Representatives adopt the Conference Committee amendments attached hereto, and by reference made a part of this report.

3. That the Senate and the House of Representative pass CS/HB 1506 as amended by said Conference Committee amendments.

TIMOTHY DERATANY, Chairman
Winston W. Carper, Jr., Vice Chairman
Dempsey J. Barron
Carl Carpenter
Robert Crawford

THOMAS DRAGE, JR.

MANAGERS ON THE PART OF THE SENATE

MANAGERS ON THE PART OF THE HOUSE OF REPRESENTATIVES

House accepts Conference Committee report in its entirety.

JUN 6 1987

John B. Phelps, Jr.
If amendment is text of another bill insert:
Bill No. CS/HB 1506
Draft No. HD187-494AX

If amendment is text of another bill insert:
Representative ........................................
offered the following amendment:

Amendment

On page....... line.......,
strike everything after the enacting clause

and insert:

Section 1. Subsections (3), (4) and (5) of section
212.059, Florida Statutes, as created by chapter 87-6, Laws of
Florida, are amended, and subsection (6) is added to said
section, to read:

212.059 Sales and use tax on services.--It is hereby
declared to be the legislative intent to levy an excise tax on
the sale of services in this state as hereinafter provided.
It is further declared to be the legislative intent to levy a
complementary excise tax on the use of services in this state
as hereinafter provided.

(3)(a) The sales and use tax on services imposed by
this section shall be collected by the dealer as defined in
this part and remitted by him to the state at the time and in
the manner as provided in this part.

(b) If the seller-of-the-service-is-a-multistate
business-and-the sale of a service is outside this state, any
applicable use tax shall be remitted by the purchaser of the
service, if the purchaser of the service has nexus for tax
purposes with this state. However, this paragraph shall not
apply to interstate or international transportation services.

Neither does this paragraph apply if the seller has tax nexus in this state and the service sold either directly relates to real property in this state, directly relates to tangible personal property in this state other than vehicles or vessels in interstate or foreign commerce, or is represented by tangible personal property forwarded to a person in this state.

(4)(a) The sales and use tax on services imposed by this section shall be computed due-and-payable according to the brackets set forth in s. 212.12 on the sales price or cost price of the service at the time of the sale, and shall be due and payable as provided under s. 212.11, at-the-time-of-the sale-or-use-of-the-service unless the dealer elects to remit the tax pursuant to paragraph (b).

(b) A dealer may register-with-the-department-as-a service-provider-and elect to ascertain the amount of remit the tax payable under this section on the basis of cash receipts for all taxable transactions under this section, on a-service-at-the-time-consideration-is-paid-for-such-service and-on-the-amount-of-consideration-paid—if-such-election-is made—if-it-shall-be-applicable-to-all-transactions-of-such dealer-taxed-under-this-section. Such election shall be made and may be changed by the dealer pursuant to procedures established by rule of the department. The department shall provide by rule for the issuance and periodic renewal every 5 years of registrations for dealers registered as service providers. Only those persons primarily engaged in the business of selling services shall be eligible for such registration.
(c) However, 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 computed and remitted as provided in
paragraph (a), and paragraph (b) shall not be applicable due
to-and-payable-at-the-time-of-the-sale-or-use-regardless-of-the
time-consideration-is-paid-for-such-services.

(d) Each multistate purchaser that self-accrues the
taxes due on its purchases of services shall file an annual
supplementary tax return summarizing its purchases and sales
of services for its prior fiscal year. The return shall
include a final calculation of taxes allocated or apportioned
under s. 212.0591(9), and such other information as the
department may prescribe by rule. The return shall be filed
on or before the deadline for filing Florida or federal income
tax returns, recognizing any extensions of time granted
thereo.

(5) Notwithstanding other provisions of this section
to the contrary:

(a) Interstate and international transportation
services shall be considered sold or used in this state to the
extent that the sales price or cost price of the service is
apportioned to this state pursuant to paragraph (b).

(b) The sales price of the sale of interstate or
international transportation services, or the cost price of
the use of interstate or international transportation
services, shall be apportioned to the state as provided in
this paragraph. There shall be included in the measure of the
tax imposed by this part on the sale or use of interstate or
international transportation services one-half that-proportion
of the sales price or cost price of the Florida service
provider if the point of origin of the transportation service
is in Florida, and one-half of said price if the point of
termination is in Florida which is equal to the proportion of
mileage within Florida to the total United States mileage of
the Florida service provider for the service transaction in
question. For purposes of this paragraph:
1. "Florida service provider" means the person
providing transportation services in Florida regardless of the
commercial domicile of such person; and
2. "Point of origin" and "point of termination" mean
the physical locations at which the Florida service provider
begins or ends movement of the property which is being
transported, respectively.
(6) No license as defined in s. 120.52(8) and required
pursuant to state law or license or permit required by a
municipal or county ordinance shall be issued until the
applicant attests, on a form promulgated by the department,
that all applicable use taxes have been paid or will be paid
in a timely manner on the purchase of services outside of this
state that are used in this state in furtherance of securing
such license or permit. Completed forms shall be returned to
the department by the permitting body on a monthly basis. The
department may, by rule, exempt from the provisions of this
subsection classes of licenses, including professional
licenses, which are not likely to involve the use of services
outside of this state in furtherance of securing such license.
Section 2. Subsections (2), (7) and (9) of section
212.0591, Florida Statutes, as created by chapter 87-6, Laws
of Florida, are amended, and subsection (10) is added to said
section, to read:
212.0591 Rules of construction.--For purposes of the sales and use tax on services, the following rules of construction shall apply:

(2) If the entire sales price of the sale of a service or if the entire cost price of the use of a service cannot be included within the measure of the tax imposed by this part under the Constitution or laws of the United States, there shall be apportioned-to-the-state-and included in the measure of the tax imposed by this part on the sale of services that proportion of the sales price which-the-cost-of-performing-the services-within-the-state-bears-to-the-total-cost-of performing-the-services, or on the use of services that proportion of the cost price that may lawfully be included under the laws and Constitution of the United States fairly reflects-the-benefit-of-the-services-enjoyed-within-the-state.

(7) If a transaction involves both the sale or use of a service taxable under this part and the sale or use of a service exempt under this part, 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. However, this subsection shall not apply to sales that are exempt pursuant to s. 212.0592(1).

(9) For purposes of determining where-a-service-is used-or-consumed-and where the benefit of the service is enjoyed, the following provisions shall be applicable:

(a) If the purchaser is an individual not acting as a business, and:

1. If the service directly relates to 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 subparagraph 1. is not applicable, the benefit of the service shall be presumed to be enjoyed where the purchaser receives tangible personal property representing the service; or

3. If subparagraphs 1. or 2. are not applicable, 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; or

4. Notwithstanding subparagraphs 1., 2., and 3., if the purchaser can demonstrate to the satisfaction of the department that the benefit of the service was enjoyed outside of this state in-a-state, the service shall be deemed used or consumed outside of this state in-that-state.

(b) If the purchaser is a business, and:

1. If the service directly relates to 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 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 service purchaser's local market, 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. are not applicable, and the purchaser of the service is doing business in this state and outside of this state 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.
For purposes of determining the extent of the purchaser's business in this state, the apportionment formulas set forth in part IV of chapter 214, as modified by s. 220.15(4), shall be utilized. In the case if the purchaser is a member of an affiliated group, the affiliated group, as defined in s. 212.02, shall be considered the purchaser for purposes of this subsection subparagraph; or

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

6. Notwithstanding subparagraphs 1., 2., 3., 4. and 5., if the purchaser can demonstrate to the satisfaction of the department that the benefit of the service was enjoyed outside of this state in a state, the service shall be deemed used or consumed outside of this state in the state.

(c) Notwithstanding paragraphs (a) and (b), interstate and international transportation services shall be presumed to be enjoyed in this state to the extent that the sales price or cost price of such services is apportioned to this state pursuant to s. 212.059(5).

(d) Notwithstanding paragraphs (a) and (b), advertising shall be presumed to be enjoyed in this state to the extent that the sales price or cost price of such services is apportioned to this state pursuant to s. 212.0595.

(e) Notwithstanding paragraphs (a) and (b), the benefit of a service provided to the estate of a decedent shall be presumed to be enjoyed where the decedent last established residency.

(10) It is the intent of the Legislature to exempt from the tax on services only those services for which
exemptions are expressly provided. Therefore, if any
exemption is declared facially unconstitutional by a court of
competent jurisdiction, it is the intent of the Legislature
that the exemption be deemed inoperative as to all persons and
not expanded to encompass services or persons not expressly
exempted from the tax.

Section 3. Subsections (1), (4), (5), and (6),
paragraph (a) of subsection (7), and subsections (11), (16),
(17), (18), (21), (22), (23), (26), (27), (31), (35), and (36)
of section 212.0592, Florida Statutes, as created by chapter
87-6, Laws of Florida, are amended, and subsections (42),
(43), (44), (45), (46), (47), (48), (49), (50) and (51) are
added to said section, to read:

212.0592 Exemptions from sales or use tax on
services.--There shall be exempt from the tax on the sale or
use of services imposed by ss. 212.0591 or (2), 212.0594,
and 212.0595 the following:

(1)(a) Services sold in this state for use outside of
this state.

(b) A service shall be deemed to be purchased for use
in-the-state where the benefit of the service is enjoyed. For
purposes of determining where the benefit of the service is
enjoyed, s. 212.0591(9) shall apply.

(c) In order to qualify for this exemption, the
provisions of s. 212.0593 shall be met.

(4) 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, and services that partners who are professional
corporations render exclusively to the partnership.
(5) Services between members of an affiliated group of corporations, as defined in s. 212.02. However, this exemption shall not apply only to the sale or use of any service between any such members who are not included in the affiliated group for purposes of this part. If the exemption provided in this subsection is not applicable, the sales price or cost price of the service between each unincorporated member and any other member shall be based upon the fair market value of the service. The sale or use of services between divisions that may be separate taxpayers within the same corporation shall be exempt. Nothing herein shall be construed to require the filing of a consolidated return under chapter 220 in order to qualify for the exemption granted by this subsection.

(6) Agricultural services enumerated in SIC Major Group 07. However, this exemption shall not apply to landscape and horticultural services (Group Number 078), or to animal specialty services (Industry Number 0752), unless the services relate to agricultural products as defined in s. 618.01(1), or-to-landscape-and-horticultural-services-(Group Number-078).

(7)(a) Transportation and warehousing services enumerated in SIC Major Groups 407–427 44, 45, and 47 for agricultural commodities that have retained their original identity, phosphate rock as defined in s. 211.30(9), 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. For purposes of this paragraph, an agricultural commodity retains its original identity unless it is processed, packaged in cans, or frozen. However, produce which is processed but
neither canned nor frozen shall be considered an agricultural commodity that has retained its original identity.

(11)(a) Services of a financial nature, of a type customarily performed by a financial institution.

(b) However, unless the service is provided to a nonresident entity or nonresident person as defined in Rule 3C-15.003, Florida Administrative Code, this exemption shall not apply to: charges for use of safety deposit boxes; charges for use of night deposit services; charges for issuing cashier's checks; charges for issuing traveler's checks; charges for issuing money orders; charges for preparation of individual tax returns; charges for copies of documents; stop payment charges; return check charges, unless due to insufficient funds; charges for service as personal representative of estates of decedents; credit information and reporting services; overdraft charges; fees for the collection of coupons, drafts, checks, foreign exchange items, and similar over-the-counter collection items; collection-fees; hold mail fees; guardianship fees; credit and charge card membership fees; cash vault fees; charges for financial planning; charges for public accounting services of a type not customarily performed in connection with a customer account; or data processing services not otherwise exempt, except check processing and check clearing services.

(c) The tax imposed under s. 212.059 shall not apply to the following services a-service by a financial institution:

1. Any service for which the charge for which is waived or imputed; or,

2. Investment advisory services.
(d) For purposes of this subsection, the term "financial institution" means a financial institution as defined in s. 655.005; 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; any Federal Reserve Bank; and any Federal Home Loan Bank.

(16) 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.

(17) Membership dues or membership fees paid to membership organizations enumerated in SIC Major Group 86, and to arts, historical, and science organizations, provided such organizations are not-for-profit corporations under chapter 617 or a comparable law of another state or are exempt organizations under the Internal Revenue Code, and membership dues or other fees paid to regulatory athletic associations.

(18) Qualified production services 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. For purposes of this subsection:

(a) "Qualified production services" means any activity or service performed directly in connection with the production of qualified motion pictures, and includes:
1. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation and management), hair and make-up (design, production, and application), acting performing (such as acting, dancing and playing), designing and executing stunts, coaching, consulting, writing, scoring, and composing, choreographing, script supervising, directing, producing, transmitting dailies, 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 services listed in subparagraph 1.; and

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

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

(21) Water and air transportation services described
herein. Water transportation services described in SIC Group
Numbers 441 and 442, towing or tugboat services described in
SIC Industry Number 4454, marine cargo handling services
described in SIC Industry Number 4463, piloting services, ship
cleaning, steamship leasing, marine surveyors, and ship repair
and maintenance services for vessels used in interstate or
international commerce; storage of cargo at port facilities;
transportation services enumerated in SIC Industry Numbers
4712 and 4723 regardless of the mode of transportation
employed, lighterage services, described in SIC Industry
Number 4453, and services related to processing and
accessorizing of motor vehicles as defined in s. 320.01
automobiles that are imported through Florida ports. The
exemption provided by this subsection also applies to services
provided in connection with cargo in international trade by
any licensed customs broker; any customs bonded warehouse,
container freight and examination station, or cartman; or
freight consolidator or deconsolidator.

(22) Sanitary services enumerated in SIC Group Number
495, garbage, refuse and debris transportation services
enumerated in SIC Industry Number 4212, and septic tank
cleaning services enumerated in SIC Industry Number 7699, if
such services are sold to residential households or owners of
residential models, water supply services enumerated in SIC
Group Number 494 and irrigation systems services enumerated in
SIC Group Number 497. However, "tipping fees" and other
charges for the right to dispose of garbage, refuse and debris
shall not be exempt pursuant to this subsection.
(23) Security and commodity brokerage services enumerated in SIC Major Group 62 involving the transfer of securities or commodities. However, this exemption shall not be construed to exempt any financial service taxable under subsection (11) or any accounting or investment advisory services provided by an investment advisor as defined in s. 517.021 (12)(a).

(26) Real estate commissions when the property seller affirmatively demonstrates to the realtor responsible for collecting the tax that at the time of signing the initial listing contract on the real estate offered for sale the property seller resided thereon and was assessed as entitled to the homestead property exemption pursuant to s. 196.031.

(27)(a) Legal 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. However, this exemption shall only be applicable if the criminal charges brought in the case are dismissed or the client is ultimately adjudicated not guilty by a court of competent jurisdiction. This exemption shall only be granted pursuant to a refund of taxes previously paid on such services. The provisions of s. 212.095 shall not apply to the refund authorized in this paragraph.

(b) Legal services, provided to a natural person, which relate to child support, child-custody, adoption, divorce, guardianship, juvenile cases, landlord/tenant relations, mobile-home-rents, enforcement of civil rights or bankruptcy proceedings recovery-of-past-or-future-medical

Orig. Journal Third Fourth

Code: h1506/999-01 Date: Time:
expenses. However, this exemption shall be limited to $500 in services per person per calendar year.

(31) Religious services provided by religious organizations, religious institutions, or religious leaders. Also included in this exemption shall be the sale of services by any nonprofit religious organization described in SIC Industry Number 866, when provided in carrying out its customary nonprofit religious activity.

(35) Data processing services performed for a financial institution by a service corporation of that a financial institution described in SIC Major-Group 61, provided:

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

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

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

(d) Every eligible savings and loan association or savings bank shall may own an equal amount of capital stock or shall may, on such uniform basis as the service corporation shall 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.

(e) As used in this subsection, "financial institution" means any savings and loan association or savings bank organized under the laws of this state, or of another state, or of the United States.

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Code: h1506/999-01 Date: Time:
(36) Personal laundry services sold to residents of nursing home facilities, adult congregate living facilities, and hospices licensed under part i of chapter 400.

(42) News services enumerated in SIC Group Number 735.

(43) Amusement and recreation services enumerated in SIC Group Numbers 792, 793, 794 and 799, and museums, art galleries, botanical and zoological garden services enumerated in SIC Major Group 84. However, this exemption shall not be construed to exempt admissions charges or membership fees or dues taxable pursuant to other provisions of this part, or to coin-operated amusement devices described in SIC Industry Number 7993.

(44) Services provided and paid for pursuant to court order in a bankruptcy proceeding.

(45) Household utility services sold to residential households or owners of residential models in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, or by liquefied petroleum gas companies, regardless of whether such sales of services are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the services is used for a nonexempt purpose, the entire sale is taxable.

(46) Convention and conference registration fees.

(47) Transportation services by satellite or launch vehicles.

(48) Impact fees and charges related to idle plant capacity for access to sewage utilities and utilities subject to the gross receipts tax imposed pursuant to chapter 203.

(49) Emergency road services, only when the total consideration for the services is $10.00 or less.
(50) Construction support services purchased by a
provider of construction support services in furtherance of a
contract for such services. For purposes of this subsection,
"construction support services" means architectural,
engineering, drafting, surveying, land planning, landscape
design, and interior design services, when such services
directly relate to the construction, alteration, improvement,
or repair of real property. This exemption shall apply only
if:

(a) 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;

(b) The purchaser of the service identifies the seller
of the service purchased in his charge for the service on its
subsequent sale; and

(c) The service will be taxed under this part in a
subsequent sale, unless exempt under other provisions of this
part.

(51) Newspaper delivery services provided to the
publisher or printer of a newspaper.

Section 4. Subsections (1), (3) and (4) of section
212.0593, Florida Statutes, as created by chapter 87-6, Laws
of Florida, are amended to read:

212.0593 Administration of s. 212.0592(1).--

(1) Each multistate business having tax nexus in this
state under this part shall obtain from the department an
exempt purchase permit prior to claiming an exemption under s.
212.0592(1). Such permit shall be used when purchasing any
service sold in this state except advertising, regardless of
whether the service is used in this state. Upon purchasing a
service from a dealer registered under this part, presentation
by said multistate business of a valid exempt purchase permit
shall absolve the selling dealer from the responsibility of
collecting any sales tax which may be due on the service. The
purchaser shall self-accrue any taxes which may be due on the
service and remit them to the department in the manner and
under the requirements applicable to dealers under this part,
subject to such additional reporting requirements as the
department may prescribe.

(3) Each dealer shall maintain a monthly log showing
each transaction for which sales tax was not collected because
of the presentation of an exempt purchase permit or exempt
purchase affidavit under this section. The log shall identify
the purchaser, the exempt purchase permit number if
applicable, the service sold, the price of the service and
such other information as the department may prescribe. The
logs and all affidavits 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 a $100 mandatory penalty the penalties provided in
Section 242-2-3.

(4) If a purchaser fails to obtain an exempt purchase
permit or execute an exempt purchase affidavit, but otherwise
qualifies for an exemption pursuant to s. 212.0592(1), the
purchaser may apply to the department for a refund of taxes
paid on the exempt amount of the purchase. The application
for refund shall be accompanied by an exempt purchase
affidavit and shall be submitted within 1 year of the
purchaser's payment of the tax. A refund recommended by the
department pursuant to this subsection shall be reduced by the
amount of any applicable dealer collection allowance
previously allowed on the transaction. The provisions of s.
212.095 shall not apply to refunds granted pursuant to this
subsection.

Section 5. Section 5 of chapter 87-6, Laws of Florida,
is hereby repealed.

Section 6. Section 212.0594, Florida Statutes, is
created to read:

212.0594 Construction services; special provisions.--
(1) For purposes of this section:
(a) "Prime contractor" means:
1. A person who enters into a contract to construct,
improve, alter, or repair realty with the person for whose
benefit the realty is being constructed, improved, altered, or
repaired;
2. A person who enters into a contract to undertake
the primary responsibility for supervising the construction,
improvement, alteration or repair of realty with the person
for whose benefit the realty is being constructed, improved,
altered, or repaired, in which case, all other persons
involved in the construction who would otherwise qualify as
prime contractors under subparagraph 1. shall be deemed
subcontractors;
3. A person who undertakes, on a speculative basis or
for his own use, the construction, improvement or alteration
of realty; or
(b) "Subcontractor" means a person who enters into a
contract to provide construction services to a prime
contractor or to another subcontractor.
(c) "Construction services" means any activity
directly involving the construction, alteration, improvement
or repair of realty.

(d) "Construction support services" means
architectural, engineering, drafting, surveying, land
planning, landscape design and interior design services when
such services directly relate to the construction, alteration,
 improvement or repair of realty.

(e) "New construction" means factory-built buildings
and any construction, alteration, improvement or repair of
realty for which the contract price or cost price, including
building materials used, exceeds $5,000.

(f) "Building materials" means tangible personal
property physically incorporated into the affected realty.

(g) "Contract price" means the total consideration
paid pursuant to a contract for the construction, alteration,
 improvement or repair of realty, or in the case of new
construction undertaken on a speculative basis, the total
consideration paid pursuant to a contract to purchase the
improved realty. However, the contract price shall not
include the fair market value of land and any improvements to
the land existing prior to the contract for the construction,
alteration, improvement or repair of the realty, or the value
of construction support services provided by other than
employees of the prime contractor.

(h) "Fair market value" means 120 percent of the
property's assessed value for ad valorem tax purposes, as
reflected by the most recent assessment roll for the county
prior to the new construction, unless the prime contractor can
demonstrate to the satisfaction of the department by proof of
comparable sales, actual purchase price, or appraisal, that
such assessment understates the value of the property.

(i) "Cost price" means the direct and indirect costs
of construction, including but not limited to, the cost of
materials used, labor and service costs, interest charged, and
overhead expenses, without any deduction whatsoever.

(2) The tax imposed by s. 212.059 shall be applied to
the sale of construction services in the following manner:

(a) For new construction undertaken pursuant to a
contract, or undertaken on a speculative basis but sold within
6 months of completion of the new construction, the tax shall
be imposed upon 50 percent of the contract price.

(b) For new construction undertaken for the prime
contractor's own use, or undertaken on a speculative basis and
not sold within 6 months of completion, the tax shall be based
upon 50 percent of the cost price.

(c) For new construction consisting of factory-built
buildings, the tax shall be imposed upon the cost price, less
the amount paid for building materials incorporated into such
buildings.

(d) For new construction undertaken for the prime
contractor's own use or undertaken on a speculative basis, and
directly related to real property registered or exempt
pursuant to chapter 498, or regulated under chapter 721, the
tax shall be imposed upon 50 percent of the cost price.

(e) For construction other than new construction, the
tax shall be imposed upon the total contract price, less the
amount paid by the prime contractor for building materials
incorporated into the realty. However, the deduction for
building materials shall only apply if the prime contractor
has previously paid the sales tax on such materials, and the
written contract or invoice provided by the prime contractor
to the person for whom the construction was done specifically
itemizes the building materials and the price paid by the
prime contractor for such materials.

(f) If new construction is undertaken pursuant to a
contract that is not an arm's-length transaction, or if new
construction is undertaken on a speculative basis and the
realty is then sold within 6 months pursuant to a contract
that is not an arm's-length transaction, the tax shall be
imposed upon 50 percent of the cost price of the new
construction, and not upon the contract price.

(g) For the construction or repair of roads pursuant
to or in furtherance of a contract with a governmental entity
described in s. 212.08(6), the tax shall not apply.

(h) For the construction or repair of property used
primarily for public worship, the tax shall not apply.

(i) The tax on construction support services shall be
imposed upon the total sales price for such services and shall
be due and payable in accordance with the provisions of s.
212.059(4).

(j) Prime contractors for new construction shall be
considered the final consumer of construction services
consumed in improving realty. The owner of the affected real
property shall be considered the final consumer of
construction services other than those related to new
construction. The prime contractor or subcontractor who
purchases or uses building materials shall be considered the
final consumer of the building materials.

(k) Notwithstanding other provisions of this
subsection, no tax shall be imposed upon construction services
or construction support services performed by one's own
employees if the services are performed for an employer who is
incidentally engaged in improving real property, such
improvements are made in the furtherance of the employer's
primary business, and the employer is not in the business of
providing construction services.

(1) As an alternative method for computing the tax
imposed in this subsection, the prime contractor may compute
and pay the tax on construction services on new construction,
as follows:

1. The tax on construction services purchased by prime
contractors shall be due and payable by the prime contractor
at the time consideration is paid for such services.

2. The tax on purchases of construction services by
prime contractors shall be based on the total consideration
paid to the subcontractor. However, if the written proposal,
contract, or interim or final invoice of the subcontractor
specifically describes, itemizes and states the price paid by
the subcontractor for the building materials purchased by the
subcontractor and incorporated into the improvement in
fulfillment of his responsibilities under the subcontract, the
tax shall be based on the total consideration less the price
of said building materials.

3. The tax on the construction services any prime
contractor provides with respect to new construction for
himself or others shall be based upon the cost price to the
prime contractor of the services he provides. However, the
cost of building materials purchased by the prime contractor
and incorporated into the new construction, and amounts paid
to subcontractors upon which a sales tax has been paid, shall
not be included in the cost price. The tax shall be due and
payable as otherwise provided in this part at the time the
contract for new construction is fulfilled or within 30 days
after the certificate of occupancy is issued, whichever is
sooner. The retail sale of new construction for which the
prime contractor has paid tax pursuant to this paragraph shall
be exempt from the tax imposed by this section.

4. This alternative method for computing the tax shall
apply to construction services purchased or provided by a
prime contractor for construction projects begun on or after
July 1, 1988.

5. A prime contractor shall make the election to
compute the tax pursuant to this paragraph on a form
prescribed by the department. Any such election shall apply
to all construction services purchased or provided by the
prime contractor during the term of the election. The
department shall promulgate rules regarding the application of
the election to construction projects in progress at the time
the election is made and construction projects which are in
progress at the time the election is terminated. A prime
contractor may not change the method for the payment of the
tax more than once during any 12-month period.

(3) The tax imposed by s. 212.059 on construction
services shall be due and payable in the following manner:

(a) The prime contractor shall be responsible for
remitting the tax on construction services performed by
himself and by his subcontractors.

(b) Subcontractors shall not be required to collect
the tax on construction services they perform.

(c) For new construction undertaken pursuant to a
contract, the tax shall be due when the prime contractor
receives payments under the contract. If the contract price
is paid in draws or installments, the amount of tax to be paid
with respect to each such draw or installment, before
application of the dealer credit, shall be that proportion of
the tax due on the total contract price which the amount of
the draw or installment bears to the total contract price.

(d) For new construction undertaken on a speculative
basis, or for the prime contractor's own use, partial payment
of the tax shall be due at such time payment is made by the
prime contractor to the subcontractor based on 50 percent of
the amount of such payment. Any tax amounts remaining shall
be due 30 days after a certificate of occupancy is issued, or
if no certificate of occupancy is required, when the new
construction is first put to its intended use.

(e) For new construction undertaken for the prime
contractor's own use, the tax shall be due when a certificate
of occupancy is issued, or if no certificate of occupancy is
required, when the new construction is first put to its
intended use.

(f) For construction other than new construction, the
tax shall be due when the prime contractor receives payment
for the construction services rendered.

(g) Taxes due and payable pursuant to this section
shall be remitted in accordance with s. 212.11.

(h) No unit of local government shall issue a
certificate of occupancy for new construction until the prime
contractor certifies, on a form promulgated by the department
and submitted to the local government, that the new
construction is substantially complete. Such forms shall be
provided to local governments by the department, and completed
forms shall be returned monthly to the department by the local
governments.
(4) The following provisions of this part shall not apply with regard to the tax on construction services:
   (a) Section 212.02(5), the definition of "cost price."
   (b) Section 212.02(21), the definition of "sales price."
   (c) Section 212.059(3), regarding the collection and remittance of the tax.
   (d) Section 212.059(4), regarding the time the tax is due.
   (e) Section 212.059(4), regarding taxation of transactions previously taxed.
   (f) Section 212.059(6), regarding separate statement of services and real property.
   (g) Section 212.059(7), regarding separate statement of taxable and exempt services.
   (h) Section 212.0592(3), regarding occasional or isolated sales.
   (i) Section 212.0592(4), regarding services sold to partnerships.
   (j) Section 212.0592(5), regarding services sold between members of an affiliated group.

Section 7. Section 212.0595, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read:
212.0595 Advertising; special provisions.--
Notwithstanding the provisions of ss. 212.059-212.0593, the following special provisions shall be applicable to the sales and use tax on advertising:
(1) A tax is hereby imposed on advertising sold or used in this state. The tax shall be at the rate of 5 percent of the sales price or cost price of the advertising.
(2) Advertising shall be deemed to have been sold in this state if the greater proportion of the advertising is performed within this state based on costs of performance as defined in s. 212.02.

(3) Advertising shall be deemed to have been used in this state if it was sold outside this state for consumption in this state. Advertising shall be presumed to be consumed in this state to the extent the cost price is apportioned to this state pursuant to subsection (4).

(4)(a) The sales price of the sale of advertising, or the cost price of the use of advertising, shall be apportioned to the state as provided in this subsection. There shall be included in the measure of the tax imposed by this section that proportion of the sales price or cost price which is equal to the proportion of market coverage within Florida to the total United-States market coverage for the most recently completed accounting year of the service provider. However, in the case of new or restructured service providers, the department may prescribe by rule another time period or proportion that fairly reflects Florida market coverage.

(b) For purposes of this subsection, "market coverage" means average circulation within the geographic area of distribution for the publication in which the advertisement appears, in the case of print media, and means population within the signal reception area of the broadcaster, in the case of broadcast media, measured as prescribed by the department by rule.

(c) For advertising other than print or broadcast media, the department shall establish by rule a method for fairly apportioning advertising sold or used in this state.
(5) If advertising is sold in this state, the sales tax imposed by this section shall be collected and remitted by the advertising media provider, unless the advertising is purchased pursuant to a resale permit, in which case the person reselling the advertising shall collect and remit the tax.

(6) If advertising is not sold in this state, but is used in this state, the advertiser shall self-accrue the use tax imposed by this section and remit the tax directly to the department, if the advertiser has nexus for tax purposes with this state, unless the advertising is sold to a registered dealer for resale, in which case the registered dealer shall collect and remit the tax when the advertising is resold.

(7)(a) When advertising is sold or resold, the seller or reseller shall state the sales price of the advertising and the applicable apportionment factor, if any, separately from any other charges which may be included in the invoice, charge slip or other tangible evidence of sale.

(b) When the tax on advertising is not collected by the seller of the advertising, it is the responsibility of the purchaser to secure the apportionment factor pursuant to subsection (4) from the advertising media. When advertising is purchased and resold, the person reselling the advertising may deduct the consideration paid for the advertising from his charges for purposes of calculating any tax due under this part.

(8) Nothing herein shall be construed to require the advertising media to furnish to the department a listing of persons placing advertising with the advertising media.

(9) Consideration paid pursuant to a written contract for a term in excess of two years, entered into prior to April
1, 1987, and which involves a transaction taxable under this
section, shall be exempt from the tax imposed by this section
until the expiration of such contract. This exemption shall
not apply to advertising provided pursuant to any extension or
renewal of such contract.

(10) For purposes of this part, the term "advertising"
means the service of conveying the advertiser's message, and
shall include any mark-up charged by an advertising agency or
any other person for the service of brokering the medium.
However, the term "advertising" shall not include creative
services of a type customarily performed by an advertising
agency.

(11) The following provisions of this part shall not
apply to the sale or use of advertising:
(a) Section 212.059(3), regarding collection of the
tax on services; and
(b) Section 212.0593, regarding administration of s.
212.0592(1).

Section 8. Section 212.0590, Florida Statutes, is
created to read:

212.0598 Special provisions; air carriers.--
(1) Notwithstanding other provisions of this part to
the contrary, any air carrier required by the United States
Department of Transportation to keep records according to said
department's standard classification of accounting may elect,
upon the conditions prescribed in subsection (4), to be
subject to the tax imposed by this part on services and
tangible personal property according to the provisions of this
section.

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

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

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

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

Section 9. Subsections (2) and (6), paragraph (h) of
subsection (14), and paragraph (a) of subsection (19) of
section 212.02, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, are amended to read:

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

(2) "Affiliated group" means: an affiliated group of
corporations, as defined in s. 1504(a) of the Internal Revenue
Code, whose members are includable under s. 1504(b), (c), or
(d) of the Internal Revenue Code, and are eligible to file a
consolidated tax return for Federal corporate income tax
purposes; or mutual insurance companies which are members of
one insurance holding company system subject to s. 628.801;
however, s. 1504(b)(2) shall not apply to this definition.
However, the taxpayer may elect, pursuant to rules of the
department governing the procedure for making and amending
such election, to define its affiliated group in a manner
which excludes any member who has no tax nexus in this state
and any member whose business activities are unrelated to the
business activities of other members of the group. However,
in no event shall a parent corporation of an included member
be excluded from the affiliated group.

(6) "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 service provider taxpayer engages.

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

(h) "Real property" means land, improvements thereto,
and fixtures, and is synonymous with "realty" and "real
estate," any-interest-in-the-surface-of-real-property-unless
the-property-is:
1. Assessed-as-agricultural-property-under-s-193-461
2. Used-exclusively-as-dwelling-units
3. Property-subject-to-tax-on-parking,-docking,-or
storage-spaces-under-s-212-83461
4. Recreational-property-or-the-common-elements-of-a
condominium-when-subjected-to-a-lease-between-the-developer-or
owner-thereof-and-the-condominium-association-in-its-own-right
or-as-agents-for-the-owners-of-individual-condominium-units-or
the-owners-of-individual-condominium-units.--However;--only-the
lease-payments-on-such-property-shall-be-exempt-from-the-tax
imposed-by-this-chapter,-and-any-other-use-made-by-the-owner
or-the-condominium-association-shall-be-fully-taxable-under
this-chapter;
5. A-public-or-private-street-or-right-of-way-occupied
or-used-by-a-utility-for-utility-purposes;
6. A-public-street-or-road-which-is-used-for
transportation-purposes;
7. Property-used-at-an-airport-exclusively-for-the
purpose-of-aircraft-landing-or-aircraft-taxing-or-property
used-by-an-airline-for-the-purpose-of-loading-or-unloading
passengers-or-property-onto-or-from-aircraft-or-for-fueling
aircraft;
8. Property-used-at-a-port-authority-as-defined-in-s;
9. Exclusively-for-the-purpose-of-ocean-going-vessels
or-tugs-docking,-or-such-vessels-mooring-on-property-used-by-a
port-authority-for-the-purpose-of-loading-or-unloading
passengers-or-cargo-onto-or-from-such-a-vessel,-or-property
used-at-a-port-authority-for-fueling-such-vessels:
9.--Property used as an integral part of the
performance of qualified production services as defined in s. 212.0592(10)(a);
10. Leased, subleased, or rented to a person providing
food and drink concessionaire services within the premises of
an airport, a movie theater, a business operated under a
permit issued pursuant to chapter 550 or chapter 551; or any
publicly owned arena, sports stadium, convention hall, or
exhibition hall;
11. (19)(a) "Retail sale" or a "sale at retail" means a
sale to a consumer or to any person for any purpose other than
for resale in the form of tangible personal property or
services, and includes all such transactions that may be made
in lieu of retail sales or sales at retail. "Retail sale"
does not include fee-sharing for services described in s.
12. 475.011 by persons licensed under chapter 475 between real
13. estate agents and real estate brokers. A sale of a service
14. shall be considered a sale for resale only if:
15. 1. The purchaser of the service does not use or
16. consume the service but acts as a broker or intermediary in
17. procuring a service for his client or customer;
18. 2. The purchaser of the service buys the service
19. pursuant to a written contract with the seller and such
20. contract identifies the client or customer for whom the
21. purchaser is buying the service;
22. 3. The purchaser of the service separately states the
23. value of the service purchased at the purchase price in his
24. charge for the service on its subsequent sale;
25. 4. The service, with its value separately stated, will
26. be taxed under this part in a subsequent sale, unless
27. otherwise exempt pursuant to s. 212.0592(1); and

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

However, a sale, to other than an end user, of telecommunication services consisting of a right of access for which an access charge, as defined in s. 203.012(1), is imposed, is a sale for resale.

Section 10. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

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

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

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).
4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner.
or the condominium association shall be fully taxable under
this chapter.

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

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

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

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

9. Property used as an integral part of the
performance of qualified production services as defined in s.
212.0592(18)(a).

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

Section 11. Paragraph (a) of subsection (2) of section 212.04, Florida Statutes, as amended by chapter 37-6, Laws of Florida, is amended to read:

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

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

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

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

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

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

Section 12. Subsection (1) of section 212.05, Florida
Statutes, as amended by chapter 87-6, Laws of Florida, is
amended to read:

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

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

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

b. Each occasional or isolated sale of an aircraft,
boat, or mobile home, or motor vehicle of a class or type
which is required to be registered, licensed, titled, or
documented in this state or by the United States Government
shall be subject to tax at the rate provided in this
paragraph. The department shall, by rule, adopt the NADA
Official Used Car Guide as the reference price list for any
used motor vehicle which is required to be licensed pursuant
to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If
any party to an occasional or isolated sale of such a vehicle
reports to the tax collector a sales price which is less than
80 percent of the average loan price for the specified model
and year of such vehicle as listed in the most recent
reference price list, the tax levied under this paragraph
shall be computed by the department on such average loan price
unless the parties to the sale have provided to the tax
collector an affidavit signed by each party, or other
substantial proof, stating the actual sales price. Any party
to such sale who reports a sales price less than the actual
sales price is guilty of a misdemeanor of the second degree,
punishable as provided in s. 775.083. The department shall
collect or attempt to collect from such party any delinquent
sales taxes. In addition, such party shall pay any tax due
and any penalty and interest assessed, plus a penalty equal to
twice the amount of the additional tax owed. Notwithstanding
any other provision of law, the Department of Revenue may
waive or compromise any penalty imposed after July 1, 1985,
pursuant to this sub-subparagraph. For purposes of this sub-
subparagraph, an occasional or isolated sale is one in which
the seller is not a motor vehicle dealer as defined in s.
320.27(1)(c).

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

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

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

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

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

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

(c) At the rate of 5 percent of the gross proceeds
derived from the lease or rental of tangible personal
property, as defined herein, except the lease or rental of a
commercial motor vehicle as defined in s. 316.003(67)(a) to
one lessee or rentee for a period of not less than 12 months
when tax was paid on the acquisition of such vehicle by the
lessor, when the lease or rental of such property is an
established business or part of an established business or the
same is incidental or germane to such business.

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

(e) At the rate of 5 percent on charges for all
telegraph messages and long distance telephone calls beginning
and terminating in this state; on charges for
telecommunication service as defined in s. 203.012 and for
those services described in s. 203.012(2)(a); on recurring
charges to regular subscribers for wired television service;
on all charges for the installation of telecommunication,
wired television, and telegraphic equipment; and on all
charges for electrical power or energy. For purposes of this
paragraph, the term "telecommunication service" does
not include local service provided through a pay telephone.
The provisions of s. 212.17(3), regarding credit for tax paid
on charges subsequently found to be worthless, shall be
equally applicable to any tax paid under the provisions of
this section on charges for telecommunication or telegraph
services or electric power subsequently found to be
uncollectible. The word "charges" in this paragraph does not
include any excise or similar tax levied by the Federal
Government, any political subdivision of the state, or any
municipality upon the purchase or sale of telecommunication,
wired television, or telegraph service or electric power,
which tax is collected by the seller from the purchaser.
2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

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

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

c. Fifty percent of the charge imposed for the total channel mileage between the first channel termination point inside this state and the nearest channel termination point outside this state.

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

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

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

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

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

Section 13. Paragraph (b) of subsection (9) of section
212.08, Florida Statutes, 1986 Supplement, is amended, and
subsection (6), and paragraphs (e), (n) and (o) of subsection
(7) of said section, as amended by chapter 87-6, Laws of
Florida, are amended, and paragraph (t) is added to subsection
(7) of said section to read:

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

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are
also exempt from the tax imposed by this chapter sales made to
the United States Government, a the state, or any county,
municipality, or political subdivision of a this state when
payment is made directly to the dealer by the governmental
entity. This exemption shall not inure to any transaction
otherwise taxable under this chapter when payment is made by a
government employee by any means, including, but not limited
to, cash, check, or credit card when that employee is
subsequently reimbursed by the governmental entity. This
exemption does not include sales of tangible personal property
made to contractors employed either directly or as agents of
any such government or political subdivision thereof when such
tangible personal property goes into or becomes a part of
public works owned by such government or political subdivision
thereof, except public works in progress or for which bonds or
revenue certificates have been validated on or before August
1, 1999. This exemption does not include sales, rental, use,
consumption, or storage for use in any political subdivision
or municipality in this state of machines and equipment and
parts and accessories therefor used in the generation,
transmission, or distribution of electrical energy by systems
owned and operated by a political subdivision in this state
except sales, rental, use, consumption, or storage for which
bonds or revenue certificates are validated on or before
January 1, 1973, for transmission or distribution expansion.

(7) MISCELLANEOUS EXEMPTIONS.--

(e) Film rentals.--Film rentals are exempt when an
admission is charged for viewing such film, and license fees
and direct charges for films, videotapes, and transcriptions
used by television or radio stations or networks are exempt.
However, this exemption shall not be construed to exempt the
sale or use of advertising.
a misdemeanor felony of the first third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.
(2) Any person who willfully violates or fails to
comply with any of the provisions of this chapter is guilty of
a misdemeanor felony of the first third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.
Section 43. Effective July 1, 1988, subsection (3) of
section 203.63, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:
203.63 Tax on interstate and international
telecommunication services.--
(3) Any person who provides such services and who
fails, neglects, or refuses to collect or remit the tax
imposed in this part, either by himself or through his agents
or employees, is liable for the tax and is guilty of a
misdemeanor felony of the first third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.
Section 44. Effective July 1, 1988, subsection (4) of
section 206.18, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is renumbered as subsection (5) and amended,
and new subsection (4) is added to said section to read:
206.18 Discontinuance or transfer of business;
liability of tax, procedure; penalty for violation.--
(4) In the event any dealer is delinquent in the
payment of the tax herein provided for, the department may
give notice of the amount of such delinquency by registered
mail to all persons having in their possession or under their
control any credits or other personal property belonging to
such dealer or owing any debts to such dealer at the time of
receipt by them of such notice. All persons so notified shall
within 5 days after receipt of the notice advise the
department of all such credits, other personal property, or
debts in their possession, under their control, or owing by
them. After receiving the notice, the persons so notified
shall neither transfer nor make any other disposition of the
credits, other personal property, or debts in their possession
or under their control at the time they receive the notice
until the department consents to a transfer or disposition or
until 60 days elapse after the receipt of the notice,
whichever period expires earlier, except that the credits,
other personal property, or debts which exceed the delinquent
amount stipulated in the notice shall not be subject to the
provisions of this section, wherever held, in any case in
which such dealer does not have a prior history of tax
delinquencies. All persons notified shall likewise within 5
days advise the department of any subsequent credits or other
personal property belonging to such dealer or any debts
incurred and owing to such dealer which may come within their
possession or under their control during the time prescribed
by the notice or until the department consents to a transfer
or disposition, whichever expires earlier. If such notice
seeks to prevent transfer or other disposition of a deposit in
a bank or other credits or personal property in the possession
or under the control of a bank, the notice to be effective
shall be delivered or mailed to the office of such bank, at
which such deposit is carried or at which such credits or
personal property is held. If, during the effective period of
the notice to withhold, any person so notified makes any
transfer or disposition of the property or debts required to
be withheld hereunder, he shall be liable to the state for any
indebtedness due under this chapter from the person with
respect to whose obligation the notice was given to the extent
of the value of the property or the amount of the debts thus
transferred or paid if, solely by reason of such transfer or
disposition, the state is unable to recover the indebtedness
of the person with respect to whose obligation the notice was
given. All such credits or other personal property or debts
are subject to garnishment by the department for satisfaction
of the delinquent tax due.

(5) Any violation of the provisions of this section
is a felony of the third degree, punishable as provided in s.
775.082, s. 775.083, or s. 775.084.

Section 45. Effective July 1, 1988, subsection (1) of
section 206.44, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:

206.44 Penalty and interest for failure to report on
time; penalty and interest on tax deficiencies.--

(1) If any refiner, importer, or wholesaler fails to
make a report or pay the taxes due as required by this
chapter, the department shall add a penalty in the amount of 5
percent of any unpaid tax if the failure is for not more than
1 month, with an additional 5 percent of any unpaid tax for
each additional month or fraction thereof during which the
failure continues. However, such penalty may not exceed 25
percent in the aggregate of any unpaid tax. Furthermore,
in no event may the penalty assessed be less than $5. The
department shall collect the tax, together with the penalty
and costs, in the same manner as other delinquent taxes are
collected.

Section 46. Effective July 1, 1988, subsection (5) of
section 206.877, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:
206.877 Motor vehicles fueled by liquefied petroleum
gas or compressed natural gas; payment of annual decal fees in
lieu of tax.--

(5) Any person who violates the provisions of this
section is guilty of a misdemeanor felony of the first third
degree, punishable as provided in s. 775.082, s. 775.083, or
s. 775.084. In addition, any person who is liable for fueling
a vehicle which does not have the proper decal affixed is
subject to the provisions of this section and the provisions
of s. 206.94.

Section 47. Effective July 1, 1988, subsection (1) of
section 206.9931, Florida Statutes, as amended by chapter 87-
6, Laws of Florida, is amended to read:

206.9931 Administrative provisions.--

(1) Any person producing in, importing into, or
cau sing to be imported into this state taxable pollutants for
sale, use, or otherwise and who is not registered or licensed
pursuant to other parts of this chapter is hereby required to
register and become licensed for the purposes of this part.
Such person shall register as either a producer or importer of
pollutants and shall be subject to all applicable registration
and licensing provisions of this chapter, as if fully set out
in this part and made expressly applicable to the taxes
imposed herein, including, but not limited to, ss. 206.02,
206.021, 206.022, 206.025, 206.03, 206.04, and 206.05. For
the purposes of this section, registrations required
exclusively for this part shall be made within 90 days of July
1, 1986, for existing businesses, or prior to the first
production or importation of pollutants for businesses created
after July 1, 1986. The fee for registration shall be $30.
Failure to timely register is a misdemeanor felony of the
first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 48. Effective July 1, 1988, subsection (1) of section 207.007, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

207.007 Offenses; penalties and interest.--

(1) If any motor carrier fails to file a return and pay any tax liability under this chapter within the time required hereunder, the department shall add a delinquency penalty of 10.5 percent to the amount of the taxes due if the failure is for not more than 30 days, with an additional 10.5 percent penalty for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of 100 percent in the aggregate. However, in no event shall the penalty be less than $5.

Section 49. Effective July 1, 1988, subsection (2) of section 211.076, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

211.076 Interest and penalties; failure to pay tax or file return; estimated tax underpayments.--

(2) Failure to file any return required by this part by the due date shall require payment of a delinquency penalty. If tax is due with the return, the delinquency penalty shall be 5 percent for each month, or portion thereof, of the amount of tax due with the return, not to exceed 25% thereof. If no tax is due with the return, the delinquency penalty shall be $25 for each month, or portion thereof, during which the return was not filed, not to exceed $150 in aggregate. The amount of tax due with a return shall be reduced by amounts properly creditable against the tax

Orig. Journal Third Fourth

Code: h1506/999-01 Date:
Time:
liability shown on the return on the date the return was due.

Section 50. Effective July 1, 1988, subsection (1) of section 211.25, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

211.25 Tax crimes; punishment for violation of this part.--

(1) Any person who willfully fails to file a return or keep books or records on production of taxable products, or who files a fraudulent return, or who willfully fails or refuses to produce books or records, or who willfully violates any provision of this part or any rule adopted by the department under this part is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 51. Effective July 1, 1988, paragraphs (i) and (j) of subsection (3) of section 212.0305, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are amended to read:

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

(3) APPLICATION; ADMINISTRATION; PENALTIES.--

(i) Any person taxable under this section who, either by himself or through his agents or employees, fails or refuses to charge and collect the taxes herein provided from the person paying any rental or lease is, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(j) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax; that he will relieve the
person paying the rental of the payment of all or any part of
the tax; or that the tax will not be added to the rental or
lease consideration or, if added, that the tax or any part
thereof will be refunded or refused, either directly or
indirectly, by any method whatsoever. Any person who
willfully violates any provision of this paragraph is guilty
of a misdemeanor felony of the first third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 52. Effective July 1, 1988, paragraph (a) of
subsection (1) of section 212.05, Florida Statutes, as amended
by section 83 of chapter 87-6. Laws of Florida, is amended to
read:

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

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

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

b. Each occasional or isolated sale of an aircraft,
boat, mobile home, or motor vehicle of a class or type which
is required to be registered, licensed, titled, or documented
in this state or by the United States Government shall be
subject to tax at the rate provided in this paragraph. The
department shall, by rule, adopt the NADA Official Used Car
Guide as the reference price list for any used motor vehicle
which is required to be licensed pursuant to s. 320.08(1),
(2), (3)(a), (b), (c), or (f), or (9). If any party to an
occasional or isolated sale of such a vehicle reports to the
tax collector a sales price which is less than 80 percent of
the average loan price for the specified model and year of
such vehicle as listed in the most recent reference price
list, the tax levied under this paragraph shall be computed by
the department on such average loan price unless the parties
to the sale have provided to the tax collector an affidavit
signed by each party, or other substantial proof, stating the
actual sales price. Any party to such sale who reports a
sales price less than the actual sales price is guilty of a
misdemeanor felony of the first third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084. The
department shall collect or attempt to collect from such party
any delinquent sales taxes. In addition, such party shall pay
any tax due and any penalty and interest assessed, plus a
penalty equal to twice the amount of the additional tax owed.
Notwithstanding any other provision of law, the Department of
Revenue may waive or compromise any penalty imposed after July
1, 1985, pursuant to this sub-subparagraph. For purposes of
this sub-subparagraph, an occasional or isolated sale is one
in which the seller is not a motor vehicle dealer as defined
in s. 320.27(1)(c).

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

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

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

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

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

Section 53. Effective July 1, 1988, subsections (3) and (4) of section 212.07, Florida Statutes, as amended by section 85 of chapter 87-6, Laws of Florida, are amended to read:
MEMBER AMENDMENT (in computer)

Bill No. CS/HB 1506

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

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

(4) A dealer engaged in any business or in selling any services taxable under this chapter may not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any part of the tax, or that the tax will not be added to the selling price of the property or services sold or released or, when added, that it or any part thereof will be refunded either directly or indirectly by any method whatsoever. A person who violates this provision with respect to advertising or refund is guilty of a misdemeanor felony of the second third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A second or subsequent offense constitutes a misdemeanor felony of the first second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 54. Effective July 1, 1988, section 212.085, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.085 Fraudulent claim of exemption; penalties.--
When any person shall fraudulently knowingly, for the purpose of evading tax, issue to a vendor or to any agent of the state
a certificate or statement in writing in which he claims
exemption from sales tax, such person, in addition to being
liable for payment of the tax plus a mandatory penalty of 100
percent of the tax, shall be liable for fine and punishment as
provided by law for a conviction of a felony of the third
degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 55. Effective July 1, 1988, subsections (3)
and (4) of section 212.10, Florida Statutes, as amended by
chapter 87-6, Laws of Florida, are reenacted, and subsection
(5) of said section as amended by said chapter, is amended, to
read:

212.10 Sale of business; liability for tax, procedure,
penalty for violation.--

(3) In the event any dealer is delinquent in the
payment of the tax herein provided for, the department may
give notice of the amount of such delinquency by registered
mail to all persons having in their possession or under their
control any credits or other personal property belonging to
such dealer or owing any debts to such dealer at the time of
receipt by them of such notice. All persons so notified shall
within 5 days after receipt of the notice advise the
department of all such credits, other personal property, or
debts in their possession, under their control, or owing by
them. After receiving the notice, the persons so notified
shall neither transfer nor make any other disposition of the
credits, other personal property, or debts in their possession
or under their control at the time they receive the notice
until the department consents to a transfer or disposition or
until 60 days elapse after the receipt of the notice,
whichever period expires the earlier, except that the credits,
other personal property, or debts which exceed the delinquent
amount stipulated in the notice shall not be subject to the
provisions of this section, wherever held, in any case in
which such dealer does not have a prior history of sales tax
delinquencies. All persons notified shall likewise within 5
days advise the department of any subsequent credits or other
personal property belonging to such dealer or any debts
incurred and owing to such dealer which may come within their
possession or under their control during the time prescribed
by the notice or until the department consents to a transfer
or disposition, whichever expires the earlier. If such notice
seeks to prevent the transfer or other disposition of a
deposit in a bank or other credits or personal property in the
possession or under the control of a bank, the notice to be
effective shall be delivered or mailed to the office of such
bank at which such deposit is carried or at which such credits
or personal property is held. If, during the effective period
of the notice to withhold, any person so notified makes any
transfer or disposition of the property or debts required to
be withheld hereunder, he shall be liable to the state for any
indebtedness due under this chapter from the person with
respect to whose obligation the notice was given to the extent
of the value of the property or the amount of the debts thus
transferred or paid if, solely by reason of such transfer or
disposition, the state is unable to recover the indebtedness
of the person with respect to whose obligation the notice was
given. All such credits or other personal property or debts
are subject to garnishment by the department for satisfaction
of the delinquent tax due.

(4) After notice by the department of a transferee
liability under this section, the dealer shall have 60 days
within which to file an action as provided in chapter 72.
(5) Any violation of the provisions of this section is a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax imposed by this chapter fails to timely file such return or fails to pay the tax due within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes, a specific penalty shall be added to the tax in the amount of 5 percent of any unpaid tax if the failure is for not more than 30 days, with an additional 5 percent of any unpaid tax for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed, however, a total penalty of 25 percent, in the aggregate, of any unpaid tax. In no event may the penalty be less than $5 for failure to timely file a tax return required by s. 212.11. In the case of a false or fraudulent return or a willful intent to evade payment of any tax imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax shall be liable to a specific penalty of 50 percent of the
tax bill and for fine and punishment as provided by law for a
conviction of a misdemeanor felony of the first third degree.
(13) In order to aid the administration and
enforcement of the provisions of this chapter with respect to
the rentals and license fees, each lessor or person granting
the use of any hotel, apartment house, roominghouse, tourist
or trailer camp, real property, or any interest therein, or
any portion thereof, inclusive of owners, property managers,
lessors, landlords, hotel, apartment house, and roominghouse
operators and all licensed real estate agents within the state
leasing, granting the use of, or renting such property, shall
be required to keep a record of each and every such lease,
license, or rental transaction which is taxable under this
chapter, in such a manner and upon such forms as the
department may prescribe, and to report such transaction to
the department or its designated agents, and to maintain such
records for a period of not less than 3 years, subject to the
inspection of the department and its agents; and, upon the
failure by such owner, property manager, lessor, landlord,
hotel, apartment house, roominghouse, tourist or trailer camp
operator, or real estate agent to keep and maintain such
records and to make such reports upon the forms and in the
manner prescribed, such owner, property manager, lessor,
landlord, hotel, apartment house, roominghouse, tourist or
trailer camp operator, receiver of rent or license fees, or
real estate agent is guilty of a misdemeanor felony of the
second third degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084, for the first offense; and for
subsequent offenses, they are each guilty of a misdemeanor
felony of the first second degree, punishable as provided in
s. 775.082, s. 775.083, or s. 775.084.
Section 57. Effective 1, 1988, subsections (1) and (2) of section 212.13, Florida Statutes, as amended by section 89 of chapter 87-6, Laws of Florida, are amended to read:

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

(1) For the purpose of enforcing the collection of the tax levied by this chapter, the department is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all transportation companies, agencies, or firms that conduct their business by truck, rail, water, aircraft, or otherwise, in order to determine what dealers, or other persons charged with the duty to report or pay a tax under this chapter, are importing or are otherwise shipping in articles or tangible personal property which are liable for said tax. In the event said transportation company, agency, or firm refuses to permit such examination of its books, records, or other documents by the department as aforesaid, it is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The department shall have the right to proceed in any chancery court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such transportation company or carrier.

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep for a period of 3 years a complete record of tangible personal property or services received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and
papers as may be required by the department for the reasonable
administration of this chapter; and all such records which are
located or maintained in this state shall be open for
inspection by the department at all reasonable hours at such
dealer's store, sales office, general office, warehouse, or
place of business located in this state. Any dealer who
maintains such books and records at a point outside this state
must make such books and records available for inspection by
the department where the general records are kept. Any dealer
subject to the provisions of this chapter who violates these
provisions is guilty of a misdemeanor felony of the first
third degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084.

Section 58. Effective July 1, 1988, subsection (3) of
section 212.14, Florida Statutes, as amended by section 90 of
chapter 87-6, Laws of Florida, is amended to read:

212.14 Departmental powers; hearings, subpoena;
distress warrants; time for assessments.--

(3) The department may require all reports of taxes to
be paid under this chapter to be accompanied with a written
statement, of the person or by an officer of any firm or
corporation required to pay such taxes setting forth such
facts as the department may reasonably require in order to
advise the department as to the amount of taxes that are due
and payable upon said return. Filing of return not
accompanied by payment is prima facie evidence of conversion
of the money due. 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, as required by the department
and in the manner and in the form that the department may
require, or to state in writing that the return is correct to
the best of his knowledge and belief, as so required by the
department, shall be subject to a penalty of 6 percent per
annum of the amount due and shall upon conviction, be guilty
of a misdemeanor felony of the first third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084. The
signing of a written return shall have the same legal effect
as if made under oath without the necessity of appending such
oath thereto.

Section 59. Effective July 1, 1988, subsections (2)
and (3) of section 212.15, Florida Statutes, as amended by
chapter 87-6, Laws of Florida, are amended to read:

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

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

(a) If the total amount of stolen revenue is less than
$100, the offense is a misdemeanor felony of the second third
degree, punishable as provided in s. 775.082, s. 775.083, or
s. 775.084. Upon a second or subsequent conviction within a
3-year period, the offender is guilty of a misdemeanor felony
of the first second degree, punishable as provided in s.
775.082, s. 775.083, or s. 775.084. Upon a third or
subsequent conviction within a 3-year period, the offender is
guilty of a felony of the third degree, punishable as provided
in s. 775.082, s. 775.083, or s. 775.084.
(b) If the total amount of stolen revenue is $100 or more, the offense is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

(3) Prosecution of a misdemeanor under this section shall commence no later than 2 years from the date of the offense. Prosecution of a felony under this section shall commence no later than 5 years from the date of the offense.

Section 60. Effective July 1, 1988, subsection (3) of section 212.18, Florida Statutes, as amended by section 92 of chapter 87-6, Laws of Florida, is amended to read:

212.18 Administration of law; rules and regulations.--

(3) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of

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§5. The department, upon receipt of such application, will
grant to the applicant a separate certificate of registration
for each place of business, which certificate may be canceled
by the department or its designated assistants for any failure
by the certificateholder to comply with any of the provisions
of this chapter. The certificate shall not be assignable and
shall be valid only for the person, firm, copartnership, or
corporation to which issued; and such certificate shall be
placed in a conspicuous place in the business or businesses
for which it is issued and shall be so displayed at all times.
No person shall engage in business as a dealer or in leasing,
renting, or letting of or granting licenses in living quarters
or sleeping or housekeeping accommodations in hotels,
apartment houses, roominghouses, tourist or trailer camps, or
real property as hereinbefore defined, nor shall any person
sell or receive anything of value by way of admissions,
without first having obtained such a certificate or after such
certificate has been canceled; and no person shall receive any
license from any authority within the state to engage in any
such business without first having obtained such a certificate
or after such certificate has been canceled. The engaging in
the business of selling or leasing tangible personal property
or services or as a dealer, as defined in this chapter, or the
engaging in leasing, renting, or letting of or granting
licenses in living quarters or sleeping or housekeeping
accommodations in hotels, apartment houses, roominghouses,
tourist or trailer camps, or real property as hereinbefore
defined, or the engaging in the business of selling or
receiving anything of value by way of admissions, without such
certificate first being obtained or after such certificate has
been canceled by the department is prohibited. The failure or
refusal of any person, firm, copartnership, or corporation to
so qualify when required hereunder is a misdemeanor felony of
the first third degree, punishable as provided in s. 775.082,
s. 775.083, or s. 775.084, or subject to injunctive
proceedings as provided by law.

Section 61. Effective July 1, 1988, subsection (1) of
section 214.40, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:

214.40 Penalties; failure to file timely returns.--
(1) In case of failure to file any tax return required
under laws made applicable to this chapter on the date
prescribed therefor, including any extensions thereof, there
shall be added as a penalty to the amount of tax due with such
return 5 percent of the amount of such tax, if the failure is
not for more than 1 month, plus an additional 5 percent for
each additional month or fraction thereof during which such
failure continues, not exceeding 25 percent in the
aggregate. The department may settle or compromise such
penalties pursuant to s. 213.21. For purposes of this
section, the amount of tax due with any return shall be
reduced by any part of the tax which is paid on or before the
date prescribed for payment of the tax and by the amount of
any credit against the tax which was properly allowable on the
date the return was required to be filed.

Section 62. Effective July 1, 1988, section 214.60,
Florida Statutes, as amended by chapter 87-6, Laws of Florida,
is amended to read:

214.60 Willful and fraudulent acts.--Any taxpayer who
is subject to the provisions of this chapter and who willfully
fails to file a return or keep required books and records,
files a fraudulent return, willfully violates any rule or
regulation of the department, or willfully attempts in any
other manner to evade or defeat any tax imposed by laws made
applicable to this chapter or the payment thereof, is, in
addition to other penalties, guilty of a misdemeanor felony of
the first third degree, punishable as provided in s. 775.082,
s. 775.083, or s. 775.084.

Section 63. Sections 100, 101, 102, and 106 of chapter
87-6, Laws of Florida, are hereby repealed.

Section 64. Paragraph (c) of subsection (2) of section
213.73, Florida Statutes, as created by chapter 87-6, Laws of
Florida, is amended to read:

213.73 Manner and conditions of sale of property
subject of a levy by the Department of Revenue.--Whenever a
levy is made as a result of an execution upon a tax warrant or
lien:

(c) The extent to which methods additional to those
prescribed in s. 213.72, including advertising, may be used in
giving notice of the sale;

Section 65. Section 213.74, Florida Statutes, as
created by chapter 87-6, Laws of Florida, is amended to read:

213.74 Certificate of sale; deed of real property;
legal effect.--

(1) In the case of property sold pursuant to a levy by
the Department of Revenue as provided in s. 213.72, the
executive director or his designee shall give to the purchaser
a certificate of sale upon payment in full of the purchase
price. Such certificate shall set forth a description of the
property purchased, for whose taxes the same was sold, the
name of the purchaser, and the price paid therefor.

(2) In the case of any real property sold pursuant to
a levy by the Department of Revenue as provided in s. 213.72,
and not redeemed in the manner and within the time provided in
s. 213.73, the executive director or his designee shall
execute, in accordance with the laws of this state pertaining
to the sale of real property under execution, to the purchaser
of such real property at such sale, upon his surrender of the
certificate of sale, a deed of the real property so purchased
by him, reciting the facts set forth in the certificate.

(3) If real property is declared purchased for the
state at a sale pursuant to a levy by the Department of
Revenue s.213.72, the executive director or his designee
shall present a certificate of sale and execute a deed
therefor to the Board of Trustees of the Internal Improvement
Trust Fund, and the board of trustees shall, without delay,
cause such deed to be duly recorded in the proper clerk's
office in the proper manner.

(4) In all cases of sale of tangible or intangible
personal property pursuant to a levy by the Department of
Revenue s.213.72, the certificate of sale shall be prima
facie evidence of the right of the executive director or his
designee to make such sale, and conclusive evidence of the
regularity of his proceedings in making the sale and shall
transfer to the purchaser all right, title, and interest of
the party delinquent in and to the property sold. If such
property consists of intangibles such as stock and bonds, the
certificate constitutes notice, when received, to any
corporation, company, or association of such transfer, and
constitutes authority to such corporation, company, or
association to record the transfer on its books and records in
the same manner as if the intangibles were transferred or
assigned by the party holding the same, in lieu of any
original or prior certificate, which shall be void, whether
canceled or not. If the subject of the sale is securities or
other evidences of debt, the certificate constitutes a good
and valid receipt to the person holding the same, as against
any person holding or claiming to hold possession of such
securities or other evidences of debt. If such property
consists of a motor vehicle, the certificate constitutes
notice when received, to any public official charged with the
registration of title of motor vehicles, of such transfer and
constitutes authority to such official to record the transfer
on his books and records in the same manner as if the
certificate of title to such motor vehicle were transferred or
assigned by the party holding the same, in lieu of any
original or prior certificate of title, which shall be void
whether canceled or not.

(5) In the case of the sale of real property pursuant
to a levy by the Department of Revenue s-213:72, the deed of
sale given pursuant to this section shall be prima facie
evidence of the facts stated therein and if the proceedings by
the executive director or his designee have been substantially
in accordance with the provisions of this chapter and the
rules of the department, such deed constitutes a conveyance of
all the right, title, and interest the party delinquent had in
and to the real property thus sold at the time the lien of the
Department of Revenue attached thereto.

Section 66. Except for violations for which the period
of time for bringing an action or enforcing a lien has expired
prior to July 1, 1988, the penalties provided by sections 29
through 62 of this act are applicable to the failure to pay
taxes which are due before and remain unpaid on July 1, 1988.

Section 67. Severability.--If any provision of this
act or the application thereof to any person or circumstance

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is held invalid, the validity shall not affect other
provisions or applications of the act which can be given
effect without the invalid provision or application, and to
this end the provisions of this act are declared severable.

Section 68. Section 9 of chapter 86-166, Laws of
Florida, is hereby repealed.

Section 69. Except as otherwise provided herein, this
act shall take effect July 1, 1987.