

granted under this paragraph unless the amount to be refunded exceeds \$100 in sales tax paid on purchases made within a 60-day time period.

212.08(5)(h)6 The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

212.08(5)(h)7 If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter. Notwithstanding this subparagraph, business property used exclusively in:

212.08(5)(h)7.a Licensed commercial fishing vessels,

212.08(5)(h)7.b Fishing guide boats, or

212.08(5)(h)7.c Ecotourism guide boats that leave and return to a fixed location within an area designated under s. 370.28 are eligible for the exemption provided under this paragraph if all requirements of this paragraph are met. Such vessels and boats must be owned by a business that is eligible to receive the exemption provided under this paragraph. This exemption does not apply to the purchase of a vessel or boat.

212.08(5)(h)8 The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

212.08(5)(h)9 For the purposes of this exemption, "business property" means new or used property defined as "recovery property" in s. 168(c) of the Internal Revenue Code of 1954, as amended, except:

212.08(5)(h)9.a Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

212.08(5)(h)9.b Industrial machinery and equipment as defined in sub-subparagraph (b)6.a. and eligible for exemption under paragraph (b);

212.08(5)(h)9.c Building materials as defined in sub-subparagraph (g)8.a.; and

212.08(5)(h)9.d Business property having a sales price of under \$5,000 per unit.

212.08(5)(h)10 This paragraph expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

212.08(5)(i) Aircraft modification services. There shall be exempt from the tax imposed by this chapter all charges for aircraft modification services, including parts and equipment furnished or installed in connection therewith, performed under authority of a supplemental type certificate issued by the Federal Aviation Administration.



Sec. 212.08(5)(j), as reproduced immediately below, is effective through May 25, 2010. For provisions effective May 26, 2010, see below. CCH.



212.08(5)(j) Machinery and equipment used in semiconductor, defense, or space technology production.

212.08(5)(j)1

exempt sale to the governmental entity. The governmental entity may not transfer liability for such tax, penalty, and interest to another party by contract or agreement.

212.08(6)(c) The department shall adopt rules for determining whether a particular transaction is properly characterized as an exempt sale to a governmental entity or a taxable sale to a contractor which give special consideration to factors that govern the status of the tangible personal property before being affixed to real property. In developing such rules, assumption of the risk of damage or loss is of paramount consideration in the determination. The department shall also adopt, by rule, a certificate of entitlement to exemption for use as provided in paragraph (b). The certificate shall require the governmental entity to affirm that it will comply with the requirements of this subsection and the rules adopted under paragraph (b) in order to qualify for the exemption and that it acknowledges its liability for any tax, penalty, or interest later determined by the department to be owed on such transactions.



There are four versions of Sec. 212.08(6). The fourth version, as reproduced below, amended by Ch. 2011-64 (S.B. 2152), Laws 2011, is effective July 1, 2011. For alternate versions, see above. CCH.



212.08(6) *Exemptions; political subdivisions.* There are also exempt from the tax imposed by this chapter sales made to the United States Government, a state, or any county, municipality, or political subdivision of a state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision. A determination whether a particular transaction is properly characterized as an exempt sale to a government entity or a taxable sale to a contractor shall be based on the substance of the transaction rather than the form in which the transaction is cast. The department shall adopt rules that give special consideration to factors that govern the status of the tangible personal property before its affixation to real property. In developing these rules, assumption of the risk of damage or loss is of paramount consideration in the determination. 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 for transmission or distribution expansion. Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, videotapes, and transcriptions used in producing radio or television broadcasts. The exemption provided in this subsection 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 providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14), and for which a certificate is required under chapter 364, which facility is owned and operated by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this section is hereby waived. However, the exemption provided in this subsection includes transactions taxable under this chapter which are for use by the operator of a public-use airport, as defined in s. 332.004, in providing such telecommunications services for the airport or its tenants, concessionaires, or licensees, or which are for use by a public hospital for the provision of such telecommunications services.

212.08(7) *Miscellaneous exemptions.* Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the

entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

212.08(7)(a) *Artificial commemorative flowers.* Exempt from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans' organizations.

212.08(7)(b) *Boiler fuels.* When purchased for use as a combustible fuel, purchases of natural gas, residual oil, recycled oil, waste oil, solid waste material, coal, sulfur, wood, wood residues or wood bark used in an industrial manufacturing, processing, compounding, or production process at a fixed location in this state are exempt from the taxes imposed by this chapter; however, such exemption shall not be allowed unless the purchaser signs a certificate stating that the fuel to be exempted is for the exclusive use designated herein. This exemption does not apply to the use of boiler fuels that are not used in manufacturing, processing, compounding, or producing items of tangible personal property for sale, or to the use of boiler fuels used by any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

212.08(7)(c) *Crustacea bait.* Also exempt from the tax imposed by this chapter is the purchase by commercial fishers of bait intended solely for use in the entrapment of *Callinectes sapidus* and *Menippe mercenaria*.

212.08(7)(d) *Feeds.* Feeds for poultry, ostriches, and livestock, including racehorses and dairy cows, are exempt.

212.08(7)(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.

212.08(7)(f) *Flags.* Also exempt are sales of the flag of the United States and the official state flag of Florida.

212.08(7)(g) *Florida Retired Educators Association and its local chapters.* Also exempt from payment of the tax imposed by this chapter are purchases of office supplies, equipment, and publications made by the Florida Retired Educators Association and its local chapters.

212.08(7)(h) *Guide dogs for the blind.* Also exempt are the sale or rental of guide dogs for the blind, commonly referred to as "seeing-eye dogs," and the sale of food or other items for such guide dogs.

212.08(7)(h)1. The department shall issue a consumer's certificate of exemption to any blind person who holds an identification card as provided for in s. 413.091 and who either owns or rents, or contemplates the ownership or rental of, a guide dog for the blind. The consumer's certificate of exemption shall be issued without charge and shall be of such size as to be capable of being carried in a wallet or billfold.

212.08(7)(h)2. The department shall make such rules concerning items exempt from tax under the provisions of this paragraph as may be necessary to provide that any person authorized to have a consumer's certificate of exemption need only present such a certificate at the time of paying for exempt goods and shall not be required to pay any tax thereon.

212.08(7)(i) *Hospital meals and rooms.* Also exempt from payment of the tax imposed by this chapter on rentals and meals are patients and inmates of any hospital or other physical plant or facility designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention. Residents of a home for the aged are exempt from payment of taxes on meals provided through the facility. A home for the aged is defined as a facility that is licensed or certified in part or in whole under chapter 400, chapter

performances or other educational activities at the performing arts center and serve a minimum of 50,000 school children a year, and museums open to the public.

212.08(7)(cc)8.b. "Work of art" includes pictorial representations, sculpture, jewelry, antiques, stamp collections and coin collections, and other tangible personal property, the value of which is attributable predominantly to its artistic, historical, political, cultural, or social importance.

212.08(7)(dd) *Taxicab leases.* The lease of or license to use a taxicab or taxicab-related equipment and services provided by a taxicab company to an independent taxicab operator are exempt, provided, however, the exemptions provided under this paragraph only apply if sales or use tax has been paid on the acquisition of the taxicab and its related equipment.

212.08(7)(ee) *Aircraft repair and maintenance labor charges.* There shall be exempt from the tax imposed by this chapter all labor charges for the repair and maintenance of qualified aircraft, aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,000 pounds maximum certified takeoff weight. Except as otherwise provided in this chapter, charges for parts and equipment furnished in connection with such labor charges are taxable.

212.08(7)(ff) *Certain electricity or steam uses.*

212.08(7)(ff)1. Subject to the provisions of subparagraph 4., charges for electricity or steam used to operate machinery and equipment at a fixed location in this state when such machinery and equipment is used to manufacture, process, compound, produce, or prepare for shipment items of tangible personal property for sale, or to operate pollution control equipment, recycling equipment, maintenance equipment, or monitoring or control equipment used in such operations are exempt to the extent provided in this paragraph. If 75 percent or more of the electricity or steam used at the fixed location is used to operate qualifying machinery or equipment, 100 percent of the charges for electricity or steam used at the fixed location are exempt. If less than 75 percent but 50 percent or more of the electricity or steam used at the fixed location is used to operate qualifying machinery or equipment, 50 percent of the charges for electricity or steam used at the fixed location are exempt. If less than 50 percent of the electricity or steam used at the fixed location is used to operate qualifying machinery or equipment, none of the charges for electricity or steam used at the fixed location are exempt.

212.08(7)(ff)2. This exemption applies only to industries classified under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39 and Industry Group Number 212. As used in this paragraph, "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

212.08(7)(ff)3. Possession by a seller of a written certification by the purchaser, certifying the purchaser's entitlement to an exemption permitted by this subsection, relieves the seller from the responsibility of collecting the tax on the nontaxable amounts, and the department shall look solely to the purchaser for recovery of such tax if it determines that the purchaser was not entitled to the exemption.

212.08(7)(ff)4. Such exemption shall be applied as follows: beginning July 1, 2000, 100 percent of the charges for such electricity or steam shall be exempt.

212.08(7)(gg) *Fair associations.* Also exempt from the tax imposed by this chapter is the sale, use, lease, rental, or grant of a license to use, made directly to or by a fair association, of real or tangible personal property; any charge made by a fair association, or its agents, for parking, admissions, or for temporary parking of vehicles used for sleeping quarters; rentals, subleases, and sublicenses of real or tangible personal property between the owner of the central amusement attraction and any owner of an amusement ride, as those terms are used in ss. 616.15(1)(b) and 616.242(3)(a), for the furnishing of amusement rides at a public fair or exposition; and other transactions of a fair association which are incurred directly by the fair association in the financing, construction, and operation of a

fair, exposition, or other event or facility that is authorized by s. 616.08. As used in this paragraph, the terms "fair association" and "public fair or exposition" have the same meaning as those terms are defined in s. 616.001. This exemption does not apply to the sale of tangible personal property made by a fair association through an agent or independent contractor; sales of admissions and tangible personal property by a concessionaire, vendor, exhibitor, or licensee; or rentals and subleases of tangible personal property or real property between the owner of the central amusement attraction and a concessionaire, vendor, exhibitor, or licensee, except for the furnishing of amusement rides, which transactions are exempt.

212.08(7)(hh) *Solar energy systems.* Also exempt are solar energy systems or any component thereof. The Florida Solar Energy Center shall from time to time certify to the department a list of equipment and requisite hardware considered to be a solar energy system or a component thereof.

212.08(7)(ii) *Nonprofit cooperative hospital laundries.* Also exempt are sales or leases to nonprofit organizations that are incorporated under chapter 617 and which are treated, for federal income tax purposes, as cooperatives under subchapter T of the Internal Revenue Code, whose sole purpose is to offer laundry supplies and services to their members who must all be exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code. A member of a nonprofit cooperative hospital laundry whose Internal Revenue Code status changes shall, within 90 days after such change, divest all participation in the cooperative. The provision of laundry supplies and services to a nonmember business pursuant to a declaration of emergency under s. 252.36(2) and a written emergency plan of operation executed by the members of the cooperative does not invalidate or cause the denial of a cooperative's certificate of exemption.

212.08(7)(jj) *Complimentary meals.* Also exempt from the tax imposed by this chapter are food or drinks that are furnished as part of a packaged room rate by any person offering for rent or lease any transient living accommodations as described in s. 509.013(4)(a) which are licensed under part I of chapter 509 and which are subject to the tax under s. 212.03, if a separate charge or specific amount for the food or drinks is not shown. Such food or drinks are considered to be sold at retail as part of the total charge for the transient living accommodations. Moreover, the person offering the accommodations is not considered to be the consumer of items purchased in furnishing such food or drinks and may purchase those items under conditions of a sale for resale.

212.08(7)(kk) *Nonprofit corporation conducting the correctional work programs.* Products sold pursuant to s. 946.515 by the corporation organized pursuant to part II of chapter 946 are exempt from the tax imposed by this chapter. This exemption applies retroactively to July 1, 1983.

212.08(7)(ll) Parent-teacher organizations, parent-teacher associations, and schools having grades K through 12.

212.08(7)(ll)1. Sales or leases to parent-teacher organizations and associations the purpose of which is to raise funds for schools that teach grades K through 12 and that are associated with schools having grades K through 12 are exempt from the tax imposed by this chapter.

212.08(7)(ll)2. Parent-teacher organizations and associations described in subparagraph 1., and schools having grades K through 12, may pay tax to their suppliers on the cost price of school materials and supplies purchased, rented, or leased for resale or rental to students in grades K through 12, of items sold for fundraising purposes, and of items sold through vending machines located on the school premises, in lieu of collecting the tax imposed by this chapter from the purchaser. This paragraph also applies to food or beverages sold through vending machines located in the student lunchroom or dining room of a school having kindergarten through grade 12.

212.08(7)(mm) Mobile home lot improvements.

Items purchased by developers for use in making improvements to a mobile home lot owned by the developer may be purchased tax-exempt as a sale for resale if made pursuant to a contract that requires the developer to sell a mobile home to a purchaser, place the mobile home on the lot, and

make the improvements to the lot for a single lump-sum price. The developer must collect and remit sales tax on the entire lump-sum price.

212.08(7)(nn) Veterans Administration.

When a veteran of the armed forces purchases an aircraft, boat, mobile home, motor vehicle, or other vehicle from a dealer pursuant to the provisions of 38 U.S.C. s. 3902(a), or any successor provision of the United States Code, the amount that is paid directly to the dealer by the Veterans Administration is not taxable. However, any portion of the purchase price which is paid directly to the dealer by the veteran is taxable.

212.08(7)(oo) Complimentary items.

There is exempt from the tax imposed by this chapter:

212.08(7)(oo)1. Any food or drink, whether or not cooked or prepared on the premises, provided without charge as a sample or for the convenience of customers by a dealer that primarily sells food product items at retail.

212.08(7)(oo)2. Any item given to a customer as part of a price guarantee plan related to point-of-sale errors by a dealer that primarily sells food products at retail.

The exemptions in this paragraph do not apply to businesses with the primary activity of serving prepared meals or alcoholic beverages for immediate consumption.

212.08(7)(pp) Donated foods or beverages.

Any food or beverage donated by a dealer that sells food products at retail to a food bank or an organization that holds a current exemption from federal corporate income tax pursuant to s. 501(c) of the Internal Revenue Code of 1986, as amended, is exempt from the tax imposed by this chapter.

212.08(7)(qq) Racing dogs.

The sale of a racing dog by its owner is exempt if the owner is also the breeder of the animal.

212.08(7)(rr) Equipment used in aircraft repair and maintenance.

There shall be exempt from the tax imposed by this chapter replacement engines, parts, and equipment used in the repair or maintenance of qualified aircraft, aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight, when such parts or equipment are installed on such aircraft that is being repaired or maintained in this state.

212.08(7)(ss) Aircraft sales or leases.

The sale or lease of a qualified aircraft or an aircraft of more than 15,000 pounds maximum certified takeoff weight for use by a common carrier is exempt from the tax imposed by this chapter. As used in this paragraph, "common carrier" means an airline operating under Federal Aviation Administration regulations contained in Title 14, chapter I, part 121 or part 129 of the Code of Federal Regulations.

212.08(7)(tt) Nonprofit water systems.

Sales or leases to a not-for-profit corporation which holds a current exemption from federal income tax under s. 501(c)(4) or (12) of the Internal Revenue Code, as amended, are exempt from the tax imposed by this chapter if the sole or primary function of the corporation is to construct, maintain, or operate a water system in this state.

212.08(7)(uu) Library cooperatives.

Sales or leases to library cooperatives certified under s. 257.41(2) are exempt from the tax imposed by this chapter.

212.08(7)(vv) Advertising agencies.

operations" means activities consisting predominantly of sales, distribution, and provision of textbooks, merchandise, and services traditionally offered in college and university bookstores for the benefit of the institution's students, faculty, and staff.



Two 2010 bills added Sec. 212.08(7)(ggg). The first version, as reproduced immediately below, added by Ch. 2010-128 (H.B. 173), Laws 2010, is effective July 1, 2010. For an alternate version, see below. CCH.



212.08(7)(ggg) *Aircraft temporarily in the state.*

212.08(7)(ggg)1 An aircraft owned by a nonresident is exempt from the use tax imposed under this chapter if the aircraft enters and remains in this state for less than a total of 21 days during the 6-month period after the date of purchase. The temporary use of the aircraft and subsequent removal from this state may be proven by invoices for fuel, tie-down, or hangar charges issued by out-of-state vendors or suppliers or similar documentation that clearly and specifically identifies the aircraft. The exemption provided in this subparagraph is in addition to the exemptions provided in subparagraph 2. and [s. 212.05\(1\)\(a\)](#).

212.08(7)(ggg)2 An aircraft owned by a nonresident is exempt from the use tax imposed under this chapter if the aircraft enters or remains in this state exclusively for purposes of flight training, repairs, alterations, refitting, or modification. Such purposes shall be supported by written documentation issued by in-state vendors or suppliers which clearly and specifically identifies the aircraft. The exemption provided in this subparagraph is in addition to the exemptions provided in subparagraph 1. and [s. 212.05\(1\)\(a\)](#).



Two 2010 bills added Sec. 212.08(7)(ggg). The second version, as reproduced below, added by Ch. 2010-147 (S.B. 1752), Laws 2010, is effective July 1, 2010. For an alternate version, see above. CCH.



212.08(7)(ggg) *Aircraft temporarily in the state.*

212.08(7)(ggg)1 An aircraft owned by a nonresident is exempt from the use tax imposed by this chapter if the aircraft enters and remains in this state for less than a total of 21 days during the 6-month period after the date of purchase. The temporary use of the aircraft and subsequent removal from this state may be proven by invoices for fuel, tie-down, or hangar charges issued by out-of-state vendors or suppliers or similar documentation that clearly and specifically identifies the aircraft. The exemption created by this subparagraph is in addition to the exemptions provided in subparagraph 2. and [s. 212.05\(1\)\(a\)](#).

212.08(7)(ggg)2 An aircraft owned by a nonresident is exempt from the use tax imposed by this chapter if the aircraft enters or remains in this state exclusively for the purpose of flight training, repairs, alterations, refitting, or modification. Such purposes must be supported by written documentation issued by in-state vendors or suppliers which clearly and specifically identifies the aircraft. The exemption created by this subparagraph is in addition to the exemptions provided in subparagraph 1. and [s. 212.05\(1\)\(a\)](#).



Sec. 212.08(7)(hhh), as reproduced below, added by Ch. 2010-147 (S.B. 1752), Laws 2010, is effective July 1, 2010. CCH.



212.08(7)(hhh) *Fractional aircraft ownership programs.* The sale or use of aircraft primarily used in a fractional aircraft ownership program or of any parts or labor used in the completion, maintenance, repair, or overhaul of such aircraft is exempt from the tax imposed by this chapter. The exemption is not allowed unless the program manager of the fractional aircraft ownership program furnishes the dealer with a certificate stating that the lease, purchase, repair, or maintenance is for aircraft primarily used in a fractional aircraft ownership program and that the program manager qualifies for the exemption. If a program manager makes tax exempt purchases on a continual basis, the program manager may allow the dealer to keep the certificate on file. The program manager must inform a dealer that keeps the certificate on file if the program manager no longer qualifies for the exemption.

The department may adopt rules to administer this paragraph, including rules determining the format of the certificate.

212.08(8) *Partial exemptions; vessels engaged in interstate or foreign commerce.*

212.08(8)(a) The sale or use of vessels and parts thereof used to transport persons or property in interstate or foreign commerce, including commercial fishing vessels, is subject to the taxes imposed in this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year. The ratio would be determined at the close of the carrier's fiscal year. However, during the fiscal year in which the vessel begins its initial operations in this state, the vessel's mileage apportionment factor may be determined on the basis of an estimated ratio of anticipated miles in this state to anticipated total miles for that year and, subsequently, additional tax shall be paid on the vessel, or a refund may be applied for, on the basis of the actual ratio of the vessel's miles in this state to its total miles for that year. This ratio shall be applied each month to the total Florida purchases of such vessels and parts thereof which are used in Florida to establish that portion of the total used and consumed in intrastate movement and subject to the tax at the applicable rate. The basis for imposition of any discretionary surtax shall be as set forth in s. 212.054. Items, appropriate to carry out the purposes for which a vessel is designed or equipped and used, purchased by the owner, operator, or agent of a vessel for use on board such vessel shall be deemed to be parts of the vessel upon which the same are used or consumed. Vessels 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 chapter. Vessels and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

212.08(8)(b) The partial exemption provided for in this subsection shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be partially exempted are for the exclusive use designated herein and setting forth the extent of such partial exemption. Any person furnishing a false affidavit to such effect for the purpose of evading payment of any tax imposed under this chapter is subject to the penalties set forth in s. 212.12 and as otherwise provided by law.

212.08(8)(c) It is the intent of the Legislature that neither subsection (4) nor this subsection shall be construed as imposing the tax provided by this chapter on vessels used as common carriers, contract carriers, or private carriers, engaged in interstate or foreign commerce, except to the extent provided by the pro rata formula provided in subsection (4) and in paragraph (a).

212.08(9) *Partial Exemptions; Railroads and Motor Vehicles Engaged in Interstate or Foreign Commerce.*

212.08(9)(a) Railroads that are licensed as common carriers by the Surface Transportation Board and parts thereof used to transport persons or property in interstate or foreign commerce are subject to tax imposed in this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. However, during the fiscal year in which the railroad begins its initial operations in this state, the railroad's mileage apportionment factor may be determined on the basis of an estimated ratio of anticipated miles in this state to anticipated total miles for that year and, subsequently, additional tax shall be paid on the railroad, or a refund may be applied for, on the basis of the actual ratio of the railroad's miles in this state to its total miles for that year. This ratio shall be applied each month to the purchases of the railroad in this state 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 chapter. The basis for imposition of any discretionary surtax is set forth in s. 212.054. Railroads that are licensed as common carriers by the Surface Transportation Board 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 chapter.

212.08(9)(b) Motor vehicles that are engaged in interstate commerce as common carriers, and parts thereof, used to transport persons or property in interstate or foreign commerce are subject to tax imposed in this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's motor vehicles which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. However, during the fiscal year in which the carrier begins its initial operations in this state, the carrier's mileage apportionment factor may be determined on the basis of an estimated ratio of anticipated miles in this state to anticipated total miles for that year and, subsequently, additional tax shall be paid on the carrier, or a refund may be applied for, on the basis of the actual ratio of the carrier's miles in this state to its total miles for that year. This ratio shall be applied each month to the purchases in this state 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 chapter. The basis for imposition of any discretionary surtax is set forth in s. 212.054. Motor vehicles that are engaged in interstate commerce, 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 chapter. Motor vehicles and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax. For purposes of this paragraph, parts of a motor vehicle engaged in interstate commerce include a separate tank not connected to the fuel supply system of the motor vehicle into which diesel fuel is placed to operate a refrigeration unit or other equipment.

212.08(10) Partial Exemption; Motor Vehicle Sold to Resident of Another State.

212.08(10)(a) The tax collected on the sale of a new or used motor vehicle in this state to a resident of another state shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state of which the purchaser is a resident, except that such tax shall not exceed the tax that would otherwise be imposed under this chapter. At the time of the sale, the purchaser shall execute a notarized statement of his or her intent to license the vehicle in the state of which the purchaser is a resident within 45 days of the sale and of the fact of the payment to the State of Florida of a sales tax in an amount equivalent to the sales tax of his or her state of residence and shall submit the statement to the appropriate sales tax collection agency in his or her state of residence. Nothing in this subsection shall be construed to require the removal of the vehicle from this state following the filing of an intent to license the vehicle in the purchaser's home state if the purchaser licenses the vehicle in his or her home state within 45 days after the date of sale.

212.08(10)(b) Notwithstanding the partial exemption allowed in paragraph (a), a vehicle is subject to this state's sales tax at the applicable state sales tax rate plus authorized surtaxes when the vehicle is purchased by a nonresident corporation or partnership and:

212.08(10)(b)1. An officer of the corporation is a resident of this state;

212.08(10)(b)2. A stockholder of the corporation who owns at least 10 percent of the corporation is a resident of this state; or

212.08(10)(b)3. A partner in the partnership who has at least 10 percent ownership is a resident of this state.

However, if the vehicle is removed from this state within 45 days after purchase and remains outside the state for a minimum of 180 days, the vehicle may qualify for the partial exemption allowed in paragraph (a) despite the residency of owners or stockholders of the purchasing entity.

212.08(10)(c) Nothing herein shall require the payment of tax to the State of Florida for assessments made prior to July 1, 2001, if the tax imposed by this section has been paid to the state in which the

vehicle was licensed and the department has assessed a like amount of tax on the same transactions. This provision shall apply retroactively to assessments that have been protested prior to August 1, 1999, and have not been paid on the date this act takes effect.

212.08(11) Partial Exemption; Flyable Aircraft.

212.08(11)(a) The tax imposed on the sale by a manufacturer of flyable aircraft, who designs such aircraft, which sale may include necessary equipment and modifications placed on such flyable aircraft prior to delivery by the manufacturer, shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state in which the aircraft will be domiciled.

212.08(11)(b) This partial exemption applies only if the purchaser is a resident of another state who will not use the aircraft in this state, or if the purchaser is a resident of another state and uses the aircraft in interstate or foreign commerce, or if the purchaser is a resident of a foreign country.

212.08(11)(c) The maximum tax collectible under this subsection may not exceed 6 percent of the sales price of such aircraft. No Florida tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled does not allow Florida sales or use tax to be credited against its sales or use tax. Furthermore, no tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled has enacted a sales and use tax exemption for flyable aircraft or if the aircraft will be domiciled outside the United States.

212.08(11)(d) The purchaser shall execute a sworn affidavit attesting that he or she is not a resident of this state and stating where the aircraft will be domiciled. If the aircraft is subsequently used in this state within 6 months of the time of purchase, in violation of the intent of this subsection, the purchaser shall be liable for payment of the full use tax imposed by this chapter and shall be subject to the penalty imposed by s. 212.12(2), which penalty shall be mandatory. Notwithstanding the provisions of this paragraph, the owner of an aircraft purchased pursuant to this subsection may permit the aircraft to be returned to this state for repairs within 6 months after the date of sale without the aircraft being in violation of the law and without incurring liability for payment of tax or penalty on the purchase price of the aircraft, so long as the aircraft is removed from this state within 20 days after the completion of the repairs and such removal can be proven by invoices for fuel, tie-down, or hangar charges issued by out-of-state vendors or suppliers or similar documentation.

212.08(12) ~~Partial Exemption; Flyable Aircraft.~~

212.08(12)(a) There are exempt from the taxes imposed by this chapter the gross receipts from the sale or lease of, and the storage, use, or other consumption in this state of, master tapes or master records embodying sound, or master films or master video tapes; except that amounts paid to recording studios or motion picture or television studios for the tangible elements of such master tapes, records, films, or video tapes are taxable as otherwise provided in this chapter. This exemption will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

212.08(12)(b) For the purposes of this subsection, the term:

212.08(12)(b)1. "Amounts paid for the tangible elements" does not include any amounts paid for the copyrightable, artistic, or other intangible elements of such master tapes, records, films, or video tapes, whether designated as royalties or otherwise, including, but not limited to, services rendered in producing, fabricating, processing, or imprinting tangible personal property or any other services or production expenses in connection therewith which may otherwise be construed as constituting a "sale" under s. 212.02.

212.08(12)(b)2. "Master films or master video tapes" means films or video tapes utilized by the motion picture and television production industries in making visual images for reproduction.

212.08(12)(b)3. "Master tapes or master records embodying sound" means tapes, records, and other devices utilized by the recording industry in making recordings embodying sound.

212.08(12)(b)4. "Motion picture or television studio" means a facility in which film or video tape productions or parts of productions are made and which contains the necessary equipment and personnel for this purpose and includes a mobile unit or vehicle that is equipped in much the same manner as a stationary studio and used in the making of film or video tape productions.

212.08(12)(b)5. "Recording studio" means a place where, by means of mechanical or electronic devices, voices, music, or other sounds are transmitted to tapes, records, or other devices capable of reproducing sound.

212.08(12)(b)6. "Recording industry" means any person engaged in an occupation or business of making recordings embodying sound for a livelihood or for a profit.

212.08(12)(b)7. "Motion picture or television production industry" means any person engaged in an occupation or business for a livelihood or for profit of making visual motion picture or television visual images for showing on screen or television for theatrical, commercial, advertising, or educational purposes.

212.08(13) No transactions shall be exempt from the tax imposed by this chapter except those expressly exempted herein. All laws granting tax exemptions, to the extent they may be inconsistent or in conflict with this chapter, including, but not limited to, the following designated laws, shall yield to and be superseded by the provisions of this subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31, 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 315.11, 348.65, 348.762, 349.13, 403.1834, 616.07, and 623.09, and the following Laws of Florida, acts of the year indicated: s. 31, chapter 30843, 1955; s. 19, chapter 30845, 1955; s. 12, chapter 30927, 1955; s. 8, chapter 31179, 1955; s. 15, chapter 31263, 1955; s. 13, chapter 31343, 1955; s. 16, chapter 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-2261; s. 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11, chapter 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446; and s. 10, chapter 67-1681. This subsection does not supersede the authority of a local government to adopt financial and local government incentives pursuant to s. 163.2517.

212.08(14) Technical Assistance Advisory Committee.

The department shall establish a technical assistance advisory committee with public and private sector members, including representatives of both manufacturers and retailers, to advise the Department of Revenue and the Department of Health in determining the taxability of specific products and product lines pursuant to subsection (1) and paragraph (2)(a). In determining taxability and in preparing a list of specific products and product lines that are or are not taxable, the committee shall not be subject to the provisions of chapter 120. Private sector members shall not be compensated for serving on the committee.

212.08(15) Electrical Energy Used in an Enterprise Zone.

212.08(15)(a) Beginning July 1, 1995, charges for electrical energy used by a qualified business at a fixed location in an enterprise zone in a municipality which has enacted an ordinance pursuant to s. 166.231(8) which provides for exemption of municipal utility taxes on such businesses or in an enterprise zone jointly authorized by a county and a municipality which has enacted an ordinance pursuant to s. 166.231(8) which provides for exemption of municipal utility taxes on such businesses shall receive an exemption equal to 50 percent of the tax imposed by this chapter, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the exemption shall be equal to 100 percent of the tax imposed by this chapter. A qualified business may receive such exemption for a period of 5 years from the billing period beginning not more than 30 days following notification to the applicable utility company by the department that an exemption has been authorized pursuant to this subsection and s. 166.231(8).

212.08(15)(b) To receive this exemption, a business must file an application, with the enterprise zone development agency having jurisdiction over the enterprise zone where the business is located,