A bill to be entitled
An act relating to taxation; amending s.
212.059, F.S., relating to the sales and use
tax on services; revising provisions relating
to computation, collection, and remittance of
the tax and registration of dealers as service
providers; revising provisions relating to
apportionment of interstate or international
transportation services; amending s. 212.0591,
F.S.; revising rules of construction relating
to inclusion of a proportion of the sales or
cost price under certain circumstances,
transactions involving both taxable and exempt
services, and determining where the benefit of
a service is enjoyed; providing legislative
intent regarding exemptions from the tax;
amending s. 212.0592, F.S.; revising exemptions
and conditions applicable thereto and providing
additional exemptions; amending s. 212.0593,
F.S., relating to administration of the
exemption for services sold in this state for
use outside this state; specifying
inapplicability of certain refund provisions;
repealing section 5 of chapter 87-6, Laws of
Florida, and creating s. 212.0594, F.S.;
revising special provisions applicable to the
tax on construction services; amending s.
212.0595, F.S.; revising special provisions
applicable to the tax on advertising; amending
s. 212.02, F.S.; revising definitions
applicable to chapter 212, F.S.; amending s.

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212.031, F.S.; revising an exemption from the
tax on rental, lease, or granting a license for
use of real property for certain property
leased to persons providing food and drink
concessionaire services; amending s. 212.04,
F.S.; exempting admissions to certain athletic
or other events sponsored by schools and other
institutions and certain admissions paid by
students to places of sport or recreation;
providing an exception; amending s. 212.05,
F.S.; specifying application of the tax on
sales, use and other transactions to sale of
newspapers and magazines; amending s. 212.08,
F.S.; revising the exemptions for sales to
political subdivisions, film rentals, and
vehicles engaged in interstate or foreign
commerce; amending s. 212.095, F.S.; removing a
prohibition against dealers assisting in
preparation of tax refund claims; amending
section 17 of chapter 87-6, Laws of Florida;
revising the effective date of an amendment
relating to application of the dealer's credit
to persons who remit taxes or fees reported on
the same documents utilized for sales and use
tax; amending s. 212.235, F.S.; specifying uses
of trust fund moneys; amending section 31 of
chapter 87-6, Laws of Florida, revising an
exemption from the tax on services for certain
improvements to real property; requiring the
Department of Revenue to report to the
Legislature; amending section 32 of chapter 87-
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6, Laws of Florida, relating to certain conditions applicable to self-accrual; amending section 33 of chapter 87-6, Laws of Florida; specifying administrative provisions applicable to department rules implementing said chapter and this act; amending section 36 of chapter 87-6, Laws of Florida, relating to waiver of penalties and interest with respect to the tax on services for a specified period; amending section 38 of chapter 87-6, Laws of Florida; revising provisions relating to construction of said chapter with respect to certain client confidentiality; amending ss. 120.575 and 120.65, F.S.; revising provisions relating to appointment of a panel to be hearing officer in certain administrative taxpayer contest proceedings; amending section 47 of chapter 87-6, Laws of Florida; revising a date for a department study of taxable services; amending ss. 95.091, 198.18, 211.33, 214.50, 214.51, 212.08, 125.0104, 198.37, 198.39, 199.282, 201.17, 201.20, 203.01, 203.03, 203.63, 206.18, 206.44, 206.877, 206.9931, 207.007, 211.076, 211.25, 212.0305, 212.05, 212.07, 212.085, 212.10, 212.12, 212.13, 212.14, 212.15, 212.18, 214.40, 214.60, F.S.; reducing certain penalties; repealing sections 100, 101, and 102 of chapter 87-6, Laws of Florida, relating to priority of tax warrants, seizure of property for collection of taxes, and sale of seized property, respectively; amending section 103 of

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chapter 87-6, Laws of Florida; deleting an
inapplicable notice provision; amending section
104 of chapter 87-6, Laws of Florida;
correcting cross-references; amending s. 213.76, F.S.; increasing a period of
limitation; providing for applicability of
certain penalties; repealing section 9 of
chapter 86-166, Laws of Florida, relating to
the commission established to study sales tax
exemptions; providing an appropriation to the
Division of Administrative Hearings; providing
for severability; providing effective dates.

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

Section 1. Subsections (3) and (4) 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 seller-of-the-service-is-a-multistate
business and the sale of a service is outside this state, any
applicable use tax shall be remitted by the purchaser of the
service. 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-end elect to ascertain the amount of remit
the tax payable under this section on the basis of cash
receipts for all taxable transactions under this section, on
a-service-at-the-time-consideration-is-paid-for-such-service
and-on-the-amount-of-consideration-paid--;-if-such-election-is
made,--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

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and payable-at-the-time-of-the-sale-or-use-regardless-of-the
time-consideration-is-paid-for-such-services.

Section 2. Subsections (2), (7), and (9) of section
212.0591, Florida Statutes, as created by chapter 87-6, Laws
of Florida, are amended, and subsection (10) is added to said
section, to read:

212.0591 Rules of construction.--For purposes of the
sales and use tax on services, the following rules of
construction shall apply:

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

(7) If a transaction involves both the sale or use of
a service taxable under this part and the sale or use of a
service exempt under this part, the consideration paid shall
be separately identified and stated with respect to the
taxable and exempt portions of the transaction as a condition
of the exemption. However, this subsection shall not apply to
sales that are exempt pursuant to s. 212.0592(1).

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

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(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, and if the service is of a type that the benefit of the service is consumed within 90 days of performance of the service, 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

3. If subparagraphs 1. and 2. are not applicable, the benefit of the service shall be presumed to be enjoyed where the purchaser is domiciled; or

4. Notwithstanding subparagraphs 1., 2., and 3., if the purchaser can demonstrate to the satisfaction of the department that the benefit of the service was enjoyed outside of this state in that 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

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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 paragraph; 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

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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), and (5), paragraph
(a) of subsection (7), and subsections (11), (22), (23), and
(26), and paragraph (a) of subsection (27) of section
212.0592, Florida Statutes, as created by chapter 87-6, Laws
of Florida, are amended, and subsection (42) is added to said
section, to read:

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

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

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

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

(4) Services that partners who are natural persons render to their partnerships, unless the partner renders his services to the partnership in the capacity of an independent contractor, and services that partners who are professional corporations render exclusively to the partnership.

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

(7)(a) Transportation and warehousing services enumerated in SIC Major Groups 47-42, 44, 45 and 47 for agricultural commodities that have retained their original identity, phosphate rock as defined in s. 211.30(9), potash as described in SIC Industry Number 1474, sulfur as described in SIC Industry Number 1477, nitrogenous fertilizers as enumerated in SIC Industry Number 2873, and phosphatic fertilizers as enumerated in SIC Industry Number 2874. For purposes of this paragraph, an agricultural commodity retains its original identity unless it is processed, packaged in cans, or frozen. However, produce which is processed but
neither canned nor frozen shall be considered an agricultural commodity that has retained its original identity.

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

(b) However, 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, except those performed by a trustee; 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.

(22) Sanitary services enumerated in SIC Group Number 495, garbage, refuse and debris transportation services.
enumerated in SIC Industry Number 4212, and septic tank cleaning services enumerated in SIC Industry Number 7699, if such services are sold to residential households or owners of residential models. However, "tipping fees" and other charges for the right to dispose of garbage, refuse and debris shall not be exempt pursuant to this subsection.

(23) Security and commodity brokerage services
umerated 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, except those performed by a trustee.

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

(27)(a) Legal services rendered by an attorney to a client to the extent that the right to counsel guaranteed pursuant to either the Sixth Amendment to the United States Constitution or Article I, Section 16 of the Florida Constitution is applicable to such legal services. However, this exemption shall only be applicable if the criminal charges brought in the case are dismissed or the client is ultimately adjudicated not guilty by a court of competent jurisdiction. This exemption shall only be granted pursuant to a refund of taxes previously paid on such services. The provisions of s. 212.095 shall not apply to the refund authorized in this paragraph.
(42) Household utility services sold to residential households or owners of residential models in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, or by liquefied petroleum gas companies, regardless of whether such sales of services are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the service is used for a nonexempt purpose, the entire sale is taxable.

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

(44) Construction support services purchased by a provider of construction support services in furtherance of a contract for such services. For purposes of this subsection, "construction support services" means architectural, engineering, drafting, surveying, land planning, landscape design, and interior design services, when such services directly relate to the construction, alteration, improvement, or repair of real property.

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 or use 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 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. 212.113.

(4) If a purchaser fails to obtain an exempt purchase
permit or execute an exempt purchase affidavit, but otherwise
qualifies for an exemption pursuant to s. 212.0592(1), the
purchaser may apply to the department for a refund of taxes
paid on the exempt amount of the purchase. The application
for refund shall be accompanied by an exempt purchase
affidavit and shall be submitted within 1 year of the
purchaser’s payment of the tax. A refund recommended by the
department pursuant to this subsection shall be reduced by the
amount of any applicable dealer collection allowance
previously allowed on the transaction. The provisions of s.
212.096 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,

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altered, or repaired, in which case, all other persons
involved in the construction who would otherwise qualify as
prime contractors under subparagraph 1. shall be deemed
subcontractors;

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

   (b) "Subcontractor" means a person who enters into a
contract to provide construction services to a prime
contractor or to another subcontractor.
   (c) "Construction services" means any activity
directly involving the construction, alteration, improvement
or repair of realty.
   (d) "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.

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(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 prior to the new construction, unless the prime contractor can demonstrate to the satisfaction of the department by proof of comparable sales, actual purchase price, or appraisal, that such assessment understates the value of the property.

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

(i) "Appraised value" means the actual value of the realty, exclusive of the fair market value of land and any improvements to the land existing prior to the new construction, as established by an independent appraisal of the realty.

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

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

(a) For new construction undertaken pursuant to a contract, or undertaken on a speculative basis but sold within 6 months of completion of the new construction, the tax shall be imposed upon 50 percent of the contract price.
(b) For new construction undertaken for the prime contractor's own use, or undertaken on a speculative basis and not sold within 6 months of completion, the tax shall be based upon 50 percent of the appraised value on which the construction loan is based. If such an appraised value is not available, the tax shall be based upon 50 percent of the cost price.

(c) For construction other than new construction, the tax shall be imposed upon 50 percent of the contract price, less the amount paid by the prime contractor for building materials incorporated into the realty.

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

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

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

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

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

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

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

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

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

(g) 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.

(5) 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 212.0591(4), regarding taxation of transactions previously taxed.

(f) Section 212.0591(6), regarding separate statement of services and real property.

(g) Section 212.0591(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.

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

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

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

(c) For advertising other than print or broadcast
media, the department shall establish by rule a method for
fairly apportioning advertising sold or used in this state.

(5) If advertising is sold in this state, the sales
tax imposed by this section shall be collected and remitted by
the advertising media provider, unless the advertising is
purchased pursuant to a resale permit, in which case the

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person reselling the advertising shall collect and remit the
tax.

(6) If advertising is not sold in this state, but is
used in this state, the advertiser shall self-accrue the use
tax imposed by this section and remit the tax directly to the
department, 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.

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

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

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

(2) "Affiliated group" means an affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code, whose members are includable under s. 1504(b), (c), or (d) of the Internal Revenue Code, and are eligible to file a consolidated tax return for Federal corporate income tax purposes. However, the taxpayer may elect, pursuant to rules of the department governing the procedure for making and amending such election, to define its affiliated group in a manner which excludes any member who has no tax nexus in this state and any member whose business activities are unrelated.

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to the business activities of other members of the group.

However, in no event shall parent corporations be excluded from the affiliated group.

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

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

(h) "Real property" means land, improvements thereto, and fixtures, and is synonymous with "real estate," any interest-in-the-surface-of-real-property-unless the-property-is:

1. Assessed-as-agricultural-property-under-st-212,93(46);
2. Used-exclusively-as-dwelling-units;
3. Property-subject-to-tax-on-parking,-docking,-or storage-spaces-under-st-212,93(6);
5. A public or private street or right-of-way occupied or used by a utility for utility purposes;

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

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

8. Property used at a port authority as defined in s. 315.024 for the purpose of ocean-going vessels or tugs docking or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels;

9. Property used as an integral part of the performance of qualified production services as defined in s. 212.05941;

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.

(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

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

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 9. 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

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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.

Section 10. 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). No tax shall be levied on admissions to
athletic or other events sponsored by elementary schools,
junior high schools, middle schools, high schools, community
colleges, public or private colleges and universities, deaf
and blind schools, facilities of the youth services programs
of the Department of Health and Rehabilitative Services, and
state correctional institutions when only student, faculty, or
inmate talent is utilized. However, this exemption shall not
apply to admission to athletic events sponsored by an
institution within the State University System, and the
proceeds of the tax collected on such admissions shall be
retained and utilized by each institution to support women's
athletics as provided in s. 240.533(4)(c).

2. No tax shall be levied on dues, membership fees,
and admission charges imposed by not-for-profit religious
sponsoring organizations. To receive this exemption, the
religious sponsoring organization must qualify as a not-for-

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profit entity under the provisions of s. 501(c)(3) of the
United States Internal Revenue Code of 1954, as amended.

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

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

Section 11. Paragraph (i) is added to subsection (1)
of section 212.05, Florida Statutes, as amended by chapter 87-
6, Laws of Florida, to read:

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

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

(i) At the rate of 5 percent on the retail price of
newspapers and magazines sold or used in Florida.
Notwithstanding other provisions of this part, the seller
shall not be required to separately state the tax on
newspapers. The tax on newspapers shall be remitted by the
publisher pursuant to s. 212.11 and s. 212.12. However, if
the publisher is not within the jurisdiction of Florida, the
tax shall be remitted by the distributor.
Section 12. Paragraph (b) of subsection (9) of section
212.08, Florida Statutes, 1986 Supplement, is amended, and
subsection (6) and paragraph (e) of subsection (7) of said
section, as amended by chapter 87-6, Laws of Florida, are
amended, to read:
212.08 Sales, rental, use, consumption, distribution,
and storage tax; specified exemptions.--The sale at retail,
the rental, the use, the consumption, the distribution, and
the storage to be used or consumed in this state of the
following are hereby specifically exempt from the tax imposed
by part I of this chapter.
(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are
also exempt from the tax imposed by this chapter sales made to
the United States Government, a the state, or any county,
municipality, or political subdivision of a this state when
payment is made directly to the dealer by the governmental
entity. This exemption shall not inure to any transaction
otherwise taxable under this chapter when payment is made by a
government employee by any means, including, but not limited
to, cash, check, or credit card when that employee is
subsequently reimbursed by the governmental entity. This
exemption does not include sales of tangible personal property
or services made to contractors employed either directly or as
agents of any such government or political subdivision thereof
when such tangible personal property or service goes into or
becomes a part of public works owned by such government or
political subdivision thereof, except public works in progress
or for which bonds or revenue certificates have been validated

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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.

(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 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.

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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
licensed pursuant to chapter 473 when acting for or on behalf
of a client.

Section 14. Section 17 of chapter 87-6, Laws of
Florida, is amended to read:

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Section 17. The introductory paragraph of subsection (c) of subsection (5), and subsections (7) and (9) of section 212.12, Florida Statutes, 1986 Supplement, are amended, and, effective January 1, 1988, paragraph (c) 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(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 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

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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.

(5)

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(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 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

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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
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.

35

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(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.

Section 15. 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.

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(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, or other water body restoration, including the restoration of bays and estuaries;
(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 state, and the state shall not be liable thereon. Neither the taxing power, the credit, nor the revenues of the state shall be pledged to pay any obligation issued pursuant to this subsection.

Section 16. 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, offers which are submitted prior to such date which are binding on the offeror and are accepted, or contracts which are funded by government bonds sold before May 1, 1987 or contracted prior to such date to be sold, for constructing improvements to real property, prime contractors, as defined in s. 212.0594(19), Florida Statutes, responsible for performing the contract shall not be required to remit any

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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.

(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.

(4) The purchase of the service occurs before June 30, 1988. However, if the department determines pursuant to the information submitted by the prime contractor under subsection (3) that the construction will not be completed before June 30, 1988, the exemption will apply to purchases of services occurring before June 30, 1989.

(5) On or before March 1, 1988, the Department of Revenue shall provide the Legislature with an estimate of the

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

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

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(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 18. 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 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 19. 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

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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 period between July 1, 1987, and September 30, 1987.

Section 20. Section 38 of chapter 87-6, Laws of Florida, is amended to read:

Section 38. Except-for-the-purposes-of-s. 212.0593,
Florida Statutes; Nothing contained in this act shall be construed to require disclosure of privileged information, the confidentiality of which is protected under the Florida Evidence Code require-an-attorney-or-a-certified-public accountant-licensed-pursuant-to-chapter-473-.Florida-Statutes; to-reveal-the-identity-of-any-client-for-any-reason.

Section 21. 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.

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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 order, which shall consist of findings of fact, conclusions of law, interpretation of administrative rules, and any other information required by 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 22. 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

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the pleasure of the director, and such service may be in
addition to other duties of employment by the division.

Section 23. 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.

Section 24. There is hereby appropriated from the
Administrative Trust Fund of the Department of Revenue 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 25. Subsection (1) and paragraph (a) of
subsection (3) of section 95.091, Florida Statutes, as amended
by chapter 87-6, Laws of Florida, are amended to read:

95.091 Limitation on actions to collect taxes.--
(1){a} Except in the case of taxes for which
certificates have been sold or of taxes levied under chapters
198 and 220 enumerated in s. 72.011, any tax lien granted by
law to the state or any of its political subdivisions, any
municipality, any public corporation or body politic, or any
other entity having authority to levy and collect taxes shall
expire 5 years after the date the tax is assessed or becomes
delinquent, whichever is later. No action may be begun to
collect any tax after the expiration of the lien securing the
payment of the tax.

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(b) Any tax lien granted by law to the state or any of its political subdivisions for any tax enumerated in s. 72.011 shall expire 20 years after the last date the tax may be assessed; after the tax becomes delinquent; or after the filing of a tax warrant; whichever is later;--An action to collect any tax enumerated in s. 72.011 may not be commenced after the expiration of the lien securing the payment of the tax.

(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 failed to make any payment of the tax, has 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 misrepresentation of a material fact.

(b) The limitations in this subsection shall be tolled for a period of 2 years if the Department of Revenue has

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issued a notice of intent to conduct an audit or investigation
of the taxpayer's account within the applicable period of time
as specified in this subsection.

Section 26. Effective July 1, 1988, subsection (1) of
section 198.18, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:

198.18 Failure to pay tax; penalties; delinquent or
deficient taxes, interest.--

(1) If any part of a deficiency in tax due under the
provisions of this chapter is due to negligence or intentional
disregard of the provisions of this chapter or the rules and
regulations issued pursuant hereto, with knowledge thereof but
without intent to defraud, there shall be added as a penalty 5
percent per month of the total amount of the deficiency in tax
to a maximum of 25 ±0 percent of the tax due; and, if any
part of such deficiency is willfully made with intent to
defraud, there shall be added as a penalty 50 percent of the
total amount of such deficiency, which penalty shall become
due and payable upon notice and demand by the department. The
personal representative shall be liable to the state
personally and on his official bond, if any, for any loss to
the state accruing under the provisions of this section
through his negligence or willful neglect. No interest shall
be collected upon the amount of any penalty. The department
may settle or compromise such penalties pursuant to s. 213.21.

Section 27. Effective July 1, 1988, paragraph (c) of
subsection (2) of section 211.33, Florida Statutes, as amended
by chapter 87-6, Laws of Florida, is amended to read:

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

(2)
(c) If a tax return is not filed by April 1 for any
taxes due for the preceding year or if any part of a
deficiency in the tax due for the preceding tax year is due to
negligence or intentional disregard of this part or the rules
promulgated pursuant hereto, the department shall levy a
delinquency penalty of 5 percent for each month, or portion
thereof, on the amount of tax delinquent, not to exceed 25 \%\% percent of the total tax due.

Section 28. Section 214.50, Florida Statutes, as
amended by chapter 87-6, Laws of Florida, is amended to read:

214.50 Liens; foreclosure.--In addition to any other
remedy provided by the laws of this state, and provided that
no hearing or proceedings for review provided by this chapter
shall be pending and that the time for the taking of review
shall have expired, the department may foreclose in any court
of competent jurisdiction any lien on real or personal
property for any tax, penalty, or interest to the same extent
and in the same manner as in the enforcement of other liens.
Any proceeding to foreclose shall be instituted not more than
5 20 years after the filing, or availability for filing, of
the notice of lien under the provisions of s. 214.45.

Section 29. Subsection (1) of section 214.51, Florida
Statutes, as amended by chapter 87-6, Laws of Florida, is
amended to read:

214.51 Collection procedures.--

(1) In addition to any other remedy provided by the
laws of this state, if any tax imposed by laws made applicable
to this chapter is not paid within the time required by this
chapter, the department, or someone designated by it, may
cause a demand to be made on the taxpayer for the payment
thereof. If such tax remains unpaid for 10 days after such

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demand has been made and no proceedings have been taken to
review the same, the department may issue a warrant directed
to any sheriff or other person authorized to serve process,
commanding said sheriff or other person to levy upon and sell
the real and personal property of the taxpayer found within
his jurisdiction for the payment of the amount thereof,
including penalties, interest, and the cost of executing the
warrant. Such warrant shall be returned to the department
together with the money collected by virtue thereof within the
time therein specified, which shall not be less than 20 nor
more than 90 days from the date of the warrant. The sheriff
or other person to whom such a warrant shall be directed shall
proceed upon the same in all respects and with like effect as
is prescribed by law for executions issued against property
upon judgments of record, and shall be entitled to the same
fees for his services in executing the warrant, to be
collected in the same manner. No proceedings for a levy under
this section shall be commenced more than 5 20 years after the
filing of the notice of lien under the provisions of this
part.

Section 30. Effective July 1, 1988, paragraph (b) of
subsection (5) of section 212.08, Florida Statutes, as amended
by section 59 of chapter 87-6, Laws of Florida, is amended to
read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.--

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

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from any amount of tax imposed by this chapter in excess of $100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to

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subparagraph 1. or subparagraph 2., the department shall issue such permit.

   b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery, equipment, or services pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail. 

The department shall have 4 years from the date of delivery or date of receipt to perform an audit of such purchases, notwithstanding the provisions of s. 95.091(3).

c. If, in a subsequent audit conducted by the department, it is determined that the machinery, equipment, or services purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

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4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery, equipment, or services purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation; or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

   a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.
b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; but in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

Section 31. Effective July 1, 1988, paragraphs (a) and (b) of subsection (8) of section 125.0104, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are amended to read: 125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.--

(8) PROHIBITED ACTS; ENFORCEMENT; PENALTIES.--

(a) Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or through his agents or employees, is, in addition to being personally liable for the payment of the tax, guilty of a

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misdeemnor felony of the first third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.

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

Section 32. Effective July 1, 1988, section 198.37,
Florida Statutes, as amended by chapter 87-6, Laws of Florida,
is amended to read:

198.37 Failure to make return; penalty.--Any person
required under this chapter to pay any tax, or required by law
or regulations made under authority thereof to make a return,
keep any records, or supply any information for the purposes
of the computation, assessment, or collection of any tax
imposed by this chapter, who willfully fails to pay such tax,
make such return, keep such records, or supply such
information, at the time or times required by law or
regulations, is, in addition to other penalties provided by
law, guilty of a misdemeanor felony of the first third degree,
punishable as provided in s. 775.082, s. 775.083, or s.
775.084.

Section 33. Effective July 1, 1988, section 198.39,
Florida Statutes, as amended by chapter 87-6, Laws of Florida,
is amended to read:

CODING: Words stricken are deletions; words underlined are additions.
198.39 False statement in return; penalty.--Whoever knowingly makes any false statement in any notice or return required to be filed under this chapter is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 34. Effective July 1, 1988, paragraph (a) of subsection (3) and subsection (8) of section 199.282, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are amended to read:

199.282 Penalties for violation of this chapter.--

(3)(a) If any annual or nonrecurring tax is not paid by the due date, a delinquency penalty shall be charged. The delinquency penalty shall be 5 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 25% of the total tax not timely paid.

(8) Any person who fails or refuses to file an annual return, or who fails or refuses to make records available for inspection, when requested to do so by the department is guilty of a misdemeanor felony of the first third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 35. Effective July 1, 1988, subsection (1) of section 201.17, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

201.17 Penalties for failure to pay tax required.--

(1) Whoever makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever, without the full amount of the tax herein imposed thereon being fully paid, or whoever makes use of any adhesive

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stamp to denote any tax imposed by this chapter without
canceling or obliterating such stamps as herein provided, is
guilty of a misdemeanor felony of the first third degree,
punishable as provided in s. 775.082, s. 775.083, or s.
775.084.

Section 36. Effective July 1, 1988, section 201.20,
Florida Statutes, as amended by chapter 87-6, Laws of Florida,
is amended to read:

201.20 Penalties for illegally avoiding tax on
notes.--Any person using the provisions of s. 201.09 to avoid
the payment of any tax justly due is guilty of a misdemeanor
felony of the first third degree, punishable as provided in s.
775.082, s. 775.083, or s. 775.084.

Section 37. Effective July 1, 1988, subsection (7) of
section 203.01, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:

203.01 Tax on gross receipts for utility services.--
(7) Any person who provides such services and who
fails, neglects, or refuses to collect or remit the tax
imposed in this part, either by himself or through his agents
or employees, is liable for the tax and is guilty of a
misdemeanor felony of the first third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.

Section 38. Effective July 1, 1988, section 203.03,
Florida Statutes, as amended by chapter 87-6, Laws of Florida,
is amended to read:

203.03 Penalties.--
(1) Any officer, agent, or representative of any such
person who receives any payment for the furnishing of the
things or the services above mentioned without first complying
with the provisions of this chapter as required, is guilty of

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a misdemeanor felony of the first third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully violates or fails to
comply with any of the provisions of this chapter is guilty of
a misdemeanor felony of the first third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.

Section 39. Effective July 1, 1988, subsection (3) of
section 203.63, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:

203.63 Tax on interstate and international
telecommunication services.--

(3) Any person who provides such services and who
fails, neglects, or refuses to collect or remit the tax
imposed in this part, either by himself or through his agents
or employees, is liable for the tax and is guilty of a
misdemeanor felony of the first third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.

Section 40. Effective July 1, 1988, subsection (4) of
section 206.18, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is renumbered as subsection (5) and amended,
and new subsection (4) is added to said section to read:

206.18 Discontinuance or transfer of business;
liability of tax, procedure; penalty for violation.--

(4) In the event any dealer is delinquent in the
payment of the tax herein provided for, the department may
give notice of the amount of such delinquency by registered
mail to all persons having in their possession or under their
control any credits or other personal property belonging to
such dealer or owing any debts to such dealer at the time of
receipt by them of such notice. All persons so notified shall
within 5 days after receipt of the notice advise the

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

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of the value of the property or the amount of the debts thus
transferred or paid if, solely by reason of such transfer or
disposition, the state is unable to recover the indebtedness
of the person with respect to whose obligation the notice was
given. All such credits or other personal property or debts
are subject to garnishment by the department for satisfaction
of the delinquent tax due.

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

Section 41. Effective July 1, 1988, subsection (1) of
section 206.44, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:

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

(1) If any refiner, importer, or wholesaler fails to
make a report or pay the taxes due as required by this
chapter, the department shall add a penalty in the amount of 5
percent of any unpaid tax if the failure is for not more than
1 month, with an additional 5 percent of any unpaid tax for
each additional month or fraction thereof during which the
failure continues. However, such penalty may not exceed 25
\$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.

Section 42. Effective July 1, 1988, subsection (5) of
section 206.877, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:

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206.877 Motor vehicles fueled by liquefied petroleum
gas or compressed natural gas; payment of annual decal fees in
lieu of tax.--

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

Section 43. Effective July 1, 1988, subsection (1) of
section 206.9931, Florida Statutes, as amended by chapter 87-
6, Laws of Florida, is amended to read:

206.9931 Administrative provisions.--

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

Section 44. Effective July 1, 1988, subsection (1) of section 207.007, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

207.007 Offenses; penalties and interest. --

(1) If any motor carrier fails to file a return and pay any tax liability under this chapter within the time required hereunder, the department shall add a delinquency penalty of 10 5 percent to the amount of the taxes due if the failure is for not more than 30 days, with an additional 10 5 percent penalty for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of 100 percent in the aggregate. However, in no event shall the penalty be less than $5.

Section 45. Effective July 1, 1988, subsection (2) of section 211.076, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

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

(2) Failure to file any return required by this part by the due date shall require payment of a delinquency penalty. If tax is due with the return, the delinquency penalty shall be 5 percent for each month, or portion thereof, of the amount of tax due with the return, not to exceed 25 100 percent. If no tax is due with the return, the delinquency penalty shall be $25 for each month, or portion thereof, during which the return was not filed, not to exceed $150 in aggregate. The amount of tax due with a return shall be reduced by amounts properly creditable against the tax

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liability shown on the return on the date the return was due.

Section 46. Effective July 1, 1988, subsection (1) of
section 211.25, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:

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

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

Section 47. Effective July 1, 1988, paragraphs (i) and
(j) of subsection (3) of section 212.0305, Florida Statutes,
as amended by chapter 87-6, Laws of Florida, are amended to
read:

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

(3) APPLICATION; ADMINISTRATION; PENALTIES.--

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

(j) No person shall advertise or hold out to the
public in any manner, directly or indirectly, that he will
absorb all or any part of the tax; that he will relieve the

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person paying the rental of the payment of all or any part of
the tax; or that the tax will not be added to the rental or
lease consideration or, if added, that the tax or any part
thereof will be refunded or refused, either directly or
indirectly, by any method whatsoever. Any person who
willfully violates any provision of this paragraph is guilty
of a misdemeanor felony of the first third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 48. Effective July 1, 1988, paragraph (a) of
subsection (1) of section 212.05, Florida Statutes, as amended
by section 83 of chapter 87-6, Laws of Florida, is amended to
read:

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

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

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

b. Each occasional or isolated sale of an aircraft,
boat, mobile home, or motor vehicle of a class or type which

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

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

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

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

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

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

Section 49. Effective July 1, 1988, subsections (3)
and (4) of section 212.07, Florida Statutes, as amended by
section 85 of chapter 87-6, Laws of Florida, are amended to
read:

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

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

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

Section 50. Effective July 1, 1988, section 212.085, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

212.085 Fraudulent claim of exemption; penalties.--
When any person shall fraudulently knowingly, for the purpose of evading tax, issue to a vendor or to any agent of the state

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a certificate or statement in writing in which he claims
exemption from sales tax, such person, in addition to being
liable for payment of the tax plus a mandatory penalty of 100
percent of the tax, shall be liable for fine and punishment as
provided by law for a conviction of a felony of the third
degree, as provided in s. 775.082, s. 775.083, or s. 775.084.
Section 51. Effective July 1, 1988, subsections (3)
and (4) of section 212.10, Florida Statutes, as amended by
chapter 87-6, Laws of Florida, are reenacted, and subsection
(5) of said section as amended by said chapter, is amended, to
read:
212.10 Sale of business; liability for tax, procedure,
penalty for violation.—
(3) In the event any dealer is delinquent in the
payment of the tax herein provided for, the department may
give notice of the amount of such delinquency by registered
mail to all persons having in their possession or under their
control any credits or other personal property belonging to
such dealer or owing any debts to such dealer at the time of
receipt by them of such notice. All persons so notified shall
within 5 days after receipt of the notice advise the
department of all such credits, other personal property, or
debts in their possession, under their control, or owing by
them. After receiving the notice, the persons so notified
shall neither transfer nor make any other disposition of the
credits, other personal property, or debts in their possession
or under their control at the time they receive the notice
until the department consents to a transfer or disposition or
until 60 days elapse after the receipt of the notice,
whichever period expires the earlier, except that the credits,
other personal property, or debts which exceed the delinquent

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amount stipulated in the notice shall not be subject to the
provisions of this section, wherever held, in any case in
which such dealer does not have a prior history of sales tax
delinquencies. All persons notified shall likewise within 5
days advise the department of any subsequent credits or other
personal property belonging to such dealer or any debts
incurred and owing to such dealer which may come within their
possession or under their control during the time prescribed
by the notice or until the department consents to a transfer
or disposition, whichever expires the earlier. If such notice
seeks to prevent the transfer or other disposition of a
deposit in a bank or other credits or personal property in the
possession or under the control of a bank, the notice to be
effective shall be delivered or mailed to the office of such
bank at which such deposit is carried or at which such credits
or personal property is held. If, during the effective period
of the notice to withhold, any person so notified makes any
transfer or disposition of the property or debts required to
be withheld hereunder, he shall be liable to the state for any
indebtedness due under this chapter from the person with
respect to whose obligation the notice was given to the extent
of the value of the property or the amount of the debts thus
transferred or paid if, solely by reason of such transfer or
disposition, the state is unable to recover the indebtedness
of the person with respect to whose obligation the notice was
given. All such credits or other personal property or debts
are subject to garnishment by the department for satisfaction
of the delinquent tax due.

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

Section 52. Effective July 1, 1988, paragraph (a) of subsection (2) and subsection (13) of section 212.12, Florida Statutes, as amended by section 88 of chapter 87-6, Laws of Florida, are amended to read:

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

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax imposed by this chapter fails to timely file such return or fails to pay the tax due within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes, a specific penalty shall be added to the tax in the amount of 5 percent of any unpaid tax if the failure is for not more than 30 days, with an additional 5 percent of any unpaid tax for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed, however, a total penalty of 25 % of the aggregate, of any unpaid tax. In no event may the penalty be less than $5 for failure to timely file a tax return required by s. 212.11. In the case of a false or fraudulent return or a willful intent to evade payment of any tax imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax shall be liable to a specific penalty of 50 percent of the

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tax bill and for fine and punishment as provided by law for a conviction of a misdemeanor felony of the first third degree.

(13) In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners, property managers, lessors, landlords, hotel, apartment house, and roominghouse operators and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records for a period of not less than 3 years, subject to the inspection of the department and its agents; and, upon the failure by such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, receiver of rent or license fees, or real estate agent is guilty of a misdemeanor felony of the second third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for the first offense; and for subsequent offenses, they are each guilty of a misdemeanor felony of the first second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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Section 53. Effective 1, 1988, subsections (1) and (2) of section 212.13, Florida Statutes, as amended by section 89 of chapter 87-6, Laws of Florida, are amended to read:

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

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

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep for a period of 3 years a complete record of tangible personal property or services received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and

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papers as may be required by the department for the reasonable
administration of this chapter; and all such records which are
located or maintained in this state shall be open for
inspection by the department at all reasonable hours at such
dealer's store, sales office, general office, warehouse, or
place of business located in this state. Any dealer who
maintains such books and records at a point outside this state
must make such books and records available for inspection by
the department where the general records are kept. Any dealer
subject to the provisions of this chapter who violates these
provisions is guilty of a misdemeanor felony of the first
third degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084.

Section 54. Effective July 1, 1988, subsection (3) of
section 212.14, Florida Statutes, as amended by section 90 of
chapter 87-6, Laws of Florida, is amended to read:

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

(3) The department may require all reports of taxes to
be paid under this chapter to be accompanied with a written
statement, of the person or by an officer of any firm or
corporation required to pay such taxes setting forth such
facts as the department may reasonably require in order to
advise the department as to the amount of taxes that are due
and payable upon said return. Filing of return not
accompanied by payment is prima facie evidence of conversion
of the money due. Any person or any duly authorized
corporation officer or agent, members of any firm or
incorporated society, or organization who refuses to make a
return and pay the taxes due, as required by the department
and in the manner and in the form that the department may

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require, or to state in writing that the return is correct to
the best of his knowledge and belief, as so required by the
department, shall be subject to a penalty of 6 percent per
annum of the amount due and shall upon conviction, be guilty
of a misdemeanor felony of the first third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084. The
signing of a written return shall have the same legal effect
as if made under oath without the necessity of appending such
oath thereto.

Section 55. Effective July 1, 1988, subsections (2)
and (3) of section 212.15, Florida Statutes, as amended by
chapter 87-6, Laws of Florida, are amended to read:

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

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

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

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

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

Section 56. Effective July 1, 1988, subsection (3) of section 212.18, Florida Statutes, as amended by section 92 of chapter 87-6, Laws of Florida, is amended to read:

212.18 Administration of law; rules and regulations.--

(3) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of
§5. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued; and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. No person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; and no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or

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refusal of any person, firm, copartnership, or corporation to
so qualify when required hereunder is a misdemeanor felony of
the first third degree, punishable as provided in s. 775.082,
s. 775.083, or s. 775.084, or subject to injunctive
proceedings as provided by law.

Section 57. Effective July 1, 1988, subsection (1) of
section 214.40, Florida Statutes, as amended by chapter 87-6,
Laws of Florida, is amended to read:

214.40 Penalties; failure to file timely returns.--

(1) In case of failure to file any tax return required
under laws made applicable to this chapter on the date
prescribed therefor, including any extensions thereof, there
shall be added as a penalty to the amount of tax due with such
return 5 percent of the amount of such tax, if the failure is
not for more than 1 month, plus an additional 5 percent for
each additional month or fraction thereof during which such
failure continues, not exceeding 25 %0 percent in the
aggregate. The department may settle or compromise such
penalties pursuant to s. 213.21. For purposes of this
section, the amount of tax due with any return shall be
reduced by any part of the tax which is paid on or before the
date prescribed for payment of the tax and by the amount of
any credit against the tax which was properly allowable on the
date the return was required to be filed.

Section 58. Effective July 1, 1988, section 214.60,
Florida Statutes, as amended by chapter 87-6, Laws of Florida,
is amended to read:

214.60 Willful and fraudulent acts.--Any taxpayer who
is subject to the provisions of this chapter and who willfully
fails to file a return or keep required books and records,
files a fraudulent return, willfully violates any rule or

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regulation of the department, or willfully attempts in any
other manner to evade or defeat any tax imposed by laws made
applicable to this chapter or the payment thereof, is, in
addition to other penalties, guilty of a misdemeanor felony of
the first third degree, punishable as provided in s. 775.082,
s. 775.083, or s. 775.084.

Section 59. Sections 100, 101, and 102 of chapter 87-
6, Laws of Florida, are hereby repealed.

Section 60. Paragraph (c) of subsection (2) of section
213.73, Florida Statutes, as created by chapter 87-6, Laws of
Florida, is amended to read:

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

(c)--The-extent-to-which-methods-additional-to-those
prescribed-in-s.213:72;--including-advertising;--may-be-used-in
giving-notice-of-the-sale;

Section 61. Section 213.74, Florida Statutes, as
created by chapter 87-6, Laws of Florida, is amended to read:

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

(1) In the case of property sold pursuant to a levy by
the Department of Revenue as-provided-in-s.213:72, the
executive director or his designee shall give to the purchaser
a certificate of sale upon payment in full of the purchase
price. Such certificate shall set forth a description of the
property purchased, for whose taxes the same was sold, the
name of the purchaser, and the price paid therefor.

(2) In the case of any real property sold pursuant to
a levy by the Department of Revenue as-provided-in-s.213:72,

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and not redeemed in the manner and within the time provided in s. 213.73, the executive director or his designee shall execute, in accordance with the laws of this state pertaining to the sale of real property under execution, to the purchaser of such real property at such sale, upon his surrender of the certificate of sale, a deed of the real property so purchased by him, reciting the facts set forth in the certificate.

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

(4) In all cases of sale of tangible or intangible personal property pursuant to a levy by the Department of Revenue s. 213.72, the certificate of sale shall be prima facie evidence of the right of the executive director or his designee to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale and shall transfer to the purchaser all right, title, and interest of the party delinquent in and to the property sold. If such property consists of intangibles such as stock and bonds, the certificate constitutes notice, when received, to any corporation, company, or association of such transfer, and constitutes authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the intangibles were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether

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canceled or not. If the subject of the sale is securities or
other evidences of debt, the certificate constitutes a good
and valid receipt to the person holding the same, as against
any person holding or claiming to hold possession of such
securities or other evidences of debt. If such property
consists of a motor vehicle, the certificate constitutes
notice when received, to any public official charged with the
registration of title of motor vehicles, of such transfer and
constitutes authority to such official to record the transfer
on his books and records in the same manner as if the
certificate of title to such motor vehicle were transferred or
assigned by the party holding the same, in lieu of any
original or prior certificate of title, which shall be void
whether canceled or not.

(5) In the case of the sale of real property pursuant
to a levy by the Department of Revenue 97-213.72, the deed of
sale given pursuant to this section shall be prima facie
evidence of the facts stated therein and if the proceedings by
the executive director or his designee have been substantially
in accordance with the provisions of this chapter and the
rules of the department, such deed constitutes a conveyance of
all the right, title, and interest the party delinquent had in
and to the real property thus sold at the time the lien of the
Department of Revenue attached thereto.

Section 62. Subsection (1) of section 213.76, Florida
Statutes, as created by chapter 87-6, Laws of Florida, is
amended to read:

213.76 Freezing of assets and obligations.—
(1) If any person who is obligated to pay a tax is
delinquent in the payment of any of the taxes specified in s.
72.011(1), the department may give notice of the amount of

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of the notice to withhold, any person so notified makes any
transfer or disposition of the property or debts required to
be withheld under this section, such person is liable to the
state for any indebtedness due from the person with respect to
whose obligation such notice was given to the extent of the
value of the property or the amount of the debts thus
transferred or paid if, solely by reason of such transfer or
disposition, the state is unable to recover the indebtedness
of the person with respect to whose obligation the notice was
given. All such credits or other personal property or debts
are subject to garnishment by the department for satisfaction
of the delinquent tax due.

Section 63. Except for violations for which the period
of time for bringing an action or enforcing a lien has expired
prior to July 1, 1988, the penalties provided by sections 25
through 58 of this act are applicable to the failure to pay
taxes which are due before and remain unpaid on July 1, 1988.

Section 64. Section 9 of chapter 86-166, Laws of
Florida, is hereby repealed.

Section 65. If any provision of this act or the
application thereof to any person or circumstance is held
invalid, the invalidity shall not affect other provisions or
applications of the act which can be given effect without the
invalid provision or application, and to this end the
provisions of this act are declared severable.

Section 66. Except as otherwise provided herein, this
act shall take effect July 1, 1987.
such delinquency by registered mail to all persons having in
their possession or under their control any credits or other
personal property belonging to such person or owing any debts
to such person at the time of receipt by them of such notice.
All persons so notified shall, within 15 5 days after receipt
of the notice, advise the department of all such credits,
other personal property, or debts in their possession, under
their control, or owing by them. After receiving the notice,
the persons so notified may not transfer or make any other
disposition of the credits, other personal property, or debts
in their possession or under their control at the time they
receive such notice unless the department consents to a
transfer or disposition or until 120 days elapse after the
receipt of the notice, whichever period expires sooner, except
that the credits, other personal property, or debts which
exceed the delinquent amount stipulated in the notice are not
subject to this section, wherever held, in any case in which
such dealer does not have a prior history of sales tax
delinquencies. All persons notified shall likewise within 5
days advise the department of any subsequent credits or other
personal property belonging to such person or any debts
incurred and owing to such person which may come within their
possession or under their control during the time prescribed
by the notice or until the department consents to a transfer
or disposition, whichever expires sooner. If such notice
seeks to prevent the transfer or other disposition of a
deposit in a bank or other credits or personal property in the
possession or under the control of a bank, the notice, to be
effective, must be delivered or mailed to the office of such
bank at which the deposit is carried or at which the credits
or personal property is held. If, during the effective period

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