CHAPTER 210
TAX ON CIGARETTES

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210.01 Definitions.—When used in this chapter the following words shall have the meaning herein indicated:

(1) "Cigarette" means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(2) "Persons" means any individual, partnership, society, club, association, corporation, joint stock company, and any combination of individuals and also an executor, administrator, receiver, trustee or other fiduciary.

(3) "Sale" means any transfer, exchange or barter in any manner, or by any means whatever.

(4) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than resale.

(5) "Dealer" means any wholesale dealer as hereinafter defined.

(6) "Wholesale dealer" means any person who sells cigarettes to retail dealers or other persons for purposes of resale only, or any person who operates more than one cigarette vending machine located in more than one place of business.

(7) "Retail dealer" means any person other than a wholesale dealer engaged in the business of selling cigarettes.

(8) "Package" means the individual package, box or other container in or from which retail sales of cigarettes are normally made or intended to be made.

(9) "Agent" means any person authorized by the director to purchase and affix adhesive or meter stamps under this chapter.

(10) "Director" means the director of the beverage department of the state as provided for in §561.05.

(11) "Use" means the consuming, giving away or disposing, in any manner, of cigarettes.

(12) "First sale" means the first use or consumption of cigarettes within this state.

(13) "Operating ad valorem millage" means all millages other than those fixed for debt service.

(14) "Distributing agent" means every person, firm or corporation in this state who acts as an agent for any person, firm or corporation outside or inside the state by receiving cigarettes in interstate or intrastate commerce and storing such cigarettes subject to distribution or delivery upon order from said principal to wholesale dealers and other distributing agents inside or outside this state.

(15) "Place of business" means any place where cigarettes are sold or where cigarettes are stored or kept for the purpose of sale or consumption; or if cigarettes are sold from a vending machine the place in which the vending machine is located.

(16) "Manufacturer's representative" means a person who represents a manufacturer of cigarettes but who has no place of business in this state where cigarettes are stored. A manufacturer's representative is required to obtain any cigarettes required by him through a wholesale dealer in this state and to make such reports as may be required by the state beverage department.

210.02 Cigarette tax imposed; collection, credit for municipal tax, etc.

(1) An excise or privilege tax, in addition to all other taxes of every kind imposed by law, is imposed upon the sale, receipt, purchase, possession, consumption, handling, distribution and use of cigarettes in this state, in the following amounts, except as hereinafter otherwise provided, for cigarettes of standard dimensions:

(a) Upon all cigarettes, as herein defined, three and one-half inches long or less, four mills on each cigarette;

(b) Upon all cigarettes, as herein defined, between three and one-half and six inches long, eight mills on each cigarette; and

(c) Upon all cigarettes, as herein defined, six inches long or longer, sixteen mills on each cigarette.

(2) The description of cigarettes contained in paragraphs (a), (b) and (c) of subsection (1) are hereby declared to be standard as to dimensions for taxing purposes as provided in this law and should any cigarette be received,
of cigarettes in this state shall take an inventory, before opening for business, each retailer purchased, possessed, sold, offered for sale, given away or used of a size other than of standard dimensions, the same shall be taxed at the rate of one cent on each such cigarette. 

(3) Where cigarettes, as described in subsection (1) (a) above, are packed in varying quantities of twenty cigarettes or less, the following rate shall govern:

(a) Packages containing ten cigarettes or less require a four-cent tax; and 

(b) Packages containing more than ten but not more than twenty cigarettes require an eight-cent tax.

(4) Where cigarettes, as described in subsection (1) (b) above, are packed in varying quantities of twenty cigarettes or less, the following rates shall govern:

(a) Packages containing ten cigarettes or less require an eight-cent tax; and 

(b) Packages containing more than ten but not more than twenty cigarettes require a sixteen-cent tax.

(5) Where cigarettes, as described in subsection (1) (c) above, are packed in varying quantities of twenty cigarettes or less, the following rates shall govern:

(a) Packages containing ten cigarettes or less require a sixteen-cent tax; and 

(b) Packages containing more than ten but not more than twenty cigarettes require a thirty-two-cent tax.

(6) This tax shall be advanced and paid by the dealer to the director for deposit and distribution as hereinafter provided upon the first sale or transaction within the state, whether or not such sale or transfer be to the ultimate purchaser or consumer. The seller or dealer shall collect the tax from the purchaser or consumer and the purchaser or consumer shall pay the tax to the seller. The seller or dealer shall be responsible for the collection of the tax and the payment of the same to the director. Whenever cigarettes are shipped from outside the state to anyone other than a distributing agent or wholesale dealer, the person receiving the cigarettes shall be responsible for the tax on said cigarettes and the payment of same to the director.

(7) The taxpayer shall be entitled to a credit on the state tax imposed in this section to the extent of any tax imposed by any municipality as authorized in this section, such credit to be accomplished by a reduction of the state tax imposed in this section and in the distribution of the tax revenue as hereinafter provided, it being the legislative intent that the tax on cigarettes shall be uniform throughout the state and the same amount of tax shall be collected upon cigarettes subject to the municipal tax and those cigarettes not subject to the municipal tax.

(8) On July 1, 1963, the effective date of this act, before opening for business, each retailer of cigarettes in this state shall take an inventory of all cigarettes on hand, on forms prepared and furnished by the state beverage department, which report shall be certified and signed by the retailer or his authorized em-

ployee and mailed on or before July 10, 1963, to the state beverage department, Carlton building, Tallahassee, accompanied by check or money order for the amount of increased tax on said inventory as indicated on the report. If a retailer fails to make said report or remittance, the state beverage department may make an estimate of the July 1, 1963, cigarette inventory of such retailer which estimate shall be mailed by certified mail to the retailer at his last known address. If the retailer does not pay the amount of tax increase on the estimated inventory within thirty days from receipt thereof, the collection of said tax increase shall be subject to the provisions of §210.14. All taxes collected under the provisions of this subsection shall be paid to the state treasurer to the credit of the general revenue fund.


210.03 Municipal tax authorized; prohibition against other taxes.—

(1) Any municipality in this state may, in the discretion of its governing body, impose an excise or privilege tax upon the sale, receipt, purchase, possession, consumption, handling, distribution and use of cigarettes sold or to be sold at retail within the territorial limits of such municipality up to the same amount for the same size and the same package content as set forth in §210.02, except cigarettes sold by a traveling location, such as an itinerant store or industrial caterer.

(2) The tax herein authorized shall be collected by the beverage department of the state in the same manner as the state tax imposed by §210.02.

(3) This tax, when imposed by a municipality, shall be advanced and paid by the dealer to the director, for deposit and distribution as hereinafter provided, upon the first sale or transaction within the territorial limits of such municipality, irrespective of whether or not such sale or transfer be to the ultimate purchaser or consumer. The seller or dealer shall collect the tax from the purchaser or consumer, and the purchaser or consumer shall pay the tax to the seller.

(4) When any such municipality shall impose the tax herein authorized, a certified copy of the municipal law imposing said tax shall be filed with the director and the effective date of such municipal tax shall be the date of filing said certified copy with the director.

(5) Any funds received under and by virtue of this chapter by municipalities shall be used and expended for the following purposes only, which said purposes are hereby designated as state functions and purposes within the state:

For the future cost, purchase, building, designing, engineering, planning, repairing, reconditioning, altering, expanding, maintaining, servicing and otherwise operating any of the following: 
Streets, bridges, storm sewers, curbs, drains, gutters, water supplies, sanitary facilities and services for the preservation, protection or improvement of the public health and safety, including hospitals, fire stations and fire fighting equipment, sanitary sewers, sewerage disposal systems, sewerage disposal plants and facilities, garbage and refuse collection and disposal services, facilities and equipment, incinerators and other facilities and services, including street cleaning, inspections and services for the protection of public health including the enforcement of ordinances designed to maintain safe health standards with respect to foods, mosquito, insect and rodent eradication and control, and the removal and abatement of nuisances which may be or constitute dangers to public health and the exercise of controls for public safety, facilities for the prevention of beach erosion, the enforcement of the laws of the state, and municipal ordinances with respect to public travel, health and safety, and such other state functions which are performed by municipal governments within their boundaries, and are otherwise performed by the state and county governments outside of the limits of incorporated municipalities.

(6) No municipality shall, after November 1, 1949, levy or collect any other excise or license tax on cigarettes, or on persons or vending machines to engage in the sale thereof.

**History.**—s.t., ch. 26320, 1949; (1) s.t., ch. 63-466.

210.04 Construction; exemptions; collection, etc.—

(1) The amount of taxes, either state or municipal, advanced and paid to the state aforesaid shall be added to and collected as a part of the sales price of the cigarettes sold or distributed, which amount may be stated separately from the price of the cigarettes on all display signs, sales and delivery slips, bills and statements which advertise or indicate the price of the product.

(2) The cigarette tax imposed shall be collected only once upon the same package or container of such cigarettes.

(3) No tax shall be imposed by this chapter upon cigarettes not within the taxing power of the state under the commerce clause of the United States Constitution.

(4) (a) No tax shall be required to be paid upon cigarettes sold at post exchanges, ship service stores, ship stores, slop chests or base exchanges, to members of the armed services of the United States, when such post exchanges, ship service stores or base exchanges are operated under regulations of the army, navy or air force of the United States or military, naval or air force reservations in this state, or when such ship stores or slop chests are operated under the regulations of the United States navy on ships of the United States navy.

(b) Or upon the sale or gift of cigarettes by charitable organizations to bona fide patients in regularly established government veterans' hospitals in Florida for the personal use or consumption of such patients.

(5) It shall be presumed that all cigarettes are subject to the tax imposed by this chapter until the contrary is established, and the burden of proof that they are not taxable shall be upon the person having possession of them.

(6) The sale of single or loose unpacked cigarettes is prohibited. The director may authorize any person to give away sample packages of cigarettes, each to contain not less than two cigarettes upon which the taxes have been paid.

(7) Nothing in this chapter shall be construed to prohibit the sale of cigarettes, upon which the tax has been advanced, through the medium of vending machines where the tax is collected by the said vending machines.

(8) Except as hereinafter provided, all agents shall be liable for the collection and payment of the tax imposed by this chapter or the tax imposed by any municipality as authorized herein, and shall pay the tax to the director by purchasing, under such regulations as he shall prescribe, adhesive stamps of such design and denominations as he shall prescribe.

(9) Agents, located within or without the state, shall purchase stamps and affix such stamps in the manner prescribed to packages or containers of cigarettes to be sold, distributed or given away within the state, in which case any dealer subsequently receiving such stamped packages of cigarettes will not be required to purchase and affix stamps on such packages of cigarettes. Provided however, that the director may, in his discretion, authorize manufacturers to distribute in the state, through their representatives, free sample packages or containers of cigarettes containing not less than two or more than five cigarettes without affixing any tax stamps provided that copies of shipping invoices to such representatives be furnished, and payment of all taxes imposed on said cigarettes by law be made, directly to the director not later than the 10th day of each calendar month.

**History.**—s.t., ch. 21946, 1943; s.t., ch. 21946, 1945; s.t., ch. 24363, 1947; (1) s.t., ch. 25035, 1949; s.t., ch. 25035, 1949; (9) s.t., ch. 25035, 1949; (8) s.t., ch. 26320, 1949; (9) s.t., ch. 26320, 1949; (9) s.t., ch. 26320, 1949.

210.05 Preparation and sale of stamps; discount.—

(1) The tax imposed by this chapter, or by any municipality as authorized herein, shall be paid by affixing stamps in the manner herein set forth, or by affixing stamp insignia through the device of metering machines authorized in this act.

(2) The director shall prescribe, prepare and furnish stamps of such denominations and quantities as may be necessary for the payment of the tax imposed by this chapter, or the tax imposed by any municipality as authorized herein, and may from time to time and as often as he deems advisable provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design. The director shall make provisions for
the sale of such stamps at such places and at such time as he may deem necessary.

(3) The director may appoint dealers in cigarettes, manufacturers of cigarettes, within or without the state as agents to buy or affix stamps to be used in paying the tax herein imposed, or the tax imposed by any municipality as authorized herein, but an agent shall at all times have the right to appoint a person in his employ who is to affix the stamps to any cigarettes under the agent’s control; provided, however, that any wholesale dealer in the state shall have the right to buy and affix such stamps. Whenever the director shall sell and deliver to any such agent or wholesaler any such stamps, such agent or wholesaler shall be entitled to receive as compensation for his services and expenses as such agent or wholesaler in affixing such stamps, and to retain out of the moneys to be paid by him for such stamps, a discount of five per cent of the par value of any amount of stamps purchased during any fiscal year from July 1 through June 30 of the following year, up to and including two million stamps, and a discount of three and one-half per cent of the par value of any amount of stamps purchased during any fiscal year from July 1 through June 30 of the following year in excess of two million stamps. All stamps purchased from the director under this chapter shall be paid for in cash.

(4) The director may in his discretion revoke the authority of any agent failing to comply with the requirements of this chapter or the rules and regulations promulgated hereunder and such agent may in addition be punished in accordance with the provision of this chapter.

History—§3. ch. 21946. 1943; §3. ch. 22645. 1945; §1. ch. 26320. 1949; (3) §1. ch. 57-226; (3) §2. ch. 63-480.

210.07 Metering machines.—

(1) The tax may also be paid through the use of cigarette tax stamp insignia to be applied by the use of metering machines. The director shall prescribe and promulgate appropriate rules and regulations governing the use of metering machines, the procedure for the payment of such cigarette taxes through the use thereof, requiring adequate surety bonds of the users thereof to assure the proper use of such machines and payment of all cigarette taxes that might come due by the users thereof, and all other rules and regulations necessary and proper to govern the use of same.

(2) All provisions of this chapter governing the use of cigarette tax stamps, the compiling of records, the making of reports, permits and revocation of permits, seizures and forfeitures, penalties, and all other provisions pertaining to the payment of cigarette taxes through the use of stamps, shall likewise be applicable to the payment of said taxes through the use of metering machines.

(3) Wholesale or retail dealers of cigarettes, owning, leasing, furnishing or operating cigarette vending machines shall affix to each such machine in a conspicuous place, an identification sticker furnished by the state beverage department. Sticker shall show the name and address of the cigarette wholesale or retail dealer owning, leasing, furnishing or operating said vending machines.

No vending machine shall be allowed to operate in the state that does not have affixed thereto the identification sticker required by this section nor shall any vending machine be allowed to operate in the state that does not display at all times at least one package of each brand of the packages located therein so the name are clearly visible and arranged in such a manner that the cigarette tax stamp or meter impressions of stamps affixed thereto are clearly visible. It shall be the duty of any person, firm or corporation operating a cigarette vending machine in this state, to furnish the beverage department the location of the vending machine and to report within thirty days to the beverage department any change of location of the vending machine.

History—§5. ch. 21946. 1943; §5. ch. 22645. 1945; §1. ch. 26320. 1949; (3) a. §2. ch. 57-226; (3) §2. ch. 61-396.

210.08 Bond for payment of taxes.—Each dealer, agent or distributing agent shall file with the director a surety bond acceptable to the director in the sum of ten thousand dollars as surety for the payment of all taxes; provided, however, that where in the discretion of the
director the amount of business done by the dealer, agent or distributing agent is of such volume that a bond of less than ten thousand dollars will be adequate to secure the payment of all taxes assessed as authorized by the cigarette tax law, the director may accept a bond in a lesser sum than ten thousand dollars, but in no event shall he accept a bond of less than one thousand dollars, and he may at any time in his discretion require any bond in an amount less than ten thousand dollars to be increased not to exceed ten thousand dollars.

History.—§4, ch. 22645, 1945; §1, ch. 26320, 1949; §3, ch. 57-109.

210.09 Records to be kept; reports to be made; examination.—

(1) Every person who shall possess or transport any unstamped cigarettes upon the public highways, roads or streets of the state, shall be required to have in his actual possession invoices or delivery tickets for such cigarettes. The absence of such invoices or delivery tickets shall be prima facie evidence that such person is a dealer in cigarettes in this state and subject to the provisions of this chapter.

(2) The director is authorized to prescribe and promulgate by rules and regulations, which shall have the force and effect of the law, such records to be kept and reports to be made to the director by any distributing agent, wholesale dealer, retail dealer, common carrier, or any other person handling, transporting or possessing cigarettes for sale or distribution within the state as may be necessary to collect and properly distribute the taxes imposed by §210.02, and the taxes imposed by any municipality as authorized in §210.03. All reports shall be made on or before the tenth day of the month following the month for which the report is made, unless the director by rule or regulation shall prescribe that reports be made more often.

(3) All distributing agents, wholesale dealers, agents, or retail dealers shall maintain and keep for a period of three years at the place of business where any transaction takes place, such records of cigarettes received, sold or delivered within the state as may be required by the director. The director or his duly authorized representative is hereby authorized to examine the books, papers, invoices and other records, stock of cigarettes in and upon any premises where the same are placed, stored and sold and equipment of any such distributing agents, wholesale dealers, agents or retail dealers, pertaining to the sale and delivery of cigarettes taxable under this chapter. To verify the accuracy of the tax imposed and assessed by this chapter or any municipal tax imposed as authorized herein, each person is hereby directed and required to give to the director or his duly authorized representatives the means, facilities and opportunity for such examinations as are herein provided for and required.

(4) (a) All persons who are either cigarette wholesalers, vending machine operators or distributing agents, and agents and employees of the same, are required to keep daily sales tickets or invoices of cigarette sales and it shall be the duty of said persons to see that each sales ticket and invoice handled by them or on behalf of them show the correct name and address to whom sold and the number of packages or cartons of each brand sold. It shall also be the duty of said persons to see that each sales ticket or invoice correctly shows whether the same is inside or outside of a qualified municipality and if the sale is made within the limits of a qualified municipality, the correct name of the municipality must be indicated.

(b) The director shall suspend or revoke the license of any person who is either a cigarette wholesaler, vending machine operator or distributing agent upon sufficient cause appearing that the said persons, their agents or employees have failed to keep daily sales tickets or invoices in accordance with this section.

(c) Before the director shall suspend or revoke the license of any licensee under the cigarette tax law, the procedure set out in §561.29 shall be followed.

(5) Common carriers in this state are required to report to the state beverage department all packages or cartons of unstamped cigarettes which are refused by the consignee because of damage or otherwise. Authority in writing from the state beverage department must be obtained to sell or dispose of such unstamped cigarettes. Any dealer or distributing agent, who refuses any shipment or part of a shipment of unstamped cigarettes, must show in his next monthly report to the state beverage department the number of packages or cartons of cigarettes refused and the name of the common carrier from whom the cigarettes were refused.

History.—§§6, 10, 11, ch. 21046, 1943; §§7, 11, 12, ch. 22645, 1945; §1, ch. 26320, 1949; (2), (3) §4, ch. 26884, 1955; (4) n. §4, ch. 57-169; (5) n. §1, ch. 57-784.

210.10 General powers of the director; salary.—

(1) The director is authorized to prescribe and promulgate all rules and regulations necessary to effectuate the provisions of this chapter, and consistent with the terms hereof. All cigarette permits issued hereunder shall have printed thereon a notice to the effect that such permit is issued subject to the provisions of this chapter and said rules and regulations. The director shall provide upon request without charge to any applicant for a permit a copy of this chapter and the rules and regulations prescribed by him pursuant hereto.

(2) The director and all officers and employees under this chapter shall, in the administration thereof and in the administration of the state beverage law, have all the authority and power vested in officers and employees of the state beverage department as provided by §§561.07 and 561.52, and such power and authority is hereby conferred upon the director and all officers and employees under this chap-
ter with respect to the administration of this chapter and also with respect to the administration of the beverage law.

History.—Ch. 21946, 1943; §2, ch. 22645, 1945; §1, ch. 26320, 1949; §2, ch. 26884, 1955.

210.11 Refunds; sales of stamps and payment of tax.—Whenever any cigarettes upon which stamps have been placed, or upon which the tax has been paid by metering machine, have been sold and shipped into another state for sale or use therein, or have become unfit for use and consumption or unsalable, or have been destroyed the dealer involved shall be entitled to a refund of the actual amount of the tax paid with respect to such cigarettes less any discount allowed by the director in the sale of the stamps or payment of the tax by metering machine, upon receipt of satisfactory evidence of the dealer's right to receive such refund, provided application for refund is made within three months of the date the cigarettes were shipped out of the state, became unfit or were destroyed. No person other than the director shall sell, or offer for sale, any stamps or stamps issued under this chapter. The director may redeem unused stamps lawfully in the possession of any person. The director may prescribe necessary rules and regulations concerning refunds, sales of stamps, and redemption under the provisions of this chapter. Appropriation is hereby made out of revenues for the payment of the tax unless the dealer against whom it is assessed or corrected or sufficient return is required, the director fails to file a return of taxes payable hereunder before the same are delivered to any purchaser.

History.—§1, ch. 21946, 1943; §9, ch. 22645, 1945; §1, ch. 26320, 1949; §1, ch. 26884, 1955.

210.12 Seizures; forfeiture proceedings.—(1) The state, acting by and through the director, shall be authorized and empowered to seize, confiscate and forfeit for the use and benefit of the state, any cigarettes upon which taxes payable hereunder may be unpaid, and also any vending machine or receptacle in which such cigarettes are held for sale, or any vending machine that does not have affixed thereto the identification sticker required by the provisions of §210.07, or which does not display at all times at least one package of each brand of cigarettes located therein so the same is clearly visible and arranged in such a manner that the cigarette tax stamp or meter impression of the stamp affixed thereto is clearly visible. Such seizure may be made by the director, his duly authorized representative, or any sheriff or deputy sheriff, or any police officer.

(2) The procedure for seizure, the listing, appraisal, advertisement and sale of the property seized, the bond of any claimant, the court proceedings, if any, including the parties, personal service of citation, and other personal services, the services by publication, judicial sale, and all other proceedings for the confiscation and forfeiture of the property for the non-payment of the taxes shall be regulated, conducted, governed and controlled in the manner provided by chapter 562, relating to the seizure, confiscation and forfeiture of property under the beverage law which is incorporated herein by reference except to the extent that such sections may conflict or be inconsistent herewith.

(3) From the proceeds of any sale hereunder the director shall collect the tax on the property, together with a penalty of fifty percent thereof and the costs incurred in such proceedings; the balance, if any, shall be payable by the director to the person in whose possession the said property was found or as the court may direct.

(4) The distribution by the director of the proceeds of the sale from any cigarettes or other property that may be forfeited and confiscated hereunder, shall, after the payment of expenses of such forfeiture, be governed by the provisions of this chapter.

History.—§6, ch. 21946, 1943; §10, ch. 22645, 1945; §11, ch. 26320, 1949; (1) 15, ch. 57-169.

210.13 Determination of tax on failure to file a return.—If a dealer fails to file any return required under this chapter, or having filed an incorrect or insufficient return, fails to file a correct or sufficient return, as the case may require, within ten days after the giving of notice to him by the director that such return or corrected or sufficient return is required, the director shall determine the amount of tax due by such dealer any time within three years after the making of the earliest sale included in such determination, and give written notice of such determination to such dealer. Such a determination, shall finally and irrevocably fix the tax unless the dealer against whom it is assessed or corrected or sufficient return is required, within thirty days after the giving of notice of such determination, apply, to the director for a hearing. After such hearing, the director shall give notice of his decision to the dealer liable for the tax. The decision of the director may be reviewed in the circuit court of the county where such dealer is authorized to do business if a petition for the issuance of a writ of certiorari is filed by the dealer within the time and in the manner provided by the Florida appellate rules. Review by such court shall not be granted unless the amount of tax alleged in the declaratory penalty thereon, if any, shall have been first deposited with the director, and an undertaking or bond filed in the circuit court in which such cause may be pending in such amount and with such sureties as the circuit judge shall approve, conditioned that if such proceeding be dismissed or the decision of the director confirmed, the
applicant for review will pay all costs and charges which may accrue against him in the prosecution of the proceeding. At the option of the applicant such undertaking or bond may be in an additional sum sufficient to cover the tax, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax and penalties precedent to the granting of such review by such court.

History.--§412, ch. 21046, 1943; §12, ch. 22645, 1945; §1, ch. 20320, 1949; §1, ch. 63-912.

210.14 Warrant for collection of taxes.—

(1) In addition to all other remedies for the collection of any taxes due under the provisions of this chapter, the director may issue a warrant directed to the sheriff of any county commanding said sheriff to levy upon and sell the goods and chattels of the specified delinquent person found within his jurisdiction, for the payment of the amount of such delinquency plus a penalty equal to fifty per cent of the amount thereof, and interest on the total at six per cent per annum and the cost of executing the warrant, and to return such warrant to the director and to pay him the money collected by virtue thereof within sixty days after receipt of such warrant. The sheriff shall, within five days after receipt of the warrant, file with the clerk of the circuit court of his county a copy thereof and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax and penalties for which the warrant was issued and the date that such copy is filed. Said clerk shall be allowed the same fees as are allowed by law for similar services rendered in judgment execution proceedings.

(2) Thereupon the amount of such warrant so docketed shall become a lien upon the title to or the interest in real or personal property of the person against whom the warrant is issued. The sheriff to whom such warrant shall be directed shall proceed upon the same in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against goods and chattels upon judgments by a court of record, and shall be entitled to the same fees for his services in executing the warrant to be collected in the same manner.

(3) In the discretion of the director a warrant of like terms, force and effect may be issued and directed to any officer or employee of the director and in the execution thereof such officer or employee shall have all the power conferred by law upon sheriffs, but he shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the director may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the state had recovered judgment therefor and execution thereon had been returned satisfied.

History.--§412, ch. 21046, 1943; §14, ch. 22645, 1945; §1, ch. 20320, 1949; §6, ch. 28984, 1955. cf.--662.17 Collection of unpaid beverage taxes.

210.15 Permits.—

(1) Every person, firm or corporation desiring to deal in cigarettes as a distributing agent or wholesale dealer within this state shall file an application for a cigarette permit for each place of business with the director or any assistant designated by resolution of the director. The application for a cigarette permit shall be made on forms furnished by the director and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business within the state, and such other information as the director may require. If the applicant has or intends to have more than one place of business dealing in cigarettes within this state, the application shall state the location of each place of business. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof and any other information prescribed by the director for the purpose of identification. The application shall be signed and verified by oath or affirmation by the owner, if a natural person, and in the case of an association or partnership, members or partners thereof, and in the case of a corporation, by an executive officer thereof or by any person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of this authority.

The cigarette permit for a distributing agent shall be issued annually for which an annual fee of five dollars shall be charged. The holder of any duly issued, annual permit for a distributing agent shall be entitled to a renewal of his annual permit from year to year as a matter of course, on or before July 1, upon making application to the director and upon payment of this annual permit fee. The permit for a wholesale dealer shall be issued only to persons of good moral character, who are not less than twenty-one years of age. Wholesale dealer permits to corporations shall be issued only to corporations whose officers are of good moral character and not less than twenty-one years of age. There shall be no exemptions from the permit fees herein provided to any persons, association of persons or corporation, any law to the contrary notwithstanding. No wholesale dealer permit shall be issued to any person who has been convicted within the last past five years of any offense against the cigarette laws of this state or who has been convicted in this state, any other state, or the United States during the past five years of any offense designated as a felony by such state or the United States, or to a corporation, any of whose officers have been so convicted. The term "conviction" shall include an adjudication of guilt on a plea of guilty or a plea of nolo contendere, or the forfeiture of a bond when charged with a crime.

The director may refuse to issue a wholesale permit to any person, firm or corporation whose permit under the cigarette law has been revoked or to any corporation, an officer of which
has had his permit under the cigarette law revoked, or to any person who is or has been an officer of a corporation whose permit has been revoked under the cigarette law. Any permit issued to a firm or corporation prohibited from obtaining such permit under the cigarette law may be revoked by the director. Prior to an application for a wholesale dealer permit being approved, the applicant shall file two sets of fingerprints on regular United States department of justice forms for himself. The applicant shall also file a set of fingerprints for any person or persons interested directly or indirectly with the applicant in the business for which the permit is being sought, when so required by the director. If the applicant or any person interested with the applicant, either directly or indirectly, in the business for which the permit is sought shall be such a person as is within the definition of persons to whom a wholesale dealer permit shall be denied, then the application may be denied by the director. If the applicant is a partnership, all members of the partnership are required to file said fingerprints, or if a corporation, all principal officers of the corporation are required to file said fingerprints. The cigarette permit for a wholesale dealer shall be originally issued at a fee of one hundred dollars which sum is to cover the cost of the investigation required before issuing such permit. The cigarette permit for a wholesale dealer shall be renewed from year to year as a matter of course at an annual cost of five dollars on or before July 1 upon making application to the director and upon payment of the annual renewal fee. Permits, by acceptance of their permits, agree that their places of business or vehicles transporting cigarettes shall always be subject to be inspected and searched without search warrants for the purpose of ascertaining that all provisions of this chapter are complied with by authorized employees of the beverage department and also by sheriffs, deputy sheriffs and police officers during business hours or during any other time such premises are occupied by the permittee or other persons. Retail cigarette dealers and manufacturers’ representatives by dealing in cigarettes, agree that their places of business or vehicles transporting cigarettes shall always be subject to inspection and search without search warrant for the purpose of ascertaining that all provisions of this chapter are complied with by authorized employees of the beverage department and also by sheriffs, deputy sheriffs and police officers during business hours or other times when the premises are occupied by the retail dealer or manufacturers’ representatives or other persons.

No retail sales of cigarettes may be made at a location for which a general retailer’s license has been issued. The excise tax on sales made to any traveling location, such as an itinerant street vendor or a traveling caterer, shall be paid into the general revenue fund unallocated. Cigarettes may be purchased for retail purposes only from a person holding a wholesale dealer permit. The invoices for the purchase of cigarettes must show the place of business for which the purchase is made and, if such place is a traveling location, this fact must be shown on the invoices and the cigarettes cannot be transferred to any other place of business for the purpose of resale.

(2) The director may not sell stamps or approve the use of meter machines to evidence the payment of the taxes on cigarettes except to qualified wholesale dealers.

(3) Upon approval of the application, the director shall grant and issue to each applicant a cigarette permit for each place of business within the state set forth in his application. Cigarette permits shall not be assignable and shall be valid only for the persons in whose names issued, and for the transaction of business at the places designated therein, and shall at all times be conspicuously displayed at the places for which issued.

(4) All permits of distributing agents and wholesale dealers shall remain in force and effect until July 1 following their issuance, or until suspended, surrendered or revoked for cause by the director before July 1 following their issuance.

(5) Whenever any permit issued under the provisions of this chapter is destroyed or lost, the holder thereof shall immediately make application for a duplicate permit on a form prescribed by the director, which application shall be filed with the director or any assistant designated by him. The said application shall be under oath and shall state that the applicant is a holder of a valid permit which has been destroyed or lost as the case may be and that the said permit has not been suspended, surrendered or revoked for cause by the director.

(6) Applicants for a permit hereunder, by the acceptance of such permit, agree that their places of business covered by such permit shall always be subject to be inspected and searched without search warrant by the director or any of his authorized assistants and also by sheriffs, deputy sheriffs or police officers.

(7) The director shall promulgate suitable rules for carrying out the provisions of this section.

History—§14, ch. 21946, 1943; §15, ch. 22946, 1945; §1, ch. 25290, 1945; §1, ch. 26570, 1946; §1, ch. 26688, 1955; §1, ch. 26698, 1956; §1, ch. 26698, 1960; §1, ch. 26705, 1964; (1), (4), (6), (7) 1945, ch. 26688; (1) 1955, ch. 26698; (1) 1960, ch. 26698; and (4) 1964, ch. 26705.

210.16 Revocation or suspension of permit.

The director is given full power and authority upon sufficient cause appearing of the violation of any of the provisions of this chapter by any wholesale or retail dealer receiving a permit to engage in business under this chapter to revoke the permit of such wholesale or retail dealer. Before the director shall revoke the permit of such wholesale or retail dealer, he shall give such wholesale or retail dealer a written statement of such cause for revocation of such permit and a fair hearing, if the wholesale or retail dealer shall demand a hearing. Provided, that said wholesale or re-
tall dealer shall in writing demand a hearing within ten days after receipt by him of the statement of the cause for revoking such permit, which said notice shall, within said ten day period, be delivered in person to the director or transmitted to him by due course of mail. If such hearing is not demanded within the time herein fixed the director shall proceed to revoke the permit. At such hearing, the wholesale or retail dealer shall be entitled to produce witnesses and be represented by counsel. In order to permit a wholesale or retail dealer, whose permit shall be revoked, opportunity to apply to the courts for relief, no revocation of a permit by the director shall become effective until the elapse of the period of time allowed for making application for review. If within the time provided by the Florida appellate rules a wholesale or retail dealer whose permit has been revoked shall apply for the issuance of a writ of certiorari to the circuit court or to any judge thereof of the county wherein such wholesale or retail dealer is permitted to do business under this chapter to review the proceedings before the director, such court or the judge thereof shall dispose of the proceeding as expeditiously as possible. The director may suspend for a reasonable period of time, in his discretion, the permits of wholesale or retail dealers issued under the provisions of this chapter for the same causes and under the same limitations as is authorized hereunder to revoke the permits of such wholesale or retail dealers. No wholesale or retail dealer whose permit for any place of business has been revoked shall engage in business under this chapter at such place of business after such revocation becomes final.

210.18 Penalties.—

(1) Any person who possesses or transports any un stamped packages of cigarettes upon the public highways, roads, or streets in the state for the purpose of sale, or, who sells or offers for sale, any such packages of cigarettes in violation of the provisions of this chapter, or, who wilfully attempts in any manner to evade or defeat any tax imposed by this chapter, or the payment thereof, shall be guilty of a misdemeanor and shall upon conviction be punished by imprisonment in the county jail for not more than six months or by fine of not more than five hundred dollars, or both; provided, that any person, who shall have been convicted of a violation of any provision of the cigarette tax law and shall thereafter be convicted of a further violation of the cigarette tax law, shall, upon conviction of said further offense, be deemed guilty of a felony and shall be punished by imprisonment of not more than two years in the state penitentiary or fined not more than two thousand dollars, or both.

(2) Any wholesale or retail dealer who shall fail, neglect or refuse to comply with, or shall violate the provisions of this chapter or the rules and regulations promulgated by the director under this chapter shall be guilty of a misdemeanor and shall upon conviction be punished by imprisonment in the county jail for not more than six months or by fine of not more than five hundred dollars, or both; provided, that any wholesale or retail dealer, who shall have been convicted of a violation of any provision of the cigarette tax law and shall thereafter be convicted of a further violation of the cigarette tax law, shall, upon conviction of said further offense, be deemed guilty of a felony and shall be punished by imprisonment of not more than two years in the state penitentiary or fined not more than two thousand dollars, or both.

(3) Any person who falsely or fraudulently makes, forges, alters, or counterfeits any stamp or impression die used in meter machines prescribed by the director under the provisions of this chapter, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited any such stamp or die, or knowingly and wilfully utters, purchases, passes or tenders as true any such false, altered, or counterfeited stamp or die impression shall be guilty of a felony and upon conviction thereof shall be sentenced to pay a fine of not less than two thousand dollars nor more than five thousand dollars or to be imprisoned for a term of not more than five years in the state prison, or both, in the discretion of the court.

210.19 Records to be kept by director.—The director shall keep records showing the total amount of taxes collected, which records shall disclose the amount of taxes collected for any municipality levying a tax as herein authorized and which records shall be open to the public during the regular office hours of the director.

210.20 Employees and assistants; distribution of funds.—

(1) The director under the applicable rules of the Florida merit system, shall have the power to employ such employees and assistants and incur such other expenses as may be necessary for the administration of this chapter, within the limits of an appropriation for the operation of said department as may be authorized by the general appropriations act.

(2) As collections are received by the director from such cigarette taxes, he shall pay the same into a trust fund in the state treasury designated "cigarette tax collection trust fund" which shall be paid and distributed as follows:

(a) The director shall from month to month certify to the comptroller the amount derived from each municipal tax authorized in §210.03, and such amount, less the service charge provided for in §215.22, shall be paid to such
municipality by warrant drawn by the comptroller upon the state treasury, which amount is hereby appropriated monthly out of such cigarette tax collection trust fund. The director shall from month to month certify to the comptroller the amount derived from the cigarette tax imposed by §210.02 on all cigarettes sold at retail on any property of the Inter-American center authority, created by chapter 554, and such amount, less the service charge provided for in §215.22, shall be paid to said Inter-American center authority by warrant drawn by the comptroller upon the state treasury which amount is hereby appropriated monthly out of the cigarette tax collection trust fund.

(b) After all distributions hereinabove provided for have been made, the balance of the revenue produced from the tax imposed by this chapter, shall be deposited in the general revenue fund.

History.—§17, ch. 21946, 1943; §18, ch. 22665, 1945; §1, ch. 26320, 1949; §16, ch. 26899, 1951; §1, ch. 29827, 1955; (1) §7, ch. 37-240; (2) ch. 01-119 and E, ch. 01-483.

210.22 Declaration of legislative intent.—In the event that any section or clause hereof shall for any reason be held or declared invalid, the same shall be eliminated and the remaining portion or portions hereof shall remain in full force and effect as if such invalid clause or section had not been incorporated herein, provided that §§210.03 and 210.20 are declaratory of the specific legislative intent in the passage of this chapter, and should either of said sections be declared unconstitutional, ineffective or invalid, then in such event, the entire chapter shall become inoperative and void.

History.—§13, ch. 26320, 1949.
CHAPTER 211
TAX ON PRODUCTION OF OIL AND GAS

211.01 Definitions.—Whenever used in this chapter, the following words and terms shall have the definitions and the meanings ascribed to them in this section, unless the intention to give a more limited meaning is disclosed by the context:

1. The word "board" means the state board of conservation of the state.
2. The word "comptroller" means the comptroller of the state.
3. The word "annual" means the calendar year, or the taxpayer's fiscal year, when permission is obtained from the comptroller to use a fiscal year as a tax period in lieu of a calendar year.
4. The word "value" means the sales price, or market value, at the mouth of the well. If the oil or gas is exchanged for something other than cash, or if there is no sale at the time of severance, or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the comptroller shall determine the value of the oil or gas subject to tax, considering the sales price for cash at the place where produced or oil or gas of like quality. Where gas is returned to a horizon or horizons in the field where produced, or on other leases, that portion of the gas so returned shall not be considered in arriving at the value of the gas produced.
5. The word "taxpayer" means any natural person, partnership, association, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind liable for the tax imposed by this chapter.
6. The word "oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the results of condensation of gas after it leaves the reservoir.
7. The word "gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (6) above.
8. The word "severed" means the extraction or withdrawal from below the surface of the soil or water of any oil or gas, whether such extraction or withdrawal shall be by natural flow, mechanically enforced flow, pumping, or any other means employed to get the oil or gas from below the surface of the soil or water, and shall include the withdrawal by any means whatsoever of oil or gas upon which the tax has not been paid.
9. The word "person" means any natural person, firm, copartnership, joint venture, association, corporation, estate, trust, receiver, or any other group, or combination acting as a unit, and the plural as well as the singular number.
10. The word "producer" means any person, owning, controlling, managing or leasing any oil or gas property, or oil or gas well, and any person who produces in any manner any oil or gas by taking it from the earth or water in this state, and shall include any person owning any royalty or other interest in any oil or gas or its value, whether produced by him, or by some other person on his behalf, either by lease contract or otherwise.
11. The word "barrel," for oil measurement, means a barrel of forty-two U. S. gallons of two hundred thirty-one cubic inches per gallon, computed at a temperature of sixty degrees fahrenheit.
12. The term "cubic feet," for gas measurement, means the volume of gas expressed in cubic feet and computed at a base pressure of four ounces per square inch above the average atmosphere barometric pressure of fourteen and four-tenths pounds per square inch, a standard base and flowing temperature of sixty degrees fahrenheit; correction to be made for pressure according to Boyle's law, and for specific gravity according to test made by the balance method.
13. The word "production," for oil measurement, means the total gross amount of oil produced and saved, including all royalty or other interest; that is, the amount for the purpose of the tax imposed by this chapter shall be measured or determined by tank tables compiled to show one hundred per centum of the full capacity of tanks without deduction for overage or waste, or storage, or lost or odorized gas.
14. The word "value," for oil measure-

211.09 Collection of tax.
211.10 Procedure where tax in dispute.
211.11 Levy of tax.
211.12 Delinquent taxes.
211.13 Tax exclusive.
211.14 Severance of oil rights; tax certificates; rights of holder; tax deeds, etc.
211.15 Holder of tax certificates; rights.
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losses in handling. Allowance for any reasonable and bona fide deduction for basis sediment and water, and for correction of temperature to sixty degrees fahrenheit will be allowed. If the amount of oil produced has been measured or determined by tank tables compiled to show less than one hundred per centum of the full capacity of tanks, then such amount shall be raised to a basis of one hundred per centum for the purpose of the tax imposed by this chapter.

(14) The word “production,” for gas measurement, means the total gross amount of gas produced and sold, or used, including all royalty or other interest; that is, the amount for the purpose of the tax imposed by this chapter shall be measured or determined by meter readings showing one hundred per centum of the full volume expressed in cubic feet.

(15) The term “gathering system” means the pipe lines, pumps, compressors, meters, and other property used in gathering or removing oil or gas from the property on which it is produced, for storage at a central place, loading racks and equipment for loading oil into tank cars or other transporting media, and all other equipment and appurtenances necessary to a gathering system for transferring oil or gas into trunk pipe lines.


211.02 Levy of oil and gas tax and amount thereof; first and second taxes; basis of tax.--

(1) There is hereby levied, to be collected hereafter, as provided herein, an excise tax upon every person engaging or continuing within this state in the business of producing or severing oil or gas, as defined herein, from the soil or water for sale, transport, storage, profit or for commercial use. The amount of such tax shall be measured by the value of the oil produced and saved, and by the value of the gas produced and sold, or used, hereby levied and assessed at the following rates; for oil, five per centum of the gross value thereof at the point of production; and for gas, five per centum of the gross value thereof at the point of production; said tax on oil and gas being made up of two separate taxes being.

(a) FIRST OIL AND GAS TAX: eighty per centum of the total tax for the state for the use of the general revenue fund.

(b) SECOND OIL AND GAS TAX: twenty per centum of the total tax for the county in which the oil and gas is produced for the use of the general revenue fund of the board of county commissioners.

(2) It is the intention of the legislature to impose the first oil and gas tax as a state excise tax and to impose the second oil and gas tax as a county excise tax to compensate the county in which oil and gas is produced for the loss of ad valorem taxes by reason of the provision of this chapter, and to make it possible for the board of county commissioners of such county to provide the additional public services that will be required in a county where oil and gas are produced.

(3) The tax is hereby levied upon the basis of the entire production in this state, including what is known as the royalty interest, on which production the amount of such tax shall be a lien, regardless of the place of sale or to whom sold, or by whom used, or the fact that the delivery may be made to points outside the state; and the tax shall accrue at the time such oil is severed from the soil or water, and in its natural, unrefined, or unmanufactured condition, provided, however, oil and gas used for lease operations on the lease where produced shall not be taxed hereunder.

History.--§ 12, ch. 22784, 1945; § 3, ch. 23883, 1947.

211.03 Measure of value.--In computing the tax levied under this chapter, where the gross proceeds of sales of such oil or gas are taken as the measure of the value of such products for the purpose of computing the tax, if such products shall have been sold on a delivered price, the actual freight charge prepaid by the taxpayer or included in the invoice price on such products to the place of delivery shall be deducted from the gross proceeds of sales used in determining the amount of the tax.


211.04 Assessment upon escaped oil; claims against same.--

(1) When any regular monthly report required from taxpayers by this chapter does not disclose the actual source of any oil taxable under this chapter, but does show such oil to have escaped from a well or wells and to have been recovered from streams, lakes, ravines, or other natural depression; it shall be the duty of the comptroller to collect, in addition to the excise tax herein imposed, an additional amount equal to twelve and one-half per centum of the gross value of such escaped oil. The comptroller shall hold such additional collection in a special escrow account for a period of twelve months from the date of the collection, during which time any person or persons, who claim to be the rightful owner or owners of any royalty interest in the escaped oil, may present proper and satisfactory proof of such ownership to the comptroller. If the comptroller shall be satisfied as to the ownership of such escaped oil, then he shall pay to such claimant or claimants a proportionate part of such additional collection held in escrow, according to their proper interests. No payment to any claimant shall be made, however, before it is approved by the attorney general or before it is ordered by any court having proper jurisdiction.

(2) After the lapse of twelve months from the date of any additional collection, if no claim or claims have been made to it, or to the balance remaining of it after the payment by the comptroller of any claim or claims; the comptroller shall distribute the additional collection or any balance of it in the same manner as is herein provided for the distribution of the tax imposed by this chapter.

History.--§ 14, ch. 22784, 1945; § 14, ch. 23883, 1947.

211.05 Penalty for failure to pay tax.--Should the taxpayer fail to pay when due the tax levied hereunder and same becomes delin-
quent, such tax as a penalty for such delin­
quencies shall bear interest at the rate of
eighteen per centum per annum from the date
such tax is due and payable and shall be col­
lected in the manner hereinafter provided. If
any taxpayer shall fail to make the report or re­
turn herein required as to the production of oil
or gas from any well in this state it shall be the
duty of the comptroller to examine the books,
records and files of such taxpayer to ascertain
the amount and value of such production, to
compute the tax thereon as herein provided, and
he shall add thereto the cost of such examina­
tion, together with any penalties accrued there­
on.

History.—§5, ch. 22784, 1945; §5, ch. 23883, 1947.

211.06 Oil and gas tax trust fund; distribu­
tion.—
(1) All taxes herein levied and collected
shall be placed in a special fund known as the
oil and gas tax trust fund and shall be monthly
distributed by the comptroller as follows:
(a) After the cost of collection of the taxes
herein levied is deducted, the proceeds from the
first oil and gas tax shall be paid into the state
treasury to the credit of the general revenue
fund of the state.
(b) The proceeds from the second oil and
gas tax shall be paid into the general revenue
fund of the board of county commissioners of the
county in which the tax is imposed.

(2) There is hereby annually appropriated
out of the proceeds of the first oil and gas tax
coming into the hands of the comptroller under
the provisions of this chapter the amount nec­
essary for the effective and efficient enforce­
ment of the provisions of this chapter, and for
that purpose the comptroller is authorized to
employ such additional employees as he may
from time to time deem necessary to carry out
the terms and provisions of this chapter. The
comptroller is authorized and empowered to ad­
just and make proper settlements and refunds
in cases of overpayment of the tax or where pay­
ment is made when no tax is due or when pay­
ment is made through error, under regulations
prescribed by him, and there is hereby appro­
priated a sufficient amount for the comptroller
to refund said taxes, when and if on proper ap­
lication and proof filed with him within one
year from the date of the payment of such taxes,
he deems it necessary to make such refunds, and
this provision shall in no way prejudice any
right of action that may accrue to any person
liable for the payment of the tax to contest in
any court of competent jurisdiction the payment of any or all of the taxes imposed herein.

History.—§6, ch. 22784, 1945; 16, ch. 23883, 1947; (1) §2,
ch. 61-118.

211.07 When taxes due; statements; infor­
mation; penalties; powers of comptroller.—
(1) The taxes levied hereunder shall be due
and payable on or before the 25th day of the cal­
endar month next succeeding the calendar month
in which the tax accrued.

(2) Every producer of oil or gas, as defined
in this chapter, shall on or before the 25th day
of each calendar month file with the comptroller
a statement on forms prescribed by the com­
troller, showing the location of each oil or gas
well operated or controlled by such producer
during the last preceding calendar month, the
kind of oil or gas produced; the gross quantity
thereof produced, and the actual cash value
thereof at the time and place of production, in­
cluding any and all premiums received from the
sale thereof; the amount of royalty payable
thereof; and, where such royalty is claimed to
be exempt from taxation by law, the facts on
which such claim of exemption is based; and
such other information as the comptroller may
require. Such statement shall be accompanied
by a return showing the amount of tax payable
on the oil or gas covered by such report, to­
gether with a remittance for the amount of the
tax due. Such statement and report shall be
mailed or sent to the office of the comptroller
and shall be signed by the taxpayer or duly
authorized agent of the taxpayer and shall be
verifed by oath.

(3) The comptroller shall have the power to
require any person engaged in the production
of oil or gas, and the purchaser thereof, or the
owner of any royalty interest therein to furnish
any information by him deemed necessary for the
purpose of computing correctly the amount of
tax to be levied and collected under the provi­
sions of this chapter; and to examine the books,
records and files of such persons, and shall have
power to conduct hearings and compel the
attendance of witnesses and the production of
books, records and papers of any person.

(4) Any person or any member of any firm,
association or corporation, or any officer, offi­
cial, agent or employee of any corporation who
shall fail or refuse to testify; or who shall fail or
refuse to produce any books, records or papers
which the comptroller shall require; or who
shall fail or refuse to furnish any other evidence
which the comptroller may require; or who shall
fail or refuse to answer any competent questions
which may be put to him by the comptroller,
touching the business, property, assets or effects
of any such person, firm, association or corpora­
tion, or relating to the gross production tax im­
posed by this chapter, shall be guilty of a misde­
meanor, and, upon conviction thereof, shall be
punished by a fine of not more than five hundred
dollars, or imprisonment in the jail of the county
where such offense shall have been committed,
for not more than one year, or by both such fine
and imprisonment; and each day such refusal
on the part of such person shall constitute a
separate and distinct offense.

(5) The comptroller shall have the pow­
er and authority to ascertain and determine
whether or not any return herein required to be
filed with him is a true and correct return of the
gross products and of the value, quantity or
volume thereof of such person engaged in the
production of oil or gas; and, if any person has
made an untrue or incorrect return of the gross
production or value, or quantity, or volume ther­
of, as hereinbefore required, or shall have failed
or refused to make such return, the comptroller
shall, under rules and regulations prescribed by
him ascertain the correct amount of either, and compute said tax.

History.—47, ch. 22784, 1945; 57, ch. 23883, 1947.

211.08 Common carriers to furnish information; inspection of bills of lading.—
(1) When requested by the comptroller, all transporters, railroads, motor vehicles, pipe lines, or other carriers, of oil or gas out of, within, or across the state shall be required to furnish the board such information relative to the transportation of such oil or gas as may be required.

(2) The comptroller shall have authority to inspect bills of lading, waybills, or other similar documents, and such books and records as may relate to the transportation of oil or gas in the facilities of each transporter herein referred to; and the comptroller shall further be empowered to demand the production of such bills of lading, waybills or other similar documents and books and records relating to the transportation of oil or gas at any point in the state which he may designate.

(3) Provided, however, that in case of common carriers using bills of lading or waybills prescribed or approved by the interstate commerce commission, such common carriers shall only be required to keep the usual records at office or offices in this state where such records usually are kept.


211.09 Collection of tax.—
(1) The tax hereby imposed is levied upon the producers of such oil or gas in the proportion of their ownership at the time of severance, but, except as otherwise herein provided, shall be paid by the person in charge of the production operations, who is hereby authorized, empowered and required to deduct from any amount due to producers of such production at the time of severance, the proportionate amount of the tax herein levied before making payments to such producers; said tax shall become due and payable as provided by this chapter, and such tax shall constitute a first lien upon any of the oil or gas so produced, when in the possession of the original producer, or any purchaser of such oil or gas in its unmanufactured state or condition.

(2) When any person in charge of production operations shall sell the oil or gas produced by him to any person under contracts requiring such purchaser to pay all owners of such oil or gas direct, then the person in charge of the production operations may not be required to deduct from the gross amount thus held, the amount of the tax herein levied and imposed, and to make remittance thereof to the comptroller as provided by this chapter.

History.—110, ch. 22784, 1945; 110, ch. 23883, 1947.

211.10 Procedure where tax in dispute.—
When the title to any oil or gas that has been severed or is being severed from the soil or water, is in dispute, or whenever the producer of such oil or gas, or the purchaser thereof, shall be withholding payments on account of litigation, or for any other reason, such producer or purchaser is hereby authorized, empowered and required to deduct from the gross amount thus held, the amount of the tax herein levied and imposed, and to make remittance thereof to the comptroller as provided by this chapter.

History.—111, ch. 22784, 1945; 111, ch. 23883, 1947.

211.11 Lien of tax.—Such tax, interest and penalty shall constitute and remain a lien upon the property, assets and effects of the taxpayer until paid and may be recovered at the suit of the comptroller on behalf of the state in any court of competent jurisdiction of the county where any such property, assets and effects are located. All penalties and other revenue derived hereunder in addition to any delinquent tax shall be apportioned in the same manner as the taxes are apportioned.

History.—111, ch. 22784, 1945; 111, ch. 23883, 1947.

211.12 Delinquent taxes.—When any tax provided for in this chapter shall become delinquent the comptroller shall issue his warrant directed to the sheriff of any county wherein the same or any part thereof accrued for the collection of said tax, interest and penalty; and the sheriff to whom the said warrant shall be directed shall proceed to levy upon the property, assets and effects of the person, firm, association or corporation against whom said tax is assessed and shall sell the same and make return thereof as upon execution and such sheriff shall execute and deliver to the purchaser a bill of sale or deed as the case may be. The state, through its comptroller, shall be authorized to make bids at any such sale to the amount of the tax, penalty and costs accrued. In the event such bid is successful, the sheriff shall
issue proper muniment of title to the comptroller who shall hold such title for the use and benefit of the state, and any person holding title shall have the right at any time within thirty days from the date of such sale to redeem such property upon the payment of all taxes, penalties and costs accrued to the date of redemption. Such applicant shall not be entitled to a credit upon such taxes, penalties and costs by reason of any revenue that might have accrued to the state or other purchaser under sale prior to such redemption. After the expiration of the period of redemption herein provided for, the comptroller may sell such property at public auction upon giving a seven day's notice in writing, said notice to be published in one issue in a newspaper of general circulation published in the county in which such property is located, to the highest and best bidder for cash, or, if such newspaper is not published in said county, then such notice shall be published in a newspaper of general circulation published in Leon county. Upon a sale had thereof or when a redemption is made the comptroller, for and on behalf of the state, shall issue bill of sale or quit claim deed as the case may be, to the successful bidder or other redemptioner. Such muniment of title shall be executed by the comptroller of the state.

211.13 Tax exclusive.—No other excise or license tax in addition to the tax provided herein shall be imposed by the state, counties, municipalities, drainage districts, road, school and other taxing districts within this state upon any person who produces in any manner any oil or gas by taking it from the earth or water of this state. The several tax assessors of this state and of the cities therein, when assessing the value of any land for ad valorem taxes, shall not increase the value thereof by reason of the fact that there may be oil or gas under the surface of such land, in as much as it is impossible under known valuation methods to accurately ascertain the true value of oil and gas in place and taxation thereof is more certainly accomplished after its capture or severance from the earth or water. The value of land for ad valorem tax purposes shall not be increased by reason of the location thereon of any producing oil or gas equipment or machinery used in and around any oil or gas well and actually used in the operation thereof and no ad valorem tax shall be imposed upon such producing equipment and machinery.

211.14 Severance of oil rights; tax certificates; rights of holder; tax deeds, etc.—(1) Whenever any severance of title between the surface ownership of land and the subsurface ownership of any right, title or interest in gas or oil, or both, thereunder, takes place with respect to land in this state, by any type of severing conveyance or reservation, the interests so severed or reserved shall, notwithstanding such severance or reservation, continue to be a part of the surface ownership for the purpose of all ad valorem taxation imposed by any taxing authority in this state. All title forfeitures, foreclosures, reversion, and sales of lands for nonpayment of ad valorem taxes shall include the subsurface oil and gas and mineral interests.

(2) Unless provided by contract, the owner of any subsurface interest is under no obligation to pay taxes levied and assessed against the surface interest of such land and shall have all of the rights of a stranger to purchase tax sales certificates against the surface interest, and in addition to such right of purchase shall be depositing with the proper tax collecting official of the state or any political subdivision thereof the amount due on any tax sales certificate held by any person (other than an owner of a part of the subsurface interest) be issued a duplicate tax sales certificate, which duplicate tax sales certificate shall have all the force and effect as if the original certificate had been purchased by such subsurface owner, and the tax official shall cancel the original certificate and pay to the holder thereof the money so deposited for its purchase.

211.15 Holder of tax certificates; rights.—The holder of any tax sales certificate covering land in which he holds any subsurface interest may, at any time after two years from the date of its issuance, obtain a tax deed by application to the clerk of the circuit court or to the proper officer of any other political subdivision of the state (which shall include any municipality) wherein such land is located, and the surrender of such certificate and the payment to such official of the proper amount for the purchase and surrender of all other outstanding certificates covering said land and payment of all subsequent and omitted taxes and costs incident to such application, including fees and costs for sending notices provided for herein, such deed shall be substantially in the form provided by law for tax deeds except such tax deed shall show on its face that it was issued under authority of this chapter provided, however, that in the event such holder of a tax sales certificate shall be the owner of only a part of the subsurface oil and gas interest, then and in such event any other person owning a part of the subsurface interest shall have the right at any time during thirty days following the publication or posting of the notice hereinafter provided to pay such part of the amount due in delinquent taxes as evidenced by the tax sales certificates and the cost of obtaining such tax deed as his or her part of the subsurface interest bears to the total of such subsurface interest, and, upon such payment shall be entitled to be a joint grantee of the tax deed to the surface interests in the same proportion that his part of the subsurface interest bears to the total of the subsurface interest.

211.16 Issuance of tax deed.—(1) No tax deed as herein provided for shall issue until thirty days after the first publication or posting of notice of application for tax deed giving such notice to give the name of the owner, if
known, or can be ascertained from the records hereinafter prescribed to be examined by the clerk, and a description of the land, such notice also to state that a tax deed will issue after the expiration of thirty days. The clerk of the circuit court or the tax official of any other political subdivision to whom application shall be made for such tax deed shall advertise notice of such application by publishing the same once each week for two successive weeks in some newspaper of general circulation wherein the land lies, or if no newspaper be published in such county, then by posting such notice at the court house door or city hall door.

(2) In addition to the publication or posting of such notice, such tax official to whom application is made shall mail a copy of such notice to the owner of the property for which a tax deed is applied, if the name and address of such owner appears on the tax rolls for the year in which taxes were last extended on said property and if the name and address of such owner does not appear on said tax roll, then notice shall be mailed to the person last paying taxes upon such land as shown by the tax collector's receipt book and in the event no address is shown thereon, no notice shall be required, which notice shall be mailed not more than fifteen days after the first publication or posting of the notice aforesaid. In addition to notice to the owner as prescribed above, the clerk shall send a copy of such notice at the same time that notice to the owner is sent, to any mortgagee or lienor of record, if any.

(3) At any time within thirty days after the first publication or posting of the notice aforesaid, any person owning the land or any part or parcel thereof or any interest therein or any mortgagee or lienor of such owner may redeem the same by paying to the clerk or other tax official of any other political subdivision of the state the full amount that may then be due the applicant for all certificates, fees and costs of the publication or posting or such portion thereof as the part or interest therein redeemed shall bear to the whole together with eight per cent interest per annum thereon, and if there be no such redemption at the expiration of thirty days the clerk or other proper taxing official to whom application is made shall immediately issue the tax deed herein provided for.

(4) For his services in receiving such application, calculating all taxes due, and issuance of such tax deed, and all other services in connection therewith, the tax official shall receive the fees provided by law for issuance of tax deeds. Proof of publication or posting of the notice and all other records of application for an issuance of such deed shall be filed in the records of the office issuing such deed.


211.17 Rules and regulations.—The comptroller shall prescribe rules and regulations and appropriate forms for effectuating the purposes of §211.14-211.18.

History.—114, ch. 22784, 1945; 114, ch. 23883, 1947.

211.18 Records.—It shall be the duty of the clerk of the circuit court to keep a record book to be provided by the board of county commissioners of the county for the purpose of accepting for record any subsurface owner's interest in real estate of said county and any owner of subsurface interest in the lands of said county may register with the clerk the name of such owner, his address, the description of the land in which he has subsurface interest and such recording shall entitle such subsurface owner to notice by registered mail with return receipt requested of nonpayment of taxes by the surface owner, sale of tax certificates affecting the surface of said lands, application for tax deed of the surface interest and any foreclosure proceedings against said lands for unpaid taxes thereon, and no tax deed nor foreclosure proceedings shall affect such subsurface owner's interest if the notice hereby provided for is not given. For his services in registering such subsurface owner's interest as herein provided, the clerk shall receive a fee of one dollar, plus the fee per page for recording now provided by law. Where an owner of a subsurface interest or interests has registered with the clerk of the circuit court of the county in which said subsurface interest is located, the name of such owner, his address, and the description of the land in which he has subsurface interests pursuant to the provisions of chapter 22784, acts of 1945, such registration shall be and operate as a registration of his subsurface interests and shall entitle the owner thereof to the notices and immunities hereinabove provided the same as if such owner had registered with said clerk his subsurface interests under and pursuant to this chapter.

History.—114, ch. 22784, 1945; 114, ch. 23883, 1947.

211.19 Appeal to courts.—Any person aggrieved by any findings or order of the comptroller shall have the right of redress in accordance with the provisions of §§196.01, 196.02, and 196.03.


211.20 Construction of chapter.—Nothing in this chapter shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due under existing laws, prior to July 1, 1947, whether such assessment, appeal, suit, claim or action shall have been begun before the said date, or shall thereafter be begun; and any existing law amended or repealed by this chapter is expressly continued in full force, effect and operation for the purpose of the assessment and collection of any taxes due under it prior to July 1, 1947, and for the imposition of any penalties, forfeitures or claims for a failure to comply therewith.

CHAPTER 212
TAX ON SALES, USE AND OTHER TRANSACTIONS

PART I TAX ON SALES, USE AND CERTAIN TRANSACTIONS

PART II WHOLESALE FISHING AND OTHER EQUIPMENT REVENUE ACT

Part I TAX ON SALES, USE AND CERTAIN TRANSACTIONS

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212.01 Short title.—Part I of this chapter shall be known as the “Florida revenue act of 1949” and the taxes imposed herein shall be in addition to all other taxes imposed by law.

History.—s1, ch. 26319, 1949.

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

(1) Person includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and shall include any political subdivision, municipality, state agency, bureau or department, and the plural as well as the singular number.

(2) Sale means (a) any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever of tangible personal property for a consideration, and (b) shall include the rental of living quarters, sleeping or housekeeping accommodations in hotels, apartment houses or rooming houses, tourist or trailer camps, as hereinafter defined in part I of this chapter, and (c) includes the producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing or imprinting, and (d) the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property.

A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price, shall be deemed a sale.

(3) (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, and shall mean and include all such transactions that may be made in lieu of retail sales or sales at retail. A resale must be in strict compliance with rules and regulations and any dealer making a sale for resale which is not in strict compliance with rules and regulations shall himself be liable for and pay the tax.

(b) The terms retail sales, sales at retail, use, storage, and consumption shall include the sale, use, storage or consumption of all tangible advertising materials imported or caused to be imported into this state. Tangible advertising material shall include displays, dis-
play containers, brochures, catalogs, price lists, point of sale advertising and technical manuals or any tangible personal property which does not accompany the product to the ultimate consumer.

(c) The terms retail sales, sale at retail, use, storage, and consumption shall not include the sale, use, storage or consumption of industrial materials for future processing, manufacture or conversion into articles of tangible personal property for resale where such industrial materials become a component part of the finished product or are used directly and immediately dissipated in fabricating, converting or processing such materials or parts thereof, nor shall such term include materials, containers, labels, sacks or bags intended to be used one time only for packaging tangible personal property for shipment or sale. Immediately dissipated as used herein shall mean one-time use.

(d) The term gross sales means the sum total of all retail sales of tangible personal property as defined herein, without any deduction whatsoever of any kind or character, except as provided in part I of this chapter.

(4) Sales price means the total amount for which tangible personal property, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever; provided that cash discounts allowed and taken on sales shall not be included.

(5) Cost price means the actual cost of articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor or service costs, transportation charges, or any expenses whatsoever.

(f) Lease, let, or rental means leasing or renting of living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, rooming houses, tourist or trailer camps, the same being defined as follows:

(a) Every building or other structure kept, used, maintained, advertised as or held out to the public to be a place where living quarters, sleeping or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants, in which ten or more rooms are furnished for the accommodation of such guests, and having one or more dining rooms or cafes where meals or lunches are served to such transient or permanent guests, such sleeping accommodations and dining rooms or cafes being conducted in the same building or buildings in connection therewith, shall, for the purpose of part I of this chapter, be deemed a hotel.

(b) Any building or part thereof, where separate accommodations for two or more families living independently of each other are supplied to transient or permanent guests or tenants, shall for the purpose of part I of this chapter be deemed an apartment house.

(c) Every house, boat, vehicle, motor court, trailer court or other structure or any place or location kept, used, maintained, advertised or held out to the public to be a place where living quarters, sleeping or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings, shall for the purpose of part I of this chapter be deemed a rooming house.

(d) In all hotels, apartment houses and rooming houses within the meaning of part I of this chapter, the parlor, dining room, sleeping porches, kitchen, office and sample rooms shall be construed to mean rooms.

(e) A tourist camp is a place where two or more tents, tent houses, or camp cottages are located and offered by a person or municipality for sleeping or eating accommodations, most generally to the transient public for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business. A trailer camp is a place where space is offered, with or without service facilities, by any persons or municipality to the public for the parking and accommodation of two or more automobile trailers which are used for lodging, for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business, such space being hereby defined as living quarters, and the rental price thereof shall include all service charges paid to the lessor.

(f) Lease, let or rental also means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein. Provided that, where two taxpayers, in connection with the interchange of facilities, rent or lease property, each to the other, for use in providing or furnishing any of the services mentioned in §167.431, the term lease or rental shall mean only the net amount of rental involved.

(7) Storage means and includes any keeping or retention in this state of tangible personal property for use or consumption in this state, or for any purpose other than sale at retail in the regular course of business.

(8) Use means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, or interest therein, except that it shall not include the sale at retail of that property in the regular course of business.

(9) Business includes any activity engaged in by any person, or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect. The term business shall not be construed in part I of this chapter to include occasional and isolated sales or transactions involving tangible personal property by a person who does not hold himself out as engaged in business, but shall include all charges of admission and all rentals and leases of living quarters, sleeping or house-
keeping accommodations in hotels, apartment
houses, rooming houses, tourist or trailer
 camps, as hereinbefore defined in this chapter,
made subject to a tax imposed by part I of this
chapter.
(10) Retailer means and includes every
person engaged in the business of making sales
at retail, or for distribution, or use, or con­
sumption, or storage to be used or consumed in
this state.
(11) The term comptroller means and in­
cludes the comptroller of the state or his duly
authorized assistants.
(12) Tangible personal property means and
includes personal property, which may be seen,
weighed, measured, felt or touched, or is in any
other manner perceptible to the senses. The
term tangible personal property shall not in­
clude stocks, bonds, notes, insurance, or other
obligations or securities, or intangibles as de­
defined by the intangible tax law of the state nor
particles, or in any
manner of the state.
(13) The term use tax referred to in this
chapter includes the use, the consumption, the
distribution, and the storage as herein defined.
(14) The term intoxicating or alcoholic bev­
erages referred to in part I of this chapter in­
cludes all such beverages as are so defined or
may be hereafter defined by the laws of the
state.
(15) The terms cigarettes or tobacco or tobac­
co products referred to in part I of this chapter
includes all such products as are defined or
may be hereafter defined by the laws of the
state.
(16) The term admissions shall mean and
include the net sum of money after deduction
of any federal taxes for admitting a person or
vehicle, or persons, to any place of amusement,
sport or recreation, or where there is any show,
game or exhibition and where any charge is
made by way of sale of tickets, gate charges,
seat charges, box charges, season pass charges,
cover charges, greens fees, all dues paid to priv­
ate clubs providing recreational facilities, in­
cluding but not limited to golf, tennis, swim­
ing, yachting and boating facilities; but
exclusively excluding civic, fraternal and re­
ligious clubs and organizations, participation
fees, entrance fees, or other fees.
(17) In this state or in the state means
within the exterior limits of Florida and in­
cludes all territory within these limits owned
by or ceded to the United States.
History.-- s. ch. 20319, 1949; (3) (b), (6) (c) and (f), (15)
§1-3, ch. 20971, 1961; (2) 1, ch. 20962, 1965; (2) §13, ch.
52-1, ch. 2571, 1951; (17) a. §4, ch. 43-208; (16) 5, ch. 62-274;
(3), (4), (6), and (15) 11, ch. 63-526.
212.03 Transient rentals tax; rate, proced­
ure, enforcement, etc.--
(1) It is hereby declared to be the legisla­
tive intent that every person is exercising a
taxable privilege who engages in the business
of renting, leasing or letting any living quar­
ters, sleeping or housekeeping accommodations
in, from, or a part of, or in connection with any
hotel, apartment house, rooming house, tourist
or trailer camp, as hereinbefore defined in part
I of this chapter. For the exercise of said privi­
egate the tax is hereby levied as follows: in the
amount equal to three per cent of and on the
total rental charged for such living quarters,
sleeping or housekeeping accommodations by
the person charging or collecting the rental;
provided that such tax shall apply to hotels,
apartment houses, rooming houses, tourist or
trailer camps, as hereinbefore defined in part I
of this chapter, whether or not there be in con­
nection with any of the same, any dining rooms,
cafes or other places where meals or lunches
are sold or served to guests.
(2) The tax provided for herein shall be in
addition to the total amount of the rental and
shall be charged by the lessor or person receiv­
ing the rent in and by said rental arrangement
on the lessee or person paying the rental, and
shall be due and payable at the time of the re­
cipt of such rental payment by the lessor or
person, as defined in part I of this chapter, who
receives said rental or payment. The owner,
lessor or person receiving the rent shall remit
the tax to the comptroller at the times and in
the manner hereinafter provided for dealers to
remit taxes under part I of this chapter. The
same duties imposed by part I of this chapter
upon dealers in tangible personal property re­
specting the collection and remission of the tax,
the making of returns, the keeping of books,
records and accounts and the compliance with
the rules and regulations of the comptroller in
the administration of part I of this chapter
shall apply to and be binding upon all persons
who manage or operate hotels, apartment
houses, rooming houses, tourist and trailer
camps, and to all persons who collect or receive
such rents on behalf of the owner or lessee
taxable under part I of this chapter.
(3) Where rentals are received by way of
property, goods, wares, merchandise, services
or other things of value, the tax shall be at the
rate of three per cent of the value of said prop­
erty, services or other things of value.
(4) The tax levied by this section shall not
apply to, be imposed upon, or collected from
any person who shall reside continuously for
more than twelve months in any one hotel, apartment
house, rooming house, tourist or trailer camp,
and shall have paid the tax levied by this
section for twelve months of residence in any
one hotel, rooming house, apartment house,
tourist or trailer camp; provided, however, that
any person who, upon July 1, 1963, shall have
resided continuously for six months at any one
place enumerated above shall be deemed to qual­
ify fully for the exemption set forth herein so
long as such person shall remain at said place.
Notwithstanding other provisions of part I of
this chapter, no tax shall be imposed upon rooms
provided guests where there is no con­
consideration involved between guest and the pub­
ellesting establishment.
(5) The tax imposed by this section shall
constitute a lien on the property of the lessee or
rentee of any sleeping accommodations in the
same manner as and shall be collectible as are
212.04 Admissions tax; rate, procedure, enforcement, etc.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who sells or receives anything of value, by way of admissions and that every person who sells admissions to any place of amusement, sport or recreation, or for the privilege of entering or staying in any place of amusement, sport or recreation, including but not limited to theatres, outdoor theatres, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees or other fees, or receipt of anything of value measured on an admission or entrance or length of stay, or seat box accommodations, in any place of business or where there is any exhibition, entertainment, amusement, sport or recreation. There shall be exempt all admissions to athletic events held by elementary, junior high schools, deaf and blind school and state correctional institutions. Provided, however, that no municipality of the state shall hereafter levy an excise tax on admissions. The taxes imposed by this section shall be collected in addition to the admission tax collected pursuant to §550.09, but the amount collected under §550.09 shall not be subject to taxation under part I of this chapter. For the exercise of said privilege a tax is levied as follows:

1. At the rate of three per cent of sales price, or the actual value received for such admissions said three per cent to be added and collected with all such admissions from the purchaser thereof and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket shall reflect on its face the actual sales price of admission and the tax shall be computed and collected on the basis of each such admission price.

2. The sale price or actual value of admission shall for the purpose of part I of this chapter, be that price remaining after deduction of federal taxes, if any, imposed upon said admission and the rate of tax on each admission shall be a rate according to the brackets established by §212.12(10).

Provided that no tax shall be levied as to admissions to athletic events engaged in by high schools, junior colleges and institutions of higher education in the state until December 26, 1963.

3. Such taxes shall be paid and remitted at the same time and in the same manner as provided for remitting taxes on sales of tangible personal property, as hereinafter provided.

4. Each person who, after November 1, 1949, exercises the privilege of charging admission taxes, as herein defined, shall apply for and at that time shall furnish the information and comply with the provisions of §212.18, not inconsistent herewith, and receive from the comptroller a certificate of right to exercise such privilege, which certificate shall apply to each place of business where such privilege is exercised, and shall be in the manner and form prescribed by the comptroller. Such certificate shall be issued upon payment to the comptroller of a registration fee of one dollar by the applicant. The county tax collectors are hereby made the agents of the comptroller for the purpose of issuing such certificates within the respective counties and upon application they shall issue such certificate, the county tax collector shall forward a copy of each of the same to the comptroller. Each person exercising the privilege of charging such admission taxes as herein defined shall cause such records and accounts showing the admission which shall be in the form as the comptroller may from time to time prescribe, inclusive of records of all tickets numbered and issued for a period of not less than three years, and inclusive of all bills or checks of customers who are charged any of the taxes defined herein, showing the charge made to each for a period of not less than three years. The comptroller shall be empowered to use each and every one of the powers granted herein to the comptroller to collect and enforce the payment of tax to be paid by each such person, and to enforce the payment thereof as are hereby granted the comptroller for the discovery and enforcement of the payment of taxes hereinafter levied on the sales of tangible personal property. The failure of any person to pay such taxes before the twenty-first day of the succeeding month after the same are collected shall render such person liable to the same penalties that are hereafter imposed upon such person for being delinquent in the payment of taxes imposed upon the sales of tangible personal property and the failure of any person to render returns and to pay taxes as prescribed herein shall render such person subject to the same penalties, by way of charges for delinquencies, at the rate of five per cent per month for the total amount of tax delinquent up to a total of twenty-five per cent of such tax, and at the rate of fifty per cent penalty for attempted evasion of payment of any such tax, or for any attempt to file false or misleading returns that are required to be filed by the comptroller.

5. All of the provisions of part I of this chapter relating to collection, investigation, discovery and aids to collection of taxes upon sales of tangible personal property shall likewise apply to all privileges described or referred to in this section, and the obligations imposed in part I of this chapter upon "retailers" are hereby imposed upon the seller of such admissions. Where tickets or admissions are sold and not used but returned and credited by the seller, the seller may apply to the comptroller for a credit allowance for such returned tickets or admissions where advance payments have been made by the buyer and have been returned by the seller upon such form and in such manner as the comptroller may from time to time prescribe, and the comptroller may
upon obtaining satisfactory proof of the refunds upon the part of seller credit the seller for taxes paid upon admissions that have been returned unused to the purchaser of those admissions. The seller of admissions upon the payment of the taxes before they become delinquent and the refusal of the applicant in accordance with the requirement of the comptroller, and as provided in this law, shall be entitled to a discount of three per cent of the amount of taxes upon the payment of the same before the same become delinquent, in the same manner as permitted the sellers of tangible personal property in part I of this chapter.

(6) Admission taxes required to be paid by part I of this chapter shall be paid to the comptroller by the owner or the collector of such admission, and where any place of business is sold or transferred by any owner, or owners, thereof, wherein such admission taxes have or are accruing shall be obligated before such sale becomes effective to notify the comptroller of such pending sale and secure from the comptroller a permit as prescribed in this section, and the purchaser shall become obligated to withhold from the sales price such sum of money as will safely be required to discharge all accrued admission taxes upon such places of business, and that upon the failure of any such purchaser or purchasers shall become obligated to pay all accrued admission taxes, and the same shall become a lien upon all of the purchaser’s assets until the same have been paid and fully discharged.

(7) That the taxes under this section shall become a lien upon the assets of the owner of any business exercising the privilege of selling admissions, and the collection of such admissions, as defined hereunder, and shall remain a lien until fully paid and discharged, and such lien may be enforced in the manner provided hereinafter for the enforcement of the collection of taxes imposed upon the sales of tangible personal property.

(8) The word owners as used in this law shall be taken to include and mean all persons obligated to collect and pay over to the state the tax imposed under this section, inclusive of all holders of permits issued as herein provided, and wherever the words “owner” or “owners” are used herein it shall be taken to mean and include all persons liable for such admission taxes unless and except it appear from the context that the words are descriptive of property owners.

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 part I of 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. For the exercise of said privilege a tax is levied as follows:

(1) At the rate of three per cent of the sales price of each item or article of tangible personal property when sold at retail in this state; the tax to be computed on gross sales for the purpose of remitting the amount of tax due the state, and to include each and every retail sale.

(2) At the rate of three per cent 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.

(3) At the rate of three per cent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, except the rental of motion picture film where an admission is charged for viewing such film, where 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 said business.

(4) At the rate of three per cent of the lease or rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or rentee, to the owner of the tangible personal property.

(5) The said tax shall be collected from the dealer as defined herein and paid at the time and in the manner as hereinafter provided.

(6) The tax so levied is and shall be in addition to all other taxes, whether levied in the form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes levied.

212.06 Sales, storage, use tax; collectible from dealers; dealers defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1) The aforesaid tax at the rate of three per cent of the retail sales price, as of the moment of sale, or three per cent of the cost price, as of the moment of purchase, or three per cent 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. The full amount of the tax on credit sales, installment sales and sales made on any kind of deferred payment plan shall be due at the moment of the transaction in the same manner as a cash sale.

(2) (a) The term dealer as used in part I of this chapter shall include 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.

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

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

(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 part I of this chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of said tangible personal property.

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

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

(g) Dealer also means and includes every person who solicits business either by direct representatives, indirect representatives, manufacturers agents, or 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, and such dealer shall collect the tax imposed by part I of 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 part I of this chapter may be had in this state by any such dealer unless it be affirmatively shown that the provisions of part I of this chapter have been fully complied with.

(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.

(3) 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 part I of this chapter from the purchaser.

(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, the dealer as herein defined, shall pay the tax imposed by part I of this chapter on all articles of tangible personal property so imported and used, the same as if the said articles had been sold at retail for use or consumption in this state. For the purposes of part I 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 be levied and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

(5) It is not the intention of part I 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 shall 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; nor is it the intention of part I of this chapter to levy a tax on radio broadcasting, or any sale which the state is prohibited from taxing under the constitution or laws of the United States.

(6) It is however, the intention of part I 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.

(7) It is further specifically provided that the use tax shall not apply to tangible personal property owned or acquired in this state, or imported into this state or held or stored in this state prior to November 1, 1949. But, the use tax will apply to all tangible personal property imported or caused to be imported into this state on or after November 1, 1949.

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

History.—S. cbl. 20310, 1949; (5) ch. 20311, 1949; (6) ch. 20377, 1951; (2) ch. 25863, 1955; (3) ch. 21113, 1961; (2) ch. 44939, 1965; (3) ch. 17483, 1969; (6) ch. 17704, 1971; (4) ch. 6716, 1979; (5) ch. 20699, 1981; (1) ch. 387, 1983; (2) ch. 55326. 1983; (3) ch. 61-279. 1983; (5) ch. 61-279. 1983; (6) ch. 61-279. 1983.

212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; penalties; general exemptions.—

(1) The privilege tax herein levied measured by retail sales shall be collected by the dealers from the purchaser or consumer.

(2) Dealers shall keep, as far as practicable, add the amounts of the tax imposed under part I of this chapter to the sale price and the tax shall be separately stated on any charge tickets, sales slips, invoices, or other tangible evidence of sale, and such tax shall constitute a part of such price, charge or proof of sale which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable
at law in the same manner as other debts. Any dealer who shall neglect, fail or refuse to collect the tax herein provided, upon any, every, and all retail sales made by him, or his agents, or employees, of tangible personal property which is subject to the tax imposed by part I of this chapter shall be liable for and pay the tax himself.

(3) Any dealer who shall fail, neglect or refuse to collect the tax herein provided, either by himself or through his agents or employees, shall, in addition to the penalty of being liable for and paying the tax himself, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than one hundred dollars or imprisonment in the county jail for not more than three months, or both, in the discretion of the court.

(4) A dealer engaged in any business taxable under part I of this chapter shall not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any part of the tax, or that the tax will not be added to the selling price of the property sold or released or when added that it or any part thereof will be refunded either directly or indirectly by any method whatsoever. A person who violates this provision with respect to advertising or refund shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred fifty dollars, or imprisonment in the county jail for not exceeding three months, or both, in the discretion of the court. For a second or subsequent offense, the penalty shall be double.

(5) The gross proceeds derived from the sale in this state of livestock, poultry and other farm products, direct from the farm are exempted from the tax levied by part I of this chapter, provided that such sales are made directly by the producers. The producers shall be entitled to such exemptions although said livestock so sold in this state may have been registered with a breeders or registry association prior to said sale and although said sale takes place at a livestock show or race meeting, so long as said sale is made by the original producer and within this state. When sales of livestock, poultry or other farm products are made to consumers by any person, as defined herein, other than a producer, they are not exempt from the tax imposed by part I of this chapter.

(6) It is specifically provided that the "use tax" as defined herein shall not apply to livestock and livestock products, to poultry and poultry products, to farm and agricultural products, when produced by the farmer and used by him and members of his family and his employees on the farm.

(7) Provided, however, that each and every agricultural commodity sold by any person, other than a producer, to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or for sale in the process of preparing, finishing or manufacturing such agricultural commodity for the ultimate retail consumer trade shall be and is exempted from any and all provisions of part I of this chapter, including payment of the tax applicable to the sale, storage, use, transfer or any other utilization or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer, and in no case shall more than one tax be exacted.

(8) The term agricultural commodity, for the purposes hereof, shall mean horticultural, poultry and farm products, and livestock and livestock products.

History.—§ 212:276, ch. 26319, 1949; § 212:28297, 1953; (3), (4)
eld to the comptroller from time to time and be included in the rules promulgated by the comptroller; artificial eyes and limbs, eyeglasses, dentures, hearing aids, crutches, prosthetic and orthopedic appliances and funerals. Funeral directors shall pay tax on all tangible personal property used by them in their business. This subsection shall be strictly construed and enforced.

(3) EXEMPTIONS, PARTIAL; MOTOR VEHICLES; AND CERTAIN FARM EQUIPMENT.—There shall be exempt from the tax imposed by part I of this chapter so much of such tax as shall exceed two per cent on the sale (including occasional or isolated sales), the use, consumption or storage for use in this state of motor vehicles, and self-propelled or power-drawn farm equipment used exclusively by a farmer on a farm owned, leased or share-cropped by him in plowing, planting, cultivating and harvesting crops. No title certificate shall be issued by the motor vehicle commissioner on any motor vehicle unless there be filed with such application for title certificate a receipt issued by an authorized motor vehicle dealer, or by a designated agent of the comptroller or by the comptroller evidencing the payment of such tax where the same is payable. For purposes of enforcing this provision, the county tax collectors and any and all persons or firms authorized to sell or issue motor vehicle licenses are hereby designated agents of the comptroller 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. No such receipt shall be required upon application for transfer of any title certificate issued by another state having a sales tax equal to or greater than the tax required by this state and requiring such tax to be paid before the issuance of title certificate. Other provisions of part I of this chapter relating to trade-ins are applicable to motor vehicles; however, all transfers of title to motor vehicles are presumed to be a taxable transaction until otherwise shown. The term motor vehicles as used in this subsection shall have the same meaning ascribed in §320.01 (1), when used in the plural form; and shall include the purchase of a motor vehicle to be used exclusively for rental purposes; however, any vehicle required to be licensed under §320.08, with a “GW” series tag shall not be construed to be a motor vehicle under the provisions of this subsection and is taxable at the rate of three per cent. The term “motor vehicle dealer” as used in this subsection shall have the same meaning ascribed in §320.60 (6).

(4) EXEMPTIONS, LIMITED; INDUSTRIAL MACHINERY.—There shall be exempt from the tax imposed by part I of this chapter on any single transaction so much of said tax as shall exceed five thousand dollars on the sale or rental to, the use, consumption or storage for use in this state of machines and equipment and parts and accessories therefor used in mining, quarrying, compounding, processing, producing or manufacturing, personal property for sale in this state, or used in furnishing communication, transportation or public utility services. As used in this subsection “single transaction” shall include each order placed and accepted for the sale and delivery within six months by one supplier, and the use in one particular location of specifically described items on which this exemption is allowed; and the term “machines and equipment and parts and accessories therefor” shall mean only such machines, machinery and equipment and parts and assessories therefor which are specifically designed for use in some phase or process of the operations mentioned in this subsection. The comptroller is authorized to further define the terms used herein by rules and regulations not inconsistent herewith for the purpose of uniformity in the enforcement of this subsection.

(5) EXEMPTIONS, ITEMS BEARING OTHER EXCISE TAXES, ETC.—Also exempt from the tax imposed by part I of this chapter are fuels (including crude oil, fuel oil, gasoline, kerosene, diesel oil, natural and artificial gas, coal, coke and cordwood), electric power or energy, water (not exempting mineral water or carbonated water), and ice. Gasoline and other fuels used or consumed in aeronautical devices or used or consumed in railroad trains or locomotives 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 to be determined at the close of the carrier’s fiscal year. This ratio shall be applied each month to the total purchases made in this state by the carrier of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under part I of this chapter. Aviation fuels or fuels consumed in railroad trains or locomotives intrastate are taxable hereunder. Alcoholic beverages made in this subchapter for and exclusively used by commercial fishermen; feeds for raising poultry and livestock on farms, and for feeding dairy cows; fertilizers, insecticides and fungicides used for application on crops or groves; containers used for processing farm products; field and garden seeds;
cheesecloth for shading tobacco and seed beds, used exclusively by a farmer on a farm owned, leased, rented, loaned, given or otherwise transferred by him in the cultivation and harvesting crops; provided, that such exemption shall not be allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated herein.

(7) EXEMPTIONS; POLITICAL SUBDIVISIONS, COMMUNICATIONS.—There shall also be exempt from the tax imposed by part I of this chapter, sales made to the United States government, the state or any county, municipality or political subdivision of this state; provided this exemption shall not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof where 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, 1950. Likewise exempt are newspapers, communication services, film rentals where an admission is charged for viewing such film and charges for services rendered by radio and television stations, including line charges, talent fees or charges, and charges for films and transcriptions and other expendable items in producing radio or television broadcasts.

(8) MISCELLANEOUS EXEMPTIONS.—
(a) Religious, charitable and educational.—There shall be exempt from the tax imposed by part I of this chapter articles of tangible personal property sold or leased direct to or by churches or sold or leased to, nonprofit religious, nonprofit educational, or nonprofit charitable institutions and used by such institutions in carrying on their customary nonprofit religious, nonprofit educational, or nonprofit charitable activities, including church cemeteries.
(b) School books and school lunches.—This exemption shall apply to school books used in regularly prescribed courses of study, and school lunches served by public, parochial or nonprofit schools operated for and attended by pupils of grades one through twelve. School books and food sold or served at junior colleges and other institutions of higher learning are taxable.
(c) Restrictive definitions.—The provisions of this section authorizing exemptions from tax shall be strictly defined, limited and applied in each category as follows:
1. Religious institutions shall mean churches and established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on by persons acting in a representative or fiduciary capacity.
2. Educational institutions shall mean state tax supported or parochial, church and nonprofit private schools, colleges or universities conducting regular classes and courses of study required for accreditation by or membership in the southern association of colleges and secondary schools, state department of education or the Florida council of independent schools.
(b) Hospital meals and rooms.—Also exempt from payment of the tax imposed by part I of 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.
(c) Professional services.—Also exempt are professional, insurance or personal service transactions which involve sales as inconsequential elements for which no separate charges are made.

The above exempted personal service transactions do not exempt the sale of information services involving the furnishing of printed, mimeographed, multigraphed matter or matter duplicating written or printed matter in any other manner, other than professional services and services of employees, agents or other persons acting in a representative or fiduciary capacity or information services furnished to newspapers. Information services shall mean and include the services of collecting, compiling or analyzing information of any kind or nature and furnishing reports thereof to other persons.
(f) Magazines.—There shall likewise be exempted from the tax imposed by part I of this chapter subscriptions to magazines entered as second class mail sold for an annual or longer period of time.

(9) PARTIAL EXEMPTIONS, VESSELS ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.—All vessels and parts thereof used to transport persons or property in interstate or foreign commerce shall be subject to the taxes imposed in part I of 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. The ratio would be determined at the close of the carrier's fiscal year. This ratio applied to the total purchases by the carriers of vessels and parts thereof each month to establish that portion of the total used and consumed in intrastate movement and subject to tax at the applicable rate. Vessels and parts thereof used to transport persons or property in intrastate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of part I of chapter 212.

(10) PARTIAL EXEMPTIONS, VEHICLES ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.—Vehicles and parts thereof used
to transport persons or property in interstate
or foreign commerce subject to tax imposed in
part I of this chapter unless permitted by general law, pro-
vided, however, that this provision shall not
impair valid municipal ordinances which are in
effect and under which a municipal tax is being
levied and collected on July 1, 1987.

(4) It is hereby declared to be the legisla-
tive intent that all purchases made by banks
are subject to state sales tax in the same man-
ner as is provided by law for all other pur-
chasers. It is further declared to be the legis-
lateive intent that if for any reason, the sales
tax on federal banks is declared invalid, that
sales tax shall not apply or be applicable to
purchases made by state banks.

(5) It is hereby declared to be the legisla-
tive intent that all purchases made by banks
are subject to state sales tax in the same man-
ner as is provided by law for all other pur-
chasers. It is further declared to be the legis-
lateive intent that if for any reason, the sales
tax on federal banks is declared invalid, that
sales tax shall not apply or be applicable to
purchases made by state banks.

212.081 Legislative intent.—It is hereby
declared to be the legislative intent of the legis-
lation enacted by §212.08, 212.11(1), (3), 212.12
(10) and 212.20 by ch. 57-398:

(1) To raise the additional revenue required
to meet the appropriations of the legislature, by
amending the sales and use tax exemptions pre-
viously allowed on clothing, fabrics, lubricating
oil and grease and cigarettes included in this
section. By amending the sales and use tax
exemption on alcoholic and malt beverages,
exclude from such exemption alcoholic and malt
beverages consumed on the premises, and
imposing a partial tax on motor vehicles, by in-
creasing the tax on industrial machinery from three
hundred dollars to one thousand dollars and
further restricting and clarifying the definition of
such machinery; and by eliminating all other
exemptions allowed by §212.08, not specifically
mentioned herein.

(2) To aid in the enforcement of part I of
this chapter by recognizing the effect of court
rulings involving such enforcement and to in-
corporate herein substantial rulings of the
comptroller which have been recognized as
necessary to supplement the interpretation of
some of the terms used in this section.

(3) To arrange the exemptions allowed in
this section in more orderly categories thereby
eliminating some of the confusion attendant
upon the present arrangement where cross-
exemptions frequently occur.

It is further declared to be the legislative intent
that the tax levied by part I of this chapter
and imposed by this section is not a tax on
motor vehicles as property but a tax on the
privilege to sell, to rent, to use or to store for
use in this state motor vehicles; that such tax
is separate from and in addition to any license
tax imposed on motor vehicles; and that such
tax is not intended as an ad valorem tax on
motor vehicles as prohibited by the constitution.

It is also the legislative intent that there shall
be no pyramiding or duplication of excise taxes
levied by the state under part I of this chapter
and no municipality shall levy any excise tax
upon any privilege, admission, lease, rental,
sale, use or storage for use or consumption
which is subject to a tax under part I of this
chapter unless permitted by general law, pro-
vided, however, that this provision shall not
impair valid municipal ordinances which are in
effect and under which a municipal tax is being
levied and collected on July 1, 1987.

212.082 Effective date of amendments en-
acted by ch. 57-398.—It is hereby declared to
be the legislative intent that the amendments
enacted by chapter 57-398 to §212.08, 212.11
(1), (3), 212.12(10) and 212.20 are an integral
part of a revenue program designed to raise an
estimated one hundred twenty million dollars
revenue, thirty-six million dollars of which is
herein appropriated to the county school fund
of the respective counties, which program in-
cludes and is dependent upon the enactment of
a separate act increasing intangible taxes and
another act increasing documentary stamp
taxes each of such acts to be passed by the
1957 session of the legislature of the state;
therefore, said amendments shall take effect
July 1, 1957 immediately after and only after
the said two other separate acts become effec-
tive; provided, however, if for any reason either
of the two said other and separate acts should
fail to become a law, then in such event it is
the declared legislative intent that these
amendments shall not take effect but shall be-
come inoperative and void.

212.09 Trade-ins deducted.—

(1) Where used articles are taken in trade,
or a series of trades, as a credit or part pay-
ment on the sale of new articles, the tax levied
by part I of this chapter shall be paid on the
sales price of the new article, less the credit for
the used article taken in trade.

(2) Where used articles are taken in trade,
or a series of trades, as a credit or part pay-
ment on the sale of used articles, the tax levied
by part I of this chapter shall be paid on the
sales price of the used article less the credit for
the used article taken in trade.

History.—s. 56, ch. 67-398.

212.105 Nonconformity with federal law.

It is hereby declared to be the legislative intent
that revenue produced by this law

(1) To raise the additional revenue required
to meet the appropriations of the legislature, by
amending the sales and use tax exemptions pre-
viously allowed on clothing, fabrics, lubricating
oil and grease and cigarettes included in this
section. By amending the sales and use tax
exemption on alcoholic and malt beverages,
exclude from such exemption alcoholic and malt
beverages consumed on the premises, and
imposing a partial tax on motor vehicles, by in-
creasing the tax on industrial machinery from three
hundred dollars to one thousand dollars and
further restricting and clarifying the definition of
such machinery; and by eliminating all other
exemptions allowed by §212.08, not specifically
mentioned herein.

(2) To aid in the enforcement of part I of
this chapter by recognizing the effect of court
rulings involving such enforcement and to in-
corporate herein substantial rulings of the
comptroller which have been recognized as
necessary to supplement the interpretation of
some of the terms used in this section.

(3) To arrange the exemptions allowed in
this section in more orderly categories thereby
eliminating some of the confusion attendant
upon the present arrangement where cross-
exemptions frequently occur.

It is further declared to be the legislative intent
that the tax levied by part I of this chapter
and imposed by this section is not a tax on
motor vehicles as property but a tax on the
privilege to sell, to rent, to use or to store for
use in this state motor vehicles; that such tax
is separate from and in addition to any license
tax imposed on motor vehicles; and that such
tax is not intended as an ad valorem tax on
motor vehicles as prohibited by the constitution.

It is also the legislative intent that there shall
be no pyramiding or duplication of excise taxes
levied by the state under part I of this chapter
and no municipality shall levy any excise tax
upon any privilege, admission, lease, rental,
sale, use or storage for use or consumption
which is subject to a tax under part I of this
chapter unless permitted by general law, pro-
vided, however, that this provision shall not
impair valid municipal ordinances which are in
effect and under which a municipal tax is being
levied and collected on July 1, 1987.

(4) It is hereby declared to be the legisla-
tive intent that revenue produced by this law

(1) To raise the additional revenue required
to meet the appropriations of the legislature, by
amending the sales and use tax exemptions pre-
viously allowed on clothing, fabrics, lubricating
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creasing the tax on industrial machinery from three
hundred dollars to one thousand dollars and
further restricting and clarifying the definition of
such machinery; and by eliminating all other
exemptions allowed by §212.08, not specifically
mentioned herein.

(2) To aid in the enforcement of part I of
this chapter by recognizing the effect of court
rulings involving such enforcement and to in-
corporate herein substantial rulings of the
comptroller which have been recognized as
necessary to supplement the interpretation of
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privilege to sell, to rent, to use or to store for
use in this state motor vehicles; that such tax
is separate from and in addition to any license
tax imposed on motor vehicles; and that such
tax is not intended as an ad valorem tax on
motor vehicles as prohibited by the constitution.

It is also the legislative intent that there shall
be no pyramiding or duplication of excise taxes
levied by the state under part I of this chapter
and no municipality shall levy any excise tax
upon any privilege, admission, lease, rental,
212.10 Sale of business; liability for tax, procedure, penalty for violation.—

(1) If any dealer liable for any tax, interest or penalties due and unpaid until such former owner shall make a final return and payment within fifteen days after the date of selling the business; his successor, successors, or assigns, shall withhold a sufficient portion of the purchase money to safely cover the account of such taxes, interest, or penalties due and unpaid until such former owner shall produce a receipt from the comptroller showing that they have been paid or a certificate stating that no taxes, interest, or penalty are due. If the purchasers of a business or stock of goods shall fail to withhold sufficient amount of the purchase money as above provided, he shall be personally liable for the payment of the taxes, interest and penalties accruing and unpaid on account of the operation of the business by any former owner, owners or assigns.

(2) If any dealer liable for any tax, interest or penalty shall quit the business without the benefit of a purchaser and there is no successor, successors or assigns he shall make a final return and payment within fifteen days. Any person failing to file such final return and make payment shall be denied the right to engage in any business in the state until he complies with such requirements, and the attorney general is hereby authorized to proceed by injunction, when requested by the comptroller so to do, to prevent by injunction any activity in the performance of any such business activity until either such permit is secured, or such bond is executed and filed, or such tax is paid in advance, and any temporary injunction granted on such contract or orders as such shall be granted without notice by any judge or chancellor now authorized by law to grant injunctions.

(3) In the event any dealer is delinquent in the payment of the tax herein provided for, the comptroller may give notice of the amount of such delinquency by registered mail to all persons having possession or under their control at the time such notice is given or under their control any credits or other personal property belonging to such dealer or owing any debts to such dealer at the time of receipt by them of such notice. All persons so notified shall within five days of receipt of such notice advise the comptroller of any subsequent credits or other personal property belonging to such dealer or any debts incurred and owing to such dealer which may come within their possession or under their control during the time prescribed by the notice, unless the comptroller consents to a transfer or disposition which expires the earlier. If such notice seeks to prevent the transfer or other disposition of any property or personal property in the possession or under the control of a bank, the notice to be effective shall be delivered or mailed to the office of such bank at which such deposit is carried or at which such credits or personal property is held. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, to the extent of the value of the property or the amount of the debts thus transferred or paid he shall be liable to the state for any indebtedness due under part I of this chapter from the person with respect to whose obligation the notice was given if solely by reason of such transfer or disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. All such credits or other personal property or debts are subject to garnishment by the comptroller for satisfaction of the delinquent tax due.

(4) Any violation of the provisions of this section shall be a misdemeanor and punishable as such.

History.—s10, ch. 26319, 1949; 11, ch. 59-425; (3) §3, ch. 61-276.

212.11 Tax returns and regulations.—

(1) That the taxes levied hereunder upon rentals, admissions and sales of tangible personal property shall be due and payable monthly on the first day of each month and for the purpose of ascertaining the amount of tax payable under part I of this chapter, it shall be the duty of all dealers to make a return, on or before the twentieth day of the month to the comptroller, upon forms prepared and furnished by him, showing the rentals, admissions, gross sales or purchases, taxable under part I of this chapter during the preceding calendar month. Any dealer who operates two or more places of business for which returns are required to be filed with the comptroller and who maintains records for such places of business in a central office or place, shall have the privilege of each reporting date of filing a consolidated return for all such places of business in lieu of separate returns for each such place of business.

(2) Gross proceeds from rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the comptroller may prescribe.

(3) Whenever the tax on rentals of any machine described in §212.08, shall amount to the total tax which would have been paid on said machine had the same been a sale
rather than a rental, there shall be no further rental tax thereon. Except as otherwise expressly provided for herein, it is hereby declared to be the intention of part I of this chapter to impose a tax on the gross proceeds of all leases and rentals of tangible personal property in this state where the lease or rental is a part of the regularly established business, or the same is incidental or germane thereto.

History—s11, ch. 26319, 1949; s10, ch. 26971, 1951; (1), (2)

212.12 Dealer’s credit for collecting tax; penalties for noncompliance; powers of comptroller in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) For the purpose of compensating the lessors of real and personal property taxed hereunder, and for the purpose of compensating dealers in tangible personal property 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, lessor, owner and dealer shall be allowed three per cent of the amount of the tax due and accounted for and remitted to the comptroller, in the form of a deduction from an estimate of the cost price of all articles imported by the dealer for use or consumption or distribution and for paying the amount due him, and the comptroller shall allow the said deduction of three per cent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, and for paying the amount due to be paid by him provided, however, that the three per cent allowance shall not be granted nor shall any deduction be permitted where the tax is delinquent at the time of payment, or where there is a manifest failure to maintain proper records or make proper prescribed reports; and as further compensation to dealers in tangible personal property for the keeping of prescribed records and collection of taxes and remitting the same.

(2) When any person, firm or corporation required hereunder to make any return or to pay any tax imposed by part I of this chapter, shall fail to make such return or shall fail to pay such tax, within the time required hereunder, in addition to all other penalties provided herein, and by the laws of Florida in respect to such taxes, the specific penalty shall be added to the tax in the amount of five per cent if the failure is for not more than thirty days, with an additional five per cent for each additional thirty days, or fraction thereof, during the time which the failure continues, not to exceed, however, a total penalty of twenty-five per cent in the aggregate. In the case of a false or fraudulent return or a wilful intent to evade payment of any tax imposed under part I of this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or wilfully attempting to evade the payment of such a tax shall be liable to a specific penalty of fifty per cent of the tax bill and for fine and punishment as provided by law for a conviction of a misdemeanor.

(3) When any dealer, or other person charged herein, fails to remit the tax, or any portion thereof, on or before the day when such tax shall be required by law to be paid, there shall be added to the amount due interest at the rate of six per cent per annum from the date due until paid.

(4) All penalties and interest imposed by part I of this chapter shall be payable to and collectible by the comptroller in the same manner as if they were a part of the tax imposed.

(5) The comptroller for good cause shown by written request, may extend, but not to exceed thirty days, the time for making any returns required under the provisions of part I of this chapter, and may compromise penalties after his investigation reveals that the penalty would be too severe or unjust, but interest shall be collected.

(6) In the event any dealer, or other person charged herein, fails to make a report and pay the tax as provided by part I of this chapter, or in case any person receiving rentals, or receiving rentals, and owners of places of admission, or receiving rentals, or the total admissions received or amounts received from leases of tangible personal property by a dealer, and an assessment from an estimate 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 of tangible personal property with interest, plus penalty, if such have accrued, and as the case may be, then the comptroller shall proceed to collect such taxes 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) The comptroller is given the power to prescribe the records to be kept by all persons subject to taxes imposed by part I of this chapter and it shall be the duty of every person required to make a report and pay any tax under part I of this chapter, and every person receiving rentals, and owners of places of admission, to keep and preserve suitable records of the sales, leases, rentals, admissions, or purchases, as the case may be, taxable under part I of this chapter, and such other books of account as may be necessary to determine the amount of the tax due hereunder, and other information as may be required by the comptroller; and it shall be the duty of every such person so charged with such duty, moreover, to keep and preserve, for a period of three years, all invoices and other records of goods, wares and merchandise, records of admissions, leases and rentals and all other subjects of taxation under part I of this chapter; and all such books, invoices and other records shall be open to ex-
amission at all reasonable hours to the comptroller or any of his duly authorized agents.

(8) In the event the dealer has imported the tangible personal property and he fails to produce an invoice showing the cost price of the articles as defined in part I of this chapter, which are subject to tax, or the invoice does not reflect the true or actual cost price as defined herein, then the comptroller 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 him. The assessment so made shall be considered prima facie correct, and the duty shall be on the dealer to show to the contrary.

(9) In the case of the lease or rental of tangible personal property, or other rentals as herein defined and taxed, if the consideration given or reported by the lessor, lessee, person receiving the rental or dealer does not, in the judgment of the comptroller, represent the true or actual consideration, then the comptroller is authorized to ascertain the same and assess and collect the tax thereon in the same manner as above provided, with respect to imported tangible property, together with interest, plus penalties, if such have accrued.

(10) Taxes imposed by part I of this chapter upon the privilege of the use, consumption, or storage for consumption, or sale of tangible personal property, admissions and rentals as herein taxed shall be collected upon the basis of an addition of the tax imposed by part I of this chapter to the total price of such admissions, rentals, 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 part I of this chapter of the total of his gross sales of tangible personal property, admissions, and rentals, and such person or dealer shall add the tax imposed by part I of this chapter to the price, rental or admissions and collect the total sum from the purchaser, lessee or consumer. Notwithstanding the rate of taxes imposed upon the privilege of sales, admissions and rentals, and in order to avoid fractions of pennis, the following brackets shall be applicable to all three percent taxable transactions:

(a) On single sales of less than ten cents no tax shall be added.

(b) On single sales in amounts from ten cents to thirty-five cents, both inclusive, one cent shall be added for taxes.

(c) On sales in amounts from thirty-six cents to sixty-five cents, both inclusive, two cents shall be added for taxes.

(d) On sales in amounts from sixty-six cents to one dollar, both inclusive, three cents shall be added for taxes.

(e) On sales in amounts of more than one dollar, three percent shall be charged upon each dollar of price, plus the above bracket charges upon any fractional part of a dollar in excess of even dollars.

(11) It is hereby declared to be the legislative intent, that wherever in the construction, administration or enforcement of part I of this chapter there may be any question respecting a duplication of the tax, that the end consumer, or last retail sale shall be the sale intended to be taxed and in so far as may be practicable there be no duplication or pyramiding of the tax.

(12) In order to aid the administration and enforcement of the provisions of part I of this chapter with respect to the rentals, each lessor of any hotel, apartment house, rooming house, tourist or trailer camp, or any interest therein, or any portion thereof, inclusive of owners, property managers, lessors, landlords, hotel, apartment house and rooming house operators and all licensed real estate agents within the state leasing or renting such property, shall be required to keep a record of each and every such lease or rental transaction which is taxable under part I of this chapter, in such a manner and upon such forms as the comptroller may prescribe, and to report such transaction to the comptroller, or his designated agents, and to maintain such records for a period of not less than three years, subject to the inspection of the comptroller and his agents, and failure of such owner, property manager, lessor, landlord, hotel, apartment, rooming house, tourist or trailer camp operator, or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, shall be deemed to be a misdemeanor and upon conviction, such owner, property manager, lessor, landlord, hotel, apartment, rooming house, tourist or trailer camp operator, receiver of rent, property manager or real estate agent shall be subject to a fine of not less than fifty dollars, nor more than two hundred dollars or imprisonment in the county jail for not less than ten days nor more than thirty days, or both, for the first offense; and for subsequent offenses, they shall each be subject to a fine of not more than five hundred dollars and by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

History.—§12, ch. 263-19, 1949; (10) 11, ch. 20873, 1961; (7) 3, ch. 97-109; (10) 3, ch. 97-308; (12) 4, ch. 61-976.

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

(1) For the purpose of enforcing the collection of the tax levied by part I of this chapter, the comptroller is hereby specifically authorized and empowered to examine at all reasonable hours the books, records and other documents of all transportation companies, agencies or firms that conduct their business by ship, rail, water, aircraft, or otherwise, in order to determine what dealers, or other persons charged with the duty to report or pay a tax under part I of this chapter, are importing or are otherwise shipping in articles or tangible personal property which are liable for said tax. In the event any said transportation company, agency or firm shall refuse to permit such examination of its books, records, or other documents by the comp-
troller as aforesaid, it shall be deemed guilty of a misdemeanor punishable by a fine of not less than fifty or more than five hundred dollars; provided further, that the comptroller shall have the right to proceed in any chancery court to seek a mandatory injunction or other appropriate remedy to enforce his right against the offender as granted by this section, to require an examination of the books and records of such transportation company or carrier.

(2) Each dealer, as defined in part I of this chapter, shall secure, maintain, and keep for a period of three years a complete record of tangible personal property received, used, sold at retail, distributed or stored, leased or rented within this state by said dealer together with invoices, bills of lading, gross receipts from such sales and other pertinent records and papers as may be required by the comptroller for the reasonable administration of part I of this chapter, and all such records shall be open for inspection to the comptroller at all reasonable hours at his store, sales office, warehouse, or place of business located in this state. Any dealer who wishes the inspection conducted at a point outside this state is required to reimburse the state for the necessary travel and per diem expended for this purpose. Any dealer subject to the provisions of part I of this chapter, who shall violate these provisions shall be guilty of a misdemeanor and upon conviction shall be punished as provided by the general law.

(3) For the purpose of enforcement of part I of this chapter, every manufacturer and seller of tangible personal property licensed within this state is required to permit the comptroller to examine his books and records at all reasonable hours, and upon his refusal the comptroller may require him to permit such examination by resort to the circuit courts of this state, subject however to the right of removal of the cause to the judicial circuit wherein such person's business is located or wherein such person's books and records are kept, provided further that such person's books and records are kept within the state.

(4) For the further purpose of enforcement of part I of this chapter, every wholesaler of tangible personal property licensed within this state is required to permit the comptroller to examine his books and records at all reasonable hours. He must also maintain such books and records for a period of not less than three years in order to disclose the sales of all goods sold, and to whom sold, and also the amount of items sold, in such form and in such manner as the comptroller may reasonably require, and so as to permit the comptroller to determine the volume of goods sold by wholesalers to dealers, as defined under part I of this chapter, and the dates and amounts of sales made. The comptroller may require any manufacturer or wholesaler who refuses to keep such records or to permit such inspection through the circuit courts of Florida to submit to such inspection, subject however to the right of removal of the cause as hereinbefore provided in this section.

History.—§13, ch. 26318, 1949; (2) §4, ch. 57-109; (3) §1, ch. 59-290; (4) §6, ch. 61-378.

212.131 Revolving trust fund for out of state inspections.—There is hereby created a revolving fund to be known as “sales tax special revolving trust fund,” and there is hereby transferred to said fund the sum of five thousand dollars from the moneys appropriated to the comptroller's office for expenses by the 1959-61 general appropriations act. Only expenses and per diem authorized by §112.061 shall be paid out of said fund to officers and employees of the comptroller's office engaged in making out-of-state inspections and audits in the administration and enforcement of part I of this chapter. All moneys collected under §212.18(2) shall be deposited in such fund; provided, however, at the end of each fiscal year all moneys in excess of twenty thousand dollars existing in such fund shall be deposited as unallocated to the general revenue fund.

History.—§2, ch. 59-290; §2, ch. 61-118.

212.14 Comptroller's powers; hearings, subpoena; distress warrants; time for assessments.

(1) Any person required to pay a tax imposed under part I of this chapter, or otherwise fails to comply with the provisions of part I of this chapter for the taxable period for which any return is made, or any report is made to the comptroller, may be required by the comptroller to show cause before the comptroller, or his designated agents, at a time and place to be set by the comptroller, after ten days' notice in writing requiring such person, or persons, or their employee or employees to give testimony, and to answer interrogatories by the comptroller, or his assistant, respecting the sale, use, consumption, distribution or storage rental of real or personal property within the state, or admissions collected therein, or the failure to make a true report thereof as provided by part I of this chapter, or failure to pay the true amount of the tax required to be paid under part I of this chapter. At said hearing, in the event such person fails to produce such books, records or papers, or to appear and answer questions within the scope and investigation relating to matters concerning taxes to be imposed under part I of this chapter, or prevents or impedes his or her agents or employees from giving testimony, then the comptroller is authorized under part I of this chapter to estimate any unpaid deficiencies in taxes to be assessed against such person upon such information as may be available to him and to issue a distress warrant for the collection of such taxes, in-
terest or penalties estimated by him to be due and payable, and such assessment shall be deemed correct. In all cases said warrant shall be issued to any sheriff in the state where such person owns or possesses any property and such property as may be required to satisfy such taxes, interest or penalties shall be by such sheriff seized and sold under said distress warrant in the same manner as property is permitted to be seized and sold under distress warrants issued to secure the payments of delinquent taxes as hereinafter provided, and the comptroller shall also have the right to writ of garnishment to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels or effects of the delinquent dealer in the hands, possession or control of the third person in the manner provided by law. Respecting the place for the holding of a hearing, by the comptroller or his agents, as provided in this section, the person whose tax return or report being investigated, may by written request to the comptroller require the hearing be set at a place within the judicial circuit of Florida wherein the person's business is located, or within the judicial circuit of Florida wherein such person's books and records are kept.

(2) Wherever returns are required to be made to the comptroller hereunder the full amount of the taxes required to be paid as shown by said return shall be paid and accompany said return, and the failure to remit said full amount of taxes at the time of making said return shall cause said taxes to become delinquent. All taxes and all interest and penalties imposed under part I of this chapter shall be paid and accompany said return. Filing of return shall have the same legal effect as if made under oath without the necessity of appending such oath thereto.

(4) In all cases where it is necessary to insure compliance with the provisions of part I of this chapter the comptroller shall require a cash deposit, bond, or other security as a condition to a person obtaining, or retaining, a dealer's permit under part I of this chapter. Such bond shall be in the form and such amount as the comptroller deems appropriate under the particular circumstances. Any security required to be deposited may be sold by the comptroller at public sale if it becomes necessary so to do in order to recover any tax, interest or penalty due. Notice of such sale may be served upon the person who deposited such securities personally or by mail. If by mail, notice sent to the last known address, as the same appears in the records of the comptroller's office shall be sufficient for the purpose of this requirement. Upon such sale the surplus, if any above the amount due under part I of this chapter, shall be returned to the person who deposited the security.

(5) Any person entering into a contract for the repair, alteration, construction or improvement of realty who is required to obtain a contractor's occupational license under the laws of this state and where the total contract price, or compensation received amounts to more than ten thousand dollars, shall, before the execution of such contract, secure a dealer's permit, unless such person has held such contractor's occupational license for a period of at least one year. As a prerequisite for the issuance of such dealer's permit such contractor shall execute and file with the state comptroller a good and valid bond endorsed by a surety company authorized to do business in this state, or with sufficient sureties to be approved by the comptroller, conditioned that all taxes which may accrue to the state under part I of this chapter will be paid when due. Provided, however, that any taxpayer may pay the tax in advance on any contract in lieu of furnishing bond. Every person failing to procure the permit required by this law, shall be denied the right to perform such contract until he complies with such requirement, and the attorney general is hereby authorized to proceed by injunction, when so requested by the comptroller to prevent any activity in the performance of such contract until such permit is secured, and any temporary injunction enjoining the execution of such contract may be granted without notice by any judge or chancellor now authorized by law to grant injunctions. The bond shall remain in full force and effect during the terms of the contract or until such time as the comptroller has issued a formal certificate of clearance stating that the tax due on the contract has been paid.

(6) The amount of any tax imposed under part I of this chapter may be determined and assessed for a period of three years after the tax became due and payable. The beginning of the three year period for determination and assessment of tax due shall be the first day of the month corresponding to the month in which a request for inspection and examination of the
books and records has been made by the comptroller. No suit or other proceeding, without assessment, for the collection of such tax shall be begun after the expiration of such period.

(7) This section as amended by ch. 59-449 shall apply only to all contracts executed subsequent to September 1, 1959.

History.—§14, ch. 26319, 1949; (4) §6, ch. 28653, 1955; (4) §54, ch. 67-1; (4) n. 4; ch. 67-166; (1) ch. 66-426; (6) n. §1; (6) renumbered and reenacted (6), §2, (7) n. by §3, ch. 59-449; (3), (6) §6, ch. 61-270.

212.15 Taxes declared state funds, penalties for embezzlement; due and delinquent dates; appeals.

(1) The taxes imposed by part I of this chapter shall become state funds from the moment of collection, and §812.10, relating to embezzlement by state, county, or municipal officials shall apply to every person who collects any taxes imposed by this chapter.

(2) The taxes imposed by part I of this chapter shall for each month be due to the comptroller of the com­ptroller shall, within thirty days, satisfy the lien on the first day of the succeeding month and delinquent on the twenty-first day of such month.

(3) All taxes collected under part I of this chapter shall be remitted to the comptroller. The comptroller is empowered and it shall be his duty, when any tax becomes delinquent under part I of this chapter, to issue a warrant for the full amount of the tax due or estimated to be due, together with the interest, penalties and cost of collection, directed to all and singular the sherrifs of the state, and mail such warrant to the sherrif of the county wherein any property of the taxpayer is located; and upon receipt of such warrant, the sherrif shall record the same in the office of the clerk of the circuit court of said county and thereupon the amount of such warrant shall become a lien upon the title to any real or personal property of such taxpayer, situated in said county, against whom such warrant is issued in the same manner as a judgment duly docketed and recorded in the office of such clerk of the circuit court. Upon the recording of such warrant, the clerk of the circuit court shall issue execution thereon, the same as on a judgment. Such sherrif shall thereupon proceed to collect all respects with like effect as may be approved by the court, conditioned to satisfy any judgment or decree in full, including the taxes complained of, including any interest and penalties included in such assessment, or file for rehearing and re-examination.

(4) If any taxpayer or person required by part I of this chapter to remit to the comptroller, such person shall have the right within thirty days from notice of such determination to have the comptroller's determination reviewed in appropriate proceedings in the court of Leon county, and in such review there shall be no presumption in favor of the comptroller's findings.

(5) In any action involving the legality of any tax assessed under part I of this chapter, the court shall inquire into and determine the legality and validity of the same and shall render decrees setting aside such tax assessment or any part of the same which is contrary to law, provided that the complainant shall in every case, except where the taxes assessed, including interest and penalties, have been paid to the state comptroller prior to the institution of suit, tender into court and file with the complaint the full amount of the assessment complained of, including any interest and penalties included in such assessment, or file with the complaint a cash bond, surety bond endorsed by a surety company authorized to do business in this state, or by such sureties as may be approved by the court, conditioned to satisfy any judgment or decree in full, including the taxes complained of, costs, interest and penalties.

History.—§15, ch. 26319, 1949; §12, ch. 26871, 1951; (3) §3, ch. 59-426; §7, ch. 61-270.

212.16 Importation of goods; permits; seizure for noncompliance; procedure; review.—
(1) For the protection of the revenue of this state, to prevent the illegal importation of tangible personal property which is subject to tax in this state, and to strengthen and make more effective the manner and method of enforcing payment of the tax imposed by part I of this chapter, the comptroller is hereby authorized and empowered to put into operation, a system of permits whereby any person or dealer as defined in part I of this chapter may import tangible personal property by truck, automobile, or other means of transportation other than a common carrier, without having said truck, automobile, or other means of transportation seized and subjected to legal proceedings for its forfeiture. Such system of permits shall require the person or dealer who desires to import tangible personal property into this state, which property is subject to tax imposed by part I of this chapter, to apply to the comptroller or his designated agent for a certificate of registration and a permit stating the kind of vehicle used, the name of the driver, the license number of the vehicle, the kind or character of tangible personal property to be imported, the date, the name and address of the consignee and such other information as the comptroller may deem necessary to prevent the illegal transportation of tangible personal property into this state. Such certificate of registration and permit shall be free of cost to the applicant and forms for such certificate of registration and permit may be obtained from the comptroller or his designated agents.

(2) The importation into this state of tangible personal property which is subject to tax, by truck, automobile, or other means of transportation other than a common carrier without having first obtained a certificate of registration and permit as hereinabove described, (if the tax imposed by part I of this chapter on the said tangible personal property has not been paid) shall be construed as an attempt to evade payment of the said tax and the same is hereby prohibited and the said truck, automobile or other means of transportation, other than that of a common carrier, and said taxable property may be seized by the comptroller in order to secure the same as evidence in a trial and the same shall be subject to forfeiture and sale in the manner provided for in part I of this chapter. No certificate of registration or permit shall be required to transport personal effects of a driver, owner, or passengers of any private automobile or carrier vehicle not engaged in carrying goods for resale within the state. The comptroller may issue a certificate of registration and permit to a person who is regularly or frequently importing into this state tangible personal property in trucks owned by him in connection with his own business, requiring that reports, copies of sales documents, and other information may be filed at regular or frequent intervals with the comptroller after importation of tangible personal property subject to the tax, and the comptroller may require as a condition for the issuance of such certificate of registration and permit that such person post a bond payable to the comptroller in an amount sufficient to guarantee payment of the tax on such goods as may be imported by such person, which amount the comptroller shall set.

(3) Subject to the above stated exception of private vehicles, any truck, automobile, or other means of transportation other than a common carrier which is used to import into this state tangible personal property which is subject to tax under part I of this chapter, together with the contents thereof, is hereby declared to be contraband and subject to confiscation unless a certificate of registration and permit as hereinabove described was first obtained. The comptroller may confiscate any such truck, automobile, or other means of transportation other than a common carrier together with its contents whenever the same is found to be importing without the certificate of registration and permit tangible personal property, the sale or use of which is taxable under part I of this chapter. Such permit shall be posted in or on the vehicle or made immediately available for inspection. The comptroller or his agent is authorized hereby to turn over to any sheriff or constable for safekeeping any vehicle or property seized hereunder, and such sheriff or constable shall collect from the vehicle owner costs provided by the general law for performing similar service.

(4) Upon seizure for confiscation, the comptroller or his representatives shall appraise the value of the vehicle and its said contents according to his best judgment and shall deliver to the person, if any found in possession of such property, a receipt showing the fact of seizure, from whom seized, the place of seizure, a description of the vehicle and contents seized. A copy of said receipt shall be filed in the office of the comptroller and shall be open to public inspection.

(5) The comptroller, or any representative of the comptroller, shall within thirty days advertise the said vehicle and its contents or other property so seized for sale to the highest bidder by one proper notice in a newspaper published in the county where the property is to be sold, if the county has such a newspaper, if there is no newspaper in such county, then by notice on the courthouse door, at least thirty days prior to the date of sale and contain a description of the vehicle and property to be sold.

(6) Any person claiming any property so seized as contraband goods, may, at any time before the sale, file with the comptroller, at Tallahassee, a claim in writing requesting a hearing and stating his interest in the article seized. The comptroller shall set a date and place for hearing within ten days from the day the claim is filed. The comptroller is hereby empowered to subpoena witnesses and compel their attendance at the hearing authorized under part I of this chapter. All parties to the proceeding including the person claiming such property shall have the right to have subpoenas issued by the comptroller to compel the attendance of all witnesses deemed by such parties to be necessary for
a full and complete hearing. All witnesses shall be entitled to the witness fees and mileage provided by law for legal witnesses, which fees and mileages shall be paid as a part of the cost of the proceeding.

(7) In the event the ruling of the comptroller is favorable to the claimant, the comptroller shall deliver to the claimant the vehicle or property so seized. If the ruling of the comptroller is adverse to the claimant, the comptroller shall proceed to sell such contraband goods in accordance with the foregoing provisions of part I of this chapter. The expense of storage and transportation shall be adjudged as part of the cost of the proceedings in such manner as the comptroller shall fix pending any proceeding to recover a vehicle or other property seized under part I of this chapter. The comptroller may order delivery thereof to any claimant who shall execute with one or more sureties, approved by the comptroller, and deliver to the comptroller, a bond in favor of the state for the payment of a sum double the appraised value thereof as of the time of the hearing; and providing further that if the vehicle or other property is not returned at the time of the hearing the bond shall stand in lieu of, and be forfeited in the same manner as such vehicle or other property.

(8) The action of the comptroller may be reviewed by a petition for common law writ of certiorari addressed to the circuit court of any county wherein said hearing was held which petition shall be filed within the time provided by the Florida appellate rules.

(9) Immediately upon the granting of the writ of certiorari the comptroller shall cause to be made, certified, and forwarded to said court a complete transcript of the proceeding in said cause, which shall contain all the proofs submitted before the comptroller. All defendants named in the petition desiring to make defense shall answer or otherwise plead to said petition within ten days from the date of the filing of said transcript unless the time be extended by the court.

(10) Said decision of the comptroller shall be reviewed by the circuit court solely upon the pleadings and a transcript of the evidence before the comptroller, and neither party shall be entitled to introduce any additional evidence in the circuit court. The confiscated vehicle or goods shall not be sold pending such review but shall be stored by the comptroller until the final disposition of said case.

(11) Within the discretion of the comptroller, the claimant may be awarded possession of the confiscated goods pending the decision of the circuit court under the petition for certiorari, provided the claimant shall be required to execute a bond payable to the state, in an amount double the value of the property seized, the sureties to be approved by the comptroller. The condition of the bond shall be that the obligors shall pay to the state, the full value of the vehicle or goods seized unless upon certiorari the decision of the comptroller shall be reversed and the property awarded to the claimant.

(12) If no claim is interposed such vehicle, or other goods shall be forfeited without further proceedings and the same sold as hereinafter provided. The above remedy of any claimant and no court shall have jurisdiction to interfere therewith by replevin, injunction, supersedeas, or in any other manner.

(13) Any funds derived from the sale of confiscated vehicles or other goods shall be distributed or allocated in the same manner as other funds derived from the taxing statute.

History--ch. 23319, 1945; (1)-(5) ch. 61-276; s 63-122.

212.17 Credits for returned goods, rentals or admissions; additional powers of comptroller.--

(1) In the event purchases are returned to the dealer by the purchaser or consumer after the tax imposed by part I of this chapter has been collected, or charged to the account of the consumer or used, the dealer shall be entitled to reimbursement of the amount of tax collected or charged by him, in the manner prescribed by the comptroller; and in case the tax has not been remitted by the dealer to the comptroller, the dealer may deduct the same in submitting his return upon receipt of a signed statement of the dealer as to the gross amount of such refunds during the period covered by said signed statement, which period shall not be longer than ninety days. The comptroller shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for such tax collection. Such memorandum shall be accepted by the comptroller at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of part I of this chapter, provided in cases where a dealer has retired from business and has filed a final return, a refund of tax may be made if it can be established to the satisfaction of the comptroller that the tax was not due.

(2) The comptroller shall design, prepare, print and furnish to all dealers, or make available to said dealers, all necessary forms for filing returns and instructions to insure a full collection from dealers and an accurate accounting of the taxes due, but failure of any dealer to secure such forms shall not relieve such dealer from the payment of said tax at the time and in the manner herein provided.

(3) The comptroller and his assistants are hereby authorized and empowered to administer the oath for the purpose of enforcing and administering the provisions of part I of this chapter.

(4) The comptroller shall have the power to make, prescribe and publish reasonable rules and regulations not inconsistent with part I of this chapter, or the other laws, or the constitution of this state, or the United States, for the enforcement of the provisions of part I of this chapter and the collection of revenue hereunder, and such rules and regulations shall when enforced be deemed to be reasonable and just.

(5) The comptroller, where admissions or rental payments are made and thereafter returned to the payers, after the taxes thereon have
been paid, shall return or credit the taxpayer for taxes so paid on the monies returned in the same manner as is provided for returns or credits of taxes where purchases or tangible personal property are returnable to a dealer.


212.18 Administration of law; rules and regulations.—

(1) The cost of preparing and distributing the reports, forms and paraphernalia for the collection of said tax and the inspection and enforcement duties required herein shall be borne by the revenue produced by part I of this chapter, provisions for which are hereinafter made.

The comptroller shall administer and enforce the assessment and collection of the taxes, interest, and penalties imposed by part I of this chapter. He is authorized to make and publish such rules and regulations not inconsistent with part I of this chapter, as he may deem necessary and incur any other necessary expenses as are proper for the enforcement and administration of part I of this chapter.

History.—P.L. 24, ch. 26319, 1949; (3) 19, ch. 61-276.

212.19 All state agencies to cooperate in administration of law.—The comptroller is further empowered to call on any state agency, department, bureau or board for any and all information which may, in the judgment of the comptroller, be of assistance in administering or preparing for the administration of part I of this chapter, and such state agency, department, bureau or board is hereby authorized, directed and required to furnish such information.

History.—P.L. 24, ch. 26319, 1949; (3) 12, ch. 67-1.

212.20 Funds collected, disposition; additional powers of comptroller; operational expense.—

(1) The comptroller shall pay over to the treasurer of the state, all funds received and collected by him under the provisions of part I of this chapter, to be credited to the account of the general revenue fund of the state.

(2) The comptroller is authorized to employ all necessary assistants to administer part I of this chapter properly and is also authorized to purchase all necessary supplies and equipment which may be required for this purpose.

(3) The estimated amount of money needed for the administration of part I of this chapter shall be included by the comptroller in his biennial legislative budget request for the operation of his office.

History.—P.L. 24, ch. 26319, 1949; (4) r. 77, ch. 29615, 1955; (2) 12, ch. 37-1; 14, ch. 37-368; (3) r. 12, ch. 98-1; 81, ch. 59-320. cf. §226.075 County school sales tax fund; creation and use of; appropriation.

212.21 Declaration of legislative intent.—

(1) If any section, subsection, sentence, clause, phrase or word of part I of this chapter is for any reason held or declared to be unconstitutional, invalid, inoperative, ineffective,
inapplicable, or void, such invalidity or unconstitutional shall not be construed to affect the portions of part I of the chapter not so held to be unconstitutional, void, invalid, or ineffective, or affect the application of this chapter to other circumstances not so held to be invalid, it being hereby declared to be the express legislative intent that any such unconstitutional, illegal, invalid, ineffective, inapplicable or void, portion or portions of part I of this chapter did not induce its passage, and that without the inclusion of any such unconstitutional, illegal, invalid, ineffective or void portions of part I of this chapter, the legislature would have enacted the valid and constitutional portions thereof.

(2) It is hereby declared to be the specific legislative intent to tax each and every sale, admission, use, storage, consumption, or rental levied and set forth in part I of this chapter except as to such sale, admission, use, storage, consumption, or rental, as shall be specifically exempted therefrom, subject to the conditions appertaining to such exemption. It is further declared to be the specific legislative intent that should any exemption or attempted exemption from the tax or the operation or imposition of the tax or taxes be declared to be invalid, ineffective, inapplicable, unconstitutional or void for any reason, such declaration shall not affect the tax or taxes imposed herein, but may, subject to the conditions appertaining to such exemption or attempted exemption, be specifically exempted from the tax or the operation or imposition of the tax or taxes, or the operation or the imposition of the tax or taxes, shall be subject to the tax or taxes and the operation and imposition thereof to the same extent as if such exemption or attempted exemption had never been included herein.

(3) It is further declared to be the specific legislative intent to exempt from the tax or taxes or from the operation or the imposition thereof only such sales, admissions, uses, storages, consumption or rentals in relation to or in respect of the things set forth as exempted from the tax, as may be exempted in accordance with the provisions of the constitution of the state and of the United States, and it is further declared to be the specific legislative intent to tax each and every the taxable privileges made subject to the tax or taxes or the operation of the tax or taxes, or the imposition of the tax or taxes except such sales, admissions, uses, storages, consumption or rentals as are specifically exempted therefrom, and such exemption is made only to the extent that such exemption may be made in accordance with the provisions of the constitution of the state and of the United States.

(4) It being further declared to be the specific legislative intent that in the event any exemption or attempted exemption of any sale, admission, use, storage, consumption or rental from the tax or taxes imposed by part I of this chapter is for any reason declared to be unconstitutional, ineffective, inapplicable or void, that then and in such event each and every such sale, admission, use, storage, consumption or rental shall be subject to the tax or taxes imposed by part I of this chapter as fully and to the same extent as if such exemption or attempted exemption had never been included herein, it being declared to be the specific legislative intent that no unconstitutional, invalid, ineffective, inapplicable or void exemption or attempted exemptions induced the passage of part I of this chapter, it being further declared to be the specific legislative intent that without the inclusion herein of any such unconstitutional, invalid, ineffective, inapplicable or void, portion or portions of part I of this chapter would have been enacted; provided, however, that should the provisions, or any one or more of them, set forth in §212.22, requiring two certain other and separate acts of the 1949 extraordinary session of the legislature to become laws as conditions precedent to this act becoming a law, for any reason be held or declared to be unconstitutional, inoperative or void, then in such event it is not intended that §212.22 or any part thereof be separable from any of the remaining provisions of part I of this chapter, but in such event it is expressly intended that part I of this chapter be inseparable in its entirety.

History.—21, ch. 26318, 1946.

212.22 Savings provision.—Nothing herein contained shall be construed as repealing any general or special act authorizing a municipality to levy a special tax upon admission tickets which said tax is now being levied by such municipality.

History.—223, ch. 26318, 1949.

212.25 Additional declaration of legislative intent.—It is hereby declared to be the legislative intent that part I of this chapter is an integral part of a revenue program, which program includes, in addition to the provisions set forth in part I of this chapter, certain aid to municipalities through another and separate act (ch. 210), designed to authorize municipalities to levy a tax up to five cents per package on cigarettes, which tax shall be collected by the state beverage director and remitted to the municipalities levying such taxes pursuant to said other act, and certain aid to counties through another and separate act (§206,44), designed to allocate to the several counties of the state, the proceeds of the so-called "7th Cent Gas Tax" in the manner as provided in said other and separate act.

History.—234, ch. 26318, 1949.
212.50 Short title.
212.51 Declaration of legislative findings and intent.
212.52 Definitions.
212.53 Imposition and levy of tax.

212.50 Short title.—Part II of this chapter may be cited as the wholesale fishing and other equipment revenue act.

History.—$2. ch. 63-527.

212.51 Declaration of legislative findings and intent.—
(1) It is the finding of the legislature that an equitable means of financing the programs established by the outdoor recreation and conservation act of 1963 is to impose a tax on certain sales, uses, and storages of fishing, hunting, camping, swimming and diving equipment, all as herein provided or defined, in that the establishment, enhancement and expansion of such programs will greatly increase and expand such sales, uses and storages of such equipment and further in that the burden, incidence, or impact, if any, of such tax will be borne either by those persons benefiting directly from such increased and expanded sales, uses, and storages or by those persons directly utilizing the facilities and lands developed or acquired by virtue of the provisions of the outdoor recreation and conservation act of 1963 or otherwise directly receiving the benefits of such act.
(2) The tax herein imposed is not intended to be and shall not be construed or administered as an ad valorem tax upon tangible personal property as prohibited by §2, Art. IX, of the constitution.
(3) It is the finding of the legislature that the classification of fishing, hunting, camping, swimming, and diving equipment established in part II of this chapter is reasonable and just and that said classification of such equipment and the tax herein imposed fairly and reasonably results in the encompassing of those sales, uses, and storages which will be increased and expanded by the implementation of the outdoor recreation and conservation act of 1963.
(4) It is the finding of the legislature that the imposition of a tax by part II of this chapter upon certain wholesale sales is reasonable and just and that the imposition of this tax at such level will because of the nature of the equipment involved permit economy, uniformity, and fairness in collection of the tax and in the administration of part II of this chapter.
(5) It is the intention of the legislature that part II of this chapter not be construed or administered as taxing any sale, use, or storage, the taxation of which by the state would violate the constitution of the state or of the United States.
(6) It is the intention of the legislature that if any express exemption herein is construed as causing the tax herein imposed to be discriminatory, every such sale, use, and storage exempted shall be subject to said tax, it being the intent of the legislature to enact no unconstitutional or discriminatory exemptions.
(7) The tax herein imposed and levied shall be in addition to any and all other taxes imposed by law, regardless of the nature of the same.

History.—$1. ch. 63-527.

212.52 Definitions.—As used in part II of this chapter:
(1) Cost price means and includes the actual cost of fishing, hunting, camping, swimming and diving equipment without any deductions therefrom on account of the cost of materials used, labor or service costs, transportation charges, or any expenses whatsoever.
(2) Dealer means and includes:
(a) Every person who manufactures or produces fishing, hunting, camping, swimming and diving equipment for sale at wholesale, for use or for storage; or
(b) Every person who imports or causes to be imported fishing, hunting, camping, swimming and diving equipment from any place outside the state for sale at wholesale, for use, or for storage; or
(c) Every person who sells at wholesale or offers to sell at wholesale, or who has in possession for sale at wholesale, for use, or for storage fishing, hunting, camping, swimming and diving equipment; or
(d) Every person who has sold at wholesale, used, or stored fishing, hunting, camping, swimming and diving equipment and who cannot prove the tax levied by part II of this chapter has been paid upon such sale at wholesale, use, or storage; or
(e) Every person who purchases, imports or causes to be imported into this state for resale, fishing, hunting, camping, swimming and diving equipment, who cannot prove that the tax levied by part II of this chapter has been paid to his supplier or vendor.
(f) Every person who maintains or has within this state, directly or by a subsidiary, an office, distributing house, sales room, or house, warehouse, or other place of business; or
(g) Every person who solicits business either by direct representatives, indirect representatives, manufacturer's agents, or by distribution of catalogs or other advertising matter or by any other means whatsoever and by reason thereof receives orders for fishing, hunting, camping, swimming, and diving equipment from consumers for use or storage in the state; or
(h) Every person who, as 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.

(3) Fishing, hunting, camping, swimming, and diving equipment means any device, implement, tool, article, or object customarily or primarily used, operated, or consumed by participants in the course of and in the furtherance of the recreational pursuit of hunting, whether of animals, birds, fowl, fish, reptiles, or other creatures; camping, whether independently of or in conjunction with fishing, hunting, swimming or diving; swimming, whether in salt or fresh water, or diving, whether in salt or fresh water, including but not limited to poles, rods, reels, lines, seines, nets, tackle, tackle boxes, hooks, lures, swivels, sinkers, floats, leader wires, weights, firearms, ammunition, decoys, tents, sleeping bags, camping stoves, diving tanks, diving masks, diving lungs, diving weights and belts, diving regulators, diving suits, water skis, tow ropes, fins, bathing and swimming suits, underwater suits, shall not be included within this definition.

(4) Person means and includes any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and shall include the plural as well as the singular number.

(5) Sale and sold and derivatives thereof mean and include any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever of fishing, hunting, camping, swimming, and diving equipment, and shall include a transaction whereby the possession of such equipment is transferred to the buyer, but wherein title to the same or a mortgage upon the same is retained by the seller as security for the payment of the price.

(6) Sale at retail, sold at retail and retail sale mean and include a sale of fishing, hunting, camping, swimming, and diving equipment by any person other than the manufacturer to a consumer or to any person for any purpose other than for resale of such equipment in the same form.

(7) Sale at wholesale, sold at wholesale and wholesale sale mean and include any sale of fishing, hunting, camping, swimming and diving equipment which is not a retail sale or sale at retail; provided that where the mode or method of sale or distribution of such equipment results in there being more than one sale at wholesale prior to the sale at retail, the sale at wholesale shall be deemed to be the sale immediately preceding the sale at retail.

(8) Sales price means and includes the total amount for which fishing, hunting, camping, swimming, and diving equipment is sold, including any services that are part of the sale, valued in money, whether paid in money or otherwise, and including any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest charged, losses, or any other expense whatsoever; provided that cash discounts allowed and taken on sales shall not be included.

(9) Storage and stored mean and include any keeping or retention of fishing, hunting, camping, swimming, and diving equipment in the state for use or consumption in the state, except that it shall not mean or include a sale at wholesale, wholesale sale, sale at retail, or retail sale.

(10) Use and used mean and include the exercise in this state of any right or power over fishing, hunting, camping, swimming, and diving equipment incident to the ownership of such equipment or any interest therein, or the consumption or distribution thereof, except that it shall not mean or include a sale at wholesale, wholesale sale, sale at retail, or retail sale.

History.—Ch. 63-527.
in equity on any sale at wholesale may be
maintained in any court in the state by any
dealer who has not fully complied with the
provisions of part II of this chapter.
(3) The full amount of the tax on credit
sales, installment sales, and sales made on any
kind of deferred payment shall be due at the
moment of the transaction in the same manner
as a cash sale.
History. 1961, ch. 63-357.

212.54 Collection of tax.—
(1) The aforesaid tax at the rate of five
per cent of the sales price, as of the moment
of sale, or five per cent of the cost price, as
of the moment of commingling with the general
mass of property in the state, as the case may
be, shall be collectible from all dealers on the
sale at wholesale, use, or storage in the state
of fishing, hunting, camping, swimming and
diving equipment.
(2) Every dealer making sales at wholesale,
whether within or without the state, or fishing,
hunting, camping, swimming or diving equip­
ment for storage or use in the state shall at
the time of sale collect the tax imposed by
part II of this chapter from the purchaser.
(3) Every dealer shall pay the tax imposed
by part II of this chapter on all fishing, hunt­
ing, camping, swimming, and diving equip­
ment imported or caused to be imported from
any other state, territory, or district of the
United States, or from any foreign country,
and made the subject of use or storage by
him, the same as if said equipment had been
sold at wholesale for use or storage in this
state.
(4) There shall be no duplicate payment of
the tax under part II of this chapter in that if a
tax is paid on the sale at wholesale of such
equipment as provided in §212.53(1)(a) it shall
not be necessary to pay a tax on use or storage
of such equipment as provided in §212.53(1)(b).
History. 1961, ch. 63-357.

212.55 Administration.—
(1) The tax herein imposed shall be collect­
ed by and paid to the comptroller, who shall
administer the collection thereof and who is
empowered to promulgate reasonable rules and
regulations to implement and effectuate the
purposes of part II of this chapter; provided
that all rights and duties of the comptroller
under part II of this chapter shall be deemed
to lie in the state revenue commission or any
other agency or board succeeding to the duties
of the comptroller under chapter 212 and
the state revenue commission in accordance with
procedures paralleling, as closely as lawful or practicable,
those utilized in the administration of part I of chapter 212
and that the comptroller, state revenue commission or
any other agency or board succeeding the comptroller
under chapter 212 shall be deemed to mean the state revenue
commission or any other agency or board succeeding
to the duties of the comptroller under part
I of chapter 212 at and after the time of any such
succession.
(2) It is the intent of the legislature that part
II of this chapter be administered in accordance
with procedures paralleling, as closely as lawful or practicable,
those utilized in the administration of part I of chapter 212
and that the comptroller, state revenue commission or
any other agency or board collecting the tax hereunder, shall pay
to the treasurer all sums collected hereunder for deposit in the land
acquisition trust fund. Such sums so deposited may be used for
research and capital outlay for research relating to recreational and commercial salt
water fisheries and fishing.
History. 1961, ch. 63-357.

212.56 Earmark of tax.—The comptrol­
er, or the state revenue commission or other
agency collecting the tax hereunder, shall pay
to the treasurer all sums collected hereunder
for deposit in the land acquisition trust fund.
Such sums so deposited may be used for
research and capital outlay for research relating to recreational and commercial salt
water fisheries and fishing.
History. 1961, ch. 63-357.

212.57 Exemptions.—All sales at wholesale
to, or use or storage by the United States, the
state or any county, municipality, or other
political subdivision thereof, churches or reli­
gious institutions, nonprofit educational insti­
tutions, or nonprofit charitable institutions in
the course of their nonprofit educational, reli­
gious, or charitable activities, shall be exempt
from any tax under part II of this chapter.
History. 1961, ch. 63-357.

212.58 Penalty.—Violation of any provision
of part II of this chapter shall constitute a mis­
demeanor, and shall be punished as provided
by law.
213.01 State revenue laws; legislative intent.—It is hereby declared to be legislative intent that the revenue laws of the state be administered in a fair, efficient and impartial manner. It is further declared to be legislative intent that in order to insure the fair, efficient and impartial administration of the revenue laws of the state, that the collection of revenue insofar as is provided herein be the administrative responsibility of the elected officials of this state.

History.—§1, ch. 63-253.

213.02 State revenue commission; membership.—There is hereby created a board under the state cabinet to be known as the state revenue commission which shall be composed of the governor, the secretary of state, the comptroller, the state treasurer, the attorney general, the commissioner of agriculture, and the state superintendent of public instruction, who shall exercise such powers and discharge such duties as in this chapter provided. The majority vote of said commission shall be necessary to decide matters and questions coming before such commission.

History.—§2, ch. 63-253.

213.03 Employment of director, general counsel; compensation.—The revenue commission shall employ a director and set his compensation. The director shall possess such qualifications as the board may prescribe and he shall serve at the pleasure of the board. It shall be the duty of the director to act as agent for the state revenue commission in coordinating and directing its activities and the discharge of its responsibilities. The revenue commission shall also employ a general counsel and set his compensation. The general counsel shall possess such qualifications as the board may prescribe, and he shall serve at the pleasure of the board. The commission may employ such other assistance as is necessary to carry out its responsibilities.

History.—§3, ch. 63-253.

213.04 Bond of director.—The director of the state revenue commission shall, before he enters upon the discharge of the duties of his office, give bond conditioned upon the faithful discharge of the duties of said office in such amounts and under such conditions as may be prescribed by the revenue commission.

History.—§4, ch. 63-253.

213.05 Commission; control and administration of revenue laws.—The state revenue commission shall have the responsibility of regulating, controlling and administering all revenue laws and performing all other duties now vested in the state comptroller as provided in: chapter 203, gross receipts taxes generally; chapter 204, retail store license taxes; chapter 207, motor fuels, etc.; regulation, distributors, other persons; chapter 208, taxes on gasoline and like products; chapter 209, tax on motor fuels other than gasoline; and chapter 212, tax on sales, use and certain transactions. The state revenue commission shall also have the responsibility of regulating, controlling and administering the duties now vested in the secretary of state relative to the capital stock tax collection as provided in chapter 608. The revenue commission shall notify the secretary of state of all corporations subject to dissolution for failure to pay capital stock tax under §608.36.

History.—§5, ch. 63-253.

213.06 Rules and regulations.—The state revenue commission shall be authorized to adopt such rules and regulations as are necessary to carry out the intent and purposes of this act.

History.—§6, ch. 63-253.

213.07 Assumption of certain duties of comptroller and secretary of state.—All laws or parts thereof in conflict herewith are hereby repealed. All laws relating to the assessment, collection and enforcement of the taxes enumerated herein shall be interpreted so as to permit the state revenue commission to assume these responsibilities and duties. The words comptroller or state comptroller when used in chapters 203, 204, 207, 208, 209 and 212, shall hereafter mean the state revenue commission. The words secretary of state as they relate to the collection of the capital stock tax as used in chapter 608, shall hereafter mean the state revenue commission.

History.—§7, ch. 63-253.

213.08 Transfer of certain sums to commission's account.—After the appointment of a director of the state revenue commission, the state budget commission is hereby authorized and directed to transfer to the account of the state revenue commission all sums appropriated for the regulation and administration of chapters 203, 204, 207, 208, 209 and 212. That portion of the moneys appropriated by the 1963 legislature to the secretary of state consisting of eighty-eight thousand dollars for the administration of the capital stock tax under chapter
608 shall also be transferred to the state revenue commission along with the six authorized positions of the capital stock tax division of the secretary of state's office.

History.—§ 8, ch. 63-253.

213.09 Transfer of certain physical properties.—The state comptroller is authorized and directed to transfer to the state revenue commission upon proper receipt all physical properties, supplies and equipment owned by or leased to the state for the administration of chapters 203, 204, 207, 208, 209 and 212. The secretary of state is authorized and directed to transfer to the state revenue commission all such property utilized by him in the administration of the capital stock tax under chapter 608.

History.—§ 9, ch. 63-253.

213.10 Deposit of tax moneys collected.—Any and all tax moneys collected by the state revenue commission shall be deposited in the appropriate fund as provided by law.

History.—§ 10, ch. 63-253.
CHAPTER 215

FINANCIAL MATTERS, GENERALLY

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215.01 Fiscal year.—The fiscal year shall begin on the first day of July and end on the thirtieth day of June in each and every year. History.—ch. 15, 1853; RS 405; GS 607; RGS 1032; 11, ch. 10134, 1925; CGL 1343.

215.02 Manner of paying money into the treasury.—Whenever any officer of this state or other person desires to pay any money into the treasury of the state on account of his indebtedness to the state, he shall first go into the comptroller's office, and there ascertain from the comptroller's books the amount of his indebtedness to the state, and thereupon the comptroller shall give him a memorandum or certificate of the amount of such indebtedness, and on what account. Second, he shall take said certificate with him to the treasurer's office and deliver the same to the treasurer, and pay over to the treasurer the amount called for in said certificate. Third, the treasurer shall receive the money, make a proper entry thereof, file the comptroller's certificate, and give a certificate to the party paying over the money, acknowledging the receipt of the money, and on what account; which certificate thus received from the treasurer, the party shall return to the comptroller's office, on receipt of which the comptroller shall give the party a receipt for the amount, and enter a credit on the party's account in his books for the amount thus paid by him to the treasurer, and file the treasurer's certificate received. History.—ch. 1292, 1861; RS 406; GS 688; RGS 1033; CGL 1344.

215.03 Party to be reimbursed on reversal of judgment for state.—Whenever upon appeal in civil cases, any judgment in favor of the state has been or shall be reversed and set aside, which may have been paid in part by the appellant, the comptroller shall issue his warrant upon the treasurer to reimburse the appellant for all sums paid in discharge of
such judgment and cost, provided the appel-

215.04 Comptroller to report delinquents.—

215.06 Certified accounts of delinquents as
evidence.—In every case of delinquency, where
suit has been or shall be instituted, the certi-
fied statement provided for in §215.05, shall be
admitted as evidence and shall be prima facie
proof of the facts therein stated. All copies
of bonds, contracts, or other papers relating
to or connected with the settlement of any ac-
count between the state and an individual,
when certified as aforesaid to be true copies
of the original, may be annexed to such state-
count between the state and an individual,
which would be due to the original papers if
and be entitled to the same degree of credit
in lieu of any such defaulting collector, apply in
a summary way, by petition to the circuit
court or to the judge thereof in vacation, of
the proper county, for an order prohibiting
the proper county officer as provided by law,
shall report the same to the state attorney
of the circuit in which the collector resides; and
the state attorney shall institute such proper
proceedings, both civil and criminal, as are
authorized by law; and the said state attorney
shall, in case the said defaulting tax collector
shall either attempt to collect taxes or perform
any other act prohibited by law, or shall fail
or refuse to deliver all the official tax rolls and
books, with the statement required by law, to
his successor or the person appointed by the
governor to perform the duties appertaining
to the office of the collector of any county in
lieu of any such defaulting collector, apply in
a summary way, by petition to the circuit
court or to the judge thereof in vacation, of
the proper county, for an order prohibiting
and enjoining in the one case such defaulting
collector from collecting or attempting to col-
llect taxes, or performing any other act pro-
hibited by law, and requiring him in the other case to deliver all the
official tax rolls and books, with the statement required by law; and the said court or judge in
vacation may make such order and compel the
performance of, or obedience to, such order by
attachment and punishment as for a contempt
of court.

215.08 Delinquent collectors to be reported
to state attorney.—The comptroller, the coun-
try judge, the chairman of the board of county
commissioners and the members of the said
board, representing the same, after sufficient
time has expired to receive the reports required
of the tax collector by law and they have not
received them, or if the collector has failed
to turn over money collected to either the proper
state or county officer as provided by law,
shall report the same to the state attorney
of the circuit in which the collector resides; and
the state attorney shall institute such proper
proceedings, both civil and criminal, as are
authorized by law; and the said state attorney
shall, in case the said defaulting tax collector
shall either attempt to collect taxes or perform
any other act prohibited by law, or shall fail
or refuse to deliver all the official tax rolls and
books, with the statement required by law, to
his successor or the person appointed by the
governor to perform the duties appertaining
to the office of the collector of any county in
lieu of any such defaulting collector, apply in
a summary way, by petition to the circuit
court or to the judge thereof in vacation, of
the proper county, for an order prohibiting

215.07 Preference of state in case of insol-
vent—What any revenue officer or other per-
son now indebted or hereafter becoming in-
debted to the state, by bond or otherwise,
shall become insolvent, or when the estate of
any deceased debtor in the hands of executors
or administrators shall not be sufficient for
all the debt due from the deceased, the debt
due to the state shall be first satisfied; and the
priority established shall be deemed to extend
as well to cases in which a debtor, not having
sufficient property to pay all his debts, shall
make a voluntary assignment thereof, or in
which the estate and effects of an absconding,
concealed or absent debtor shall be attached
by process of law, as to cases in which the
party shall be insolvent.
1053; CGL 892(39), 1364.

CGL 1350.

112x156]215.10 Delinquent collectors; suspension.—
For a failure or refusal of any tax collector or other officer, whose duty it is to perform any act connected with the assessment or collection of taxes, to perform any duty or act, to make any return, or pay over any money required by law, the governor, by his written order, may suspend any such defaulting or non-complying collector or other officer from office, and from further acting in his office until his further order, but not beyond the adjournment of the next session of the senate; and appoint or designate some other person to perform and discharge all the duties of such collector or other officer, who shall discharge such duties until the further order of the governor, but not beyond the adjournment of the next session of the senate, and to whom to whom the official tax rolls, books and statements as required by law shall be delivered.

History.—§2, ch. 5603, 1907; §1, ch. 19001, 1939; RGS 1082(69), 892(40).

215.11 Defaulting officers; comptroller to report to clerk.—The comptroller shall, within ninety days after the expiration of the term of office of any tax collector, sheriff, clerk of the circuit or criminal court, treasurer or any other officer of any county, who has the collection, custody and control of any state funds, who shall be in arrears in his accounts with the state, make up and forward to the clerk of the circuit court of such county a statement of his accounts with the state.

History.—§1, ch. 3854, 1889; RS 418; GS 607; RGS 1042; CGL 1363.

215.12 Defaulting officers; duty of clerk.—The clerk of the circuit court to whom any such statement shall be forwarded, shall file the same in his office, and within ten days thereafter shall furnish each of the sureties of such delinquent officer with an abstract of such statement, showing the amount of indebtedness of such delinquent officer to the state, and shall at the same time furnish the sureties with a statement showing his indebtedness to the county, if there be any.

History.—§2, ch. 3854, 1889; RS 418; GS 607; RGS 1043; CGL 1364.

215.15 School appropriations to have priority.—Appropriations, other than from the general revenue fund, made for school purposes under any statute or law, shall be payable out of the first funds available after payment of the salaries of public officers and other current expenses as hereinbefore provided, and the moneys for such appropriations shall be available as fast as they come in, without waiting for the whole amount of any such appropriation to be received into the treasury.

History.—§5, ch. 1977, 1874; RS 412; GS 604; RGS 1082; CGL 1363.

215.16 School appropriations from general revenue fund.—All state appropriations, from the general revenue fund, for the benefit of the uniform system of public free schools and the state institutions of higher learning shall be paid on a parity with all other state appropriations for all other purposes from the general revenue fund; provided, that the appropriations by the legislature of the proceeds from specific tax levies set aside and earmarked for a particular purpose shall not be affected by this section.

If the state appropriations from the general revenue fund for the benefit of the uniform system of public free schools and the state institutions of higher learning cannot be paid in full during any given year, they shall be diminished only in the same proportion that appropriations for all other purposes from the general revenue fund are diminished during such year.

History.—§5, ch. 19001, 1939; CGL 1940 Supp. 892(69), 892(50).

215.18 Transfers between funds; limitation.—Whenever there exists in any fund provided for by §215.32, a deficiency which would render such fund insufficient to meet its just requirements, and there shall exist in the other funds in the state treasury moneys which are for the time being or otherwise in excess of the amounts necessary to meet the just requirements of such last mentioned funds, the governor may, with the approval of the comptroller, order a temporary transfer of moneys from one fund to another in order to meet temporary deficiencies in a particular fund without resorting to the necessity of borrowing money and paying interest thereon; provided, that the fund from which any money is temporarily transferred, shall be repaid the amount transferred from it not later than the end of the fiscal year in which such transfer is made, the date of repayment to be specified in the order of the governor and approved by the comptroller.

History.—§2, ch. 1299, 1871; CGL 1365; §24, ch. 97-1; §1, ch. 59-62; §3, ch. 53-372.

215.19 Rate of wages for laborers, mechanics and apprentices employed on public works.—
(1) (a) Every contract in excess of five thousand dollars in amount to which the state, any county or municipality in the state, or any political subdivision of the state or other public agency or authority is a party which requires or involves the employment of free laborers, mechanics, or apprentices in the construction of any public building, or the prosecution and completion of any public work or for repairs upon any public building or public work, shall contain a provision that the rate of wages for all laborers, mechanics and apprentices, if such apprentices are available in the area in which the said public work is located, employed by any contractor or subcontractor on the work covered by the contract shall be not less than the prevailing rate of wages for similar skills or classification of work in the city, town, village or other civil division of the state in which the said public work is located.
work is located, which provision shall refer to and incorporate this section in the contract by reference.

(b) The provisions of this section shall be called to the attention of all prospective bidders on public contracts of this nature by a notice in the specifications, and by the insertion in the specifications of a schedule of prevailing wage rates in the locality or area where the work is contemplated, furnished by the Florida industrial commission, and such schedule of prevailing wage rates shall for the purpose of the contract and for the duration of the contract be deemed the prevailing wage rates as contemplated by this section regardless of any previous or subsequent determination by the Florida industrial commission.

c) Every request for payment made by the contractor on such work shall contain an affidavit by the contractor that all provisions of this section regarding apprentices and payment of wages have been complied with by him, and to the best of his knowledge and belief, by all his subcontractors, which affidavit shall be accompanied by like affidavits of all his subcontractors, but nothing herein shall be construed to make a contractor liable in any way for statements or misstatements contained in the affidavits of his subcontractors.

d) Apprentices hereunder shall be persons defined as apprentices by §446.07 who shall be working under either an apprentice agreement registered and approved by the apprenticeship council as provided by §446.09(2) or an apprenticeship agreement of higher standards as provided in §446.13; provided, however, that the contractor or subcontractor shall file with the Florida industrial commission in Tallahassee, within fifteen days from the first date of employment, the name, classification and wage rate applicable to each apprentice employed by him or any subcontractor under him on such job.

(2) The Florida industrial commission shall make a continuing study to determine the prevailing wage rates of laborers, mechanics and apprentices usually employed in work similar to that contemplated by this section to the various parts of the state, and shall furnish to any person upon request, a schedule of applicable prevailing wage rates in the area where public work of similar character is in progress or contemplated.

(b) Every public contracting authority shall, when contemplating public work of the character described in subsection (1) hereof, and before publication of invitations to bid, notify the commission of the nature and magnitude of the work and its location.

(c) Any contracting authority who is a party to any contract as contemplated by this section, shall cause the schedule of prevailing wages required by subsection (1)(b) to be posted and permanently maintained throughout the job in a secure, protected, prominent place on the premises where the contract is being performed, and the contractor shall mail to the Florida industrial commission in Tallahassee an affidavit certifying that such notice has been posted and is being maintained on such job, which affidavit shall be forwarded within ten days of the commencement of work on the job and the posting of such notice. Such affidavit shall contain information identifying the job, the contractor, or subcontractor, the contracting authority, and the prevailing wage determination number applicable to such job.

(3) (a) If the contractor or subcontractor fails to comply with this section relative to the payment of prevailing wages, any aggrieved employee on behalf of himself, and other employees similarly aggrieved on the same job, shall make such fact known to the contracting authority, the contractor and/or subcontractor by written sworn affidavit signed by each such aggrieved employee setting forth the name of the employee or employees, the name of the alleged noncomplying contractor or subcontractor, the name of the contracting authority, a designation of the public work upon which such employees were employed, the employee's job classification, the number of hours each employee has been employed on the public work, the amount of wages paid the employees by the contractor or subcontractor, and the amount claimed by the employees to be due and unpaid by the contractor or subcontractor.

The affidavit hereinabove provided shall be filed with the contracting authority within thirty days from the last date of alleged noncompliance, and in no event shall such affidavit be filed more than thirty days after the completion and acceptance of the public work contracted for.

(b) After receipt of any such affidavit the contracting authority shall withhold from the contractor, until final determination of the claim, an amount of money equal to the amount claimed in such affidavit to be due and unpaid and the contracting authority shall forthwith attempt to settle the dispute between the contractor or subcontractor and the complaining employee and if the contracting authority is unable to effect such settlement the matter shall forthwith be referred by the contracting authority to the Florida industrial commission for determination. In all cases the said commission may make such investigation as it shall deem necessary. The decision of the commission shall be conclusive, upon all parties, subject to judicial review.

(c) All hearings (including taking testimony, receiving other evidence, and argument) necessary in such determination shall be held in the municipality where the work is done, or if not done in a municipality, then in the county where the work is done, unless another place is agreed upon by the parties in dispute, otherwise the commission may formulate its own rules for hearings. In the discharge of the duties imposed by this section the commission and any authorized representative of the commission shall have the power to administer oaths, take depositions, certify to official acts, and the commission shall have the power to
issue subpoenas to compel the attendance of
witnesses and the production of such excerpts
of payroll records as pertain to the wages only
of each aggrieved employee and certificates
issued in connection therewith which are ma-
terial and relevant to an affidavit filed under
subsection (3) (a) of this section, for review
by the commission without disclosing the re-
mainder of such payroll records in connection
with any authorized investigation or hearing
required by this section, provided that all in-
formation and evidence including affidavits,
certificates, testimony or other documents,
which are obtained by the commission pursuant
to this section shall be deemed to be privileged
and shall not be made the subject matter or
basis of any suit for slander or libel but may
be considered only by the commission to the
extent necessary for a proper determination of
the issues involved. Any circuit court of this
state within the jurisdiction of which such
hearing or inquiry is carried on or within the
jurisdiction of which any person who has re-
fused to comply with a duly authorized sub-
poena of the commission resides, or transacts
business, upon application of the commission
or any authorized representative of the com-
misson, shall have jurisdiction to issue to such
person an order requiring such person to ap-
tear before the commission or its authorized
representative, there to produce evidence if so
ordered or to give testimony touching on the
matter under investigation or in question, and
any failure to obey such order of the court
may be punished by said court as contempt
thereof.

(d) Upon settlement of the dispute by the
contracting authority or upon determination of
the matter by the Florida industrial com-
misson the contracting authority shall pay to the
complaining employee such amount as shall be
found to be due said employee and shall pay to
the contractor the balance of the monies with-
held as herein above provided.

(e) The contracting authority on its own
initiative or upon the written complaint of any
aggrieved party, may institute its own investi-
gation to determine whether any contractor or
subcontractor has failed to comply with the
provisions of this section, and upon the basis
of its findings as a result of its determination
shall withhold from the contractor or subcon-
tractor until final determination of the claim
by the Florida industrial commission any
amounts which it finds to be due any employee
of the contractor or any of his subcontractors
on such job, who has been paid less than the
prevailing wages for the classification of serv-
ces performed by him as prescribed in the
wage determination, and shall pay such amount
to such employee and deduct it from the total
due the contractor.

(4) Nothing in this section shall apply to
contracts for the construction, repair or main-
tenance of public roads or highways, except
that all its provisions shall apply to contracts
for the construction of bridges on public roads
and highways, where the contract price for
such construction shall exceed fifty thousand
dollars or such bridge shall be located in a
large metropolitan area; provided, however,
that the provisions of this section shall not be
applicable to any construction or contracts for
public works with respect to which prevailing
wage rates are required to be established pur-
suant to federal authority. The words "metro-
politan area" are defined for the purpose of
this section as any county in Florida having a popu-
lation of one hundred thousand according to
the last preceding state or federal census.

(5) The Florida industrial commission shall
not take into consideration either in establish-
ing prevailing wage rates or classifications or
in hearing disputes in regard to prevailing
wage rates or classifications; conditions, clas-
sifications or wage rates in any area outside
the geographic limits of the state.

(6) In case of a state of emergency, the
governor may suspend the provisions of this
section.

(7) The Florida industrial commission shall
include in its legislative budget request the
estimated amounts needed for the purpose of
administering the provisions of this section and
the legislature shall appropriate such amounts
as it deems necessary for this purpose.

(8) Any contractor or subcontractor who
knowingly violates any provisions of this sub-
section or any lawful order or rule of the con-
tracting authority or of the Florida industrial
commission authorized by this section and for
which no other penalty is specifically pre-
scribed, shall upon conviction thereof in a
court of competent jurisdiction be subject to
punishment by such court by a fine of not less
than $100.00 nor more than $1,000.00, or by
imprisonment for not longer than 60 days, or
by both such fine and imprisonment.

History.--§1. ch. 16300. 1933; 11. ch. 16301. 1933; (7) 11.
Supp. 1365(5), 11. ch. 28264, 1953; 11. 00. 29782. 1955; (2) 11.
ch. 57-329; (3) 11. ch. 57-329; (7) ch. 57-329; (2)(c) n. 11.
(3)(a). (3)(c) §2, 00. 57-339; (4) 11. ch. 57-329; (7) 11. ch.
61-27; 11. ch. 63-380.

1215.20 Certain moneys and certain trust
funds to contribute to the general revenue
fund.--A deduction of four per cent, repres-
enting the estimated pro rata share of the
cost of general government paid from the gen-
eral revenue fund, shall be made from the mon-
neys and trust funds enumerated in §215.22.
All such deductions shall be deposited in the
general revenue fund.

History.--§1. ch. 16300. 1933; 11. ch. 61-493; 11. ch. 61-600.

1215.22 Certain moneys and certain trust
funds enumerated.--The following described
moneys and trust funds, by whatever name
designated, shall be those from which the deduc-
tions authorized by §215.20 shall be made:

(1) The first gas tax levied pursuant to the
provisions of §208.04.

(2) The seventh cent additional tax upon
gasoline or other like products of petroleum
levied pursuant to the provisions of §208.44.

(3) The stored motor fuels tax levied pur-
suant to the provisions of §208.23.
(4) All taxes levied on motor fuels other than gasoline, exclusive of two cents of said tax, levied pursuant to the provisions of §209.02.

(5) The trust funds of the examining and licensing boards as defined in §215.37, unless a different percentage is authorized in the aforesaid section.

(6) All income of a revenue nature deposited in the general inspection trust fund and subsidiary accounts thereof, unless a different percentage is authorized in §367.20.

(7) All income of a revenue nature received by the state racing commission.

(8) All income of a revenue nature deposited in the Florida citrus advertising trust fund created in §601.15(7), including transfers from any subsidiary accounts thereof, unless a different percentage is authorized in the aforesaid section.

(9) All income of a revenue nature deposited in the special disability trust fund created in §440.16(5)(a) 7.a.

(10) All income of a revenue nature deposited in the workmen's compensation administration trust fund created in §440.50(1)(e).

(11) All income of a revenue nature deposited to the special employment security administration trust fund created in §443.14(2).

(12) All income of a revenue nature deposited in the employment security administration trust fund created in §443.14(1).

(13) All income of a revenue nature deposited in the municipal firemen's pension trust fund created in §175.07.

(14) All income of a revenue nature deposited in the municipal police officers' retirement trust fund created in §185.10.

(15) All income of a revenue nature deposited in the liquefied petroleum gas administrative trust fund created in §287.02.

(16) All income of a revenue nature deposited in the state fire marshal trust fund named in §624.0814.

(17) All income of a revenue nature deposited in the insurance commissioner's miscellaneous service trust fund created in §624.0824.

(18) All income of a revenue nature deposited in the insurance commissioner's license receipts trust fund created in §624.0823.

(19) All income of a revenue nature deposited in the insurance commissioner's automobile warranty administration trust fund created in §634.221.

(20) All income of a revenue nature deposited in the educational certification and service trust fund created in §236.171.

(21) All income of a revenue nature deposited in the special school lunch program trust fund created in §236.171.

(22) All income of revenue nature deposited in the cigarette tax collection trust fund created in §231.02.

(23) All income of a revenue nature deposited in the internal improvement trust fund created in §283.01.

(24) All income of a revenue nature deposited in the Florida alcoholic rehabilitation trust fund created in §396.121.

(25) All income of a revenue nature deposited in the revenue bond fee trust fund created in §288.20.

(26) All income of a revenue nature deposited in the airport operations trust fund authorized in §288.25.

(27) All income of a revenue nature deposited in the motorboating revolving trust fund created in §371.171.

(28) All income of a revenue nature deposited in the state game trust fund established in §372.09.

(29) All income derived from outdoor advertising and overweight violations which is deposited in the state roads trust fund created in §208.08.

(30) All income of a revenue nature deposited in the milk commission trust fund established in §501.09.

(31) All income of a revenue nature deposited in the Florida egg commission trust fund established in §504.12.

(32) All income of a revenue nature deposited in the agents and solicitors county license tax trust fund established in §504.0304, unless a different percentage is authorized in the aforesaid section.

(33) The motor carrier mileage tax levied pursuant to the provisions of chapter 323, unless a different percentage is authorized in the aforesaid chapter.

The enumeration of the above moneys or trust funds shall not prohibit the applicability thereof of §215.24 should the governor determine that for the reasons mentioned in said §215.24 said money or trust fund should be exempt herefrom, as it is the purpose of this law to exempt all trust funds from its force and effect where, by the operation of this law, federal matching funds or contributions to any trust fund would be lost to the state.

History.—s. 14, ch. 20860, 1941; s. 12, ch. 61-483; (21) r. 116, ch. 63-572; (33) s. 2, ch. 63-498.

215.23 When contributions to be made. —

The deduction hereby required shall be paid into the general revenue fund by the comptroller, or by the state treasurer, as the case may be, for quarterly periods ending March 31, June 30, September 30, and December 31 of each year, and when so paid into the general revenue fund shall therewith become a part of said fund to be accounted for and disbursed as provided by law with respect to the general revenue fund.

History.—s. 14, ch. 20860, 1941.

215.24 Exemptions where federal contributions. —

(1) Should any state fund be the recipient of federal contributions, either by the matching of state funds or by a general donation to state funds, and the payment of monies into the general revenue fund under which said federal funds shall to lose federal assistance, the governor shall certify to the comptroller and to the state treasurer that said fund is for that reason exempt from the force and effect of this law.

(2) Should it be determined by the governor that by reason of payments already made into the
general revenue fund by any fund under this law, such fund is subject to the loss of federal assistance, then the governor shall certify to the comptroller and the state treasurer that such fund is exempt from the provisions of this law, and the comptroller or the state treasurer, as the case may be, shall thereupon refund and pay over to such fund any amount or amounts previously paid into the general revenue fund by such fund.

History.—§ 6, ch. 20890, 1941; (3) r. § 61-493.

215.25 Manner of contributions; rules and regulations. — The comptroller and the state treasurer are hereby authorized to ascertain and determine the manner in which the required amounts shall be deducted and paid and to adopt and effectuate such rules and procedure as may be necessary for carrying out the provisions of this law. Such rules and procedure shall be approved by the budget commission.

History.—§ 37, ch. 20890, 1941.

215.26 Repayment of funds paid into state treasury through error, etc.—(1) The comptroller of the state may refund to the person who paid same, or his heirs, personal representatives or assigns, any moneys paid into the state treasury which constitute:
(a) An overpayment of any tax, license or account due;
(b) A payment where no tax, license or account is due; and
(c) Any payment made into the state treasury in error;
and if any such payment has been credited to an appropriation, such appropriation shall at the time of making such refund, be charged therewith. There are appropriated from the proper respective funds from time to time such sums as may be necessary for such refunds.

(2) Application for refunds as provided by this section shall be filed with the comptroller within three years after the right to such refund shall have accrued, and such application shall be on a form to be prescribed by the comptroller and shall be sworn to and supplemented with such additional proof as is necessary to establish such claim; provided, such claim is not otherwise barred under the laws of this state.

(3) No refund of moneys referred to in this section shall be made of an amount which is less than one dollar, except upon application.

History.—§ 2, ch. 22008, 1945; (2) § 1, ch. 87-1; (3) n. § 1, ch. 97-18; (4) § 1, ch. 68-181; (5) § 1, ch. 63-717, cf.—§ 95.31 Limitation on claims against state.

215.28 Defense stamps and war bonds, purchase by state and county officers and employees; deductions from salary.—(1) Upon the request in writing signed by any officer or employee of the state, or of any county, or other political subdivision or subordinate agency of the state or any county, any officer or employee who acts as disbursing agent for the payment of salaries and wages is hereby authorized and empowered to deduct from the salary or wages of such officer or employee, periodically, such sum as authorized by such written application, for the purchase of United States securities.

(2) The comptroller and the state treasurer shall thereupon refund and pay over to such fund any amount or amounts previously paid into the general revenue fund by such fund.

History.—§ 5, ch. 20890, 1941; (3) r. § 61-493.

215.29 Classification of comptroller’s warrants; report.—All disbursements made by the state upon comptroller’s warrants counter-signed by the governor shall be classified according to officers, offices, bureaus, divisions, boards, commissions, institutions, or other agencies and undertakings and shall be further classified according to personal services, contractual services, commodities, current charges,
current obligations, capital outlays, debt payments, investments, and such additional classifications as may be prescribed or authorized by law; and such detail classifications shall be printed in the comptroller's annual reports.

History.— Ch. 22901, 1945.

215.31 State funds; deposit in state treasury.—From and after June 30, 1945, revenue, including licenses, fees, imposts, or exactions collected or received under the authority of the laws of the state by each and every state official, office, employee, bureau, division, board, commission, institution, agency or undertaking of the state shall be promptly deposited in the state treasury, and immediately credited to the appropriate fund as herein provided, properly accounted for by the comptroller as to source and no money shall be paid from the state treasury except as appropriated and provided by the biennial general appropriations act, or as otherwise provided by law.

History.— Ch. 22833, 1945.

215.311 State funds; exceptions.—The provisions of §215.31, shall not apply to funds collected by and under the direction and supervision of the Florida council for the blind as provided under §§413.011, 413.041 and 413.061; provided, nothing in this section shall be construed to except from the provisions of §215.31, any appropriations made by the state to the Florida council for the blind.

History.— Ch. 29872, 1955.

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 state treasurer and the comptroller within the following funds, which funds are hereby created and established:

(a) General revenue fund,
(b) Trust funds, and
(c) Working capital fund.

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

(a) The general revenue fund shall consist of all moneys received by the state from every source whatsoever, except as provided in paragraphs (b) and (c) of this subsection. Said moneys shall be expended pursuant to general revenue fund appropriations acts or transferred as provided in paragraph (c) of this subsection.

(b) The trust funds shall consist of moneys required by law to be deposited in a trust fund or moneys of a trust nature received by the state. Such moneys shall be properly accounted for and held in such trust funds until disbursed as provided by law or as provided in the trust provisions under which such moneys are received.

(c) The working capital fund shall consist of not more than fifty million dollars which shall be accrued from moneys in the general revenue fund which are in excess of the amount needed to meet the general revenue fund appropriation acts as determined by the comptroller; said moneys shall be used as a revolving fund for transfers as provided by §215.18, and when the comptroller determines that said moneys are not needed for that purpose they may be temporarily invested as provided in §§215.44-215.54; provided, however, the requirement of §215.18 relating to repayment of said transfers in the same fiscal year in which the transfer is made is hereby suspended for the biennial period beginning July 1, 1961 and ending June 30, 1963 insofar as it relates to repayments of transfers from the working capital fund during the 1961-63 biennium.

History.— Ch. 22923, 1945; (5) §1, ch. 59-91; §7, ch. 59-257; ch. 61-119.

215.34 State funds; noncollectible items; procedure.—Any check, draft, or other order for the payment of money in payment of any licenses, fees, taxes, commissions or charges of any sort authorized to be made under the laws of the state and deposited in the state treasury as provided herein, which may be returned for any reason by the bank upon which same shall have been drawn shall be forthwith returned by the state treasurer for collection to the state officer or the state agency making the deposit. In such case, the treasurer is hereby authorized to issue a debit memorandum charging the proper fund or account to which same has been originally credited and shall send a copy of said debit memorandum to the state agency making the deposit and to the comptroller stating his reasons for returning the said check, draft, or other order. Such procedure for handling noncollectible items shall not be construed as paying funds out of the state treasury without an appropriation, but shall be considered as an administrative procedure for the efficient handling of state records and accounts.

History.— Ch. 22833, 1945.

215.35 State funds; warrants and their issuance.—All warrants issued by the comptroller shall be numbered in chronological order commencing with number one in each fiscal year and each warrant shall refer to the comptroller’s voucher by the number thereof, which voucher shall also be numbered as above set forth. Each warrant shall state the name of the payee thereof and the amount allowed, and said warrant shall be stated in words at length. No warrant shall issue until same has been authorized by an appropriation made by law but such warrant need not state or set forth such authorization. The comptroller shall register each warrant in his office. The warrants shall be coded to show the fund, account, purpose and department involved in the issuance of such warrant. In those instances where the expenditure of funds of regulatory boards or commissions has been provided for by laws other than the biennial appropriation bill, warrants shall issue upon requisition to the state comptroller by the governing body of such board or commission.

History.— Ch. 22833, 1945.
215.36 State funds; laws not repealed.—Nothing in §§215.30-215.36 shall be construed as repealing §§215.20 to 215.25, inclusive, or as affecting the proceeds of two cents per gallon of the total tax levied by state law upon gasoline and other like products of petroleum now known as the second gas tax, and upon other fuels used to propel motor vehicles, placed in the state treasury and divided and distributed as required by §16 of Art. IX of the constitution of this state.

History.—Ch. 25833, 1945.

215.37 Examining and licensing boards to be financed from fees collected; moneys deposited in trust funds; ten per cent to general revenue fund; appropriation.—

(1) For the purposes of this section examining and licensing boards shall include: state board of accountancy, Florida state board of architecture, barbers' sanitary commission, board of examiners in the basic sciences, state board of beauty culture, board of chiropody examiners, board of chiropractic examiners, Florida state board of dental examiners, Florida state board of engineer examiners, state board of funeral directors and embalmers, Florida board of massage, state board of medical examiners, state board of naturopathic examiners, Florida state board of nursing, state board of dispensing opticians, Florida state board of optometry, state board of osteopathic examiners, Florida board of pharmacy, Florida state board of examiners of psychology, Florida real estate commission, sanitarians registration board, structural pest control commission of Florida, state board of veterinary examiners, and Florida watchmakers' commission.

(2) All fees, licenses, and other charges collected by each examining and licensing board, shall be deposited in the state treasury into a separate trust fund to the credit of the individual board collecting same.

(3) Each board shall be financed solely and individually from income accruing to it from fees, licenses, and other charges collected by the board, and all such moneys are hereby appropriated to each such board. All salaries and expenses shall be paid as budgeted after said budgets have been approved by the state budget commission or within the limitations of any appropriation for that purpose which may be included in the general appropriations act.

(4) Each board shall be charged ten per cent of all revenue collections (excluding refunds, grants, donations, etc.) made and credited to its account. The amount so charged shall be deposited in the general revenue fund.

(5) Each board shall submit a biennial legislative budget and operating budgets as required of all governmental subdivisions in chapters 215 and 216, to be based upon anticipated revenues together with any unexpended balance of moneys which may accrue to the credit of the particular board. Such budgets shall be subject to appropriate legislative action.

(6) Each board shall operate financially within the budget approved by the state budget commission and all disbursements shall be made by the comptroller only as provided by law for all agencies of government.

(7) It is the intent and purpose of the legislature to place all examining and licensing boards under strict budgetary control and to determine the policy of budgeting all collections and expenditures of moneys collected through examining and licensing laws and to be used by the boards for enforcement and administrative purposes.

History.—Ch. 20115, §3, ch. 28231, 1963; (b) §34, ch. 67-1; (d) §13, ch. 66-1; §1, ch. 61-546.

215.42 Purchases from appropriations, proof of delivery.—The state comptroller may require proof, as he deems necessary, of delivery and receipt of purchases before honoring any voucher for payment from appropriations made in the general appropriations act or otherwise provided by law.


215.43 Public bonds, notes, and other securities.—

(1) DEFINITIONS.—As used in this section, the following words and term shall have the following meanings:

(a) The word "unit" shall mean any department, board, commission or other agency of Florida, or any county, city, town, village, district or any other political subdivision of the state, heretofore or hereafter created or established, or any board, commission, authority or other public agency or instrumentality which is now or may hereafter be authorized by law to issue bonds.

(b) The term "governing body" shall mean the officer or officers, or the department, board, body, council, commission, authority or other agency which is authorized by law to take the proceedings which are required to authorize or to provide for the issuance of bonds.

(c) The word "bonds" shall include all bonds, notes, certificates and other similar obligations and securities of a unit whether payable in whole or in part from the proceeds of ad valorem taxes, revenues or any other source.

(2) EXECUTION OF PUBLIC SECURITIES.—Any bonds heretofore or hereafter authorized to be issued by any unit under the provisions of any general, special or local law are necessary, of delivery and receipt of purchases before honoring any voucher for payment from appropriations made in the general appropriations act or otherwise provided by law.

It is the intent and purpose of the legislature to place all examining and licensing boards under strict budgetary control and to determine the policy of budgeting all collections and expenditures of moneys collected through examining and licensing laws and to be used by the boards for enforcement and administrative purposes.

History.—§3, ch. 20115, §3, ch. 28231, 1963; (b) §34, ch. 67-1; (d) §13, ch. 66-1; §1, ch. 61-546.

215.43 Appropriations, maximum; adjustment of budgets.—Any bonds heretofore or hereafter authorized by law to issue bonds.