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; requiring multistate purchasers that self-accrue the tax to file an annual supplementary tax return; revising provisions relating to apportionment of interstate or international transportation services; requiring applicants for specified environment-related permits to attest that applicable use taxes have been paid; 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; revising provisions relating to exempt purchase permits; revising time period for maintenance of dealers' monthly logs and a penalty applicable thereto; 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; creating s. 212.0597, F.S.; providing special resale rules for construction support services and advertising agency support services; creating s. 212.0598, F.S.; specifying conditions under which certain air carriers may elect to be subject to the tax on services and tangible personal property; providing basis of the tax applicable to such air carriers; specifying application of such tax to air carriers who do not so elect; amending s. 212.02, F.S.; revising definitions applicable to chapter 212, F.S.; amending s. 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 or by governmental entities and certain admissions paid by students to places of sport or recreation; providing an exception; amending s. 212.05, F.S.; specifying application of a definition of "telecommunication service"; specifying application of the tax on sales; use

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and other transactions to sale of newspapers
and magazines; amending s. 212.08, F.S.;
providing an additional medical exemption from
said tax; revising the exemptions for sales to
political subdivisions and educational
institutions, 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 s.
212.11, F.S.; revising provisions which
authorize quarterly returns for certain dealers
remitting the tax solely for the provision of
services; 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 on
fees reported on the same documents utilized
for sales and use tax; amending ss. 212.225,
201.15, and 206.875, F.S.; renaming the State
Infrastructure Trust Fund as the State
Infrastructure Fund; amending s. 215.32, F.S.;
establishing the State Infrastructure Fund
within the State Treasury; 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-
6, Laws of Florida, relating to certain
conditions applicable to self-accrual; amending

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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 37 of chapter 87-6, Laws of Florida;
revising provisions relating to application of
the tax to certain prepaid services; amending
section 38 of chapter 87-6, Laws of Florida;
revising provisions relating to construction of
said chapter with respect to certain client
confidentiality; imposing a tax on persons
selling certain special fuel held in inventory
on July 1, 1987, on which the additional tax on
such fuel levied under chapter 87-6, Laws of
Florida, has not been paid; providing
penalties; providing for rules and notice;
providing for distribution of the proceeds;
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 section 48 of chapter 87-6,
Laws of Florida; revising provisions relating
to application of a tax amnesty program;
amending s. 95.091, F.S.; revising provisions
which establish limitations on actions to

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collect certain taxes; amending section 56 of chapter 87-6, Laws of Florida; removing an
amendment to s. 211.33(2), F.S., relating to
delinquency penalties and penalties for
substantial underpayment of tax on severance of
solid minerals; amending sections 58 and 60 of
chapter 87-6, Laws of Florida; revising the
effective date of the repeal of ss. 212.14(6)
and 214.39, F.S., and the amendment of 214.04,
F.S., relating to limitations on assessment of
sales tax and on notices of deficiency of
designated nonproperty taxes; repealing
sections 50; 81-98, 101-106, and 109 of chapter
87-6, Laws of Florida, which provide increased
penalties for certain tax crimes; providing an
appropriation to the Division of Administrative
Hearings; creating the Fairness in Retail Sales
Taxation Act; providing findings and intent;
creating s. 212.0596, F.S.; providing
application of the tax on sales, use and other
transactions to mail order sales; specifying
conditions under which dealers making such
sales are subject to said tax; providing duties
of such dealers; providing for enforcement in
other jurisdictions; amending s. 212.06, F.S.;
including such persons within the definition of
"dealer"; providing for levy of tax on sales of
tangible personal property to be transported to
a cooperating state; specifying requirements
applicable to cooperating states; providing for
payment of taxes collected to cooperating
5
CODING: Words struck are deletions; words underlined are additions.
states; providing duties of dealers selling

tangible personal property for delivery in
another state; amending s. 212.20, F.S.;
providing for refund of certain taxes
adjudicated unconstitutionally levied or
collected; amending s. 212.02, F.S.; providing
definitions; amending s. 212.05, F.S.;
including mail order sales as a taxable
privilege; amending s. 212.12, F.S.; excluding
dealers making mail order sales from the
dealer's credit; authorizing the executive
director of the Department of Revenue to
negotiate a collection allowance with such
dealers; providing for audits and inspections;
amending s. 212.15, F.S., relating to
collection of taxes, to conform; amending s.
212.16, F.S.; excluding the business of making
mail order sales from registration fees;
providing an appropriation to the Department of
Revenue; providing for severability; providing
effective dates.

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

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

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

STRIKING: Words stricken are deletions; words underlined are additions."
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. Neither does this paragraph apply if the seller has tax nexus in this state and the service sold either directly relates to real property in this state, directly relates to tangible personal property in this state other than vehicles or vessels in interstate or foreign commerce, or is represented by tangible personal property forwarded to a person in this state.

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

(b) A dealer may register-with-the-department-as-a service-provider-and-elect-to-ascertain-the-amount-of-remit the tax payable under this section on the basis of cash receipts for all taxable transactions under this section, on a-service-at-the-time-consideration-is-paid-for-such-service and-on-the-amount-of-consideration-paid—if-such-election-is

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

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

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

(b) The sales price of the sale of interstate or
international transportation services, or the cost price of
the use of interstate or international transportation
services, shall be apportioned to the state as provided in
this paragraph. There shall be included in the measure of the
tax imposed by this part on the sale or use of interstate or
international transportation services that proportion of the
sales price or cost price of the Florida service provider
which is equal to the proportion of mileage within Florida to
the total direct United States mileage of the Florida service
provider for the service transaction in question. If the
transportation service of the Florida service provider
originates and terminates at points within the United States,
the "total direct mileage of the Florida service provider"
shall be limited to total United States direct mileage. For
purposes of this paragraph, "Florida service provider" means
the person providing transportation services in Florida
regardless of the commercial domicile of such person.

(6) No permit required pursuant to chapters 161, 298,
373, 376, 380, or 401 shall be issued until the applicant
attests, on a form promulgated by the department, that all
applicable use taxes have been paid on the purchase of
services outside of this state that are used in this state in
furtherance of such permit. Completed forms shall be returned
to the department by the permitting body on a monthly basis.

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:

CODING: Words struck are deletions; words underlined are additions.
212.0591 Rules of construction.--For purposes of the sales and use tax on services, the following rules of construction shall apply:

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

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

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

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

1. If the service directly relates to real property, the benefit of the service shall be presumed to be enjoyed in the state where the real property is located; or
2. If subparagraph 1. is not applicable, 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 another state, the service shall be deemed used or consumed outside of this state in that state.

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

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

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

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

4. If subparagraphs 1., 2., and 3. are not applicable, and the purchaser of the service is doing business in this state and outside of this state in one or more other states, the service shall be presumed to be enjoyed in this state to

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the extent that the purchaser is doing business in this state.

For purposes of determining the extent of the purchaser's business in this state, the apportionment formulas set forth in part IV of chapter 214, as modified by s. 220.15(4), shall be utilized. In the case if the purchaser is a member of an affiliated group, the affiliated group, as defined in s. 212.02, shall be considered the purchaser for purposes of this subsection subparagraph; or

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

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

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

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

(e) Notwithstanding paragraphs (a) and (b), the benefit of a service provided to the estate of a decedent shall be presumed to be enjoyed where the decedent last established residency.
(10) It is the intent of the Legislature to exempt
from the tax on services only those services for which
exemptions are expressly provided. Therefore, if any
exemption is declared unconstitutional per se by a court of
competent jurisdiction, it is the intent of the Legislature
that the exemption be deemed inoperative as to all persons and
not expanded to encompass services or persons not expressly
exempted from the tax.

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

212.0592 Exemptions from sales or use tax on
services.--There shall be exempt from the tax on the sale or
use of services imposed by ss. 212.059(1) or (2), 212.0594,
and 212.0595 the following:

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

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

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

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

(6) Agricultural services enumerated in SIC Major Group 07. However, this exemption shall not apply to landscape and horticultural services (Group Number 071), or to animal specialty services (Industry Number 0752), unless the services relate to agricultural products as defined in s. 618.01(1), or relate to greyhound racing or participation in pari-mutuel events (Group Number 078).

(7)(a) Transportation and warehousing services enumerated in SIC Major Groups 40-49, 44, 45 and 47 for agricultural commodities that have retained their original identity, phosphate rock as defined in s. 211.39(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 2073, and phosphatic fertilizers as enumerated in SIC Industry Number 2074. For CODING: Words struck are deletions; words underlined are additions.
purposes of this paragraph, an agricultural commodity retains its original identity unless it is processed, packaged in cans, or frozen. However, produce which is processed but neither canned nor frozen shall be considered an agricultural commodity that has retained its original identity.

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

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

(16) Maintenance assessments or fees paid by an
association member to a homeowners association, residential
condominium owners association, residential property owners
association, residential mobile homeowners association, or
residential cooperative association.

(17) Membership dues or membership fees paid to
membership organizations enumerated in SIC Major Group 86, and
to arts, historical, and science organizations, provided such
organizations are not-for-profit corporations under chapter
617 or a comparable law of another state or are exempt
organizations under the Internal Revenue Code, and membership
dues or other fees paid to regulatory athletic associations.
However, no exemption shall be available for dues or fees paid
to any membership organization that discriminates in its
membership based on race, sex, creed, national origin, or
religion.

(18) Qualified production services performed by any
person for a person principally engaged in the business of
producing qualified motion pictures or for a person who owns
or leases property used primarily for the production of
qualified motion pictures. For purposes of this subsection:
(a) "Qualified production services" means any activity
or service performed directly in connection with the
production of qualified motion pictures, and includes:

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

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

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

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

(2) Water transportation services described in SIC Group Numbers 441 and 442, towing or tugboat services described in SIC Industry Number 4454, marine cargo handling services described in SIC Industry Number 4463, piloting services, ship cleaning, steamship leasing, marine surveyors, and ship repair and maintenance services for vessels used in

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interstate or international commerce; storage of cargo at port
facilities; transportation services enumerated in SIC Industry
Numbers 4712 and 4723, lighterage services, described in SIC
Industry Number 4431, and services related to processing and
accessorizing of motor vehicles as defined in s. 320.01
automobiles that are imported through Florida ports. The
exemption provided by this subsection also applies to services
provided in connection with cargo in international trade by
any licensed customs broker; any customs bonded warehouse,
container freight and examination station, or cartman; or
freight consolidator or deconsolidator.

(22) Sanitary services enumerated in SIC Group Number
495, garbage, refuse and debris transportation services
enumerated in SIC Industry Number 4212, and septic tank
cleaning services enumerated in SIC Industry Number 7699, if
such services are sold to residential households or owners of
residential models, water supply services enumerated in SIC
Group Number 494 and irrigation systems services enumerated in
SIC Group Number 497.

(23) Security and commodity brokerage services
enumerated in SIC Major Group 62 involving the transfer of
securities or commodities. However, this exemption shall not
be construed to exempt any financial service taxable under
subsection (11), or any accounting or investment advisory
services, 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.
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.

Legal services, provided to a natural person, which relate to child support, child custody, adoption, divorce, guardianship, juvenile, career, landlord, tenant relations, maritime, home, rentals, enforcement of civil rights or bankruptcy proceedings, recovery of past or future medical expenses. However, this exemption shall be limited to $500 in services per person per calendar year.

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

Data processing services performed for a financial institution by a service corporation or that a financial institution described in SIC Major Group 61, provided:

(a) The service corporation is organized pursuant to s. 545.74, Rules of the Federal Home Loan Bank Board;
(b) All capital stock of the service corporation may be purchased by only savings and loan associations and savings banks having operations in this state; no savings and loan association or savings bank owns, or may own, more than 10 percent of such service corporation's outstanding capital stock; every eligible savings and loan association or savings bank shall be governed by a financial institution; each savings bank shall own an equal amount of capital stock, shall determine, own an amount of such stock equal to its pro-rata share of accounts serviced, and shall own, on such uniform basis as the service corporation shall determine, own an amount of such stock equal to its pro-rate share of accounts serviced.

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

(36) Personal laundry services sold to residents of nursing home facilities, adult congregate living facilities, and hospices licensed under part-I-e of chapter 400.

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

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

(44) Services provided and paid for pursuant to court order in a bankruptcy proceeding.
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 or whether such sales of services are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the services is used for a nonexempt purpose, the entire sale is taxable.

Convention and conference registration fees.

Transportation services by satellite or launch vehicles.

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

Services performed by permitted resource recovery and management facilities as defined in part IV of chapter 403.

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

212.0593 Administration of s. 212.0592.---

(1) Each multistate business having tax nexus in this state under this part shall obtain from the department an exempt purchase permit prior to claiming an exemption under s. 212.0592(1). Such permit shall be used when purchasing any service sold in this state except advertising, regardless of whether the service is used in this state. Upon purchasing a service from a dealer registered under this part, presentation by said multistate business of a valid exempt purchase permit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service. The

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purchaser shall self-accrue any taxes which may be due on the
service and remit them to the department in the manner and
under the requirements applicable to dealers under this part,
subject to such additional reporting requirements as the
department may prescribe.

(3) Each dealer shall maintain a monthly log showing
each transaction for which sales tax was not collected because
of the presentation of an exempt purchase permit or exempt
purchase affidavit under this section. The log shall identify
the purchaser, the exempt purchase permit number if
applicable, the service sold, the price of the service and
such other information as the department may prescribe. The
logs and all affidavits accepted by the dealer shall be
retained by the dealer for 5 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-352-19.

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

CODING: Words stricken are deletions; words underlined are additions.
Section 5. Section 5 of chapter 87-6, Laws of Florida, is hereby repealed.

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

212.0594 Construction services; special provisions.--

(1) For purposes of this section:

(a) "Prime contractor" means:

1. A person who enters into a contract to construct, improve, alter, or repair realty with the person for whose benefit the realty is being constructed, improved, altered, or repaired;

2. A person who enters into a contract to undertake the primary responsibility for supervising the construction, improvement, alteration or repair of realty with the person for whose benefit the realty is being constructed, improved, altered, or repaired, in which case, all other persons involved in the construction who would otherwise qualify as prime contractors under subparagraph 1. shall be deemed subcontractors;

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


(b) "Subcontractor" means a person who enters into a contract to provide construction services to a prime contractor or to another subcontractor.

(c) "Construction services" means any activity directly involving the construction, alteration, improvement or repair of realty.

(d) "Construction support services" means architectural, engineering, drafting, surveying, land

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planning, landscape design and interior design services when
such services directly relate to the construction, alteration,

improvement or repair of realty.

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

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

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

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

(i) "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

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construction, as established by an independent appraisal of the realty.

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

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

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

(c) However, for contracts signed or new construction begun on or after July 1, 1988, for new construction of single-family homes, the tax shall be based upon 50 percent of the contract price or appraised value, whichever is applicable pursuant to paragraphs (a) and (b).

(d) For new construction consisting of factory-built buildings, the tax shall be imposed upon the cost of physical labor expended for the new construction and shall not include administrative overhead costs, transportation costs, or other direct or indirect costs of the manufacturer of factory-built buildings.

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

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itemizes the building materials and the price paid by the
prime contractor for such materials.

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

(g) Construction services performed pursuant to or in
furtherance of a contract with a governmental entity described
in § 212.08(6) or a nonprofit entity described in §
212.08(7)(o) shall be exempt from the tax on construction
services.

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

(3) The tax imposed by § 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 draw 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 the proportion of

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

(d) For new construction undertaken on a speculative
basis, the tax shall be due when title to the property is
first transferred, or within 6 months of completion of the
construction, whichever occurs first.

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

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

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

(h) No unit of local government shall issue a
certificate of occupancy for new construction until the prime
contractor certifies, on a form promulgated by the department
and submitted to the local government, that the new
construction is substantially complete. Such forms shall be
provided to local governments by the department, and completed
forms shall be returned monthly to the department by the local
governments.

(4) The following provisions of this part shall not
apply with regard to the tax on construction services:

(a) Section 212.02(5), the definition of "cost price."

(b) Section 212.02(21), the definition of "sales
price."

(c) Section 212.059(3), regarding the collection and
remittance of the tax.
taxable beginning July 1, 1987, is provided on or after that date, the service shall be taxed unless it was prepaid in full prior to April 1, 1987. When a service that is taxable beginning on July 1, 1987, is provided over a period of time beginning prior to that date and ending after that date, the service shall be taxed only upon that portion of the service provided on or after July 1, 1987. For purposes of this section, a service shall be deemed prepaid in full if payment for the service is pursuant to a finance agreement and such agreement was sold by the service provider to a third party prior to April 1, 1987.

Section 27. Section 38 of chapter 87-5, Laws of Florida, is amended to read:

Section 38. Except for the purposes of s. 253.0939,
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 certified public accountant licensed pursuant to chapter 493, Florida Statutes, to reveal the identity of any client for any reason.

Transition taxes.--

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

(2) "Special fuel" is defined as provided in s. 206.86(1), Florida Statutes.
Advertising shall be deemed to have been used in
this state if it was sold outside this state for consumption
in this state. Advertising shall be presumed to be consumed
in this state to the extent the cost price is apportioned to
this state pursuant to subsection (4).

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

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

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

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

CODING: Words struck are deletions; words underlined are additions.
(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.

(10) 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.

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

Section 8. Section 212.0597, Florida Statutes, is
created to read:

212.0597 Special resale rules; construction support
services and advertising agency support services.--

(1) The Legislature hereby recognizes that certain
service industries utilize subcontract labor more extensively
than other service industries, and that the application of the
general rules regarding resale would result in excessive
pyramiding of the tax on services. Therefore, it is the
intent of the Legislature that special resale rules apply to
these industries as herein provided.

(2) Notwithstanding the provisions of s. 212.02(19),
construction support services and advertising agency support
services may be purchased for resale if:
(a) The service provides a direct and identifiable
benefit to a single client or customer of the purchaser;
(b) The purchaser of the service buys the service
pursuant to a written contract with the seller and such
contract identifies the client or customer for whom the
purchaser is buying the service;

CODING: Words stricken are deletions; words underlined are additions.
(c) The purchaser of the service identifies the seller of the service purchased in his charge for the service on its subsequent sale.

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

(e) The service, if a construction support service, is purchased by a person who is primarily engaged in the business of selling construction support services, or, if an advertising agency support service, is purchased by a person primarily engaged in the business of selling advertising agency services or advertising agency support services.

(3) For purposes of this section:

(a) "Advertising agency support services" means creative services used to produce advertising campaigns, such as photography, filming, copywriting, editing, printing, modeling, and art production.

(b) "Construction support services" means architectural, engineering, drafting, surveying, land planning, landscape design, and interior design services.

Section 9. Section 212.0598, Florida Statutes, is created to read:

212.0598 Special provisions; air carriers.--

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

CODING: Words struck are deletions; words underlined are additions.
(2) The basis of the tax shall be the ratio of Florida mileage to total mileage traveled by the carrier's aircraft during the previous fiscal year as determined pursuant to part IV of chapter 214. The ratio shall be determined at the close of the carrier's preceding fiscal year. The ratio shall be applied each month to the carrier's total statewide gross purchases of tangible personal property and services otherwise taxable in Florida.

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

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

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

Section 10. Subsections (2) and (6), paragraph (h) of subsection (14), and paragraph (a) of subsection (13) of
section 212.02, Florida Statutes, as amended by chapter 87-6, Laws of Florida, are amended to read:

(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, s. 1504(b)(2) shall not apply to this definition. However, the taxpayer may elect, pursuant to rules of the department governing the procedure for making and amending such election, to define its affiliated group in a manner which excludes any member who has no tax nexus in this state and any member whose business activities are unrelated to the business activities of other members of the group. However, in no event shall the parent corporation 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:

CODING: Words stricken are deletions; words underlined are additions.
(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-an-agricultural-property-under-sr-1991461
2. Used-exclusively-as-dwelling-units
3. Property-subject-to-tax-on-parking-docking-or-storage-spaces-under-sr-239-237-641
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-landing-or-unloading-passengers-or-property-onto-or-from-aircraft-or-for-fueling-aircraft
9. Exclusively-for-the-purpose-of-ocean-going-vessels-or-two-docking-or-such-vessels-mooring-on-property-used-by-a-port-authority-for-the-purpose-of-landing-or-unloading-11.25

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passengers-or-cargo-onto-or-from-such-a-vehicle-or-property
used-at-a-port-authority-for-fueling-such-vehicle
9v---Property-used-as-an-integral-part-of-the
performance-of-qualified-production-services-as-defined-in-s-
8‡28598‡8‡‡‡v
for—leased-by-subtenant-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-554-or-chapter-553-or-any
publicly-owned-arena-sports-stadiums-convention-halls-or
exhibition-halls
(19)(a) "Retail sale" or a "sale at retail" means a
sale to a consumer or to any person for any purpose other than
for resale in the form of tangible personal property or
services, and includes all such transactions that may be made
in lieu of retail sales or sales at retail. "Retail sale"
does not include fee-sharing for services described in s.
475.011 by persons licensed under chapter 475 between-real
estate-agents-and-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, unless otherwise exempt pursuant to s. 212.0592(1); 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 11. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

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

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

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

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

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or

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the owners of individual condominium units. However, only the 
1 lease payments on such property shall be exempt from the tax
2 imposed by this chapter, and any other use made by the owner
3 or the condominium association shall be fully taxable under
4 this chapter.
5
6 5. A public or private street or right-of-way occupied
7 of used by a utility for utility purposes.
8
9 6. A public street or road which is used for
10 transportation purposes.
11
12 7. Property used at an airport exclusively for the
13 purpose of aircraft landing or aircraft taxiing or property
14 used by an airline for the purpose of loading or unloading
15 passengers or property onto or from aircraft or for fueling
16 aircraft.
17
18 8. Property used at a port authority as defined in s.
19 315.02(2) exclusively for the purpose of oceangoing vessels or
20 tugs docking, or such vessels mooring on property used by a
21 port authority for the purpose of loading or unloading
22 passengers or cargo onto or from such a vessel, or property
23 used at a port authority for fueling such vessels.
24
25 9. Property used as an integral part of the
26 performance of qualified production services as defined in s.
27 212.0592(18)(a).
28
29 10. Leased, subleased, or rented to a person providing
30 food and drink concessionaire services within the premises of
31 an airport, a movie theater, a business operated under a
32 permit issued pursuant to chapter 550 or chapter 551, or any
33 publicly owned arena, sports stadium, convention hall, or
34 exhibition hall, auditorium or recreational facility. A
35 person providing food and drink concessionaire services within
36 the premises of an airport shall be subject to tax on the
37
38 CODING: Words stricken are deletions; words underlined are additions.
rental of real property used for that purpose, but shall not
be subject to the tax on any license to use the property.

Section 12. 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. 240.933(4)(c).

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

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

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

CORRECTION: Words struck are deletions; words underlined are additions.
Section 13. Subsection (1) of section 212.05, Florida Statutes, as amended by chapter 87-6, Laws of Florida, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(e)1. At the rate of 5 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on charges for telecommunication service as defined in s. 203.012 and for those services described in s. 203.012(2)(a); on recurring charges to regular subscribers for wired television service; on all charges for the installation of telecommunication, wired television, and telegraphic equipment; and on all charges for electrical power or energy. For purposes of this paragraph, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, wired television, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private
communication services are taxable under this paragraph as
follows:

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

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

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

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

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group of persons. For purposes of this subparagraph, for
calendar year 1986, the term "calendar year" means the last 6
months of 1986.

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

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

(h) Any person who purchases, installs, rents, or
leases a telephone system or telecommunication system for his
own use to provide himself with telephone service or
telecommunication service which is a substitute for any
telephone company switched service or a substitute for any
dedicated facility by which a telephone company provides a
communication path is exercising a taxable privilege and shall
register with the Department of Revenue and pay into the State
Treasury a yearly amount equal to 5 percent of the actual cost
of operating such system, notwithstanding the provisions of s.
212.081(3)(b). "Actual cost" includes, but is not limited to,

depreciation, interest, maintenance, repair, and other
expenses directly attributable to the operation of such
system. For purposes of this paragraph, the depreciation
expense to be included in actual cost shall be the
depreciation expense claimed for federal income tax purposes.
The total amount of any payment required by a lease or rental contract or agreement shall be included within the actual cost. The provisions of this paragraph do not apply to the use by any local telephone company or any telecommunication Carrier of its own telephone system or telecommunication system to conduct a telecommunication service for hire. If a system described in this paragraph is located in more than one state, the actual cost of such system for purposes of this paragraph shall be the actual cost of the system's equipment located in Florida.

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

Section 14. Paragraph (b) of subsection (9) of section 212.08, Florida Statutes, 1986 Supplement, is amended, and paragraph (a) of subsection (2), subsection (6), and paragraphs (e) and (f) 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.

(2) EXEMPTIONS: MEDICAL.—
(4) There shall be exempt from the tax imposed by this chapter any product, supply, or medicine dispensed in a retail
establishment by a pharmacist licensed by the state, according
to an individual prescription or prescriptions written by a
prescriber authorized by law to prescribe medicinal drugs;
hypodermic needles; hypodermic syringes; chemical compounds
and test kits used for the diagnosis or treatment of human
disease, illness, or injury; and common household remedies
recommended and generally sold for internal or external use in
the cure, mitigation, treatment, or prevention of illness or
disease in human beings, but not including cosmetics or toilet
articles, notwithstanding the presence of medicinal
ingredients therein, according to a list prescribed and
approved by the Department of Health and Rehabilitative
Services, which list shall be certified to the Department of
Revenue from time to time and included in the rules
promulgated by the Department of Revenue. There shall also be
exempt from the tax imposed by this chapter artificial eyes
and limbs; orthopedic shoes; prescription eyeglasses and items
incidental thereto or which become a part thereof; dentures;
hearing aids; batteries specifically designed and identified
as hearing aid batteries; crutches; prosthetic and orthopedic
appliances; and funeral. Funeral directors shall pay tax on
all tangible personal property used by them in their business.

(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
t 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

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subsequently reimbursed by the governmental entity. This
exemption does not include sales of tangible personal property
made to contractors employed either directly or as agents of
any such government or political subdivision thereof when such
tangible personal property goes into or becomes a part of
public works owned by such government or political subdivision
thereof, except public works in progress or for which bonds or
revenue certificates have been validated on or before August
1, 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.

(o) Religious, charitable, scientific, educational,
and veterans' institutions and organizations.--

1. There are exempt from the tax imposed by part I of
this chapter transactions involving:

a. Sales or leases directly to churches or sales or
leases of tangible personal property or services by churches;
b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members within the state or district organization.
b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of, or rehabilitation of persons from, alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

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and the term includes groups providing volunteer manpower to
organizations designated as charitable institutions hereunder.

   c. "Scientific organizations" means scientific
organizations in this state which hold current exemptions from
federal income tax under s. 501(c)(3) of the Internal Revenue
Code and also means organizations the purpose of which is to
protect air and water quality in this state or the purpose of
which is to protect wildlife in this state and which hold
current exemptions from the federal income tax under s.

   d. "Educational institutions" means state tax-
supported or parochial, church and nonprofit private schools,
colleges, or universities which conduct regular classes and
courses of study required for accreditation by, or membership
in, the Southern Association of Colleges and Schools, the
Department of Education, the Florida Council of Independent
Schools, or the Florida Association of Christian Colleges and
Schools, Inc., or which conduct regular classes and courses of
study accepted for continuing education credit by the American
Medical Association or the American Dental Association.

   Nonprofit libraries, art galleries, and museums open to the
public are defined as educational institutions and are
eligible for exemption. The term "educational institutions"
includes nonprofit cultural corporations which hold a current
exemption from federal income tax under s. 501(c)(3) of the
Internal Revenue Code, including art centers; musical
ensembles; theater companies; symphony orchestras; opera
companies; dance companies; literary, folk arts, media,
interdisciplinary arts and presenting organizations; and arts
service organizations. The term "educational institutions"
includes private nonprofit organizations the purpose of which

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is to raise funds for schools teaching grades kindergarten
through high school, colleges, and universities located in
this state. The term "educational institutions" includes any
nonprofit newspaper of free or paid circulation primarily on
university or college campuses which holds a current exemption
from federal income tax under s. 501(c)(3) of the Internal
Revenue Code, and any educational television or radio network
or system established pursuant to s. 229.805 or s. 229.8051
and any nonprofit television or radio station which is a part
of such network or system and which holds a current exemption
from federal income tax under s. 501(c)(3) of the Internal
Revenue Code. The term "educational institutions" also
includes state, district, or other governing or administrative
offices the function of which is to assist or regulate the
customary activities of educational organizations or members
within the state or district organization.

e. "Veterans' organizations" means nationally
chartered or recognized veterans' organizations, including,
but not limited to, Florida chapters of the Paralyzed Veterans
of America, Catholic War Veterans of the U.S.A., and Jewish
War Veterans of the U.S.A. and the Disabled American Veterans,
Department of Florida, Inc., which hold current exemptions
from federal income tax under s. 501(c)(4) or s. 501(c)(19) of
the Internal Revenue Code.

(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

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

Section 15. 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 licensee
dealer or his agent or employee may acknowledge or assist in

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the preparation of any claim for tax refund; this provison

does not apply to attorneys or certified public accountants
licensed pursuant to chapter 499 when acting for or on behalf
of a client.

Section 16. Paragraph (d) of subsection (1) of section
212.11, Florida Statutes, as amended by chapter 87-6, Laws of
Florida, is amended to read:

212.11 Tax returns and regulations.--
(1)
(d) Beginning October 1, 1987, the department may
authorize a quarterly return and payment for dealers
registered as service providers and remitting collectible tax
solely from the provision of services. Such returns may be
authorized only for dealers whose monthly tax collections are
less than $500 in each month for the previous 3 months.
Quarterly payments pursuant to this paragraph shall be due and
payable in March, June, September, and December of each year.

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

Section 17. The introductory paragraph of subsection
14 of section 212.12, Florida Statutes, 1986 supplement, are
amended, and, effective January 1, 1988, paragraph (b) of
subsection (1) of said section is amended, to read:
212.12 Dealer’s credit for collecting tax; penalties
for noncompliance; power of Department of Revenue in dealing
with delinquents; brackets applicable to taxable transactions;
records required.--

(1) Notwithstanding any other provision of law and for
the purpose of compensating persons granting licenses for and
the issuers of real and personal property taxed hereunder, for

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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 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) 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

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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 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.

(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

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appropriate bracket charge upon any fractional part of a dollar.

Section 18. 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 sum sufficient to provide the maximum receipts specified herein, shall be transferred deposited into the State Infrastructure Trust Fund, which is created in the State Treasury. "Proceeds" means all funds collected and received by the Department of Revenue, including any interest and penalties. However, any receipts of the trust fund, including those received pursuant to ss. 201.15(5) and 206.875(3) and interest earned, in excess of $200 million in fiscal year 1987-1988, and $500 million thereafter, shall revert to the General Revenue Fund.

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

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

(b) Constructing public education capital facilities;

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

(d) Constructing state correctional facilities;

(e) Constructing other infrastructure projects; or

(f) Issuing revenue bonds to finance state capital outlay projects authorized by this section. Such bonds shall

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

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

Section 20. Subsection (3) of section 206.875, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read:

206.875 Allocation of tax.--

(3) Notwithstanding the provisions of subsections (1) and (2), the department shall pay over to the State Treasurer all funds received and collected by it under the provisions of ss. 206.871(1)(b) to be credited to the account of the State Infrastructure Trust Fund established pursuant to s. 212.235.

Section 21. Subsection (1) of section 215.32, Florida Statutes, is amended, and paragraph (4) is added to subsection (2) of said section, to read:

215.32 State funds; segregation.--

(1) All moneys received by the state shall be deposited in the State Treasury unless specifically provided otherwise by law and shall be deposited in and accounted for
by the Treasurer and the Department of Banking and Finance within the following funds, which funds are hereby created and established:

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

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

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

Section 22. Section 31 of chapter 87-6, Laws of Florida, is amended to read:

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

(1) Pursuant to s. 212.0594, Florida Statutes, it is the responsibility of the prime contractor to remit the tax.

(2) The purchase of the services for which the tax is not being remitted is necessary to complete the contract and the tax cannot be legally collected from the final purchaser.

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and cannot be included in the price charged the final
purchaser under the terms of the contract.7
(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.8

(4) The purchase of the service occurs before June 30,
1989.9
(5) On or before March 1, 1988, the Department of
Revenue shall provide the Legislature with an estimate of the
value of construction services expected to be performed after
June 30, 1989, on contracts that qualify for the exemption
allowed pursuant to this section.

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

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

Section 32. Rule 12A-1.09(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 nature 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 24. 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

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rules pursuant to s. 120.54(5), 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 25. Section 36 of chapter 87-6, Laws of
Florida, is amended to read:

Section 36. Any penalties provided for pursuant to s.
212.12(2), Florida Statutes, shall be waived by the executive
director of the Department of Revenue for returns due for the
tax on services newly imposed by this act. If the executive
director determines that the interest owed pursuant to s.
212.12(3) #4479, Florida Statutes, will cause an undue
hardship on the taxpayer, he may also waive the interest
payment. The waiver for penalties and interest shall apply
with respect to returns for taxes due and payable for the
Section 26. Section 37 of chapter 87-6, Laws of
Florida, is amended to read:

Section 37. When a service that is taxable beginning
July 1, 1987, is provided prior to that date, it shall not be
taxed, notwithstanding that compensation for the service is
paid or payable on or after that date. When a service that is

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taxable beginning July 1, 1987, is provided on or after that
date, the service shall be taxed unless it was prepaid in full
prior to April 1, 1987. When a service that is taxable
beginning on July 1, 1987, is provided over a period of time
beginning prior to that date and ending after that date, the
service shall be taxed only upon that portion of the service
provided on or after July 1, 1987. For purposes of this
section, a service shall be deemed prepaid in full if payment
for the service is pursuant to a finance agreement and such
agreement was sold by the service provider to a third party
prior to April 1, 1987.

Section 27. Section 38 of chapter 87-6, Laws of
Florida, is amended to read:

Section 38. Except-for-the-purposes-of-s.222.0593,
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 or an attorney or a certified public
accountant pursuant to chapter 473, Florida Statutes,
to reveal the identity of any client for any reason.

Section 28. Transition taxes.--
(1) There is hereby levied a tax on every person
selling special fuel in this state at the rate of 5 cents per
gallon on special fuel upon which the tax imposed pursuant to
s. 206.87(1)(a), Florida Statutes, has been paid, which is
held in inventory on July 1, 1987, and upon which the tax
imposed pursuant to s. 206.87(1)(b), Florida Statutes, has not
been paid.

(2) "Special fuel" is defined as provided in s.
206.86(1), Florida Statutes.

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(3) The tax levied under this section shall be due and payable on July 1, 1987, and shall be remitted to the Department of Revenue on or before August 20, 1987, on forms prescribed by the department.

(4) If any person fails to make a report or pay the taxes due as required by this section, the department shall add a penalty to 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 of fraction thereof during which the failure continues. However, such penalty may not exceed 100 percent in the aggregate of any unpaid tax. Furthermore, in no event may the penalty assessed be less than $5. The department shall collect the tax, together with the penalty and costs, in the same manner as other delinquents taxes are collected. In addition, interest at the rate of 1 percent per month shall be paid on the delinquent tax.

(5) The Department of Revenue may promulgate rules and conduct audits necessary for the implementation of this section, and shall provide reasonable notice of the provisions of this section.

(6) Moneys collected pursuant to this section shall be distributed to the State Infrastructure Fund established pursuant to s. 217.235, Florida Statutes.

Section 29. 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 contested proceedings.--

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

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

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

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

4. Within 30 days after the hearing or receipt of the 
hearing transcript, whichever is later, the hearing officer or 
panel shall issue an order, which shall consist of 
findings of fact, conclusions of law, interpretation of 
adминистative 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 30. Subsection (5) of section 120.65, Florida 
Statutes, as created by chapter 87-6, Laws of Florida, is 
amended to read:

120.65 Hearing officers.--

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

Section 31. 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, the department shall report to the
Governor and the Legislature all service transactions so
identified.

Section 32. Section 48 of chapter 87-6, Laws of
Florida, is amended to read:

Section 48. No later than January 1, 1988, the
Department of Revenue shall develop and implement a tax
amnesty program for taxpayers subject to the tax laws
enumerated in s. 72.011(1), Florida Statutes, except those
taxes governed by ss. 199.032, 212.0505, 212.059,
212.0595, and 212.0599, Florida Statutes. The tax amnesty
program shall be a one-time opportunity for eligible taxpayers
to satisfy their tax liabilities under the revenue laws of
this state and thereby avoid criminal prosecution and any
penalties imposed under such laws. Eligible taxpayers shall
have no more than a 6-month period during which to file
returns or amended returns and to make full payment of the
amount of tax and interest due. An eligible taxpayer may
participate in the amnesty program whether or not the taxpayer
is under audit or investigation; notwithstanding the fact that
the amount due is included in a proposed assessment or an
assessment, bill, notice, or demand for payment issued by the
department; and without regard to whether the amount due is
subject to a pending administrative or judicial proceeding.
However, participation in the program shall be conditioned
upon the taxpayer's agreement that the right to protest or
initiate an administrative or judicial proceeding or to claim
any refund of moneys paid under this amnesty program is barred
with respect to the amounts paid except as provided in this
section. No refund may be made of any penalty paid prior to
the date the amnesty program is implemented, and any refund or
credit of amounts paid as a result of participation in the
amnesty program shall be strictly limited to amounts
determined by the department to have been paid in error. A
taxpayer who is under a criminal investigation, indictment,
information, or prosecution is not eligible to participate in
the amnesty program. The department may prescribe such terms,
conditions, and methods of payment as it deems necessary for
fair and effective administration of the amnesty program, and
may establish procedures and guidelines and adopt forms and
rules to implement the program. With or without an audit, the
department may issue a notice or demand for payment with
respect to any tax or interest which it determines to be due
with any return filed under the tax amnesty program; such
notice and demand for payment shall be prima facie correct in
any administrative, judicial, or quasi-judicial proceeding.
Section 33. Paragraph (a) of subsection (3) of section 23.17
95.091, Florida Statutes, as created by chapter 87-6, Laws of
23.18
Florida, is amended to read:
23.19
95.091 Limitation on actions to collect taxes.—
23.20
(3)(a) With the exception of taxes levied under
23.21
chapter 198 and tax adjustments made pursuant to s. 220.23,
23.22
the Department of Revenue may determine and assess the amount
23.23
of any tax, penalty, or interest due under any tax enumerated
23.24
in s. 72.011:
23.25
1. Within 5 years after the date the tax is due, any
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return with respect to the tax is due, or such return is
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filed, whichever occurs later;
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2. Within 6 years after the date a taxpayer either
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makes a substantial underpayment of tax or files a
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substantially incorrect return;
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3. At any time while the right to a refund or credit
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of the tax is available to the taxpayer;
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4. At any time after the taxpayer has fraudulently
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failed to make any payment of the tax, has fraudulently failed
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to file a required return, or has filed a grossly false or
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fraudulent return; or
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5. In any case in which there has been an erroneous
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refund of tax, within 5 years after making such refund, or at
23.39
any time after making such refund if it appears that any part
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of the refund was induced by fraud or the intentional
23.41
misrepresentation of a material fact.
23.42

Section 34. Section 34 of chapter 87-6, Laws of
23.43
Florida, is amended to read:
23.44

Section 34. Subsections (3) and (4) of section 211.33,
23.45
Florida Statutes, 1986 Supplement, are amended, and effective
23.46

CODING: Words stricken are deletions; words underlined are additions.
211.35 Administration of the tax; returns; delinquency penalties and interest; departmental inspections of records. —

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

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

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

(b) No audit shall be made after the expiration of 3 years from the due date for filing the annual return or the date of filing, whichever is later, except when a producer has been contacted by written notice of intent to conduct an audit in the future, delivered either personally by an agent of the department or by certified letter from the department directed to the last known address of the producer, before 3 years from the due date for filing the annual return or the date of filing, whichever is later, and in the event the date of personal contact or the date of the certified letter shall govern the period subject to audit.
(b) The department shall inform the producer by written notice of the amount of any overpayment or deficiency determined by an audit, including the basis for determining any tax, penalty, interest, or period subject to credit or refund.

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

Section 35. Section 50 of chapter 87-6, Laws of Florida, is amended to read:

Section 50. Effective July 1, 1980. Subsection (6) of section 212.14, Florida Statutes, as amended by chapter 85-342, Laws of Florida, and section 214.09, Florida Statutes, as amended by chapter 85-342, Laws of Florida, are hereby repealed.

Section 36. Section 60 of chapter 87-6, Laws of Florida, is amended to read:

Section 60. Effective July 1, 1980. Section 214.04, Florida Statutes, is amended to read:

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

Section 37. Sections 50, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 101, 102, 103, 104, 105, 106 and 108 of chapter 87-6, Laws of Florida, are hereby repealed.

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Section 38. There is hereby appropriated from the General Revenue Fund the sum of $34,757 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 39. (1) Short title.—Sections 39 through 49 may be cited as the "Fairness in Retail Sales Taxation Act."

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

Section 40. Findings and intent.—

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

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

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

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

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

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

(e) Retailers who take advantage of the prosperity, market, laws, citizens and economy of this state by making retail sales to purchasers in this state are morally obligated...
to assume their fair share of the burden of maintaining this
dstate's prosperity and quality of life by collecting and
remitting taxes on sales to such purchasers.

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

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

Section 41. Effective October 1, 1987, section
212.0596, Florida Statutes, is created to read:

212.0596 Taxation of mail order sales.--

11 For Purposes of this part, a "mail order sale" is
a sale of tangible personal property, ordered by mail or other
means as described in paragraph (2)(e), to a purchaser who is
in this state at the time the order is remitted, from a dealer
who receives the order in another state of the United States,
or in a commonwealth, territory, or other area under the
jurisdiction of the United States, or transports the property
or causes the property to be transported, whether or not by
mail, from any jurisdiction of the United States, including
this state, to a person in this state, including the person
who ordered the property. For purposes of this definition, it
will be presumed that every person resident in this state who

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

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

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

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

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

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

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

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

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

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

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

(21) Water transportation services described in SIC Group Numbers 441 and 442, towing or tugboat services described in SIC Industry Number 4454, marine cargo handling services described in SIC Industry Number 4463, piloting services, ship cleaning, steamship leasing, marine surveyors, and ship repair and maintenance services for vessels used in

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

(5)(a) Except as provided in subparagraph 2., it is not the intention of this chapter to levy a tax upon tangible personal property imported, produced, or manufactured in this state for export, provided that tangible personal property may not be considered as being imported, produced, or manufactured for export unless the importer, producer, or manufacturer delivers the same to a licensed exporter for exporting or to a common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by submission to the department of declaration, showing the departure of the aircraft from the continental United States; and further with respect to aircraft, the canceled United States registry of said aircraft; or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on any sale which the state is prohibited from taxing under the Constitution or laws of the United States. Every retail sale made to a person physically located outside the state of Nevada.
present at the time of sale shall be presumed to have been
3. Notwithstanding subparagraph 1., a tax is levied
divered in this state.
on each sale of tangible personal property to be transported
to a cooperating state as defined in sub-subparagraph c., at
the rate specified in sub-subparagraph 4. However, a Florida
dealer will be relieved from the requirements of collecting
taxes pursuant to this subparagraph if the Florida dealer
obtains from the purchaser an affidavit setting forth the
purchaser's name, address, state taxpayer identification
number, and a statement that the purchaser is aware of his
state's use tax laws, is a registered dealer in Florida or
another state, or is purchasing the tangible personal property
for resale or is otherwise not required to pay the tax on the
transaction. The department may, by rule, provide a form to
be used for the purposes set forth herein.

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

(I) It levies and collects taxes on mail order sales
of property transported from that state to persons in this
state, as described in s. 212.095, upon request of the
department.

(II) The tax so collected shall be at the rate
specified in s. 212.95, not including any local option or
tourist or convention development taxes collected pursuant to
s. 125.0104 or this part.

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

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

(V) Such state makes arrangements deemed adequate by the department, for inspections, upon request of the department, of that state's records relating to such mail order sales and for auditing its performance in collecting such taxes.

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

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

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

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

f. The department is authorized to perform such acts
and to provide such cooperation to a cooperating state with
reference to the tax levied by sub-subparagraph a. as is
required of the cooperating state by sub-subparagraph b.

g. In furtherance of this act, dealers selling
tangible personal property for delivery in another state shall
make available to the department, upon request of the
department, records of all tangible personal property so sold.
Such records shall include a description of the property, the
name and address of the purchaser, the name and address of the
person to whom the property was sent, the purchase price of
the property, information regarding whether sales tax was paid
in this state on the purchase price, and such other
information as the department may by rule prescribe.

Section 43. Effective October 1, 1987, subsection (1)
of section 212.20, Florida Statutes, is amended, and
subsection (4) is added to said section, to read:

212.20 Funds collected, disposition; additional powers
of department; operational expense; refund of taxes

adjudicated unconstitutionally collected.--

(1) The department shall pay over to the Treasurer of
the state all funds received and collected by it under the
provisions of this chapter, to be credited to the account of
the General Revenue Fund of the state, except that funds

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collected under s. 212.06(3)(e) shall be held in trust in the State Treasury, as provided therein.

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

Section 44. Effective October 1, 1987, paragraph (e) is added to subsection (3) of section 212.02, Florida Statutes, 1986 Supplement, to read:

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

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

Section 45. Effective October 1, 1987, the introductory paragraph of section 212.05, Florida Statutes, 1986 Supplement, is amended to read:

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

Section 46. (1) Effective October 1, 1987, subsection (1) and paragraph (a) of subsection (5) of section 212.12, Florida Statutes, 1986 Supplement, are amended to read:

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

(1) For the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, and for the purpose of compensating owners of places where admissions are collected, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, and owner (except dealers who make mail order sales) shall be allowed 3 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; and the department shall allow such deduction of 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same.
However, if the amount of the tax due and remitted to the department for the reporting period exceeds $1,000, the 3-
percent allowance shall be reduced to 1 percent for all amounts in excess of $1,000. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period. (a) The collection allowance may not be granted, nor may any deduction be permitted, if the tax is delinquent at the time of payment. (b) The Department of Revenue may reduce the collection allowance by 10 percent or $50, whichever is less, if a taxpayer files an incomplete return.

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

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax...
(5)(a) The department is authorized to audit or
inspect the records and accounts of dealers defined herein,
including audits or inspections of dealers who make mail order
sales to the extent permitted by another state, and correct by
credit any overpayment of tax; and, in the event of a
deficiency, an assessment shall be made and collected. No
administrative finding of fact is necessary prior to the
assessment of any tax deficiency.

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

Section 47. Effective October 1, 1987, subsection (1)
of section 212.15, Florida Statutes, is amended to read:

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

(1) The taxes imposed by this chapter shall, except as
provided in s. 212.86(5)(a), become state funds at the
moment of collection and shall for each month be due to the
department on the first day of the succeeding month and
delinquent on the 21st day of such month. All returns
postmarked after the 20th day of such month are delinquent.
Section 48. Effective October 1, 1987, subsection (3) of section 212.18, Florida Statutes, 1986 Supplement, is amended to read:

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

The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of $5. However, no registration fee is required to accompany an application to engage in or conduct business to make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued; and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and

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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 as a
dealer, as defined in this chapter, or the engaging in
leasing, renting, or letting of or granting licenses in living
quarters or sleeping or housekeeping accommodations in hotels,
apartment houses, roominghouses, tourist or trailer camps, or
real property as hereinbefore defined, or the engaging in the
business of selling or receiving anything of value by way of
admissions, without such certificate first being obtained or
after such certificate has been canceled by the department is
prohibited. The failure or refusal of any person, firm,
corporation, or corporation to so qualify when required
hereunder is a misdemeanor of the second degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084, or subject
to injunctive proceedings as provided by law.

Section 49. There is hereby appropriated to the
Department of Revenue from the General Revenue Fund the sum of
$75,000 in order to retain legal consultants to assist in any
litigation arising as a result of the Fairness in Retail Sales
Taxation Act.

CODING: Words struck are deletions; words underlined are additions.
Section 50. Sevability.--If any provision of this act or the application thereof to any person or circumstance is held invalid, the validity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 51. Except as otherwise provided herein, this act shall take effect July 1, 1987.

CODING: Words stricken are deletions; words underlined are additions.
HOUSE SUMMARY

Revises various provisions of chapter 87-6, Laws of Florida, relating to the sales and use tax on services. Revises provisions relating to computation, collection, and remittance of the tax and registration of dealers as service providers. Requires multistate purchasers that self-accrue the tax to file an annual supplementary tax return. Revises provisions relating to apportionment of interstate or international transportation services. Requires applicants for specified environment-related permits to attest that applicable use taxes have been paid. Revises 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. Provides legislative intent regarding exemptions from the tax. Revises exemptions and conditions applicable thereto and provides additional exemptions. Revises provisions relating to administration of the exemption for services sold in this state for use outside this state, to revise provisions relating to exempt purchases permits and revise the time period for maintenance of dealers' monthly logs and a penalty applicable thereto. Specifies inapplicability of certain refund provisions. Revises special provisions applicable to the tax on construction services. Revises special provisions applicable to the tax on advertising. Provides special resale rules for construction support services and advertising agency support services.

Specifies conditions under which certain air carriers may elect to be subject to the tax on services and tangible personal property. Provides basis of the tax applicable to air carriers who do not so elect. Revises definitions of "person," "taxable service," and "taxable person." Revises 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. Exempts admissions to certain athletic or other events sponsored by and by governmental entities and certain admissions paid by students to places of sport or recreation. Provides an exception. Specifies application of a definition of "telecommunication service." Specifies application of the tax on sales, use and other transactions to sale of newspapers and magazines. Provides an additional medical exemption from said tax. Revises the exemptions for sales to political subdivisions and educational institutions, film rentals, and vehicles engaged in interstate or foreign commerce.

Removes a prohibition against dealers assisting in preparation of tax refund claims. Revises provisions which authorize quarterly returns for certain dealers remitting the tax solely for the provision of services. Revises the effective date of an amendment relating to application of the dealer's credit to persons who remit

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<td>taxes or fees reported on the same documents utilized for sales and use tax. Renames the State Infrastructure Fund as the State Infrastructure Fund and establishes the State Infrastructure Fund within the State Treasury. Revises an exemption from the tax on services for certain improvements to real property. Revises provisions relating to certain conditions applicable to self-accrual. Specifies administrative provisions applicable to department rules implementing said chapter and this act. Amends provisions relating to waiver of penalties and interest with respect to the tax on services for a specified period. Revises provisions relating to application of the tax to certain prepaid services. Revises provisions relating to construction of said chapter with respect to certain client confidentiality.</td>
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<td>Imposes a tax on persons selling certain special fuel held in inventory on July 1, 1987, on which the additional tax on such fuel levied under chapter 87-6, Laws of Florida, has not been paid. Provides penalties. Provides for rules and notice. Provides for distribution of the proceeds. Revises provisions relating to appointment of a panel to be hearing officer in certain administrative taxpayer contest proceedings. Revises a date for a department study of taxable services. Revises provisions relating to application of a tax amnesty program. Revises provisions which establish limitations on actions to collect certain taxes. Removes an amendment relating to delinquency penalties and penalties for substantial underpayment of tax on severance of solid minerals. Revises the effective date of the repeal of provisions relating to limitations on assessment of sales tax and on notices of deficiency of designated nonproperty taxes. Repeals portions of chapter 87-6, Laws of Florida, which provide increased penalties for certain tax crimes. Provides an appropriation to the Division of Administrative Hearings.</td>
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<td>Creates the Fairness in Retail Sales Taxation Act. Provides findings and intent. Provides application of tax on sales, use and other transactions to mail order sales. Specifies conditions under which dealers making such sales are subject to said tax. Provides duties of such dealers. Provides for enforcement in other jurisdictions. Includes such persons within the definition of “dealer.” Provides for levy of tax on sales of tangible personal property to be transported to a cooperating state. Specifies requirements applicable to cooperating states. Provides for payment of taxes collected to cooperating states. Provides duties of dealers selling tangible personal property for delivery in another state. Provides for refund of certain taxes adjudicated unconstitutionally levied or collected. Includes mail order sales as a taxable privilege. Excludes dealers making mail order sales from the dealer’s credit. Authorizes the executive director of the Department of Revenue to negotiate a collection allowance with such dealers. Provides for audits and inspections. Excludes the business of making mail order</td>
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sales from registration fees. Provides an appropriation to the Department of Revenue.

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