

By the Committee on Finance & Taxation and Representative
Starks

1 A bill to be entitled
2 An act relating to tax on sales, use, and other
3 transactions; amending ss. 212.04 and 212.12,
4 F.S.; increasing the maximum amount of tax
5 remitted by a dealer to which the dealer's
6 credit applies; repealing s. 212.18(5), F.S.,
7 which imposes an additional annual registration
8 fee on dealers who have taxable sales or
9 purchases of \$30,000 or more; amending s.
10 212.20, F.S.; providing for reallocation of a
11 specified portion of sales tax proceeds to the
12 Solid Waste Management Trust Fund; providing
13 effective dates.

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

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17 Section 1. Subsection (5) of section 212.04, Florida
18 Statutes, is amended to read:

19 212.04 Admissions tax; rate, procedure, enforcement.--

20 (5) All of the provisions of this chapter relating to
21 collection, investigation, discovery, and aids to collection
22 of taxes upon sales of tangible personal property shall
23 likewise apply to all privileges described or referred to in
24 this section, and the obligations imposed in this chapter upon
25 retailers are hereby imposed upon the seller of such
26 admissions. When tickets or admissions are sold and not used
27 but returned and credited by the seller, the seller may apply
28 to the department for a credit allowance for such returned
29 tickets or admissions if advance payments have been made by
30 the buyer and have been returned by the seller, upon such form
31 and in such manner as the department may from time to time

1 prescribe. The department may, upon obtaining satisfactory
2 proof of the refunds on the part of the seller, credit the
3 seller for taxes paid upon admissions that have been returned
4 unused to the purchaser of those admissions. The seller of
5 admissions, upon the payment of the taxes before they become
6 delinquent and the rendering of the returns in accordance with
7 the requirement of the department and as provided in this law,
8 shall be entitled to a discount of 2.5 percent of the amount
9 of taxes upon the payment thereof before such taxes become
10 delinquent, in the same manner as permitted the sellers of
11 tangible personal property in this chapter. However, if the
12 amount of the tax due and remitted to the department for the
13 reporting period exceeds \$2,000~~\$1,200~~, no discount shall be
14 allowed for all amounts in excess of \$2,000~~\$1,200~~.

15 Section 2. Subsection (1) of section 212.12, Florida
16 Statutes, is amended to read:

17 212.12 Dealer's credit for collecting tax; penalties
18 for noncompliance; powers of Department of Revenue in dealing
19 with delinquents; brackets applicable to taxable transactions;
20 records required.--

21 (1) Notwithstanding any other provision of law and for
22 the purpose of compensating persons granting licenses for and
23 the lessors of real and personal property taxed hereunder, for
24 the purpose of compensating dealers in tangible personal
25 property, for the purpose of compensating dealers providing
26 communication services and taxable services, for the purpose
27 of compensating owners of places where admissions are
28 collected, and for the purpose of compensating remitters of
29 any taxes or fees reported on the same documents utilized for
30 the sales and use tax, as compensation for the keeping of
31 prescribed records and the proper accounting and remitting of

1 taxes by them, such seller, person, lessor, dealer, owner, and
2 remitter (except dealers who make mail order sales) shall be
3 allowed 2.5 percent of the amount of the tax due and accounted
4 for and remitted to the department, in the form of a deduction
5 in submitting his or her report and paying the amount due by
6 him or her; the department shall allow such deduction of 2.5
7 percent of the amount of the tax to the person paying the same
8 for remitting the tax in the manner herein provided, for
9 paying the amount due to be paid by him or her, and as further
10 compensation to dealers in tangible personal property for the
11 keeping of prescribed records and for collection of taxes and
12 remitting the same. However, if the amount of the tax due and
13 remitted to the department for the reporting period exceeds
14 \$2,000~~\$1,200~~, no allowance shall be allowed for all amounts
15 in excess of \$2,000~~\$1,200~~. The executive director of the
16 department is authorized to negotiate a collection allowance,
17 pursuant to rules promulgated by the department, with a dealer
18 who makes mail order sales. The rules of the department shall
19 provide guidelines for establishing the collection allowance
20 based upon the dealer's estimated costs of collecting the tax,
21 the volume and value of the dealer's mail order sales to
22 purchasers in this state, and the administrative and legal
23 costs and likelihood of achieving collection of the tax absent
24 the cooperation of the dealer. However, in no event shall the
25 collection allowance negotiated by the executive director
26 exceed 10 percent of the tax remitted for a reporting period.
27 (a) The collection allowance may not be granted, nor
28 may any deduction be permitted, if the tax is delinquent at
29 the time of payment.
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1 (b) The Department of Revenue may reduce the
2 collection allowance by 10 percent or \$50, whichever is less,
3 if a taxpayer files an incomplete return.

4 1. An "incomplete return" is, for purposes of this
5 chapter, a return which is lacking such uniformity,
6 completeness, and arrangement that the physical handling,
7 verification, or review of the return may not be readily
8 accomplished.

9 2. The department shall adopt rules requiring such
10 information as it may deem necessary to ensure that the tax
11 levied hereunder is properly collected, reviewed, compiled,
12 and enforced, including, but not limited to: the amount of
13 gross sales; the amount of taxable sales; the amount of tax
14 collected or due; the amount of lawful refunds, deductions, or
15 credits claimed; the amount claimed as the dealer's collection
16 allowance; the amount of penalty and interest; the amount due
17 with the return; and such other information as the Department
18 of Revenue may specify. The department shall require that
19 transient rentals and agricultural equipment transactions be
20 separately shown. For returns remitted on or after February 1,
21 1992, the department shall also require that sales made
22 through vending machines as defined in s. 212.0515 be
23 separately shown. For returns remitted on or after February 1,
24 1995, sales made through coin-operated amusement machines as
25 defined by s. 212.02 and the number of machines operated must
26 be separately shown on the return or on a form prescribed by
27 the department. If a separate form is required, the same
28 penalties for late filing, incomplete filing, or failure to
29 file as provided for the sales tax return shall apply to said
30 form.

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1 (c) The collection allowance and other credits or
2 deductions provided in this chapter shall be applied
3 proportionally to any taxes or fees reported on the same
4 documents used for the sales and use tax.

5 Section 3. Effective July 1 of the year in which this
6 act is enacted, subsection (5) of section 212.18, Florida
7 Statutes, is hereby repealed.

8 Section 4. Effective July 1 of the year in which this
9 act is enacted, subsection (1) and paragraph (d) of subsection
10 (6) of section 212.20, Florida Statutes, are amended to read:

11 212.20 Funds collected, disposition; additional powers
12 of department; operational expense; refund of taxes
13 adjudicated unconstitutionally collected.--

14 (1) The department shall pay over to the Treasurer of
15 the state all funds received and collected by it under the
16 provisions of this chapter, to be credited to the account of
17 the General Revenue Fund of the state, ~~except the proceeds of~~
18 ~~the fee imposed pursuant to s. 212.18(5).~~

19 (6) Distribution of all proceeds under this chapter
20 shall be as follows:

21 (d) Beginning in fiscal year 1998-1999, \$7 million
22 annually ~~Proceeds from the fee imposed pursuant to s.~~
23 ~~212.18(5)~~ shall be reallocated to ~~deposited in~~ the Solid Waste
24 Management Clearing Trust Fund, which is hereby created to be
25 used by the department, and shall be subsequently transferred
26 to the State Treasurer to be deposited into the Solid Waste
27 Management Trust Fund.

28 Section 5. Except as otherwise provided herein, this
29 act shall take effect January 1 of the year following the year
30 in which enacted. The amendments to ss. 212.04 and 212.12,
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1 Florida Statutes, by this act apply only to taxes collected on
2 or after that date.

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5 HOUSE SUMMARY

6 Increases from \$1,200 to \$2,000 the maximum amount of tax
7 remitted by a sales tax dealer to which the dealer's
8 credit applies. Repeals the additional annual
9 registration fee imposed on dealers who have taxable
10 sales or purchases of \$30,000 or more in the preceding
11 year, and provides for reallocation of a portion of sales
12 tax proceeds to the Solid Waste Management Trust Fund in
13 lieu of the proceeds of said fee.
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