TO: William D. Townsend  
   General Counsel  
   Department of Revenue

FROM: Melton H. McKown, Bureau of Tax Information  
       and Assistance  
       Administrator

DATE: May 6 1987

SUBJECT: Implementation of Chapter 87-6, Laws of Florida, for Sales Tax

Please find attached exhibits A through D which may be of some use in assigning work priorities in implementing the referenced subject matter.

Exhibit A contains the analysis of Chapters 86-166 and 87-6, Laws of Florida, with respect to services and non services. Exhibit B shows the rules or topic of the rules that will need to be created or amended.
Exhibit C provides the name, number or subject matter of forms that will need to be created or amended.
Exhibit D provides the number of general and special flyers that need to be sent, when the flyer is needed, who the flyer is to be sent to and who is responsible for putting the flyer together.

If I may be of further assistance, please advise.

Copy to: Mr. John Everton  
         Mr. Jim Francis  
         Mr. Jim Evers  
         Mr. Fred Roche

MHK/b  
Enclosure
## Chapters 86-166 and 87-6
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Section 1. S. 212.059, Pages 8-10, SALES AND USE TAX ON SERVICES

(A) LEVY OF TAX - Levies a tax at the rate of 5 percent of the sales price or cost price on the sale or use of services in this state. s. 212.059(1)(a)(2), F.S. The sale of a service is in Florida if wholly or partly performed within Florida and the greater proportion based on costs of performance is performed within Florida s. 212.059(1)(b), F.S. The use of a service is within Florida if the benefit of the service is enjoyed in Florida. s. 212.059(2), F.S.

(B) DETERMINING BENEFIT - For purposes of determining where a service is used or consumed and where the benefit of as service is enjoyed, except for interstate and international transportation services, the following tests apply:

a. If the purchaser of the service is an individual and: s. 212.0591(9)(a), F.S.
   1. The service is directly related to real property, the benefit will be presumed to be enjoyed in the state where the real property is located; s. 212.0591(9)(a)1.
   2. The service is not directly related to real property, the benefit will be presumed to be enjoyed for use in the state where the greater proportion of the service is performed, based on costs of performance. s. 212.0591(9)(a)2., F.S.
   3. If the provisions of 1. and 2. do not apply, if the individual can demonstrate that the benefit of the service was enjoyed in another state, the service shall be deemed used or consumed in that state. s. 212.0591(9)(a)3., F.S.

b. If the purchaser of a service is a business, and: s. 212.0591(9)(b), F.S.
   1. The service is directly related to real property, the benefit will be presumed to be enjoyed in the state where the real property is located. s. 212.0591(9)(b)1., F.S.
   2. The service directly relates to tangible personal property, the benefit will be presumed to be enjoyed in the state where the property has business situs. s. 212.0591(9)(b)2., F.S.
   3. The service directly involves sales to a local market, the benefit will be presumed to be enjoyed in the state where the local market exists. s. 212.0591(9)(b)3., F.S.
   4. If the provisions of 1., 2. and 3., do not apply, and the purchaser is a multi-state business, the enjoyment will be presumed to be in Florida to the extent of the purchasers business in Florida. In determining the extent of a multi-state business activities in Florida the apportionment formula for Florida Corporate Income Tax is used. If the purchaser is a member of an affiliated group, the affiliated group, is considered the purchaser. s. 212.0591(9)(b)4., F.S.
   5. If the provisions of 1., 2., 3., and 4., do not apply, the benefit will be presumed to be enjoyed in the state where the purchaser is exclusively doing business. s. 212.0591(9)(b)5., F.S.
   6. If the provisions of 1., 2., 3., 4., and 5., do not apply, if the business can demonstrate that the benefit of the service was enjoyed in another state, the service shall be deemed to be used or consumed in that state. s. 212.0591(9)(b)6., F.S.
C) INTERSTATE AND INTERNATIONAL TRANSPORTATION - The sales price of the sale, or the cost price of the use, of interstate and international transportation services is apportioned based upon mileage within Florida to total United States mileage of the person providing transportation services in Florida regardless of the commercial domicile of such person. s. 212.059(5), F.S.

D) COMBINED TRANSACTIONS - Where a transaction involves both the sale or use of a taxable service and the sale or use of intangible or real property, or the sale or use of a taxable service and a exempt service, the charges for taxable and non-taxable portion of the transaction must be separately stated. Failure to separately state the charges creates a presumption that the entire transaction is taxable. s. 212.059(6) & (7), F.S.

E) TAX DUE AND PAYABLE - The tax is due and payable at the time of the sale or use of the service unless the person registers as a service provider and elects to remit the tax at the time the consideration for services is paid. However, if a transaction involves both services and tangible personal property, and the tangible property is a consequential element of the transaction, the tax is due at the time of sale, not at the time the consideration is paid. s. 212.059(4), F.S.

F) REMITTANCE OF TAX - The service provider, having nexus with Florida, shall collect and remit the sales tax. If a service is used or consumed in Florida or the benefit of the service is enjoyed in Florida and the service provider does not have nexus with Florida, the purchaser shall remit the use tax. However, if the seller of the service is a multistate business and the sale is outside Florida, except for interstate or international transportation services, the use tax shall be permitted by the purchaser. s. 212.059(3), F.S.

Section 2. S. 212.0591, Pages 10-14, RULES OF CONSTRUCTION

A) STANDARD INDUSTRY CODES - Unless clearly provided otherwise Standard Industry Codes (Codes): s. 212.0591(1), F.S.
   a. Are intended to describe services and activities and not establishments.
   b. Do not preclude taxation or exemption solely because a service is provided by a person in a Code referenced establishment.
   c. Do not preclude taxation or exemption solely because a service is performed by a person not in a referenced code establishment.

B) APPORTIONMENT - The sale or use of a service in Florida is taxable to the extent permitted by the Constitution or laws of the United States. s. 212.0591(2), F.S.

C) ADDITIONAL TAX - The tax on services is in addition to all other taxes, except those already taxed under other provisions of sales and use tax law. s. 212.0591(3)(4), F.S.

D) EXEMPTIONS - Any exemption granted on services shall not exempt transactions that were otherwise subject under the sales and use tax laws on January 1, 1987. s. 212.0591(5), F.S.

E) COMBINED TRANSACTIONS - Where a transaction involves both the sale or use of a taxable service and the sale or use of intangible or real property, or the sale or use of a taxable service and a exempt service, the charges for taxable and non-taxable portion of the transaction must be separately stated. Failure to separately state the charges creates a presumption that the entire transaction is taxable. s. 212.0591(6) & (7), F.S.
(F) ILLICIT SERVICES - Illicit services are not legalized by the law but are taxable. s. 212.0591(8), F.S.

(G) DETERMINING BENEFIT - For purposes of determining where a service is used or consumed and where the benefit is enjoyed, except for interstate and international transportation, the following tests apply:

a. If the purchaser of the service is an individual and: s. 212.0591(9)(a), F.S.

1. The service is directly related to real property, the benefit will be presumed to be enjoyed in the state where the real property is located; s. 212.0591(9)(a)1.

2. The service is not directly related to real property, the benefit will be presumed to be enjoyed for use in the state where the greater proportion of the service is performed, based on costs of performance. s. 212.0591(9)(a)2., F.S.

3. If the provisions of 1. and 2. do not apply, if the individual can demonstrate that the benefit of the service was enjoyed in another state, the service shall be deemed used or consumed in that state. s. 212.0591(9)(a)3., F.S.

b. If the purchaser of a service is a business, and: s. 212.0591(9)(b), F.S.

1. The service is directly related to real property, the benefit will be presumed to be enjoyed in the state where the real property is located. s. 212.0591(9)(b)1., F.S.

2. The service directly relates to tangible personal property, the benefit will be presumed to be enjoyed in the state where the property has business situs. s. 212.0591(9)(b)2., F.S.

3. The service directly involves sales to a local market, the benefit will be presumed to be enjoyed in the state where the local market exists. s. 212.0591(9)(b)3., F.S.

4. If the provisions of 1., 2. and 3., do not apply, and the purchaser is a multi-state business, the enjoyment will be presumed to be in Florida to the extent of the purchasers business in Florida. In determining the extent of a multi-state business activities in Florida the apportionment formula for Florida Corporate Income Tax is used. If the purchaser is a member of an affiliated group, the affiliated group, is considered the purchaser. s. 212.0591(9)(b)4., F.S.

5. If the provisions of 1., 2., 3., and 4., do not apply, the benefit will be presumed to be enjoyed in the state where the purchaser is exclusively doing business. s. 212.0591(9)(b)5., F.S.

6. If the provisions of 1., 2., 3., 4., and 5., do not apply, if the business can demonstrate that the benefit of the service was enjoyed in another state, the service shall be deemed to be used or consumed in that state. s. 212.0591(9)(b)6., F.S.

(H) INTERSTATE AND INTERNATIONAL TRANSPORTATION - The sales price of the sale, or the cost price of the use, of interstate and international transportation services are presumed to be enjoyed in Florida to the extent the sales price or cost price is apportioned based upon mileage within Florida to total U.S. mileage of the person providing the transportation service. s. 212.0591(9)(c), F.S.

Section 3. S. 212.0592, Pages 14-24, EXEMPTIONS FROM SALES AND USE TAX ON SERVICES.

The following service transactions are exempt from tax:
(A) OUT OF STATE SALES - Services sold in Florida for use outside this state. S. 212.0592(1)(a), F.S. For the purposes of determining where a service is used or consumed and where the benefit of as service is enjoyed, except for interstate and international transportation services the following tests apply: S. 212.0592(1)(b), F.S.

a. If the purchaser of the service is an individual and: S. 212.0591(9), F.S.
   1. The service is directly related to real property, the benefit will be presumed to be enjoyed in the state where the real property is located; S. 212.0591(9)(a)1.
   2. The service is not directly related to real property, the benefit will be presumed to be enjoyed for use in the state where the greater proportion of the service is performed, based on costs of performance. S. 212.0591(9)(a)2., F.S.
   3. If the provisions of 1. and 2. do not apply, if the individual can demonstrate that the benefit of the service was enjoyed in another state, the service shall be deemed used or consumed in that state. S. 212.0591(9)(a)3., F.S.

b. If the purchaser of a service is a business, and: S. 212.0591(9)(b), F.S.
   1. The service is directly related to real property, the benefit will be presumed to be enjoyed in the state where the real property is located. S. 212.0591(9)(b)1., F.S.
   2. The service directly relates to tangible personal property, the benefit will be presumed to be enjoyed in the state where the property has business situs. S. 212.0591(9)(b)2., F.S.
   3. The service directly involves sales to a local market, the benefit will be presumed to be enjoyed in the state where the local market exists. S. 212.0591(9)(b)3., F.S.
   4. If the provisions of 1., 2. and 3., do not apply, and the purchaser is a multi-state business, the enjoyment will be presumed to be in Florida to the extent of the purchasers business in Florida. In determining the extent of multi-state business activities in Florida the apportionment formula for Florida Corporate Income Tax is used. If the purchaser is a member of an affiliated group, the affiliated group, is considered the purchaser. S. 212.0591(9)(b)4., F.S.
   5. If the provisions of 1., 2., 3., and 4., do not apply, the benefit will be presumed to be enjoyed in the state where the purchaser is exclusively doing business. S. 212.0591(9)(b)5., F.S.
   6. If the provisions of 1., 2., 3., 4., and 5., do not apply, if the business can demonstrate that the benefit of the service was enjoyed in another state, the service shall be deemed to be used or consumed in that state. S. 212.0591(9)(b)6., F.S.

In order to qualify for the exemption: multistate businesses having nexus with Florida must obtain from the Department an exempt purchase permit and self accrue the tax, S. 212.0593(1), F.S.; businesses without Florida nexus and individuals who are residents of another state must obtain from the Department an exempt purchase permit and consent to jurisdiction of Florida only for purposes of the service tax, or execute an exemption affidavit on a form prescribed by the Department, S. 212.0593(2), F.S. The dealer is required to maintain a monthly log showing each transaction for which sales tax was not collected because of the presentation of an exempt purchase permit or exempt affidavit, S. 212.0593(3), F.S. If a purchaser fails to obtain an exempt purchase permit or fails execute an exempt purchase affidavit, the purchaser may obtain a refund from the state within one (1) year of the purchaser's payment.
of the tax, provided the transaction qualifies for the exemption and an exempt purchase affidavit is submitted with the refund request, s. 212.0593(4), F.S.

(B) EMPLOYEE SERVICES - Employee services to an employer, s. 212.0592(2), F.S., except when manufacturing, producing, compounding, processing, or fabricating tangible personal property for one's own use. (s. 212.06(1)(b), as amended by Chapter 87-6, L.O.F.)

(C) OCCASIONAL SALES - Occasional or isolated sales of service by one not engaged in business. s. 212.0592(3), F.S. The occasional or isolated sale provisions does not apply to construction services. s. 212.0594(4), F.S.

(D) PARTNERSHIPS - Partners services to partnerships where the partner is a natural person, but not where the partner acts in capacity of independent contractor. s. 212.0592(4), F.S.

(E) CORPORATIONS - Services between members of an affiliated group of corporations, if includable under s. 1504(b), I.R.C., and eligible to file a consolidated tax return for Federal Corporate Income Tax purposes. However, the exemption is not applicable to the sale or use of services to members not included in the group. If the exemption is not applicable, the sales price or cost price of the service is based upon the fair market value of the service. The sale or use of services between divisions which may be separate taxpayers within the same corporation qualify for exemption. s. 212.0592(5), F.S.

(F) AGRICULTURAL - Agricultural services, however, the exemption does not apply to landscape and horticultural services (such as landscape planning, landscape counseling, garden planning, lawn care, lawn fertilizing, ornamental bush planting, ornamental tree planting) or animal specialty services (such as boarding kennels, boarding or training horses, breeding animals, dog grooming, pedigree record services, training of pets, unless the animal specialty service relate to aquatic, dairy, livestock, poultry, bee and any farm product.) s. 212.0592(6), F.S.

(G) FORESTRY SERVICES - Services related to timber production, wood technology, forestry economics and marketing, crushing timber, fire fighting, reforestation, timber cutting, harvesting, estimating, and transportation services performed by logging camps and logging contractors. s. 212.0592(8), F.S.

(H) EDUCATIONAL SERVICES - Educational services, however, the exemption does not apply to educational services provided by nondegree granting specialized schools except when provided by bible schools, churches, convents, monasteries, religion schools, and religious organizations. Taxable educational services include, but are not limited to, automobile instruction, baton instruction, ceramic schools, charm schools, civil service schools, dancing schools, flying instruction, modeling schools, music schools, personal development schools, public speaking schools, reading schools, tutoring schools. s. 212.0592(9), F.S.

(I) GOVERNMENTAL FEES - Fees or other charges for services imposed by governmental entities for U.S. Postal Service (SIC Major Group 43); executive, legislative, and general government (SIC Major Group 91); justice, public order, and safety (SIC Major Group 92), public finance, taxation, and monetary policy
(SIC Major Group 93); administration of human resources programs (SIC Major Group 94); administration of environmental quality and housing programs (SIC Major Group 95); administration of economic programs (SIC Major Group 96), national security and international affairs (SIC Major Group 97); and fees or other charges by the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. However, this exemption does not apply to charges for utility or sanitary services. s. 212.0592(10), F.S.

(J) FINANCIAL SERVICES - Services of a financial nature, of a type customarily performed by a financial institution. However this exemption does not apply to: safety deposit boxes; night deposit services; cashier's checks; traveler's checks; money orders; preparation of individual tax returns; copying documents; stop payment charges; return check charges, unless due to insufficient funds; services as a personal representative of an estate; credit information and reporting services; over draft charges; collection fees; hold mail fees; guardianship fees; credit and charge card membership fees; cash vault fees; or data processing services, except check processing and check clearing services. s. 212.0592(11), F.S.

(K) HEALTH SERVICES - Health services performed by licensed or certified health professional, home health, and hospice services. s. 212.0592(12), F.S.

(L) INSURANCE SERVICES - Insurance services of agents and brokers, insurance service companies, and consideration paid for insurance, including annuities. However, the consideration for title insurance in excess of 110% of the risk premium rate fixed by the Department of Insurance is taxable. s. 212.0592(13), F.S.

(N) INTEREST AND POINTS - Interest and points, including credit card interest, and discount charges for purchase of accounts receivable. s. 212.0592(14), F.S.

(P) MEMBERSHIP DUES - Membership dues or fees paid to business association, professional membership organizations, labor organizations, civic, social, and fraternal organizations, arts, historical, and science organizations, provided such organizations are not-for-profit corporations; and membership dues or fees paid to regulatory athletic associations. However, membership dues or fees paid to organizations that fail to qualify as not-for-profit corporations are taxable. s. 212.0592(17), F.S.

(Q) MOTION PICTURE PRODUCTION - Motion picture production services performed for a person principally engaged in the business of producing motion pictures or for a person who owns or leases property used primarily for motion picture production. s. 212.0592(18), F.S.
(R) SANITARY SERVICES - Sanitary services if sold to residential households or owners of residential models, such as sewerage, garbage; operation of dumps; dead animal disposal; acid waste collection and disposal; malaria control and mosquito eradication; septic tank cleaning. s. 212.0592(22), F.S.

(S) SECURITY BROKER - Broker services involving the transfer of securities or commodities; security and commodity exchanges. However, broker services other than those involving the transfer of securities or commodities; investment or accounting services; and any financial service subject to tax when rendered by a financial institution are subject to tax. s. 212.0592(23), F.S.

(T) SOCIAL SERVICES - Social services (SIC Major Group 83) and other social services rendered pursuant to any contract between the provider and government including but not limited to: individual and family social counseling, welfare, or referral services (such as adoption services, marriage counseling services); manpower training and vocational rehabilitation and habilitation services for the unemployed, the underemployed, the handicapped (such as job counseling, job training, manpower training, vocational training agencies but not schools); infant or child care services (such as child care centers but not babysitting services, day care centers but not babysitting services, group care centers, nursery and preschool centers but not babysitting services); residential social and personal care services for children (such as boy's towns, children's boarding homes, foster homes, orphanages); and social services related to community improvement, social charged and neighborhood development. However, civic, social and fraternal organizations, political organizations and establishments which raise funds on a contract basis such as telephone solicitation services, united funds are not included. s. 212.0592(24), F.S.

(U) ATHLETICS - Renumeration paid to athletes for services related to participation in athletic or sports events and renumeration paid to owners of greyhounds or racehorses for participation in pari-mutual events, and consideration paid for the right to broadcast athletic or sports events at which admission is charged. However, paid to a race car owner from winning purse money at automobile races held in Florida is a consideration for services performed in Florida and subject to tax. s. 212.0592(25), F.S.

(V) REAL ESTATE COMMISSIONS - Real estate commissions when the seller of the property resides at the property offered for sale and the property is entitled to homestead exemption provided the property seller affirmatively demonstrates to the realtor at the time of signing the listing the property qualifies for the exemption. However, real estate commissions other than those associated with property at which the seller resided and which property was entitled to homestead exemption is subject to tax. s. 212.0592(26), F.S.

(W) LEGAL SERVICES - Legal services to the extent that the right to counsel is constitutionally guaranteed, but only if client is found not guilty or if criminal charges are dismissed (however, this exemption shall only be granted pursuant to a refund of previously paid taxes); legal services to a natural person, which relate to child support, child custody, adoption, divorce, guardianship, juvenile cases, landlord/tenant relations, mobile home rentals, enforcement of civil rights or recovery of past or future medical expenses, but only to the extent of $500 in services per person per calendar year. s. 212.0592(27), F.S.
(X) BANKING - Banking organization services in the connection with international banking transactions. s. 212.0592(28), F.S.

(Y) RESEARCH AND DEVELOPMENT - Research and development services associated with the basic research in a scientific field of endeavor, advancing knowledge or technology in a scientific or technical field of endeavor, the development of a new product, the improvement of an existing product, the development of new uses of an existing product, and the design and development of prototypes. However, the exemption does not include: ordinary testing or inspection of materials or products used for quality control, market research, efficiency surveys, consumer surveys, advertising and promotions, management studies, or research in connection with literary, historical, social science, psychological, or other nontechnical activities. s. 212.0592(30), F.S.

(Z) RELIGIOUS SERVICES - Religious services, provided by religious organizations, religious institutions, or religious leaders. However services which, though altruistic and meritorious, which are not performed by religious organizations, institutions, or leaders are taxable, (such as a wedding performed by a notary). s. 212.0592(31), F.S.

(AA) TELECOMMUNICATIONS - Any service performed by or through interstate telecommunications by a holder of a direct pay permit issued to a person for interstate telecommunications services when a majority of such services used by such person are for communications originating outside of Florida and terminating in Florida. s. 212.0592(32), F.S.

(BB) ROYALTIES - Royalties paid by a franchisee or received by a franchisor for use of intangible property, or contributions to a marketing fund or account administered by a franchisor that are used solely for the purchase of advertising benefiting franchisees or for administering the fund. However, contributions to a marketing fund or account which contributions are not used solely for the purchase of advertising benefiting franchisees or for administration of the fund are taxable. s. 212.0593(34), F.S.

(CC) DATA PROCESSING - Data processing services performed for a financial institution by a service corporation of a financial institution providing certain requirements are met. s. 212.0592(35), F.S.

(DD) LAUNDRY - Personal laundry services sold to residents of any facility which provides nursing services and which is licensed facility. A facility means any institution, building, residence, private home, or other place, which undertakes to provide for a period exceeding 24 hour nursing care, personal care, or custodial care for 3 or more persons not related to the owner, who by reason of illness, physical infirmity, or advanced age require such service, but does not include any place providing care and treatment primarily for accurately ill. A facility offering services for fewer than 3 person is also required to be licensed if it holds itself out to the public as an establishment which regularly provides such services. s. 212.0592(36), F.S.

(EE) INDUSTRIAL EQUIPMENT - The tax on services in excess of $100,000 of tax per year which is related directly and exclusively for maintenance, retrofitting, repair, or replacement of machinery and equipment which is "section 38 property"
as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code at fixed
definitions, provided such machinery and equipment is used to manufacture, process,
produce, fabricate, or prepare for shipment items of tangible personal property
for sale. However, the exemption does not apply to services used for
maintenance, retrofitting, repair, or replacement of machinery and equipment
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 sales items of tangible personal property. s. 212.0592(37), F.S.

FF) OIL AND GAS - Oil and gas field services, which include, but is not limited
to, drilling services, well services, exploration services; pipeline
transportation of petroleum and other commodities; natural gas, mixed
manufactured or liquefied petroleum gas pipeline transportation services. s. 212.0592(38), F.S.

GG) BEAUTY SHOP - Beauty shop services, barber shop services and hair styling
services. s. 212.0592(40), F.S.

HH) EMPLOYEE LEASING - Employee leasing services which provide the personal
to perform a range of services on a contract or fee basis, within another
business establishment, to the extent that the charge for such services consists
of payroll and related employment benefits paid or provided to the leased
employees. However, the exemption does not apply to employment agency services,
temporary help supply services, janitorial services, guard services, management
services, or similar personnel services. s. 212.0592(41), F.S.

II) TRUCKING AND WAREHOUSE - Local and long distance trucking and warehousing
services, including motor terminal services, however trucking services related
to sanitary services are taxable except when rendered to residential households
or owners of residential models. Likewise, taxable are warehousing services
which would have been taxable if performed on January 1, 1987 such as the lease
or license to use real property. s. 212.0592(19), F.S.

JJ) LOCAL AND SUBURBAN TRANSPORTATION - Local and suburban passenger
transportation services, including taxis, bus lines, street railway, airport
transportation, elevated railways; intercity and rural highway transportation;
hearse and limousine rental, with drivers; and ambulance services. However,
the exemption does not include: sightseeing buses; aerial trams; automobile
rentals, with or without drivers (except hearses and limousines, with drivers);
passenger transportation charter services; school buses; or passenger terminal
services. s. 212.0592(20), F.S.

KK) WATER TRANSPORTATION - Deep sea domestic and foreign transportation; towing
and tugboat services; marine cargo handling; piloting; ship cleaning, steamship
leasing; marine surveyors and ship repair and maintenance; storage of cargo
at port facilities; freight forwarding and arrangement of transportation of
freight and cargo; lighterage; processing and accessorizing of automobiles
imported through Florida ports; customhouse broker services connected with
cargo in international trade; customs bonded warehouse, container freight
consolidator or deconsolidator services. However, the exemption does not include
ferry services across rivers or within harbors; excursion boat, sightseeing boat, charter boats, water taxi or swamp buggy services; admissions to boats, such as for the privilege of fishing. s. 212.0592(21), F.S.

(LL) TRAVEL AGENTS - Services of travel agents related to arrangement of transportation and accommodations. However, travel agent services not related to lodging accommodations, and transportation cost are subject to tax. s. 212.0592(29), F.S.

(MM) TAXICABS - Taxicab transportation. s. 212.0592(33), F.S.

(PP) FOOD AND AGRICULTURAL BROKERS - Food or other agricultural broker services for horticultural, viticultural, forestry, aquatic, dairy, livestock, poultry, bee, and any farm product. Food or other agricultural broker services are services performed by a person who solicits, negotiates, or arranges for the transfer, transportation, purchase, or sale of agricultural commodities, including processed agricultural commodities. s. 212.0592(7)(b), F.S.

Section 4. S. 212.0593, Pages 25-26, ADMINISTRATION

EXEMPTION PURCHASE PERMITS, EXEMPTION AFFIDAVITS - In order to qualify for the exemption: multistate businesses having nexus with Florida must obtain from the Department an exempt purchase permit and self accrue the tax, s. 212.0593(1), F.S.; businesses without Florida nexus and individuals who are residents of another state must obtain from the Department an exempt purchase permit and consent to jurisdiction of Florida only for purposes of the service tax, or execute an exemption affidavit on a form prescribed by the Department s. 212.0593(2), F.S. The dealer is required to maintain a monthly log showing each transaction for which sales tax was not collected because of the presentation of an exempt purchase permit or exempt affidavit, s. 212.0593(3), F.S. If a purchaser fails to obtain an exempt purchase permit or fails execute an exempt purchase affidavit, the purchaser may obtain a refund from the state within one (1) year of the purchaser's payment of the tax, provided the transaction qualifies for the exemption and an exempt purchase affidavit is submitted with the refund request, s. 212.0593(4), F.S.

Section 5. S. 212.0594, Pages 27-30, CONSTRUCTION SERVICES

Notwithstanding other provisions the following provisions apply to construction services.

1. Prime contractors and subcontractors are not required to collect tax but must pay tax on building materials. s. 212.0594(1)(3), F.S.
2. Prime contractors for new construction is considered the consumer of construction services consumed in improving realty. s. 212.0594(3), F.S.

3. The tax due on construction services purchased by a prime contractor are due and payable by the prime contractor at the time consideration is paid for such services. s. 212.0594(2), F.S. The tax on purchases of construction services by the prime contractors is based on the total consideration paid to the subcontractor. However, if the subcontractor, itemized and states the price paid for building materials, the amount paid for such materials may be deducted. s. 212.0594(6), F.S.

4. In respect construction services of any prime contractor with respect to new construction for himself or others, the tax is based upon the cost price of the services provided, without any deduction on account of cost of materials or supplies used, labor costs, service costs, or transportation costs. However, the cost of building materials purchased by the prime contractor and amounts paid to subcontractors upon which a sales tax has been paid shall be deducted when computing the cost price. The tax is due and payable at the time the consideration is paid for such services or within 30 days after the certificate of occupancy is issued, whichever is sooner. s. 212.0594(8), F.S.

5. The occasional or isolated sale of service provisions do not apply to construction services. ss. 212.0592(3), 212.0594(4), F.S.

6. The sale for resale provisions do not apply to construction services. s. 212.0594(5), F.S.

7. For construction services, other than new construction, the tax is based on the total consideration paid to the prime contractor less any consideration paid by the prime to subcontractors, unless the contract between the owner and the prime contractor specifically describes and itemizes the cost of building materials in which case the tax shall be computed separately on the cost of construction services and the regular retail sales price of the building materials. s. 212.0594(7), F.S.

8. The owner of real property is considered the final consumer of construction services other than those related to new construction. s. 212.0594(3), F.S.

9. The retail sale of new construction for which a prime contractor has paid tax is not subject to tax. s. 212.0594(8), F.S.

10. A certificate of occupancy for new construction shall not be issued until the prime contractor certifies, on forms promulgated by the department, that the new construction is substantially complete. s. 212.0594(9), F.S.

11. Construction services which such services directly relate to improvements to real property includes:
   a. physical fabrication, modification, or repair of improvements to realty;
   b. engineering, architecture, and land surveying;
   c. land management, consulting, or public relations services; and
   d. drafting and interior design services. s. 212.0594(10)(e), F.S.

12. Prime contractor is defined to mean a person entering into a contract for the improvement of realty with the person for whose benefit the realty is being improved, and means any person who manufactures factory-built buildings. When new construction is undertaken on speculation or for one's own use, the person responsible for the undertaking shall be considered the prime contractor. s. 212.0594(10)(a), F.S.

13. Subcontractor is defined to mean a person entering into a contract for the improvement of realty with a prime contractor or with another subcontractor. s. 212.0594(10)(b), F.S.
14. New construction is defined to mean factory-built buildings and any improvement to realty, but does not include any addition or further improvement to existing improvements to realty unless a building permit is required for such addition or further improvements. s. 212.0594(10)(c), F.S.

15. Building materials is defined to mean tangible personal property physically incorporated into improvements to realty whether through new construction or addition or repair. s. 212.0594(10)(d), F.S.

Section 6. S. 212.0595, Pages 30-32, ADVERTISING TAX

The following special provisions apply to advertising:

(A) TAX RATE - A tax is imposed at the rate of 5% of the sales price or cost price on advertising sold or used in Florida. s. 212.0595(1), F.S.

(B) SALE IN FLORIDA - Advertising is deemed to have been sold in Florida if the greater proportion of the advertising is performed within Florida based on costs of performance. s. 212.0595(2), F.S. Cost of performance means direct costs determined pursuant to s. 212.02(6), F.S. The tax shall be collected and remitted by the advertising media provider. s. 212.0596(4), F.S., (ad agency or media itself). See (D) for apportionment when advertising is sold in Florida.

(C) USE IN FLORIDA - Advertising is deemed to have been used in Florida if it was sold outside Florida for consumption in Florida. s. 212.0595(3), F.S. When advertising is not sold in Florida, but is used in Florida, the advertiser shall self-accrue the tax and remit it directly to the Department. s. 212.0595(6), F.S. See (D) for apportionment.

(D) APPORTIONMENT OF TAX - The sales price of the sale of advertising, or the cost price of the use of advertising, shall be apportioned to Florida as follows: s. 212.0595(4)(a), F.S.:

1. The measure of the tax for print or broadcast media shall include that proportion of the sales price or cost price which is equal to the proportion of market coverage within Florida to the total U.S. market coverage for the most recent completed accounting year of the service provider. s. 212.0595(4)(a), F.S.

2. In the case of new or restructured print or broadcast media service providers, the department may prescribe another time period or proportion that fairly reflects Florida market coverage. s. 212.0595(4)(a), F.S.

3. For advertising other than print or broadcast media, the department shall establish by rule a method for apportioning advertising sold or used in Florida. s. 212.0595(4)(c), F.S.

4. In the case of print media, "market coverage" means average circulation measured as prescribed by the department by rule. In the case of broadcast media, "market coverage" means population within the signal reception area of the broadcaster measured as prescribed by the department by rule. s. 212.0595(4)(b), F.S.

(E) RESALE - When advertising is purchased and resold, the person reselling the advertising may deduct the amount paid for advertising from the total charge and collect tax only on the difference. s. 212.0595(7), F.S.
(F) RECORDS - The advertising media is not required to furnish the department a listing of persons placing advertising. s. 212.0595(8), F.S.

(G) CONTRACTS PRIOR TO APRIL 1st - Advertising contracts for more than 2 years entered into prior to April 1, 1987, are exempt until expiration of the contract. s. 212.0595(9), F.S.

Section 7. DEFINITIONS - Alphabetizes, amends and adds definitions under s. 212.02 to provide:

(A) AFFILIATED GROUP - Page 32, (2) defines "affiliated group"

(B) BUSINESS - Page 33, (3) amends "business" to provide that except for the sales of any aircraft, boat, mobile home, or motor vehicle, the term "business" shall not be construed to include occasional or isolated sales or transactions involving tangible personal property or service. Section 212.0594(4), page 27 provides the occasional or isolated sale of service exempt provided in s. 212.0592(3), page 15, does not apply to construction services.

(C) COST PRICE, COST OF PERFORMANCE, EMPLOYEE, AND EMPLOYER - Page 34, (5), redefines "cost price" to mean the actual cost of articles of tangible personal property or services without any deductions whatsoever; (6), (8) & (9) define "costs of performance", "employee" and "employer", respectively.

(D) LEASE OF REAL PROPERTY - Page 37, (6)(g), amends the term "lease", "let" or "rental" to provide that the certain rental charges of railroad cars when used on tracks of another railroad is not a "lease", "let", or "rental", thus creating an exemption from tax on those transactions. Chapter 86-166, L.O.F., deleted that language; language restated in Chapter 87-6, L.O.F.

(E) REAL PROPERTY

1. (6)(h)4., provides that certain recreational property or common elements of condominiums are not leases of real property subject to commercial rental tax. The language was repealed in Chapter 86-166, L.O.F.

2. Page 38, (6)(h)9., excludes the terms "lease", "let" or "rental" of real property subject to tax, property used as an integral part of the performance of qualified production services as defined in s. 212.0592(18)(a).

3. (6)(h)10., excludes from the term "real property", leases, subleased or rented property 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.

(F) RETAIL SALE AND SALE FOR RETAIL - Page 39, (19), amends retail sales to provide a retail sale does not include fee-sharing between real estate agents and real estate brokers. A sale of a service can be considered a sale for resale only if:

a) purchaser does not use or consume a service but is only a broker or intermediately for his customer;

b) service is brought pursuant to written contract specifically identifying client or customer for whom service is purchased;
c) purchaser separately states the value of the service purchased at his purchase price in the purchaser's charge on its subsequent sale;

d) the service when value separately stated will be taxes in a separate sale;

e) service is purchased pursuant to a service resale permit by a person primarily engaged in the business of selling services;

1. permit issued by Department of Revenue
2. renewal every 5 years.

For telecommunication services, a sale to anyone other than an end user (only when relating to a right of access for which an access charge is made) is a sale for resale.

(G) GROSS SALES - Page 41, (19)(d), amends the term gross sales to include sum total of all sales of tangible personal property or services....

(H) SALE - Page 42, (20)(f), amends definition of "sale" to include any transfer, provision, or rendering of service for a consideration.

(I) SALES PRICE - Page 42, (21), "sales price" redefined to mean total amount paid for tangible personal property or services. Chapter 86-166, L.O.F., amended same section to provide that sales price include the consideration for a transaction which requires parts or labor. (It did read parts and labor)

(J) SERVICE - Page 41, (22), the term "service" or "services" is defined to include certain activities, including those listed in the SIC manual and found on pages 42, lines 31 thru page 45, line 2.


(L) TANGIBLE PERSONAL PROPERTY - Page 46, (26), amends the definition of "tangible personal property" to provide that factory-built buildings doing construction or thereafter is not considered to be tangible personal property.

(M) USE - (27), amends the term "use" to also mean "the consumption or enjoyment of the benefit of services".

(N) USE TAX - (28), use tax is redefined to mean the use...of tangible personal property or service.

Section 8. S. 212.031, Pages 46-47, LEASE, RENTAL, OR LICENSE TO USE REAL PROPERTY, provides the following real property is not subject to tax.

1. Recreational property or common elements of condominium when subject to a lease between the developer or owner and the condominium association;

2. Property used as an integral part of the performance of qualified production services relating to production of motion picture; and

3. Leased, subleased, or rented to persons providing food and drink concessionaire services within the premises of an airport, movie theater, business operating permit issued pursuant to Chapter 550 (Dog racing and horse racing) or Chapter 551 (FRONTONS) or any publicly owned area, sports stadium, convention hall, or exhibition hall.
Section 9. S. 212.04, ADMISSIONS

(A) ATHLETIC EVENTS - Page 48, (2)(a)1., repeals the exemption on admissions to athletic or other events sponsored by educational institutions, and other groups when institutions or other groups talents are utilized.

(B) DUES, MEMBERSHIP FEES, ADMISSION CHARGE - (2)(a)2., repeals exemption on dues, membership fees, and admissions imposed by sponsoring organizations or community or recreational facilities qualified as not-for-profit 501(c)(3), I.R.C., organizations. However, membership dues and fees paid such organizations are exempt provided such organizations are not-for-profit corporations under Chapter 617 or a comparable law of another state or are exempt organizations under the Internal Revenue Code.

(C) STUDENT PARTICIPATION - (2)(a)3., repeals the exemption on admissions paid by students who are required to participate in a school sponsored recreational course which charges an admission.

(D) NFL FOOTBALL - (2)(a)4., provides no tax shall be levied on admissions to NFL championship games.

Section 10. S. 212.05, F.S., VESSELS/AIRCRAFT/COMMERCIAL MOTOR VEHICLES, LAUNDRY AND DRY CLEANING

(A) VESSELS AND AIRCRAFT - Pages 50 & 51, 212.05(1)(a)2., reenacts the exemption or the sale of a vessel to an out-of-state purchaser if the out-of-state purchaser removes the vessel within 10 days after purchase or within 10 days after repairs. Expands the exemption to include aircraft.

(B) LONG TERM LEASES COMMERCIAL MOTOR VEHICLES - Page 51, (1)(c), reinstates the provision that allows motor vehicle dealers to pay tax up-front on long term leases (12 months or more to same lessee). Limit option to commercial motor vehicles weighing 10,000 pounds or more.

(C) LAUNDRY AND DRY CLEANING - Page 55, (1)(i), repeals the tax on charges for cleaning laundry, and germent services as defined in group 721 of the SIC manual. Those charges are restated as taxable elsewhere, except receipts from coin operated laundries and coin operated dry cleaners and personal laundry services sold to residents of nursing home facilities will remain exempt. s. 212.0592(15)(36), F.S.

(D) SERVICES - (1)(i), repeals language imposing a tax on services. Language to tax such services is stated in Chapter 87-6, L.O.F.

Section 11. S. 212.054, F.S., DISCRETIONARY SALES SURTAX

Page 56, s. (3)(a), provides that the discretionary sales surtax is computed on services, the same as tangible personal property.

Section 12. S. 212.06, F.S., FABRICATION LABOR/DEALER/USE

(A) FABRICATION LABOR - Page 57, (1)(b), reinstates the exemption scheduled to be sunsetted on one's own fabrication labor or when used by a person engaged in producing or co-producing motion pictures.
(B) DEALER - Page 58, (2)(k), redefines dealers to include one who uses services.

(C) IMPORTATION FOR USE - Page 58, (4) & (7), provides that services purchased in another state and used in this state shall be taxable, the same as tangible personal property and that we recognized taxes that are lawfully paid in another state.

(D) RADIO AND TELEVISION BROADCASTING - s. 212.06(5)(a), the provision whereby it is not the intention to levy a tax on radio and television broadcasting repealed by s. 4 of Chapter 86-166.

Section 13. S. 212.07, MEASURE AND COLLECTION OF TAX

Page 59-61, s. 212.07(1)(a)(4)(9), F.S., provides that unless otherwise provided for, any dealer in services is responsible for charging and remitting tax in the same manner as dealers in tangible personal property and:

(1)(a) - The sale and use tax on services measured by the retail sale shall be collected by the dealers from the purchaser or consumer.

(4) - The dealer selling services may not advertise or hold out to the public that they will absorb the tax.

(9) - Any person who purchases taxable services and cannot prove the tax has been paid is liable for the tax, plus penalties and interest.

Section 14. S. 212.08, EXEMPTIONS

(A) MEDICAL - Page 62, s. 212.08(2), was amended to specifically exempt orthopedic shoes from tax.

Chapter 86-166, L.O.F., s. 5, removed the exemption on feminine hygiene products, such as, sanitary panties, sanitary belts, sanitary napkins, and sanitary tampons.

(B) NEW OR EXPANDING BUSINESS - Page 62-65, (5)(b), provides that service to install new and expanding business property will be exempt, the same as tangible personal property.

(C) PRODUCTION OF ELECTRICAL ENERGY - Page 65-66, (5)(c), provides that services to install machinery and equipment used in the production of steam or electrical energy will be exempt from tax the same as tangible personal property.

(D) FEDERAL PROCUREMENT CONTRACTS - Page 66-68, (5)(d), provides that services to install certain machinery and equipment used under federal procurement contracts will be exempt from tax, the same as tangible personal property.

(E) GOVERNMENT PURCHASES/FILM RENTAL - Page 69, (6), reinstates provisions that sales directly to a governmental entity is exempt but sales made to an employee of a governmental entity is taxable, whether or not the governmental entity reimburses such employee.

This was eventually dropped out in Chapter 86-152, L.O.F., amendment deletes the exemption of film rentals, when an admission is charged. This was picked back up in s. 212.08(7)(e), F.S.
Page 70, s. 212.08(7)(e), exempts film rentals when an admission is charged for viewing such films. Also exempts licenses fees and direct charges for films, video tapes and transcripts used by television or radio stations or networks. However, this does not exempt the sale or use of advertising.

(F) FLYABLE AIRCRAFT - Page 78, s. 212.08(11), this section was repealed by Chapter 86-166, L.O.F. Chapter 86-7, L.O.F., reenacted subsection (11) which imposes the tax on sales of flyable aircraft by a manufacturer to an out-of-state resident at the rate of the out-of-state resident's state. Removes 10% dealer's collection allowance given to manufacturer. See s. 212.05(1)(a)2., as created by Chapter 87-6, pages 50-51, for additional requirements.

(G) PROFESSIONAL SERVICES - s. 212.08(7)(d)1., the exemption for professional, insurance, or personal service transactions involving sales of incensequential elements of tangible personal property repealed by s. 8 of Chapter 86-166.

(H) INFORMATION SERVICES - s. 212.08(7)(d)2., the exemption for the sale of information services to newspapers and radio and television stations repealed by s. 8 of Chapter 86-166.

(I) SOLAR ENERGY - s. 212.08(7)(o), the exemption for solar energy systems and components repealed by s. 8 of Chapter 86-166.

Section 15. S. 212.095, PERMITS FOR REFUNDS OF PREVIOUSLY PAID TAX

Page 80, s. 212.095(3)(a), the same requirements on obtaining a refund on tangible personal property apply to services.

Page 81, (6)(a), provides that an attorney or CPA may assist their client in obtaining a refund, notwithstanding that the law provides that a dealer may not assist the purchaser in obtaining a refund.

Section 16. S. 212.11, TAX RETURNS AND REGULATIONS

(A) ESTIMATED TAX - Page 88, s. 212.11(1)3., provides that every person who is required to first remit taxes to the department on or after July 1, 1987 shall not be subject to the estimated sales tax.

(B) QUARTERLY FILING - Page 83, s. 212.11(1)(d), authorizes quarterly payments for service dealers beginning October 1, 1987, provided the dealer's tax collections for the three previous months are less than $500 per month. If either month goes over the threshold, the dealer will be required to file monthly.

Section 17. S. 212.12, DEALER'S CREDIT FOR COLLECTION TAX

(A) COLLECTION ALLOWANCE - Page 84, s 212.12(1), provides that effective July 1, 1988, only one dealer's collection allowance may be given for all taxes or fees collected on one tax return.

(B) REPORTING TAX - Page 86, s. 212.12(1)(b), provides that, effective January 1, 1988, 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.
Section 18. S. 212.13, RECORDS

Paged 88-89, s. 212.13(2)(3)(4), provides that records required to be kept; powers to inspect and audit procedures will apply to service in the same manner as tangible personal property.

Section 19. S. 212.14, DEPARTMENT POWERS

Page 90-91, s. 212.14(1), provides that the departmental powers; hearings, subpoena; distress warrants; time for assessments shall apply to service dealers the same as other dealers.

Section 20. S. 212.17, RETURNED PAYMENTS/BAD DEBTS

Page 91, s. 212.17(3)(7), provides that the credit for return services shall apply to in the same manner as the return of returned goods.

Section 21. S. 212.18, ADMINISTRATION OF LAW

Page 92-93, s. 212.18(3), prohibits a person from engaging in the business of selling taxable services without having obtained a certificate of registration or after such certificate has been cancelled.

Section 22. S. 212.21, LEGISLATIVE INTENT

Page 94, s. 212.21(3), provides that it is the legislative intent that each and every taxable service made subject to the tax, unless the service is specifically exempt.

Section 23. S. 212.61, DEFINITIONS FUEL TAX

Page 94-96, s. 212.61, the definition renumbered in part I of Chapter 212, that are referenced in part II have been renumbered.

Section 24. S. 212.235, INFRACTION TRUST FUND

Page 96-97, s. 212.235, provides for infrastructure trust funding collection of revenues and distribution of same for the purpose of:

(a) acquiring the right-of-way for and constructing state highways and bridges;
(b) constructing public education capital facilities;
(c) financing state projects for beach restoration or renourishment or lake or river restoration;
(d) constructing state correctional facilities;
(e) constructing other infrastructure projects; or
(f) issuing revenue bonds to finance state capital outlay projects authorized.
Section 25. REENACTMENT OF EXEMPTIONS

Page 97, reenacted the following exemptions or partial exemptions repealed by Chapter 86-166, L.O.F.:
1) subsections 212.031(6)(7) -
   (6) - "sublease space to a convention hall or travel show"; and
   (7) - "The prime lease to a show promoter"
2) Sections 212.08(7)(f)(n) and (q) -
   (f) - "volunteer fire department equipment";
   (n) - "resource recovery equipment"
   (q) - "State Theatre Program Facilities"
3) Sections 212.08(5)(g)(h), (10), (11) & (15) -
   (5)(g) - enterprise zone building materials;
   (5)(h) - enterprise zone business property;
   (10) - sales of motor vehicles to out-of-state residents;
   (11) - sales of flyable aircraft by manufacturers to an out-of-state resident; and
   (15) - enterprise zone electrical energy.
4) Section 212.096 Enterprise Zone Jobs Credits

Section 32. DIRECT PAY AUTHORITY

Page 101-102, repeals Rule 12A-1.091(6) and provides for self authority for certain dealers under 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 types of tangible personal property whose taxable status will be known only upon use because the purchaser, by virtue of the normal characteristics of his trade or business, regularly consumes the type of property as a supply as well as sells it for resale; and
(5) For commercial rentals where the purchaser rents from a number of independent property owners who, apart from rentals to the purchaser in question, would otherwise not be obligated to register as dealers.

Section 33. Page 102, EMERGENCY RULES

The Department is authorized to adopt emergency rule and such rules shall remain effective for 6 months from the date of adoption.

Section 36. Page 104, WAIVER FOR PENALTY AND INTEREST

(A) PENALTY - Delinquent penalties shall be waived for returns for taxes due and payable on newly imposed services for the period between July 1, 1987 and September 30, 1987.

(B) INTEREST - Interest may be waived for taxes due and payable on newly imposed services for the period between July 1, 1987 and September 30, 1987.
Section 37. Page 104, SERVICE TRANSITION RULE

(A) When a service taxable beginning July 1, 1987, is provided prior to July 1, 1987, it is not subject to tax, regardless when payment for the service is made.

(B) When a service taxable beginning July 1, 1987, is provided after July 1, 1987, it is subject to tax, unless prepaid in full prior to April 1, 1987.

(C) When a service taxable beginning July 1, 1987, is provided over a period of time beginning prior to July 1, 1987 and ending after July 1, 1987, it is subject to tax only upon that portion of the service provided on or after July 1, 1987.

Section 38. Page 104, ATTORNEY OR CPA IDENTIFICATION OF CLIENT

An attorney or a CPA is not required to reveal the identity of any client for any reason.

Section 47. Pages 114-115, STUDY OF SERVICE TRANSACTION

The department is required to identify these service transactions not taxable pursuant to the definition of service in s. 212.02 and on or before March 1, 1988, to make a report to the Governor and the Legislature on all such service transactions so identified.

Section 48. Pages 115-116, AMNESTY PROGRAM

No later than January 1, 1988, a tax amnesty program is required to be developed and implemented.

Section 49. S. 95.091, Pages 116-118, LIMITATION OF ACTIONS TO COLLECT TAXES

(A) Tax liens 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. s. 95.091(1)(b), F.S.

(B) Tax, penalty, or interest may be determined and assessed:

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. s. 95.091(3)(a)1., F.S.;

2. Within 6 years after the date a taxpayer either makes a substantial underpayment of tax or files a substantially incorrect return. s. 95.091(3)(a)2, F.S.;

3. At any time while the right to a refund or credit of the tax is available to the taxpayer. s. 95.091(3)(a)3, F.S.;

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. s. 95.091(3)(a)4., F.S.; 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 indicated by fraud or the misrepresentation of a material fact. s. 95.091(3)(a)5., F.S.
The limitations of (B) above are tolled for a period of 2 years if the department has issued a notice of intent to conduct an audit or investigation of the taxpayer's account. s. 95.091(3)(b), F.S.

Section 56. S. 214.51, pages 126-127, COLLECTION PROCEDURES

The department may demand payment and issue a warrant to levy and such warrant is valid for 20 years after the filing of the notice of lien.

Section 58. ASSESSMENT OF TAX

Effective July 1, 1988, subsection (6) of section 212.14, F.S., which provides the amount of any tax may be determined and assessed within 3 years after the 1st day of the month following the date on which the tax becomes delinquent is repealed.

Section 59. S. 212.08(5)(b), pages 128-132, EXEMPTION/MACHINERY AND EQUIPMENT USED TO INCREASE PRODUCTIVE OUTPUT

Effective July 1, 1988, the provision whereby the department had 4 years from the date of delivery or date of receipt of the temporary tax permit to perform an audit is repealed. s. 212.08(5)(b)3.b., F.S.

Section 60. S. 214.04, page 132, LIMITATION OF ASSESSMENT

Effective July 1, 1988, no deficiency shall be assessed with respect to a taxable year for which a return was filed unless a notice of deficiency for such year was issued not later than the date prescribed in s. 95.091(3), F.S. See Section 49. for provisions of s. 95.091(3), F.S.

Sections 61, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93. SS. 125.0104, 212.0305, 212.05, 212.054, 212.07, 212.085, 212.10, 212.12, 212.13, 212.14, 212.15, 212.18, 212.62, TOURIST DEVELOPMENT; CONVENTION DEVELOPMENT TAX; DISCRETIONARY SALES SURTAX; SALES AND USE TAX

(A) Effective July 1, 1988, provides penalties for certain tax crimes are felonies of the third degree rather than misdemeanors of the second degree.

(B) Effective July 1, 1988, the 5% delinquent penalty for failure to pay the tax due within the time required is increased from a total of 25% in the aggregate, to a total of 100%, in the aggregate, of any unpaid tax. s. 212.12(2)(a), F.S., page 154.

Section 99. S. 213.30, page 164, COMPENSATION FOR INFORMATION

Provides the department, pursuant to rules, is authorized to compensate persons providing information to the department leading to the punishment of, or collection of taxes, penalties, or interest from the person committing the crime. The amount of such payment may not exceed 10% of any tax, penalties, or interest collected as a result of such information.
Section 100. S. 213.70, page 165, PRIORITY OF TAX WARRANTS

Effective July 1, 1988, all tax warrants, levies, and executions issued or obtained by the department and filed, recorded, or docketed are entitled to first priority.

Section 101. S. 213.71, pages 165-167, SEIZURE OF PROPERTY

Effective July 1, 1988, the department may levy upon all real property, tangible or intangible personal property, and right to property of any person on which there is a tax lien, except property subject to exemption under Chapter 222, (homestead).

Section 102. S. 213.72, pages 167-168, SALE OF SEIZED PROPERTY

Effective July 1, 1988, the department is authorized to publish notices to sell seized property.

Section 103. S. 213.73, pages 168-169, MANNER AND CONDITIONS OF SALE OF PROPERTY

Effective July 1, 1988, the department is authorized to determine minimum price of property and sell seized property. The department is required to prescribe by rule the manner and other conditions of the sale of property seized.

Section 104. S. 213.74, pages 169-171, CERTIFICATE OF SALE

Effective July 1, 1988, the department is required to give the purchaser of the seized property a certificate of sale, a deed of the real property, etc.

Section 105. S. 213.75, pages 172-173, APPLICATION OF PAYMENTS

Effective July 1, 1988, when payment is made to the department, such payment shall be applied in specific manners.

Section 106. S. 213.76, pages 173-175, FREEZING OF ASSETS AND OBLIGATIONS

Effective July 1, 1988, the department is authorized to freeze assets and obligations of any person obligated to pay a tax when such tax is delinquent.

Section 107. Page 175, APPROPRIATION

Sums are appropriated for purpose of advertising and providing public notice of the tax amnesty programs and for personnel and expenses related to the tax amnesty program.

Section 108. Page 175, SALES TAX HOT-LINE

Effective July 1, 1988, the department is directed to provide for a sales tax hot-line to provide information to citizens of the state having questions with respect to sales tax.
Section 109. Page 175, INVALIDITY

If the provisions of the act or application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of act.

Section 110. Page 175, EFFECTIVE DATE

The provisions of the act take effect July 1, 1987, except as otherwise provided.
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<td>Sales and Use Tax on Services</td>
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<td>1. Retail sale of service</td>
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<td>2. Use of service</td>
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17. Maintenance assessments to homeowners association
18. Membership dues to not-for-profit corporations
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21. Local and suburban passenger transportation/ambulance and hearse
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26. Renumeration paid to athletes
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29. Services provided by a banking organization
30. Travel agents
31. Research and development
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33. Interstate telecommunications by a holder of direct payment
34. Taxicab
35. Payment by a franchisee, or receipt by franchisor, or royalties for use of
   intangible property
36. Data processing services performed for financial institution
37. Personal laundry services sold to residents of nursing homes
38. Services for maintenance of machinery and equipment
39. Oil and gas field services
40. Rail transportation services
41. Beauty and barber services
42. Employee leasing

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Administration

1. Multistate business having nexus required to have exempt purchase permit

7/1/87
2. Business or group of businesses without nexus, and individual resident of another state claiming exemption required to have exempt purchase permit or present exempt purchase affidavit
3. Dealer monthly log of exemption sales
4. Refund if exempt purchase permit or exempt purchase affidavit not presented

**Construction Services**

1. Prime contractor and subcontractor not required to collect tax on service but must pay tax on materials
2. Prime contractors for new construction is considered the consumer of construction services
3. When tax due and payable
4. No occasional sale
5. Sale for resale does not apply
6. Basic of tax
7. Certificate of occupancy

**Advertising**

1. Rate of tax
2. Sale in Florida, based on cost of performance
3. Use in Florida, advertiser self-accrual
4. Apportionment of tax
5. Records
6. Contracts prior to April 1, 1987

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<td>Real Estate</td>
<td>Develope statement to be signed by seller of real property affirmatively demonstrating to the realtor that at the time of listing seller resided at the property and the property was entitled to homestead exemption - Page 21, s. 212.0592(26)</td>
</tr>
<tr>
<td>Laundry</td>
<td>Develope statement to be signed by residents of nursing homes to purchase personal laundry services tax exempt - Page 23, s. 212.0592(36)</td>
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<tr>
<td>Contractor</td>
<td>Develope contractors certification form to be used when certifying that new construction is substantially complete. This form is to be supplied by the department to the local governments, and completed by prime contractors and returned to the department monthly by the local governments - Page 29, s. 212.0594</td>
</tr>
<tr>
<td>Exempt Purchase Permit</td>
<td>Develope exempt purchase permit to be used by: (a) multistate state businesses having tax nexus in Florida; (b) businesses without tax nexus in Florida; and, (c) individual residents of other states, claiming exemption on services sold in Florida for use outside Florida - Page 25, s. 212.0593(1)(2)</td>
</tr>
<tr>
<td>Exempt Purchase Affidavit</td>
<td>Develope exempt purchase affidavit form to be used by businesses without tax nexus in Florida and individual residents of other states claiming exemption on services sold in Florida for use outside Florida - Page 25, s. 212.0593(2)</td>
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<tr>
<td>Exempt Purchase Log</td>
<td>Develope suggested monthly log to be used by service providers showing each transaction for which sales tax was not collected because of the presentation of an exempt purchase permit or exempt purchase affidavit - Page 26, s. 212.0593(3)</td>
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<td>Resale Permit</td>
<td>Develope service resale permits - Page 39-40, s. 212.02(19)</td>
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<td>Prime Contractor, contracts entered into prior to May 1, 1987</td>
<td>Develope application to be utilized by prime contractors which have entered into written contracts prior to May 1, 1987, for the purchase of services before June 30, 1988, for which the prime contractor is not required to remit taxes - Page 100, s. 31</td>
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<tr>
<td>Self-accrual</td>
<td>Prepare letter or permit authorizing certain dealers to self-accrue tax - Page 101, s. 32</td>
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<td>Form</td>
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<td>Sales Tax Return DR-15</td>
<td>Revise sales tax return so that amounts of gross sales, taxable sales, taxable purchases, tax collected or due is reported by major sales sources: services; tangible personal property; admissions transient rentals; commercial leases or licenses; and agricultural equipment - Page 85, s. 212.12(1)(b).2.</td>
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<tr>
<td>Sales and Local Option Return - DR-15L, DR-15LM &amp; DR-15LS</td>
<td>Revise sales, use and local option return to reflect the collection allowance is 3% of the first $1,000 of tax due and remitted on the return, rather than 3% of the first $1,000 of tax due for each tax remitted - Page 84, s. 212.12(1)</td>
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<tr>
<td>Sales and Local Option Returns - DR-15, DR-15L, DR-15LM, etc.</td>
<td>Revise sales, use and local option return estimated tax instructions to reflect dealers required to first remit taxes on or after 7/1/87 are not subject to estimated tax filing requirements - Page 88, s. 212.11(1)(3)</td>
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<tr>
<td>Sales and Local Option Returns - DR-15, DR-15L, etc.</td>
<td>Revise sales, use, and local option return penalty instructions to reflect of 100% in the aggregate, rather than 25% - Page 154, s. 212.12(2)(a)</td>
</tr>
<tr>
<td>Notice of Tax Action, DR-100; Notice to Make Audit Changes, DR-50; Notice to Make Audit Changes, DR-1200; Finding of Fact, DR-48; Audit Check List, DR-56; Apportionment of 5th Cent Sales Tax, DR-51; Consent Extending Statute of Limitation, DR-672; Any other tax action, assessment or contest form used by the department</td>
<td>Revise public use forms relating to actions of taxpayers rights</td>
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</table>

The following changes may have an impact on forms.

Effective 7/1/87, procedures for administrative proceeding to contest the legality of any assessment of tax imposed for sales or use of services - Pages 113-114, s. 120.575(1)(b) | 7/1/87 |
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<tr>
<td></td>
<td>Effective 7/1/87, any tax lien granted by law to the state 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 - Pages 116-117, s. 95.091(1)(b)</td>
<td>7/1/87</td>
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<td>Effective 7/1/87, with the exception of taxes levied under Estate Tax (Chapter 198) and tax adjustments made for Florida Income Tax pursuant to s. 220.23, F.S., the department may determine and assess the amount of any tax, penalty, or interest. 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 crossly 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. - Page 117, s. 95.091(3)(a)</td>
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<td>Effective 7/1/87, the limitations for making a determination and assessing the amount of any tax, penalty, or interest as provided in s. 965.091(3)(a), shall be rolled for a period of 2 years if the department has issued a notice of intent to conduct an audit or investigation of the taxpayer's account - Page 117, s. 95.091(3)(b)</td>
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<td>Effective 7/1/87, any proceeding to foreclose shall be instituted not more than 20 years after the filing, or availability for filing, of the notice of lien - Page 125, s. 214.50</td>
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<td>Effective 7/1/87, no proceeding for a levy shall be commenced more than 20 years after the filing of the notice of lien - Page 126, s. 214.51</td>
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<td>Effective 7/1/88, s. 212.14(6) provides whereby any sales and use tax may be determined and assessed within 3 years after the first day of which tax becomes due and payable is repealed.</td>
<td>7/1/88</td>
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<tr>
<td>Form</td>
<td>Brief Description</td>
<td>Date Required</td>
<td>Date Completed</td>
<td>Assigned To</td>
</tr>
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<tr>
<td>DR-1</td>
<td>Revise Application for Registration and instructions so that service providers can make election to remit tax on cash or accrual basis, and to provide the capability for multistate businesses having nexus with Florida to obtain from the Department an exempt purchase permit</td>
<td>7/1/87</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type of Flyer</td>
<td>Send to</td>
<td>Subject Matter</td>
<td>When Needed</td>
<td>When Completed</td>
</tr>
<tr>
<td>---------------</td>
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</tr>
<tr>
<td>1) General flyer</td>
<td>All Service Dealers</td>
<td>Putting service providers on notice that they need to register</td>
<td></td>
<td>Completed</td>
</tr>
<tr>
<td>2) General flyer</td>
<td>All and Potential Dealers and DOR Personnel</td>
<td>Explaining all service and non-service provisions under Chapters 86-166, 87-6 that relate to Chapter 212</td>
<td></td>
<td>May 15th</td>
</tr>
<tr>
<td>3) Special flyer</td>
<td>Educational Institutions</td>
<td>a. Admissions to school athletic events when charge is made; b. Taxing admission when student participation is required for school sponsored recreational course; c. Taxing admission to events sponsored by 501(c)(3) IRC organizations; d. Taxing admissions to events sponsored by 170(c) IRC organizations; e. Taxing revenues from coin operated amusement machines; f. Taxing parking space as leases or licenses; g. Exempting receipts from tax coin operated laundry and coin operated dry cleaning machines; h. Exempting from tax, leases of food and drink concessionaires spaces, but not licenses of such spaces. i. Taxing computer services.</td>
<td></td>
<td>May 15th</td>
</tr>
</tbody>
</table>
4) Special flyer  City or Local Governments

- a) Taxing parks and recreation participation;
- b) Taxing bonding provisions;
- c) Taxing garbage, refuse and debris transportation and sanitary services; (commercial/not to residential households or owners of residential models);
- d) Taxing admission to events sponsored by 501(c)(3) & 170(C) organizations; and
- e) Exempting the lease of food and drink concessionaire space, but not the license of such space.

5) Special flyer  Newspaper Association; Newstands

- Taxing newspaper; address in-state and out-of-state sales.
- Tax collected by paperboy, use tax on out-of-state newspapers shipped in and sold.
- Taxing advertising and news clipping service.

6) Special flyer  Coin Operated Laundry Associations

- Coin operated laundries and coin operated dry cleaning establishments.
- Exempting from tax receipts from coin operated laundry and coin operated dry cleaning machines, (provide for taxing lease or license of space in facility).
- Taxing purchase or rental of machines.

7) Special flyer  Spa Association

- Health spas.
- Taxing health spa dues and memberships.

8) Special flyer  Southeast Fishermen Association

- Fishing vessels. Taxing admission to go aboard a vessel for privilege of fishing; taxing charter vessels
<table>
<thead>
<tr>
<th></th>
<th>Special flyer</th>
<th>Florida Bar Association</th>
<th>Legal services. Providing when legal services are taxable and exempt. Attorneys are not required to reveal their clients name or identity.</th>
<th>May 15th</th>
<th>T.A.</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Special flyer</td>
<td>FICPA</td>
<td>Accounting services. Taxing accounting services. CPA's are not required to reveal their clients name or identity.</td>
<td>May 15th</td>
<td>T.A.</td>
</tr>
<tr>
<td>11</td>
<td>Special flyer</td>
<td>Banking Association</td>
<td>Financial services. Providing when financial services are taxable and exempt.</td>
<td>May 15th</td>
<td>T.A.</td>
</tr>
<tr>
<td>12</td>
<td>Special flyer</td>
<td>Realtor Association</td>
<td>Realtors - Providing when realtor's services are taxable as exempt.</td>
<td>May 15th</td>
<td>T.A.</td>
</tr>
<tr>
<td>13</td>
<td>Special flyer</td>
<td>Advertising Association and Fl. Broadcasters Association</td>
<td>Advertising - Providing when advertising services are taxable and exempt.</td>
<td>May 15th</td>
<td>T.A.</td>
</tr>
</tbody>
</table>