

1                                   A bill to be entitled  
 2           An act relating to tax credits or refunds; reordering  
 3           and amending s. 212.17, F.S.; providing procedures,  
 4           requirements, and calculation methodologies that allow  
 5           dealers or lenders to obtain tax credits or refunds  
 6           for taxes paid on worthless or uncollectable private-  
 7           label credit card or dealer credit card program  
 8           accounts or receivables; providing definitions;  
 9           providing an effective date.

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

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 13           Section 1. Section 212.17, Florida Statutes, is reordered  
 14           and amended to read:

15           212.17 Tax credits or refunds ~~for returned goods, rentals,~~  
 16           ~~or admissions; goods acquired for dealer's own use and~~  
 17           ~~subsequently resold; additional powers of department.-~~

18           (1) (a) If ~~In the event~~ purchases are returned to a dealer  
 19           by the purchaser or consumer after the tax imposed by this  
 20           chapter has been collected from or charged to the account of the  
 21           consumer or user, the dealer is ~~shall be~~ entitled to  
 22           reimbursement of the amount of tax collected or charged by the  
 23           dealer, in the manner prescribed by the department.

24           (b) A registered dealer that purchases property for the  
 25           dealer's own use, pays tax on acquisition, and sells the  
 26           property subsequent to acquisition without ~~ever~~ having used the  
 27           property is entitled to reimbursement, in the manner prescribed  
 28           by the department, of the amount of tax paid on the property's

29 acquisition.

30 (c) If the tax has not been remitted by a dealer to the  
 31 department, the dealer may deduct the same in submitting his or  
 32 her return upon receipt of a signed statement by ~~of~~ the dealer  
 33 as to the gross amount of such refunds during the period covered  
 34 by the ~~said~~ signed statement, which may ~~period shall~~ not be  
 35 longer than 90 days. The department shall issue to the dealer an  
 36 official credit memorandum equal to the net amount remitted by  
 37 the dealer for such tax collected or paid. Such memorandum shall  
 38 be accepted by the department at full face value from the dealer  
 39 to whom it is issued upon, ~~in~~ the remittance of for ~~for~~ subsequent  
 40 taxes accrued under ~~the provisions of~~ this chapter. If a dealer  
 41 has retired from business and ~~has~~ filed a final return, a refund  
 42 of tax may be made if it can be established to the satisfaction  
 43 of the department that the tax was not due.

44 (2) A dealer who has paid the tax imposed by this chapter  
 45 on tangible personal property sold under a retained title,  
 46 conditional sale, or similar contract, or under a contract where  
 47 ~~wherein~~ the dealer retains a security interest in the property  
 48 pursuant to chapter 679, may take credit or obtain a refund for  
 49 the tax paid by the dealer on the unpaid balance due him or her  
 50 when he or she repossesses the property, ~~(with or without~~  
 51 ~~judicial process,)~~ ~~the property~~ within 12 months after ~~following~~  
 52 the month in which the property was repossessed. If ~~When~~ such  
 53 repossessed property is resold, the sale is subject in all  
 54 respects to the tax imposed by this chapter.

55 (3) Except as provided under subsection (4), a dealer who  
 56 has paid the tax imposed by this chapter on tangible personal

57 | property or services may take a credit or obtain a refund for  
 58 | any tax paid by the dealer on the unpaid balance due on  
 59 | worthless accounts within 12 months after ~~following~~ the month in  
 60 | which the bad debt has been charged off for federal income tax  
 61 | purposes. If any accounts so charged off for which a credit or  
 62 | refund has been obtained are subsequently, ~~thereafter~~ in whole  
 63 | or in part, paid to the dealer, the amount so paid shall be  
 64 | included in the first return filed after such collection and the  
 65 | tax paid accordingly.

66 | (4) With respect to the payment of taxes on purchases made  
 67 | through a private-label credit card or dealer credit program:

68 | (a) If consumer accounts or receivables are found to be  
 69 | worthless or uncollectible, the dealer or lender may claim a  
 70 | credit for, or obtain a refund of, the tax remitted by the  
 71 | dealer on the unpaid balance due if:

72 | 1. The accounts or receivables have been charged off as  
 73 | bad debt on the lender's books and records on or after January  
 74 | 1, 2013;

75 | 2. A credit was not previously claimed and a refund was  
 76 | not previously allowed on any portion of the accounts or  
 77 | receivables; and

78 | 3. The credit or refund is claimed within 12 months after  
 79 | the month in which the bad debt is charged off by the lender for  
 80 | federal income tax purposes.

81 | (b) If the dealer or the lender subsequently collects, in  
 82 | whole or in part, the accounts or receivables for which a credit  
 83 | or refund has been granted under paragraph (a), the dealer must  
 84 | include the taxable percentage of the amount collected in the

HB 825

2013

85 first return filed after the collection and pay the tax on the  
86 portion of that amount for which a credit or refund was granted.

87 (c) The credit or refund allowed includes all credit sale  
88 transaction amounts that are outstanding in the specific  
89 private-label credit card account or receivable at the time the  
90 account or receivable is charged off, regardless of the date the  
91 credit sale transaction actually occurred.

92 (d) A dealer may use one of the following methods to  
93 determine the amount of the credit or refund:

94 1. An apportionment method to substantiate the amount of  
95 tax imposed under this chapter which is included in the bad debt  
96 to which the credit or refund applies. The method must use the  
97 dealer's Florida and non-Florida sales, the dealer's taxable and  
98 nontaxable sales, and the amount of tax the dealer remitted to  
99 this state; or

100 2. A specified percentage of the accounts or receivables  
101 giving rise to the credit or refund, which is derived from a  
102 sampling of the dealer's or lender's records in accordance with  
103 a methodology agreed upon by the department and the dealer.

104 (e) For purposes of computing the credit or refund,  
105 payments on the accounts or receivables shall be allocated based  
106 on the terms and conditions of the contract between the dealer  
107 or lender and the consumer.

108 (f) A dealer's credit or refund for tax on bad debt may be  
109 claimed on any return filed by an entity related by a direct or  
110 indirect common ownership of 50 percent or more.

111 (g) For purposes of this subsection, the term:

112 1. "Dealer's affiliates" means an entity affiliated with

113 the dealer under 26 U.S.C. s. 1504, or an entity that would be  
114 an affiliate under that section had the entity been a  
115 corporation.

116 2. "Dealer credit" means program arrangements where credit  
117 is extended for a specific purchase from a dealer. The term does  
118 not include arrangements for purchases of titled property such  
119 as motor vehicles, vessels, or motor homes.

120 3. "Lender" means a person who owns or owned a private-  
121 label credit card account or a dealer credit account, or an  
122 interest in a private-label credit card receivable or dealer  
123 credit receivable that:

124 a. The person purchased directly from a dealer or its  
125 affiliates who remitted the tax imposed under this chapter or  
126 transferred from a third party;

127 b. The person originated pursuant to that person's  
128 contract with the dealer or its affiliates who remitted the tax  
129 imposed under this chapter; or

130 c. Is affiliated in the manner described under 26 U.S.C.  
131 s. 1504, regardless of whether the different entities are  
132 corporations, to a person described in paragraph (1) (a) or  
133 paragraph (1) (b), or an assignee or other transferee of such  
134 person.

135 4. "Private-label credit card" means a charge card or  
136 credit card that carries, refers to, or is branded with the name  
137 or logo of a dealer and can be used for purchases from the  
138 dealer whose name or logo appears on the card or for purchases  
139 from the dealer's affiliates or franchisees. The term includes  
140 dual cards, which are cobranded credit cards that may also be

141 used to make purchases from persons other than the dealer whose  
142 name or logo appears on the card or the dealer's affiliates or  
143 franchisees. The sales receipts of the dealer and the dealer's  
144 affiliates or franchisees must be identifiable apart from any  
145 receipts reflecting sales by unrelated persons. This subsection  
146 does not authorize any credits or refunds with respect to sales  
147 by such unrelated persons.

148 (6)-(4) (a) The department shall design, prepare, print and  
149 furnish to all dealers, except dealers filing through electronic  
150 data interchange, or make available or prescribe to the dealers,  
151 all necessary forms for filing returns and instructions to  
152 ensure a full collection from dealers and an accounting for the  
153 taxes due. The, but failure of a any dealer to secure such forms  
154 does not relieve the dealer from the payment of the tax at the  
155 time and in the manner provided.

156 (b) The department shall prescribe the format and  
157 instructions necessary for filing returns in a manner that is  
158 initiated through an electronic data interchange to ensure a  
159 full collection from dealers and an accounting for the taxes  
160 due. The failure of a any dealer to use such format does not  
161 relieve the dealer from the payment of the tax at the time and  
162 in the manner provided.

163 (7)-(5) The department and its assistants are ~~hereby~~  
164 authorized and empowered to administer the oath for the purpose  
165 of enforcing and administering ~~the provisions of~~ this chapter.

166 (8)-(6) The department may ~~has authority to~~ adopt rules  
167 ~~pursuant to ss. 120.536(1) and 120.54~~ to administer and enforce  
168 ~~the provisions of this section~~ chapter.

HB 825

2013

169 |        (5)~~(7)~~ The department, where admissions, license fees, or  
170 | rental payments or payments for services are made and ~~thereafter~~  
171 | returned to the payors after the taxes ~~thereon~~ have been paid,  
172 | shall return or credit the taxpayer for taxes ~~so~~ paid on the  
173 | moneys returned in the same manner as ~~is~~ provided for returns or  
174 | credits of taxes where purchases or tangible personal property  
175 | are returnable to a dealer.

176 |        Section 2. This act shall take effect July 1, 2013.