# Florida Sales Tax Guide, Florida, Sec. 212.06 Sales, storage, use tax; collectible from dealers; “dealer” defined; dealers to collect from purchasers; legislative intent as to scope of tax

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## FLORIDA STATUTES, TITLE XIV TAXATION AND FINANCE, CHAPTER 212 TAX ON SALES, USE, AND OTHER TRANSACTIONS

**212.06(1)**

**212.06(1)(a)** The aforesaid tax at the rate of 6 percent of the retail sales price as of the moment of sale, 6 percent of the cost price as of the moment of purchase, or 6 percent of the cost price as of the moment of commingling with the general mass of property in this state, as the case may be, shall be collectible from all dealers as herein defined on the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of tangible personal property or services taxable under this chapter. The full amount of the tax on a credit sale, installment sale, or sale made on any kind of deferred payment plan shall be due at the moment of the transaction in the same manner as on a cash sale.

**212.06(1)(b)** Except as otherwise provided, any person who manufactures, produces, compounds, processes, or fabricates in any manner tangible personal property for his or her own use shall pay a tax upon the cost of the product manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges, notwithstanding the provisions of s. 212.02 defining cost price. However, the tax levied under this paragraph shall not be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy at a single location, when such power or energy is used directly and exclusively at such location, or at other locations if the energy is transferred through facilities of the owner in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations. The manufacture or production of electrical power or energy that is used for space heating, lighting, office equipment, or air-conditioning or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonfabricating, or nonshipping activity is taxable. Electrical power or energy consumed or dissipated in the transmission or distribution of electrical power or energy for resale is also not taxable. Fabrication labor shall not be taxable when a person is using his or her own equipment and personnel, for his or her own account, as a producer, subproducer, or coproducer of a qualified motion picture. For purposes of this chapter, the term 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, commercial, industrial, or educational purposes. This exemption for fabrication labor associated with production of a qualified motion picture will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258. A person who manufactures factory-built buildings for his or her own use in the performance of contracts for the construction or improvement of real property shall pay a tax only upon the person's cost price of items used in the manufacture of such buildings.

**212.06(1)(c)**

**212.06(1)(c)1.** Notwithstanding the provisions of paragraph (b), the use tax on asphalt manufactured for one's own use shall be calculated with respect to paragraph (b) only upon

the cost of materials which become a component part or which are an ingredient of the finished asphalt and upon the cost of the transportation of such components and ingredients. In addition, an indexed tax of 38 cents per ton of such manufactured asphalt shall be due at the same time and in the same manner as taxes due pursuant to paragraph (b). Beginning July 1, 1989, the indexed tax shall be adjusted each July 1 to an amount, rounded to the nearest cent, equal to the product of 38 cents multiplied by a fraction, the numerator of which is the annual average of the materials and components for construction series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics, for the previous calendar year, and the denominator of which is the annual average of said series for calendar year 1988.

**212.06(1)(c)2.**

**212.06(1)(c)2.a.** Beginning July 1, 1999, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 20 percent.

**212.06(1)(c)2.b.** Beginning July 1, 2000, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 40 percent.

**212.06(1)(d)** For purposes of paragraph (b), the department may establish a cost price amount for industry groups that manufacture, produce, compound, process, or fabricate tangible personal property for their own use in the performance of contracts for improvements to real property. Such cost price amount must be established as a percentage, rounded to the nearest whole number, of the total contract price charged for the improvement. The cost price percentages established must be adopted by rule pursuant to the procedures provided in s. 120.54, upon petition of a majority of the members of an industry group or by a statewide association that represents such industry group, and must be based on a reasonable estimate of average costs incurred by members of the petitioning industry group. The department is required to adopt a cost price percentage only if sufficient information is available to determine such percentage. The information considered by the department to establish the cost price percentage must be that set forth in the petition or that which is otherwise made available to the department. Any cost price percentage so established must be available only by election of a member of the industry group for which the percentage was established and may apply only to such periods or contracts for which the election is made. The election must be made by the taxpayer by timely accruing and remitting tax on the contract using the established percentage figure. If the taxpayer does not timely accrue and remit the use tax due for a contract using the percentage figure, the taxpayer may not later use this method of calculating the use tax due for that contract. Taxpayers must maintain adequate records showing the accrual of tax using the percentage figure on total contract price. Any cost price so established must remain available for use for a period of at least 5 years from the date of its adoption and must be reviewed and be subject to adjustment by the department no more frequently than at 5-year intervals. The provisions of this paragraph are not available to persons subject to paragraph (c).

**212.06(1)(e)**

**212.06(1)(e)1.** Notwithstanding any other provision of this chapter, tax shall not be imposed on any vessel registered under s. 328.52 by a vessel dealer or vessel manufacturer with respect to a vessel used solely for demonstration, sales promotional, or testing purposes. The term promotional purposes shall include, but not be limited to, participation in fishing tournaments. For the purposes of this paragraph, promotional purposes means the entry of the vessel in a marine-related event where prospective purchasers would be in attendance, where the vessel is entered in the name of the dealer or manufacturer, and where the vessel is clearly marked as for sale, on which vessel the name of the dealer or manufacturer is clearly displayed, and which vessel has never been transferred into the dealer's or manufacturer's accounting books from an inventory item to a capital asset for depreciation purposes.

**212.06(1)(e)2.** The provisions of this paragraph do not apply to any vessel when used for transporting persons or goods for compensation; when offered, let, or rented to another for consideration; when offered for rent or hire as a means of transportation for compensation; or when offered or used to provide transportation for persons solicited through personal contact or through advertisement on a share expense basis.

**212.06(1)(e)3.** Notwithstanding any other provision of this chapter, tax may not be imposed on any vessel imported into this state for the sole purpose of being offered for sale at retail by a yacht broker or yacht dealer registered in this state if the vessel remains under the care, custody, and control of the registered broker or dealer and the owner of the vessel does not make personal use of the vessel during that time. The provisions of this chapter govern the taxability of any sale or use of the vessel subsequent to its importation under this provision.

**212.06(2)**

**212.06(2)(a)** The term dealer, as used in this chapter, includes every person who manufactures or produces tangible personal property for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in this state.

**212.06(2)(b)** The term dealer is further defined to mean every person, as used in this chapter, who imports, or causes to be imported, tangible personal property from any state or foreign country for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in this state.

**212.06(2)(c)** The term dealer is further defined to mean every person, as used in this chapter, who sells at retail or who offers for sale at retail, or who has in his or her 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.

**212.06(2)(d)** The term dealer is further defined to mean any person who has sold at retail; or used, or consumed, or distributed; or stored for use or consumption in this state, tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of such tangible personal property. However, the term dealer does not mean a person who is not a dealer under the definition of any other paragraph of this subsection and whose only owned or leased property (including property owned or leased by an affiliate) in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or property from which the printed product is produced.

**212.06(2)(e)** The term dealer is further defined to mean any person, as used in this chapter, who leases or rents tangible personal property, as defined in this chapter, for a consideration, permitting the use or possession of such property without transferring title thereto, except as expressly provided for to the contrary herein.

**212.06(2)(f)** The term dealer is further defined to mean any person, as used in this chapter, who maintains or has within this state, directly or by a subsidiary, an office, distributing house, salesroom, or house, warehouse, or other place of business.

**212.06(2)(g)** Dealer also means and includes every person who solicits business either by direct representatives, indirect representatives, or manufacturers' agents; by distribution of catalogs or other advertising matter; or by any other means whatsoever, and by reason thereof receives orders for tangible personal property from consumers for use, consumption, distribution, and storage for use or consumption in the state; such dealer shall collect the tax imposed by this chapter from the purchaser, and no action, either in law or in equity, on a sale or transaction as provided by the terms of this chapter may be had in this state by any such dealer unless it is affirmatively shown that the provisions of this chapter have been fully complied with.

**212.06(2)(h)** Dealer also means and includes every person who, as a representative, agent, or solicitor of an out-of-state principal or principals, solicits, receives, and accepts orders from consumers in the state for future delivery and whose principal refuses to register as a dealer.

**212.06(2)(i)** Dealer also means and includes the state, county, municipality, any political subdivision, agency, bureau or department, or other state or local governmental instrumentality.

**212.06(2)(j)** The term dealer is further defined to mean any person who leases, or grants a license to use, occupy, or enter upon, living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, real property, space or spaces in parking lots or garages for motor vehicles, docking or storage space or spaces for boats in boat docks or marinas, or tie-down or storage space or spaces for aircraft at airports. The term dealer also means any person who has leased, occupied, or used or was entitled to use any living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, real property, space or spaces in parking lots or garages for motor vehicles or docking or storage space or spaces for boats in boat docks or marinas, or who has purchased communication services or electric power or energy, and who cannot prove that the tax levied by this chapter has been paid to the vendor or lessor on any such transactions. The term dealer does not include any person who leases, lets, rents, or grants a license to use, occupy, or enter upon any living quarters, sleeping quarters, or housekeeping accommodations in apartment houses, roominghouses, tourist camps, or trailer camps, and who exclusively enters into a bona fide written agreement for continuous residence for longer than 6 months in duration with any person who leases, lets, rents, or is granted a license to use such property.

**212.06(2)(k)** Dealer also means any person who sells, provides, or performs a service taxable under this chapter. Dealer also means any person who purchases, uses, or consumes a service taxable under this chapter who cannot prove that the tax levied by this chapter has been paid to the seller of the taxable service.

**212.06(2)(l)** Dealer also means any person who solicits, offers, provides, enters into, issues, or delivers any service warranty taxable under this chapter, or who receives, on behalf of such a person, any consideration from a service warranty holder.

**212.06(3)**

**212.06(3)(a)** Except as provided in paragraph (b), every dealer making sales, whether within or outside the state, of tangible personal property for distribution, storage, or use or other consumption, in this state, shall, at the time of making sales, collect the tax imposed by this chapter from the purchaser.

**212.06(3)(b)**

**212.06(3)(b)1.** A purchaser of printed materials shall have sole responsibility for the taxes imposed by this chapter on those materials when the printer of the materials delivers them to the United States Postal Service for mailing to persons other than the purchaser located within and outside this state. Printers of materials delivered by mail to persons other than the purchaser located within and outside this state shall have no obligation or responsibility for the payment or collection of any taxes imposed under this chapter on those materials. However, printers are obligated to collect the taxes imposed by this chapter on printed materials when all, or substantially all, of the materials will be mailed to persons located within this state. For purposes of the printer's tax collection obligation, there is a rebuttable presumption that all materials printed at a facility are mailed to persons located within the same state as that in which the facility is located. A certificate provided by the purchaser to the printer concerning the delivery of the printed materials for that purchase or all purchases shall be sufficient for purposes of rebutting the presumption created herein.

**212.06(3)(b)2.** The Department of Revenue is authorized to adopt rules and forms to implement the provisions of this paragraph.

**212.06(4)** On all tangible personal property imported or caused to be imported from other states, territories, the District of Columbia, or any foreign country, and used by him or her, the dealer, as herein defined, shall pay the tax imposed by this chapter on all articles of tangible personal property so imported and used, the same as if such articles had been sold at retail for use or consumption in this state. For the purposes of this chapter, the use, or consumption, or distribution, or storage to be used or consumed in this state of tangible personal property shall each be equivalent to a sale at retail, and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

**212.06(5)**

**212.06(5)(a)**

**212.06(5)(a)1.** Except as provided in subparagraph 2., it is not the intention of this chapter to levy a tax upon tangible personal property imported, produced, or manufactured in this state for export, provided that tangible personal property may not be considered as being imported, produced, or manufactured for export unless the importer, producer, or manufacturer delivers the same to a licensed exporter for exporting or to a common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by submission to the department of a duly signed and validated United States customs declaration, showing the departure of the aircraft from the continental United States; and further with respect to aircraft, the canceled United States registry of said aircraft; or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on any sale which the state is prohibited from taxing under the Constitution or laws of the United States. Every retail sale made to a person physically present at the time of sale shall be presumed to have been delivered in this state.

**212.06(5)(a)2.**

**212.06(5)(a)2.a.** Notwithstanding subparagraph 1., a tax is levied on each sale of tangible personal property to be transported to a cooperating state as defined in sub-subparagraph c., at the rate specified in sub-subparagraph d. 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 or her 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.

**212.06(5)(a)2.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:

**212.06(5)(a)2.b.(I)** It levies and collects taxes on mail order sales of property transported from that state to persons in this state, as described in s. 212.0596, upon request of the department.

**212.06(5)(a)2.b.(II)** The tax so collected shall be at the rate specified in s. 212.05, not including any local option or tourist or convention development taxes collected pursuant to s. 125.0104 or this chapter.

**212.06(5)(a)2.b.(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.

**212.06(5)(a)2.b.(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.

**212.06(5)(a)2.b.(V)** Such state agrees to provide to the department records obtained by it from retailers or dealers in such state showing delivery of tangible personal property into this state upon which no sales or use tax has been paid in a manner similar to that provided in sub-subparagraph g.

**212.06(5)(a)2.c.** For purposes of this subparagraph, sales of tangible personal property to be transported to a cooperating state means mail order sales to a person who is in the cooperating state at the time the order is executed, from a dealer who receives that order in this state.

**212.06(5)(a)2.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.

**212.06(5)(a)2.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 charges imposed by s. 215.20.

**212.06(5)(a)2.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.

**212.06(5)(a)2.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.

**212.06(5)(b)**

**212.06(5)(b)1.** Notwithstanding the provisions of paragraph (a), it is not the intention of this chapter to levy a tax on the sale of tangible personal property to a nonresident dealer who does not hold a Florida sales tax registration, provided such nonresident dealer furnishes the seller a statement declaring that the tangible personal property will be transported outside this state by the nonresident dealer for resale and for no other purpose. The statement shall include, but not be limited to, the nonresident dealer's name, address, applicable passport or visa number, arrival-departure card number, and evidence of authority to do business in the nonresident dealer's home state or country, such as his or her business name and address, occupational license number, if applicable, or any other suitable requirement. The statement shall be signed by the nonresident

dealer and shall include the following sentence: Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

**212.06(5)(b)2.** The burden of proof of subparagraph 1. rests with the seller, who must retain the proper documentation to support the exempt sale. The exempt transaction is subject to verification by the department.

**212.06(5)(c)** Notwithstanding the provisions of paragraph (a), it is not the intention of this chapter to levy a tax on the sale by a printer to a nonresident print purchaser of material printed by that printer for that nonresident print purchaser when the print purchaser does not furnish the printer a resale certificate containing a sales tax registration number but does furnish to the printer a statement declaring that such material will be resold by the nonresident print purchaser.

**212.06(6)** It is however, the intention of this chapter to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this state of tangible personal property after it has come to rest in this state and has become a part of the mass property of this state.

**212.06(7)** The provisions of this chapter do not apply in respect to the use or consumption of tangible personal property or services, or distribution or storage of tangible personal property for use or consumption in this state, upon which a like tax equal to or greater than the amount imposed by this chapter has been lawfully imposed and paid in another state, territory of the United States, or the District of Columbia. The proof of payment of such tax shall be made according to rules and regulations of the department. If the amount of tax paid in another state, territory of the United States, or the District of Columbia is not equal to or greater than the amount of tax imposed by this chapter, then the dealer shall pay to the department an amount sufficient to make the tax paid in the other state, territory of the United States, or the District of Columbia and in this state equal to the amount imposed by this chapter.

**212.06(8)**

**212.06(8)(a)** Use tax will apply and be due on tangible personal property imported or caused to be imported into this state for use, consumption, distribution, or storage to be used or consumed in this state; provided, however, that, except as provided in paragraph (b), it shall be presumed that tangible personal property used in another state, territory of the United States, or the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state. The rental or lease of tangible personal property which is used or stored in this state shall be taxable without regard to its prior use or tax paid on purchase outside this state.

**212.06(8)(b)** The presumption that tangible personal property used in another state, territory of the United States, or the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state does not apply to any boat for which a saltwater fishing license fee is required to be paid pursuant to s. 372.57(7), either directly or indirectly, for the purpose of taking, attempting to take, or possessing any saltwater fish for noncommercial purposes. Use tax shall apply and be due on such a boat as provided in this paragraph, and proof of payment of such tax must be presented prior to the first such licensure of the boat, registration of the boat pursuant to chapter 328, and titling of the boat pursuant to chapter 328. A boat that is first licensed within 1 year after purchase shall be subject to use tax on the full amount of the purchase price; a boat that is first licensed in the second year after purchase shall be subject to use tax on 90 percent of the purchase price; a boat that is first licensed in the third year after purchase shall be subject to use tax on 80 percent of the purchase price; a boat that is first licensed in the fourth year after purchase shall be subject to use tax on 70 percent of the purchase price; a boat that is first licensed in the fifth year after purchase shall be subject to use tax on 60 percent of the purchase price; and a boat that is first licensed in the sixth year after purchase, or later, shall be subject to use tax on 50 percent of the purchase price. If the purchaser fails to provide the purchase invoice on such boat, the fair market value of the boat at the time of importation into this state shall be used to compute the tax.

**212.06(9)** The taxes imposed by this chapter do not apply to the use, sale, or distribution of religious publications, bibles, hymn books, prayer books, vestments, altar paraphernalia, sacramental chalices, and like church service and ceremonial raiments and equipment.

**212.06(10)** No title certificate may be issued on any boat, mobile home, motor vehicle, or other vehicle, or, if no title is required by law, no license or registration may be issued for any boat, mobile home, motor vehicle, or other vehicle, unless there is filed with such application for title certificate or license or registration certificate a receipt, issued by an authorized dealer or a designated agent of the Department of Revenue, evidencing the payment of the tax imposed by this chapter where the same is payable. A presumption of sales and use tax applicability is created if the motor vehicle is registered in this state. For the purpose of enforcing this provision, all county tax collectors and all persons or firms authorized to sell or issue boat, mobile home, and motor vehicle licenses are hereby designated agents of the department and are required to perform such duty in the same manner and under the same conditions prescribed for their other duties by the constitution or any statute of this state. All transfers of title to boats, mobile homes, motor vehicles, and other vehicles are taxable transactions, unless expressly exempt under this chapter.

**212.06(11)**

**212.06(11)(a)** Notwithstanding any other provision of this chapter, the taxes imposed by this chapter shall not be imposed on promotional materials, which are imported, purchased, sold, used, manufactured, fabricated, processed, printed, imprinted, assembled, distributed, or stored in this state, if the promotional materials are subsequently exported outside this state, and regardless of whether the exportation process is continuous and unbroken, a separate consideration is charged for the material so exported, or the taxpayer keeps, retains, or exercises any right, power, dominion, or control over the promotional materials before or for the purpose of subsequently transporting them outside this state.

**212.06(11)(b)** As used in this subsection, the term promotional materials means tangible personal property that is given away or otherwise distributed to promote the sale of a subscription to a publication; written or printed advertising material, direct mail literature, correspondence, written solicitations, renewal notices, and billings for sales connected with or to promote the sale of a subscription to a publication; and the component parts of each of these types of promotional materials.

**212.06(11)(c)** After July 1, 1992, this exemption inures to the taxpayer only through refund of previously paid taxes or by self-accruing taxes as provided in s. 212.183 and applies only where the seller of subscriptions to publications sold in the state:

**212.06(11)(c)1.** Is registered with the department pursuant to this chapter; and

**212.06(11)(c)2.** Remits the taxes imposed by this chapter on such publications.

**212.06(11)(d)** This subsection applies retroactively to July 1, 1987.

**212.06(12)** In lieu of any other facts which may indicate commingling, any boat which remains in this state for more than an aggregate of 183 days in any 1-year period, except as provided in subsection (8) or s. 212.08(7)(t), shall be presumed to be commingled with the general mass of property of this state.

**212.06(13)** Registered aircraft dealers who purchase aircraft exclusively for resale and do not pay sales tax on the purchase price at the time of purchase shall pay a use tax computed on 1 percent of the value of the aircraft each calendar month that the aircraft is used by the dealer. Payment of such tax shall commence in the month during which the aircraft is first used for any purpose for which income is received by the dealer. A dealer may pay the sales tax on the purchase of the aircraft in lieu of the monthly use tax. The value of the aircraft shall include its acquisition cost and the cost of reconditioning that enhances the value of the aircraft and shall generally be the value shown on the books of the dealer in accordance with generally accepted accounting principles. Notwithstanding the payment by the dealer of tax computed on 1 percent of the value of any aircraft, if the aircraft is leased or rented, the dealer

shall collect from the customer and remit the tax that is due on the lease or rental of the aircraft; such payments do not diminish or offset any use tax due from the dealer.

**212.06(14)** For the purpose of determining whether a person is improving real property, the term:

**212.06(14)(a)** Real property means the land and improvements thereto and fixtures and is synonymous with the terms realty and real estate.

**212.06(14)(b)** Fixtures[2] means items that are an accessory to a building, other structure, or land and that do not lose their identity as accessories when installed but that do become permanently attached to realty. However, the term does not include the following items, whether or not such items are attached to real property in a permanent manner: property of a type that is required to be registered, licensed, titled, or documented by this state or by the United States Government, including, but not limited to, mobile homes, except mobile homes assessed as real property, or industrial machinery or equipment. For purposes of this paragraph, industrial machinery or equipment is not limited to machinery and equipment used to manufacture, process, compound, or produce tangible personal property. For an item to be considered a fixture, it is not necessary that the owner of the item also own the real property to which it is attached.

**212.06(14)(c)** Improvements to real property includes the activities of building, erecting, constructing, altering, improving, repairing, or maintaining real property.

**212.06(15)**

**212.06(15)(a)** When a contractor secures rock, shell, fill dirt, or similar materials from a location that he or she owns or leases and uses such materials to fulfill a real property contract on the property of another person, the contractor is the ultimate consumer of such materials and is liable for use tax thereon. This paragraph does not apply to a person or a corporation or affiliated group as defined by s. 220.03(1)(b) or (e) that secures such materials from a location that he, she, or it owns for use on his, her, or its own property. The basis upon which the contractor shall remit the tax is the fair retail market value determined by establishing either the price he or she would have to pay for it on the open market or the price he or she would regularly charge if he or she sold it to other contractors or users.

**212.06(15)(b)** When a contractor does not own or lease the land but has entered into an agreement to purchase fill dirt, rock, shell, or similar materials for his or her own use and wherein the contractor will excavate and remove the material, the taxable basis shall include the cost of the material plus all costs of clearing, excavating, and removing, including labor and all other costs incurred by the contractor.

**212.06(15)(c)** In lieu of the method described in paragraph (a) for determining the taxable basis on rock, shell, fill dirt, and similar materials a contractor uses in performing a contract for the improvement of real property, the taxable basis may be calculated as the land cost plus all costs of clearing, excavating, and loading, including labor, power, blasting, and similar costs.

**212.06(15)(d)** No tax is applicable when the Department of Transportation furnishes without charge the borrow materials or the pits where materials are to be extracted for use on a road contract.

**212.06(16)**

**212.06(16)(a)** Notwithstanding other provisions of this chapter, the use by the publisher of a newspaper, magazine, or periodical of copies for his or her own consumption or to be given away is taxable at the usual retail price thereof, if any, or at the cost price.

**212.06(16)(b)** For the purposes of this subsection, the term cost price means the actual cost of printing of newspapers, magazines, and other publications, without any deductions therefrom on account of the cost of materials used, labor or services cost, transportation charges, or other direct

or indirect overhead costs that are a part of printing costs of the property. However, the cost of labor to manufacture, produce, compound, process, or fabricate expendable items of tangible personal property which are directly used by such person in printing other tangible personal property for sale or for his or her own use is exempt. Authors' royalties, fees, or salaries, general overhead, and other costs not directly related to printing shall be deemed to be labor associated with manufacturing, producing, compounding, processing, or fabricating expendable items.

(As added by Ch. 26319, Laws 1949; as amended by Ch. 26871, Laws 1951; Ch. 29883, Laws 1955; Ch. 59-397, Laws 1959; Ch. 59-289, Laws 1959; Ch. 61-275, Laws 1961; Ch. 61-279, Laws 1961; Ch. 63-253, Laws 1963; Ch. 65-392, Laws 1965; Ch. 65-329, Laws 1965; Ch. 65-371, Laws 1965; Ch. 65-420, Laws 1965; Ch. 67-180, Laws 1967; Ch. 68-27, Laws 1968; Ch. 68-119, Laws 1968; Ch. 69-106, Laws 1969; Ch. 69-222, Laws 1969; Ch. 69-383, Laws 1969; Ch. 70-373, Laws 1970; Ch. 71-360, Laws 1971; Ch. 74-32, Laws 1974; Ch. 82-154, Laws 1982, 2nd Spec. Sess.; Ch. 82-206, Laws 1982, 2nd Spec. Sess.; Ch. 83-243, Laws 1983; Ch. 84-548, Laws 1984; Ch. 85-342, Laws 1985; Ch. 86-152, Laws 1986; Ch. 86-166, Laws 1986; Ch. 87-6, Laws 1987, 4th Spec. Sess.; Ch. 87-99, Laws 1987, 4th Spec. Sess.; Ch. 87-370, Laws 1987, 4th Spec. Sess.; Ch. 87-402, Laws 1987, 4th Spec. Sess.; Ch. 87-548, Laws 1987, 4th Spec. Sess.; Ch. 88-243, Laws 1988; Ch. 89-292, Laws 1989; Ch. 89-300, Laws 1989; Ch. 89-356, Laws 1989; Ch. 91-45, Laws 1991; Ch. 91-112, Laws 1991; Ch. 92-168, Laws 1992; Ch. 92-207, Laws 1992; Ch. 92-319, Laws 1992; Ch. 93-86, Laws 1993; Ch. 94-353, Laws 1994; Ch. 95-147, Laws 1995; Ch. 95-280, Laws 1995; Ch. 97-99, Laws 1997; Ch. 97-221, Laws 1997; Ch. 98-140, Laws 1998; Ch. 98-141, Laws 1998; Ch. 99-2, Laws 1999; Ch. 99-289, Laws 1999; Ch. 99-334, Laws 1999; Ch. 2000-151, Laws 2000; Ch. 2000-182, Laws 2000; Ch. 2000-275, Laws 2000; Ch. 2000-276, Laws 2000; Ch. 2000-310, Laws 2000; Ch. 2000-355, Laws 2000; Ch. 2002-46 (H.B. 1085), Laws 2002, effective July 1, 2002, and Ch. 2002-218 (S.B. 426), Laws 2002, effective July 1, 2002; Ch. 2005-280 (H.B. 1813), Laws 2005, effective July 1, 2005.)

**Footnotes**

2 Sec. 14 of Ch. 2002-218 (S.B. 426), Laws 2002, provides:

It is the intent of the Legislature that the amendment made by this act to section 212.06(14)(14)(b), Florida Statutes, relating to industrial machinery or equipment, is remedial in nature and merely clarifies existing law. However, nothing contained in this act shall authorize an assessment of additional tax, penalty, or interest against any taxpayer that complied with section 212.06(14)(14)(b), Florida Statutes, as amended by chapter 98-141, Laws of Florida, effective July 1, 1998, nor shall any taxpayer be entitled to a refund of taxes previously paid due to the retroactive effect of this act. CCH.