

By Representative K. Pruitt

1 A bill to be entitled
2 An act relating to tax administration; creating
3 s. 213.285, F.S.; authorizing the Department of
4 Revenue to initiate a certified audits project
5 under which taxpayers may hire qualified
6 practitioners to review and report on their tax
7 compliance; providing definitions; providing
8 requirements for participation by such
9 practitioners and taxpayers; providing
10 requirements for the conduct of certified
11 audits; providing status of the audit report;
12 amending s. 213.053, F.S.; authorizing the
13 department to provide certain information to
14 the Board of Accountancy or to a court with
15 respect to a certified public accountant
16 participating in the project; amending s.
17 213.21, F.S.; authorizing settlement or
18 compromise of penalties and abatement of
19 interest for taxpayers who participate in the
20 project; providing for repeal of the certified
21 audits project; providing an appropriation and
22 authorizing positions within the department;
23 providing an effective date.

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

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27 Section 1. Section 213.285, Florida Statutes, is
28 created to read:

29 213.285 Certified audits.--
30 (1) As used in this section:

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1 (a) "Certification program" means an instructional
2 curriculum and examination for professional development of
3 certified public accountants which is administered by an
4 independent provider and which is officially approved by the
5 department to ensure that a certified public accountant
6 possesses the necessary skills and abilities to successfully
7 perform an attestation engagement for tax compliance review in
8 a certified audits project.

9 (b) "Department" means the Department of Revenue.

10 (c) "Participating taxpayer" means any person subject
11 to the revenue laws administered by the department who enters
12 into an engagement with a qualified practitioner for tax
13 compliance review and who is approved by the department under
14 the certified audits project.

15 (d) "Qualified practitioner" means a certified public
16 accountant who is licensed to practice in Florida and who has
17 completed the certification program.

18 (2)(a) The department is authorized to initiate a
19 certified audits project to further enhance tax compliance
20 reviews performed by qualified practitioners and to encourage
21 taxpayers to hire qualified practitioners at their own expense
22 to review and report on their tax compliance. The nature of
23 certified audit work performed by qualified practitioners
24 shall be agreed-upon procedures in which the department is the
25 specified user of the resulting report.

26 (b) The department is authorized to adopt rules
27 necessary to implement a certified audits project.

28 (c) As an incentive for taxpayers to incur the costs
29 of a certified audit, the department shall compromise
30 penalties and abate interest due on any tax liabilities
31 revealed by a certified audit as provided in s. 213.21. This

1 authority to compromise penalties or abate interest shall not
2 apply to any liability for taxes that were collected by the
3 participating taxpayer but that were not remitted to the
4 department.

5 (d) The certified audits project is repealed on July
6 1, 2002, or upon completion of the project as determined by
7 the department, whichever occurs first.

8 (3) Any practitioner responsible for planning,
9 directing, or conducting a certified audit or reporting on a
10 participating taxpayer's tax compliance in a certified audit
11 must be a qualified practitioner. For the purposes of this
12 subsection, a practitioner is considered responsible for:

13 (a) "Planning" in a certified audit when performing
14 work that involves determining the objectives, scope, and
15 methodology of the certified audit, when establishing criteria
16 to evaluate matters subject to the review as part of the
17 certified audit, when gathering information used in planning
18 the certified audit, or when coordinating the certified audit
19 with the department.

20 (b) "Directing" in a certified audit when the work
21 involves supervising the efforts of others who are involved or
22 when reviewing the work to determine whether it is properly
23 accomplished and complete.

24 (c) "Conducting" a certified audit when performing
25 tests and procedures or field audit work necessary to
26 accomplish the audit objectives in accordance with applicable
27 standards.

28 (d) "Reporting" on a participating taxpayer's tax
29 compliance in a certified audit when determining report
30 contents and substance or reviewing reports for technical
31 content and substance prior to issuance.

1 (4)(a) The qualified practitioner shall notify the
2 department of an engagement to perform a certified audit and
3 shall provide the department with the information the
4 department deems necessary to identify the taxpayer, to
5 confirm that the taxpayer is not already under audit by the
6 department, and to establish the basic nature of the
7 taxpayer's business and the taxpayer's potential exposure to
8 Florida revenue laws. The information provided in the
9 notification shall include the taxpayer's name, federal
10 employer identification number or social security number,
11 state tax account number, mailing address, business location,
12 and the specific taxes and period proposed to be covered by
13 the engagement for the certified audit. In addition, the
14 notice shall include the name, address, identification number,
15 contact person, and telephone number of the engaged firm.

16 (b) If the taxpayer has not been issued a written
17 notice of intent to conduct an audit, the taxpayer shall be a
18 participating taxpayer and the department shall so advise the
19 qualified practitioner in writing within 10 days after receipt
20 of the engagement notice. However, the department may exclude
21 a taxpayer from a certified audit or may limit the taxes or
22 periods subject to the certified audit on the basis that the
23 department has previously conducted an audit, that it is in
24 the process of conducting an investigation or other
25 examination of the taxpayer's records, or for just cause
26 determined solely by the department.

27 (c) Notice of the qualification of a taxpayer for a
28 certified audit shall toll the statute of limitations provided
29 in s. 95.091 with respect to the taxpayer for the tax and
30 periods covered by the engagement.

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1 (d) Within 30 days after receipt of the notice of
2 qualification from the department, the qualified practitioner
3 shall contact the department and submit a proposed audit plan
4 and procedures for review and agreement by the department.
5 The department may extend the time for submission of the plan
6 and procedures for reasonable cause. The qualified
7 practitioner shall initiate action to advise the department
8 that amendment or modification of the plan and procedures is
9 necessary in the event the qualified practitioner's inspection
10 reveals the taxpayer's circumstances or exposure to the
11 revenue laws is substantially different than as described in
12 the engagement notice.

13 (5) Upon the department's designation of the
14 agreed-upon procedures to be followed by the practitioner in
15 the certified audit, the qualified practitioner shall perform
16 the engagement and shall timely submit a completed report to
17 the department. The report shall affirm completion of the
18 agreed-upon procedures and shall provide any required
19 disclosures.

20 (6) The department shall review the report of the
21 certified audit and shall accept it when it is determined to
22 be complete. Once the report is accepted by the department,
23 the department shall issue a notice of proposed assessment
24 reflecting the determination of any additional liability
25 reflected in the report and shall provide the taxpayer with
26 all the normal payment, protest, and appeal rights with
27 respect to the liability. In cases where the report indicates
28 an overpayment has been made, the taxpayer shall submit a
29 properly executed application for refund to the department.
30 Otherwise, the certified audit report is a final and
31 conclusive determination with respect to the tax and period

1 covered. No additional assessment may be made by the
2 department for the specific taxes and period referenced in the
3 report, except upon a showing of fraud or misrepresentation of
4 material facts and except for adjustments made under s. 220.23
5 or s. 198.16. This determination shall not prevent the
6 department from collecting liabilities not covered by the
7 report or from conducting an audit or investigation and making
8 an assessment for additional tax, penalty, or interest for any
9 tax or period not covered by the report.

10 Section 2. Paragraph (o) is added to subsection (7) of
11 section 213.053, Florida Statutes, to read:

12 213.053 Confidentiality and information sharing.--

13 (7) Notwithstanding any other provision of this
14 section, the department may provide:

15 (o) Information contained in returns, reports,
16 accounts, or declarations to the Board of Accountancy in
17 connection with a disciplinary proceeding conducted pursuant
18 to chapter 473 when related to a certified public accountant
19 participating in the certified audits project, or to the court
20 in connection with a civil proceeding brought by the
21 department relating to a claim for recovery of taxes due to
22 negligence on the part of a certified public accountant
23 participating in the certified audits project. In any
24 judicial proceeding brought by the department, upon motion for
25 protective order, the court shall limit disclosure of tax
26 information when necessary to effectuate the purposes of this
27 section. This paragraph is repealed on July 1, 2002.

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29 Disclosure of information under this subsection shall be
30 pursuant to a written agreement between the executive director
31 and the agency. Such agencies, governmental or

1 nongovernmental, shall be bound by the same requirements of
2 confidentiality as the Department of Revenue. Breach of
3 confidentiality is a misdemeanor of the first degree,
4 punishable as provided by s. 775.082 or s. 775.083.

5 Section 3. Subsection (7) is added to section 213.21,
6 Florida Statutes, to read:

7 213.21 Informal conferences; compromises.--

8 (7) In order to determine whether certified audits are
9 an effective tool in the overall state tax collection effort,
10 the executive director of the department or the executive
11 director's designee shall settle or compromise penalty
12 liabilities of taxpayers who participate in the certified
13 audits project. As further incentive for participating in the
14 program, the department shall abate the first \$25,000 of any
15 interest liability and 25 percent of any interest due in
16 excess of the first \$25,000. A settlement or compromise of
17 penalties or interest pursuant to this subsection shall not be
18 subject to the provisions of paragraph (3)(a), except for the
19 requirement relating to confidentiality of records. The
20 department may consider an additional compromise of tax or
21 interest pursuant to the provisions of paragraph (3)(a). This
22 subsection does not apply to any liability related to taxes
23 collected but not remitted to the department. This subsection
24 is repealed on July 1, 2002.

25 Section 4. The sum of \$264,798 is appropriated from
26 the General Revenue Fund to the Department of Revenue, and two
27 positions are established within the department, for the
28 purpose of implementing the provisions of this act. To
29 expedite the implementation of the program, the Department of
30 Revenue shall contract with the Florida Institute of Certified
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1 Public Accountants for instructional curriculum and
2 examinations for the purposes of this act.

3 Section 5. This act shall take effect July 1 of the
4 year in which enacted.

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7 HOUSE SUMMARY

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9 Authorizes the Department of Revenue to initiate a
10 certified audits project under which taxpayers may hire
11 qualified practitioners to review and report on their tax
12 compliance. Authorizes the department to provide certain
13 information to the Board of Accountancy or to a court
14 with respect to a certified public accountant
15 participating in the project. Authorizes settlement or
16 compromise of penalties and abatement of interest for the
17 taxpayers who participate in the project. Provides for
18 repeal of the project. Provides an appropriation and
19 authorizes positions within the department to implement
20 the act.

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