Section 1. Subsections (4) and (5) of section 212.059, Florida Statutes, as created by chapter 87-6, Laws of Florida, are amended 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 sale of the service is a multistate business or a person who has no tax nexus in Florida, the sale is outside this state, any applicable use tax shall be remitted by the purchaser of the service. However, this paragraph shall not apply to interstate or international transportation services.

(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 service-at-the-time-consideration-is-paid-for-such-service.

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and-on-the-amount-of-consideration-paid---if-such-election-is
made-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
and-payable-at-the-time-of-the-sale-or-use-regardless-of-the
time-consideration-is-paid-for-such-services.

(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 that proportion of the

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sales price or cost price of the Florida service provider 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. If the transportation service of the Florida service provider originates and terminates at points within the United States, the "total mileage of the Florida service provider" shall be limited to total United States mileage. For purposes of this paragraph, "Florida service provider" means the person providing transportation services in Florida regardless of the commercial domicile of such person.

Section 2. Subsection (9) of section 212.0591, Florida Statutes, as created by chapter 87-6, Laws of Florida, is 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:

(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 in the state where the greater proportion of the service is performed, based on costs of performance; or

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3. Notwithstanding subparagraphs 1. and 2., 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 subparagraphe; 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-that-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 unconstitutional per se 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), (11), (17), (23), (26), (27), and (35) of section 212.0592, Florida Statutes, as created by chapter 87-6, Laws of Florida, are amended, and subsections (42), (43), and (44) 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. 212.059(1) 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 unincled member and any other member shall be based upon the fair market value of the service. The sale or use of services between divisions

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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.

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

(b) However, 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; collection fees; hold mail fees; guardianship fees; credit and charge card membership fees; cash vault fees; investment advisory services; 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 a service by a financial institution the charge for which is waived or imputed.

(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; and any Federal Reserve Bank.

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(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.

However, no exemption shall be available for dues or fees paid to any membership organization that discriminates in its membership based on race, sex, creed, national origin, or religion.

(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.

(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 listing contract on the real estate offered for sale the property seller resided thereon and was entitled to the homestead exemption pursuant to s. 196.031.

(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.

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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 rentals, enforcement of civil rights or recovery of past or future medical expenses. However, this exemption shall be limited to $500 in services per person per calendar year. 

(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 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 may own an equal amount of capital stock or may, on such uniform basis as the service corporation may determine, own an amount of such stock equal to a stated percentage of its assets or savings capital at the time the stock is purchased, or an amount of such stock equal to its pro-rata share of accounts serviced.

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(e) For purposes of this subsection, the term "financial institution" means an institution described in SIC Major Group 61.

(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.

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

Section 4. Subsections (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).--

(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 3 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 s. 212.0593.

(4) If a purchaser fails to obtain an exempt purchase permit or execute an exempt purchase affidavit, but otherwise

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1.  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;

3. A person who undertakes, on a speculative basis or
   for his own use, the construction, improvement or alteration
   of realty; or

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4. A person who manufactures factory-built buildings, 
   (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, and 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. 
   (d) "New construction" means factory-built buildings 
   and any construction, alteration, improvement or repair of 
   realty for which the contract price, including building 
   materials used in the performance of the contract, exceeds 
   $1,000. 
   (e) "Building materials" means tangible personal 
   property physically incorporated into the affected realty. 
   (f) "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. 
   (g) "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, 
   unless the prime contractor can demonstrate to the 

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satisfaction of the department that such assessment
understates the value of the property.

(h) "Cost price" means the sum of:

1. Amounts paid by the prime contractor for building
materials incorporated in the new construction;

2. Amounts paid to subcontractors by the prime
contractor; and

3. Amounts that reflect the prime contractor's
allocated costs of providing construction services, including
employee labor costs, which are reasonably attributable to the
new construction.

(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
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 months of completion, the tax shall be
based upon 50 percent of the cost price.

(c) For new construction undertaken on behalf of a
governmental entity described in s. 212.08(6) or a nonprofit
entity described in s. 212.08(7)(c), the tax shall be imposed
upon percent of the contract price, or, if the construction
was not done pursuant to a contract, upon percent of the
cost price.

(d) For new construction consisting of factory-built
buildings, the tax shall be imposed upon 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 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.

(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

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the tax due on the total contract price which the amount of
draw or installment bears to the total contract price.

(d) For new construction undertaken on a speculative
basis, the tax shall be due when title to the property is
first transferred, or within months of completion of the
construction, whichever occurs first.

(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.

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(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(2), regarding employee services, shall not apply for purposes of determining the cost price of new construction.
(i) Section 212.0592(3), regarding occasional or isolated sales.
(j) Section 212.0592(4), regarding services sold to partnerships.
(k) 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.
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 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 tax imposed by this section and remit the tax directly to the department, 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 medium used to convey the advertiser's message, and

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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.

(1) 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 212.0598, 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
powered 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 traveled by the carrier's aircraft
during the previous fiscal year 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 only to the carrier's total systemwide
gross purchases of tangible personal property, and to services
otherwise taxable in Florida.

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(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 5 percent tax imposed in 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. Subsection (2), 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.  

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Code, whose members are includable under s. 1504(b) or (c) of the Internal Revenue Code, and are eligible to file a consolidated tax return for Federal corporate income tax purposes. 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 certain otherwise includable members.

(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 "real estate," any-interest-in-the-surface-of-real-property-unless the-property-is:

iv-Assessed-as-agricultural-property-under-s-s-193.46

2v-Used-exclusively-as-dwelling-units

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

4v-Recreational-property-or-the-common-elements-of-a condominium-when-subject-to-a-lease-between-the-developer-or owner-ther eof-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.

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

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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 section 315:02(2) 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 section 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 558 or chapter 5581 or any publicly owned arena, sports stadium, convention hall, or exhibition hall.

(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 between real estate agents and real estate brokers. A sale of a service shall be considered a sale for resale only if:

CODING: Words struck are deletions; words underlined are additions.
1. The purchaser of the service does not use or consume the service but acts as a broker or intermediary in procuring a service for his client or customer;

2. 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;

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

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

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.

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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 food and drink concessionaire services 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.

Section 11. Paragraph (a) of subsection (2) of section 212.04, Florida Statutes, as amended by chapter 87-6, 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).

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2. 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.

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

Section 12. Paragraph (b) of subsection (9) of section 212.08, Florida Statutes, 1986 Supplement, is amended, paragraph (a) of subsection (2), subsection (5), and paragraph (e) 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), 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.

(2) EXEMPTIONS; MEDICAL.--

(a) There shall be exempt from the tax imposed by this chapter any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state, according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use in

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the cure, mitigation, treatment, or prevention of illness or 9.18
disease in human beings, but not including cosmetics or toilet 9.19
articles, notwithstanding the presence of medicinal 9.20
ingredients therein, according to a list prescribed and 9.22
approved by the Department of Health and Rehabilitative 9.23
Services, which list shall be certified to the Department of 9.24
Revenue from time to time and included in the rules 9.25
promulgated by the Department of Revenue. There shall also be 9.26
exempt from the tax imposed by this chapter artificial eyes 9.27
and limbs; orthopedic shoes; prescription eyeglasses and items 9.28
incidental thereto or which become a part thereof; dentures; 9.29
hearing aids; batteries specifically designed and identified 1:1us
as hearing aid batteries; crutches; prosthetic and orthopedic 9.31
appliances; and funerals. Funeral directors shall pay tax on 9.32
all tangible personal property used by them in their business. 9.33

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are 9.36
also exempt from the tax imposed by this chapter sales made to 9.37
the United States Government, a the state, or any county, 9.38
municipality, or political subdivision of a this state when 9.39
payment is made directly to the dealer by the governmental 9.40
entity. This exemption shall not inure to any transaction 9.41
otherwise taxable under this chapter when payment is made by a 9.42
government employee by any means, including, but not limited 9.43
to, cash, check, or credit card when that employee is 9.44
subsequently reimbursed by the governmental entity. This 9.45
exemption does not include sales of tangible personal property 9.46
or services made to contractors employed either directly or as 9.47
agents of any such government or political subdivision thereof 9.48
when such tangible personal property or service goes into or 9.49
becomes a part of public works owned by such government or 9.50
political subdivision thereof, except public works in progress 9.51

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or for which bonds or revenue certificates have been validated on or before August 1, 1959. 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.

(t) Newspapers and magazines.--Newspapers and magazines, whether sold by individual edition or on a subscription basis, are exempt. This paragraph shall expire and be void and inoperative on July 1, 1988.

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

(b) Motor vehicles which are licensed as common carriers by the Interstate Commerce Commission or-by-the United-States-Department-of-Transportation and parts thereof used to transport persons or property in interstate or foreign commerce are subject to tax imposed in this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage.

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

Section 13. Paragraph (a) of subsection (6) of section
212.095, Florida Statutes, as amended by chapter 87-6, Laws of
Florida, is amended to read:

212.095 Refunds.--
(6)(a) Each registered dealer shall, in accordance
with the requirements of the department, keep at his principal
place of business in this state or at the location where the
sale is made a complete record or duplicate sales tickets of
all items or services sold by him for which a refund provided
in this section may be claimed, which records shall contain
the information required in paragraph (3)(a). No licensed
dealer or his agent or employee may acknowledge or assist in
the preparation of any claim for tax refund; this provision
does not apply to attorneys or to certified public accountants.

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Section 14. Paragraph (d) of subsection (1) of section 212.11, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.11 Tax returns and regulations.--
(d) Beginning October 1, 1987, the department may authorize a quarterly return and payment for dealers registered as service providers and remitting collecting tax solely from the provision of services. Such returns may be authorized only for dealers whose monthly tax collections are less than $500 in each month for the previous 3 months.

Section 15. Section 17 of chapter 87-6, Laws of Florida, is amended to read:

Section 17. The introductory paragraph of subsection Paragraph (b) of subsection (5) and subsections (7) and (9) of section 212.12, Florida Statutes, 1986 Supplement, are amended, and, effective January 1, 1988, paragraph (b) of subsection (1) of said section is amended, to read:

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

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

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communication services and taxable services, and for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, and owner and remitter shall be allowed 3 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; and the department shall allow such deduction of 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds $1,000, the 3-percent allowance shall be reduced to 1 percent for all amounts in excess of $1,000. (a) The collection allowance may not be granted, nor may any deduction be permitted, if the tax is delinquent at the time of payment. (b) The Department of Revenue may reduce the collection allowance by 10 percent or $50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.
2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of taxable purchases; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that the amounts of gross sales, taxable sales, taxable purchases, and tax collected or due shall be reported by major sales tax source: services; tangible personal property; admissions; transient rentals; commercial leases or licenses; and agricultural equipment.

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

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

(7) In the event the dealer has imported the tangible
personal property or has acquired services outside the state
for sale or use in this state and he fails to produce an
invoice showing the cost price of the articles or services, as
defined in this chapter, which are subject to tax, or the
invoice does not reflect the true or actual cost price as
defined herein, then the department shall ascertain, in any
manner feasible, the true cost price, and assess and collect
the tax thereon with interest plus penalties, if such have
accrued on the true cost price as assessed by it. The
assessment so made shall be considered prima facie correct,
and the duty shall be on the dealer to show to the contrary.

(9) Taxes imposed by this chapter upon the privilege
of the use, consumption, storage for consumption, or sale of
tangible personal property, admissions, license fees, rentals,
and communication services, and upon the sale or use of
services as herein taxed shall be collected upon the basis of
an addition of the tax imposed by this chapter to the total
price of such admissions, license fees, rentals, communication
or other services, or sale price of such article or articles
that are purchased, sold, or leased at any one time by or to a

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customer or buyer; and the dealer, or person charged herein, is required to pay a privilege tax in the amount of the tax imposed by this chapter on the total of his gross sales of tangible personal property, admissions, license fees, rentals, and communication services or to collect a tax upon the sale or use of services, and such person or dealer shall add the tax imposed by this chapter to the price, license fee, rental, or admissions, and communication or other services and collect the total sum from the purchaser, admittee, licensee, lessee, or consumer. Notwithstanding the rate of taxes imposed upon the privilege of sales, admissions, license fees, rentals, and communication services, or upon the sale or use of services, the following brackets shall be applicable to all transactions taxable at the rate of 5 percent:

(a) On single sales of less than 10 cents, no tax shall be added.

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

(c) On sales in amounts from 21 cents to 40 cents, both inclusive, 2 cents shall be added for taxes.

(d) On sales in amounts from 41 cents to 60 cents, both inclusive, 3 cents shall be added for taxes.

(e) On sales in amounts from 61 cents to 80 cents, both inclusive, 4 cents shall be added for taxes.

(f) On sales in amounts from 81 cents to $1, both inclusive, 5 cents shall be added for taxes.

(g) On sales in amounts of more than $1, 5 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.

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Section 16. Section 212.235, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read:

212.235 State Infrastructure Trust Fund; deposits.--

(1) Notwithstanding the provisions of ss. 212.20(1) and 218.61, in fiscal year 1987-1988 an amount equal to 2 percent, and in each fiscal year thereafter an amount equal to 5 percent, of the proceeds remitted pursuant to this part by a dealer, or the sums sufficient to provide the maximum receipts specified herein, shall be transferred deposited into the State Infrastructure Trust Fund, which is created in the State Treasury. "Proceeds" means all funds collected and received by the Department of Revenue, including any interest and penalties. However, any receipts of the trust fund, including those received pursuant to ss. 201.15(5) and 206.875(3) and interest earned, in excess of $200 million in fiscal year 1987-1988, and $500 million thereafter, shall revert to the General Revenue Fund.

(2) Subject to an appropriation each year by the Legislature, moneys in the fund shall only be used for the purposes of:

(a) Acquiring the right-of-way for and constructing state highways and bridges;

(b) Constructing public education capital facilities;

(c) Financing state projects for beach restoration or renourishment or lake or river restoration;

(d) Constructing state correctional facilities;

(e) Constructing other infrastructure projects; or

(f) Issuing revenue bonds to finance state capital outlay projects authorized by this section. Such bonds shall be payable solely from legislative appropriations from the State Infrastructure Trust Fund and shall not be a debt of the

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state, and the state shall not be liable thereon. Neither the 12.41
taxing power, the credit, nor the revenues of the state shall 12.42
be pledged to pay any obligation issued pursuant to this 12.43
subsection.

Section 17. Effective August 1, 1987, subsection (5) 12.44
of section 201.15, Florida Statutes, as created by chapter 87-
6, Laws of Florida, is amended to read:

201.15 Distribution of taxes collected.--All taxes 12.49
collected under the provisions of this chapter shall be 12.51
distributed as follows:

(5) Six percent of the total taxes collected under the 12.52
provisions of this chapter shall be paid into the State 12.53
Treasury to the credit of the State Infrastructure Trust Fund. 12.54

Section 18. Subsection (3) of section 206.875, Florida 12.55
Statutes, as created by chapter 87-6, Laws of Florida, is 12.56
amended to read:

206.875 Allocation of tax.-- 12.57

(3) Notwithstanding the provisions of subsections (1) 12.58
and (2), the department shall pay over to the State Treasurer 12.59
all funds received and collected by it under the provisions of 12.60
s. 206.87(1)(b) to be credited to the account of the State 12.61
Infrastructure Trust Fund established pursuant to s. 212.235. 12.62

Section 19. Subsection (1) of section 215.32, Florida 12.63
Statutes, is amended, and paragraph (d) is added to subsection 12.64
(2) of said section, to read:

215.32 State funds; segregation.-- 12.65

(1) All moneys received by the state shall be 12.66
deposited in the State Treasury unless specifically provided 12.67
otherwise by law and shall be deposited in and accounted for 12.68
by the Treasurer and the Department of Banking and Finance 12.69

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within the following funds, which funds are hereby created and
established:

(a) General Revenue Fund;
(b) Trust funds; and
(c) Working Capital Fund; and—
(d) State Infrastructure Fund.

(2) The source and use of each of these funds shall be
as follows:

(d) The State Infrastructure Fund shall consist of all
moneys received from proceeds earmarked for this fund pursuant
to ss. 201.15, 206.875, and 212.235. Such moneys shall only
be expended pursuant to legislative appropriations for
infrastructure facilities listed in s. 212.235(2).

Section 20. Section 31 of chapter 87-6, Laws of
Florida, is amended to read:

Section 31. Notwithstanding any other provision of
this act, in the case of written contracts which are signed
prior to May 1, 1987, or offers submitted prior to such date
which are binding on the offeror and are accepted, for
constructing improvements to real property, prime contractors,
as defined in s. 212.0594(f), Florida Statutes, responsible
for performing the contract shall not be required to remit any
tax on services levied pursuant to s. 212.059 or s. 212.0594,
Florida Statutes, provided that:

(1) Pursuant to s. 212.0594, Florida Statutes, it is
the responsibility of the prime contractor to remit the tax.
(2) The purchase of the services for which the tax is
not being remitted is necessary to complete the contract and
the tax cannot be legally collected from the final purchaser
and cannot be included in the price charged the final
purchaser under the terms of the contract.

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(3) On the first tax return of the prime contractor in which tax is not remitted pursuant to this section for a specific contract, the prime contractor must submit an application in a manner approved by the Department of Revenue by rule. A complete application shall include proof of the written contract, the amount of tax not being remitted, the anticipated date of completion of the contract, an estimate of the value of services expected to be performed under the contract subsequent to June 30, 1989, and a sworn statement, signed by the applicant or his representative, attesting to the validity of the application. Subsequent taxes not remitted pursuant to a specific contract must be identified as to amount and application authority at the time such taxes are not paid. and

(4) The purchase of the service occurs before June 30, 1989.

(5) On or before March 1, 1988, the Department of Revenue shall provide the Legislature with an estimate of the value of construction services expected to be performed after June 30, 1989, on contracts that qualify for the exemption allowed pursuant to this section.

Any person who fraudulently does not remit taxes pursuant to this section shall, in addition to being liable for the payment of any taxes fraudulently not remitted plus a mandatory penalty of 100 percent of the taxes not remitted, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Section 21. Section 32 of chapter 87-6, Laws of Florida, is amended to read:

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Section 32. Rule 12A-1.091(6) of the Department of Revenue is hereby repealed. However, the department is hereby authorized to provide by rule for self-accrual of the sales tax under one or more of the following circumstances:

(1) Where authorized by law for purchasers of services;

(2) Where authorized by law for holders of direct pay permits;

(3) Where tangible personal property is subject to tax on a prorated basis, and the proration factor is based upon characteristics of the purchaser;

(4) Where the taxable status of types of tangible personal property whose-taxable-status will be known only upon use because the purchaser, by virtue of the normal characteristics of his trade or business, regularly consumes the type of property as a supply as well as sells it for resale; and

(5) For commercial rentals where the purchaser rents from a number of independent property owners who, apart from rentals to the purchaser in question, would otherwise not be obligated to register as dealers.

Section 22. Section 33 of chapter 87-6, Laws of Florida, is amended to read:

Section 33. The Legislature hereby finds that the failure to promptly implement the provisions of this act would present an immediate threat to the welfare of the state because revenues needed for operation of the state would not be collected. Therefore, the executive director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing this act. Notwithstanding any other provision

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of law, such emergency rules shall remain effective for 6
months from the date of adoption. Other rules required by the
Department of Revenue for the orderly implementation of
chapter 87-6, Laws of Florida, and this act shall not be
subject to a s. 120.54(4), Florida Statutes, rule challenge or
a s. 120.54(17), Florida Statutes, drawout proceeding, but,
once adopted, shall be subject to a s. 120.56, Florida
Statutes, invalidity challenge. Such rules shall be adopted
by the Governor and Cabinet and shall become effective upon
filing with the Department of State, notwithstanding the
provisions of s. 120.54(13), Florida Statutes.

Section 23. Section 36 of chapter 87-6, Laws of
Florida, is amended to read:

Section 36. Any penalties provided for pursuant to s.
212.12(2), Florida Statutes, shall be waived by the executive
director of the Department of Revenue for returns due for the
tax on services newly imposed by this act. If the executive
director determines that the interest owed pursuant to s.
212.12(3) 214-23, Florida Statutes, will cause an undue
hardship on the taxpayer, he may also waive the interest
payment. The waiver for penalties and interest shall apply
with respect to returns for taxes due and payable for the

Section 24. Section 38 of chapter 87-6, Laws of
Florida, is amended to read:

Section 38. Except-for-the-purposes-of-s-212.85937 14.1
Florida-Statutes, Nothing contained in this act shall be
construed to require disclosure of privileged information, the
confidentiality of which is protected under s. 90.502, Florida
Statutes require-an-attorney-or-a-certified-public-accountant

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Section 25. Transition taxes.--

(1) There is hereby levied a tax on every person

selling special fuel in this state at the rate of 5 cents per
gallon on special fuel upon which the tax imposed pursuant to
s. 206.87(1)(a), Florida Statutes, has been paid, which is
held in inventory on July 1, 1987, and upon which the tax
imposed pursuant to s. 206.87(1)(b), Florida Statutes, has not
been paid.

(2) "Special fuel" is defined as provided in s.

206.86(1), Florida Statutes.

(3) The tax levied under this section shall be due and

payable on July 1, 1987, and shall be remitted to the
Department of Revenue on or before August 20, 1987, on forms
prescribed by the department.

(4) If any person fails to make a report or pay the
taxes due as required by this section, 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 100 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. In addition,
interest at the rate of 1 percent per month shall be paid on
the delinquent tax.

(5) The Department of Revenue may promulgate rules and
conduct audits necessary for the implementation of this

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section, and shall provide reasonable notice of the provisions
of this section.

(6) Moneys collected pursuant to this section shall be
distributed to the State Infrastructure Fund established
pursuant to s. 212.235, Florida Statutes.

Section 26. Paragraph (b) of subsection (1) of section
120.575, Florida Statutes, as created by chapter 87-6, Laws of
Florida, is amended to read:

120.575 Taxpayer contest proceedings.--

(1)

(b) In any such administrative proceeding brought
pursuant to s. 120.57(1) as authorized in s. 72.011(1) to
contest the legality of any assessment of tax imposed for the
sale or use of services as provided in chapter 212, or
interest thereon, or penalty therefor, the following
procedures shall apply, any provisions of this chapter to the
contrary notwithstanding:

1. The petition shall be filed with the division,
which shall forward a copy to the department immediately upon
receipt of the petition.

2. The hearing officer or panel provided in s.
120.65(5) shall conduct all proceedings under this paragraph.

3. Within 10 days after receiving the petition, the
hearing officer or panel shall accept or deny the petition
and, if accepted, shall conduct a hearing thereon, unless the
petition is withdrawn.

4. Within 30 days after the hearing or receipt of the
hearing transcript, whichever is later, the hearing officer or
panel shall issue an its order, which shall consist of
findings of fact, conclusions of law, interpretation of
administrative rules, and any other information required by

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law or rule to be contained in the final order. Such order
shall affirm or deny the assessment, interest, or penalty, and
shall determine the amount of any assessment, interest, or
penalty.
5. The order of the hearing officer or panel shall be
final agency action.

Section 27. Subsection (5) of section 120.65, Florida
Statutes, as created by chapter 87-6, Laws of Florida, is
amended to read:
120.65 Hearing officers.--
(5) The director shall appoint, from among the full-
time hearing officers of the division, a panel consisting of
one to three members to be the hearing officer in all
proceedings brought as provided in s. 120.575(1)(b). The
director shall have the discretion to determine the size of
the panel based upon the complexity and precedential
importance of the issues involved, and the amount of potential
revenues in dispute. Such appointments shall be made with due
regard to the expertise required for determination of such
proceedings. Service as a member of such panel shall be at
the pleasure of the director, and such service may be in
addition to other duties of employment by the division.

Section 28. Section 47 of chapter 87-6, Laws of
Florida, is amended to read:

Section 47. The Department of Revenue is directed to
undertake a study of service transactions for the purpose of
identifying those transactions not taxable pursuant to the
definition of service in s. 212.02, Florida Statutes. On or
before March 1, [1989 ±1988], the department shall report to the
Governor and the Legislature all service transactions so
identified.

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Section 29. Paragraph (a) of subsection (3) of section 95.091, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read:

95.091 Limitation on actions to collect taxes.--
(3)(a) With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to s. 220.23, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011:

1. Within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

2. Within 6 years after the date a taxpayer either makes a substantial underpayment of tax or files a substantially incorrect return;

3. At any time while the right to a refund or credit of the tax is available to the taxpayer;

4. At any time after the taxpayer has fraudulently failed to make any payment of the tax, has fraudulently failed to file a required return, or has filed a grossly false or fraudulent return; or

5. In any case in which there has been an erroneous refund of tax, within 5 years after making such refund, or at any time after making such refund if it appears that any part of the refund was induced by fraud or the intentional misrepresentation of a material fact.

Section 30. Section 54 of chapter 87-6, Laws of Florida, is amended to read:

Section 54. Subsections (3) and (4) of section 211.33, Florida Statutes, 1986 Supplement, are amended--and-effective

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July 17, 1967—subsection (2) of said section is amended to read:

211.33 Administration of the tax; returns; delinquency penalties and interest; departmental inspections of records.—

(3)(a) Every producer shall keep and preserve suitable records of production of solid minerals and such other books and documents as may be necessary to ensure compliance for a period of 3 years from April 1 of the year following the taxable year or 3 years from the date of filing the annual return for the taxable year, whichever is later.

(b) All such records, books and documents shall be made available to the department or any of its duly authorized agents for inspection, examination or audit during business hours, upon written request.

(4)(a) The department is authorized to audit or inspect the books, records, documents, and returns of producers and to correct by credit or refund any overpayment of tax, or to make assessment of any deficiency revealed for the same 3 year period for which producers are required to keep and preserve records.

(b) No audit shall be made after the expiration of 3 years from the due date for filing the annual return or the date of filing, whichever is later, except when a producer has been contacted by written notice of intent to conduct an audit in the future, delivered either personally by an agent of the department or by certified letter from the department directed to the last known address of the producer, before 3 years from the due date for filing the annual return or the date of filing, whichever is later, in this event the date of personal contact or the date of the certified letter shall govern the period subject to audit.

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(b) The department shall inform the producer by written notice of the amount of any overpayment or deficiency determined by an audit, including the basis for determining any tax, penalty, interest, or period subject to credit or refund.

(c) In the event of a deficiency, the department shall make an assessment of the tax, penalty, and interest determined to be due. Full payment of the total amount assessed shall be made by the producer to the place and within the time specified in the written notice of the deficiency.

Section 31. Section 58 of chapter 87-6, Laws of Florida, is amended to read:

Section 58. Effective July 1, 1987 Subsection (6) of section 212.14, Florida Statutes, as amended by chapter 85-342, Laws of Florida, and section 214.09, Florida Statutes, as amended by chapter 85-342, Laws of Florida, are hereby repealed.

Section 32. Section 60 of chapter 87-6, Laws of Florida, is amended to read:

Section 60. Effective July 1, 1987 Section 214.04, Florida Statutes, is amended to read:

214.04 Limitation on assessment.--No deficiency shall be assessed with respect to a taxable year for which a return was filed unless a notice of deficiency for such year was issued not later than the date prescribed in s. 95.091(3).

214-89.

Section 33. Sections 50, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 101, 102, 103, 104, 105, 106 and 108 of chapter 87-6, Laws of Florida, are hereby repealed.

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Section 34. There is hereby appropriated from the General Revenue Fund the sum of $364,757 to the Division of Administrative Hearings of the Department of Administration, for purposes of implementing the provisions of chapter 87-6, Laws of Florida, and this act.

Section 35. (1) Short title. -- Sections 35 through 45 may be cited as the "Fairness in Retail Sales Taxation Act."

(2) This section shall take effect October 1, 1987.

Section 36. Findings and intent. --

(1) The Legislature of the State of Florida finds:

(a) Millions of dollars of retail sales are made each year involving the transport of property from outside this state to purchasers in this state.

(b) Sales and use taxes to this state are not being paid on many, if any, of these sales.

(c) There is a substantial loss of revenue to this state as a result of failure or refusal to collect and remit to the treasury of this state sales and use taxes on these sales.

(d) Such failure or refusal is detrimental to the residents of and visitors to this state in two respects:

First, the resulting loss of revenue increases the difficulty of carrying on essential state activities and maintaining and fostering a high quality of life for residents and visitors; and, second, retailers who, in compliance with laws of this state, collect and remit taxes on retail sales suffer from the unfair competition of those who do not do so, which is harmful to the business and economic climate of the state.

(e) Retailers who take advantage of the prosperity, market, laws, citizens and economy of this state by making retail sales to purchasers in this state are morally obligated

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to assume their fair share of the burden of maintaining this
state's prosperity and quality of life by collecting and
remitting taxes on sales to such purchasers.

(2) It is, therefore, the intent of this act to:
(a) Assure that those who make retail sales involving
the transport of property from outside this state to
purchasers in this state bear their fair share of this burden.
(b) Protect from unfair competition retailers who
comply with the laws of this state by collecting and remitting
tax on retail sales.
(c) Assure that the treasury of this state receives
revenue needed to carry on essential state activities and to
maintain and foster a high quality of life for its residents
and visitors.

(3) This section shall take effect October 1, 1987.
Section 37. Effective October 1, 1987, section
212.0596, Florida Statutes, is created to read:
212.0596 Taxation of mail order sales.--
(1) For purposes of this part, a "mail order sale" is
a sale of tangible personal property, ordered by mail or other
means as described in paragraph (2)(e), to a purchaser who is
in this state at the time the order is remitted, from a dealer
who receives the order in another state of the United States,
or in a commonwealth, territory, or other area under the
jurisdiction of the United States, and transmits the property
or causes the property to be transported, whether or not by
mail, from any jurisdiction of the United States, including
this state, to a person in this state, including the person
who ordered the property. For purposes of this definition, it
will be presumed that every person resident in this state who

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remits an order shall have been in this state at the time the
order was remitted.

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

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

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

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

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

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

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

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

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

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

(5) The tax required under this section to be
collected and any amount unreturned to a purchaser that is not
tax but was collected from the purchaser under the
representation that it was tax constitute funds of the State
of Florida from the moment of collection.

Section 38. Effective October 1, 1987, paragraph (c)
of subsection (2) and paragraph (a) of subsection (5) of
section 212.06, Florida Statutes, 1986 Supplement, as amended
by chapter 86-166, Laws of Florida, are amended to read:

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

(2)
(c) The term "dealer" is further defined to mean every person, as used in this chapter, who sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this state tangible personal property as defined herein, including a retailer who transacts a mail order sale.

(5)(a) 1. Except as provided in subparagraph 2., it is not the intention of this chapter to levy a tax upon tangible personal property imported, produced, or manufactured in this state for export, provided that tangible personal property may not be considered as being imported, produced, or manufactured for export unless the importer, producer, or manufacturer delivers the same to a licensed exporter for exporting or to a common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by submission to the department of a duly signed and validated United States customs declaration, showing the departure of the aircraft from the continental United States; and further with respect to aircraft, the canceled United States registry of said aircraft; or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on any sale which the state is prohibited from taxing under the Constitution or laws of the United States. Every retail sale made to a person physically

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present at the time of sale shall be presumed to have been delivered in this state.

2. a. Notwithstanding subparagraph 1., a tax is levied on each sale of tangible personal property to be transported to a cooperating state as defined in sub-subparagraph c., at the rate specified in sub-subparagraph d.

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

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

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

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

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

(V) Such state makes arrangements deemed adequate by the department for inspections, upon request of the department, of that state's records relating to such mail

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order sales and for auditing its performance in collecting such taxes.

(VI) Such state agrees to provide to the department records obtained by it from retailers or dealers in such state showing delivery of tangible personal property into this state upon which no sales or use tax has been paid in a manner similar to that provided in sub-subparagraph g.

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

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

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

f. The department is authorized to perform such acts and to provide such cooperation to a cooperating state with reference to the tax levied by sub-subparagraph a. as is required of the cooperating state by sub-subparagraph b.
g. In furtherance of this act, dealers selling tangible personal property for delivery in another state shall make available to the department, upon request of the department, records of all tangible personal property so sold. Such records shall include a description of the property, the name and address of the purchaser, the name and address of the person to whom the property was sent, the purchase price of the property, information regarding whether sales tax was paid in this state on the purchase price, and such other information as the department may by rule prescribe.

Section 39. Effective October 1, 1987, subsection (1) of section 212.20, Florida Statutes, is amended, and subsection (4) is added to said section, to read:

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

(1) The department shall pay over to the Treasurer of the state all funds received and collected by it under the provisions of this chapter, to be credited to the account of the General Revenue Fund of the state, except that funds collected under s. 212.06(5)(a)2. shall be held in trust in the State Treasury, as provided therein.

(4) When there has been a final adjudication that any tax pursuant to s. 212.0596 was levied, collected, or both, contrary to the Constitution of the United States or the State Constitution, the department shall, in accordance with rules, determine, based upon claims for refund and other evidence and information, who paid such tax or taxes, and refund to each such person the amount of tax paid. For purposes of this subsection, a "final adjudication" is a decision of a court of competent jurisdiction from which no appeal can be taken or
from which the official or officials of this state with
authority to make such decisions has or have decided not to
appeal.

Section 40. Effective October 1, 1987, paragraph (e) is added to subsection (3) of section 212.02, Florida Statutes, 1986 Supplement, 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:

(3) The term "retail sale" includes a mail order sale, as defined in s. 212.0596(1).

Section 41. Effective October 1, 1987, the introductory paragraph of section 212.05, Florida Statutes, 1986 Supplement, 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, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

Section 42. (1) Effective October 1, 1987, subsection (1) and paragraph (a) of subsection (5) of section 212.12, Florida Statutes, 1986 Supplement, are amended to read:

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

(1) For the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, and for the purpose of compensating owners of places where admissions are collected, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, and owner (except dealers who make mail order sales) shall be allowed 3 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; and the department shall allow such deduction of 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds $1,000, the 3-percent allowance shall be reduced to 1 percent for all amounts in excess of $1,000. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to

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purchasers in this state, and the administrative and legal

costs and likelihood of achieving collection of the tax absent
the cooperation of the dealer. However, in no event shall the
collection allowance negotiated by the executive director

exceed 5 percent of the tax remitted for a reporting period.

(a) The collection allowance may not be granted, nor
may any deduction be permitted, if the tax is delinquent at
the time of payment.

(b) The Department of Revenue may reduce the
collection allowance by 10 percent or $50, whichever is less,
if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this
chapter, a return which is lacking such uniformity,
completeness, and arrangement that the physical handling,
verification, or review of the return may not be readily
accomplished.

2. The department shall adopt rules requiring such
information as it may deem necessary to ensure that the tax
levied hereunder is properly collected, reviewed, compiled,
and enforced, including, but not limited to: the amount of
gross sales; the amount of taxable sales; the amount of tax
collected or due; the amount of lawful refunds, deductions, or
credits claimed; the amount claimed as the dealer's collection
allowance; the amount of penalty and interest; the amount due
with the return; and such other information as the Department
of Revenue may specify.

(5)(a) The department is authorized to audit or
inspect the records and accounts of dealers defined herein,
including audits or inspections of dealers who make mail order
sales to the extent permitted by another state, and correct by
credit any overpayment of tax; and, in the event of a

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deficiency, an assessment shall be made and collected. No
administrative finding of fact is necessary prior to the
assessment of any tax deficiency.

(2) It is the intent of the Legislature that the
amendment of s. 212.12, Florida Statutes, by this section is
supplemental to other amendments to said section that may be
enacted at the 1987 Regular Session of the Legislature, unless
a contrary intent is indicated in such other amendments.

Section 43. Effective October 1, 1987, subsection (1)
of section 212.15, Florida Statutes, is amended to read:
212.15 Taxes declared state funds; penalties for
failure to remit taxes; due and delinquent dates; judicial
review.--

(1) The taxes imposed by this chapter shall, except as
provided in s. 212.06(5)(a)2.e., become state funds at the
moment of collection and shall for each month be due to the
department on the first day of the succeeding month and
delinquent on the 21st day of such month. All returns
postmarked after the 20th day of such month are delinquent.

Section 44. Effective October 1, 1987, subsection (3)
of section 212.18, Florida Statutes, 1986 Supplement, 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
5. However, no registration fee is required to accompany an
application to engage in or conduct business to make mail
order sales. The department, upon receipt of such
application, will grant to the applicant a separate
certificate of registration for each place of business, which
certificate may be canceled by the department or its
designated assistants for any failure by the certificateholder
to comply with any of the provisions of this chapter. The
certificate 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

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of selling or leasing tangible personal property 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 of the second 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 45. There is hereby appropriated to the Department of Revenue from the General Revenue Fund the sum of $75,000 in order to retain legal consultants to assist in any litigation arising as a result of the Fairness in Retail Sales Taxation Act.

Section 46. Severability.—If any provision of this act or the application thereof to any person or circumstance 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 47. Except as otherwise provided herein, this act shall take effect July 1, 1987.