common or joint tenants for other than partnership purposes. This disposes of the assessment of partnership property for purposes of taxation and brings us to the question of the taxation of the interest of the partners in the partnership.

The interest of a partner in partnership property has been said to be a mere chose in action (Re. Dumarest's Estate, 262 N. Y. S. 450; State v. Elsbury, 63 Nev. 463, 175 P. 2d 430). "It is property, or, more precisely, personal property, regardless of the character of the property owned by the partnership, and is susceptible of being seized under legal process, as well as being sold, assigned or mortgaged." (68 C. J. S. 526, §85). Under §199.02, F. S., "*shares* of incorporated or *unincorporated companies*" are classified as class "B" intangible personal property. Partnership interests were held intangible personal property in Wooten v. Okla. Tax Com., 185 Okla. 259, 91 P. 2d 259; in Blodgett v. Silberman, 277 U. S. 1, 48 S. Ct. 410, 72 L. ed. 749, the court said that "the interest of a partner was the right to receive a sum of money equal to his share of the net value of the partnership after a settlement, and this right to his share is a debt owing to him, a chose in action, *and an intangible.*" The value of the interest of a partner in the partnership would be his share in the surplus after the partnership debts and obligations have been paid or provided for; it would not be measured by the gross value of the partnership property. Care should be taken in arriving at this value.

The above questions should each be answered in the affirmative. Each partner's interest in the surplus of the partnership, after the payment or the arrangement for the payment of partnership debts and obligations, is subject to taxation as intangible personal property. The property subject to taxation is the partner's interest in the net worth of the partnership and not his interest in the gross value of the partnership property. The interest of a personal representative in his decedent's partnership interest would likewise be subject to taxation. The partner's interest in the partnership and the partnership property are different kinds or types of property. We have considered no question of tax exemption.

058-24—January 24, 1958

MOTOR VEHICLES

FINANCIAL RESPONSIBILITY LAW—ENFORCEMENT BY CERTAIN OFFICIALS—LIABILITY OF INSURER—§§322.221, 322.27, 320.25, 320.58, 320.64, 324.051(2), 324.061, 324.15 AND 324.151, F. S.

To: J. Edwin Larson, Insurance Commissioner, Tallahassee

QUESTIONS:

1. An individual's driving privilege is under suspension for failure to comply with the financial responsibility law, Ch. 324, F. S. He is subsequently called in by the department of public safety for re-examination under §322.221, F. S., and it is learned that his driving privilege is under suspension by the financial responsibility department. May the department of public safety require the surrender of his license for transmittal to the financial responsibility department?

2. An individual's motor vehicle registration and

motor vehicle license are under suspension for his failure to comply with the financial responsibility law, Ch. 324, F. S. It subsequently comes to the attention of an agent of the motor vehicle department in the discharge of his duties that the individual's registration and license are under suspension. May the agent require the surrender of the registration for transmittal to the financial responsibility department?

3. An individual who is the owner of two motor vehicles has an accident involving one of them. Pursuant to §324.051(2), F. S., the registrations of both vehicles are suspended by the financial responsibility department. The owner subsequently deposits securities in compliance with §324.061, F. S., with respect to claims for injuries to persons or property and also obtains insurance in accordance with §324.151, F. S., covering only the vehicle involved in the accident. Later the second vehicle is involved in an accident. Could the owner claim exemption under the financial responsibility law on the basis that he had already complied with said law?

4. An individual who is the owner of two motor vehicles has an accident involving one of them. The owner secures insurance covering only the vehicle involved in the accident and the insurer files certificate SR-22 to the effect that the policy affords the coverage required by §324.151, F. S. Later the 2nd vehicle is involved in an accident. Would the insurance company be liable for the damage caused by the 2nd vehicle by virtue of its filing said certificate SR-22?

The questions are answered in their numbered order as follows:

1. Section 322.27, F. S., gives authority to the department of public safety to suspend and revoke drivers' licenses under a number of circumstances. This section has the following proviso: "This section shall in no way affect the power of the department of public safety to suspend licenses under the financial responsibility law." Although there is no express grant of power to the department of public safety to suspend a driver's license for failure of the holder to comply with the financial responsibility law, we feel that it is necessarily an implied power of the department of public safety in view of the general authority of the department and in view of the above-quoted language of §322.27. This question is answered in the affirmative.

2. Section 320.58, F. S., provides that license inspectors may be appointed by the governor "to enforce the provisions of the laws of this state relating to the registration of motor vehicles." This is the only section of Ch. 320, F. S., which deals with motor vehicle registrations and licenses, that refers to enforcement of any provisions other than the chapter itself. Section 320.64, F. S., enumerates the grounds for suspension of motor vehicle licenses by the motor vehicle department and §320.25, F. S., provides for the taking up of any license which has been obtained by false and fraudulent representation. Although there is no express authority, other than to license inspectors, to enforce a suspension of a motor vehicle registration and license under the financial responsibility law, we feel that the power to take up a suspended registration and

license is an implied power of the motor vehicle department in view of the general authority and responsibility accorded that department. This question is answered in the affirmative.

3. Section 324.051(2), F. S., the sanctions section of the financial responsibility law, does not apply "To such operator or owner if such owner had in effect at the time of the accident an automobile liability policy with respect to the motor vehicle involved in the accident." The financial responsibility department has the authority to suspend all motor vehicle registrations of an owner of a motor vehicle involved in an accident in order to enforce compliance with the financial responsibility law as to the vehicle which was involved in the accident. However, subsequent accidents involving any vehicle are still within said law if at the time of the accident there is not in effect insurance of the required amount covering the vehicle involved. This is true whether the accident involves the owner's 2nd vehicle which has never been insured, or involves his 1st vehicle after the insurance on it has lapsed. This question is answered in the negative.

4. Section 324.151, F. S., requires that a motor vehicle liability policy in order to be proof of financial responsibility shall insure the owner of the designated vehicle and any other person operating the designated vehicle with the express or implied permission of the owner. The policy must also insure the owner while operating "any motor vehicle not owned by him." There is no requirement that the policy cover all vehicles owned by the policyholder. Since the insurer only certifies by certificate SR-22 that the policy complies with §324.15, F. S., it incurs no liability with reference to other vehicles owned by the policyholder but not designated in the policy. This question is answered in the negative.

058-25—January 24, 1958

COURTS

JURY DUTY—EXEMPTION, CHIROPODISTS—§§40.08, 461.04, 231.05, 250.50, 470.27 AND 466.21, F. S.

To: Heywood A. Dowling, Board of Chiropody Examiners, Jacksonville

QUESTION:

Are chiropodists in the actual practice of their profession in this state exempt from jury duty?

As to the classes of persons who are exempt from jury duty particular statutory provisions control. (50 C. J. S., Juries §153, p. 873). Such exemptions, however, are in the nature of a personal privilege which may be waived, (Crosby v. State, 90 Fla. 381, 106 So. 741).

The provision of the Florida Statutes which relates generally to jury duty exemption is §40.08, F. S., and, as to those engaged in pursuits of a medical nature, exempts "practicing physicians and surgeons."

In addition to §40.08, supra, there are other provisions of the statutes which specifically exempt members of certain professions from jury duty, e.g., dentists are exempt under §466.21, funeral directors and licensed embalmers are exempt under §470.27, national guardsmen while on active duty under §250.50, and members of the teaching profession while engaged in such work under