

By Representative Fasano

1 A bill to be entitled
2 An act relating to tax on sales, use, and other
3 transactions; amending s. 212.11, F.S.;
4 revising the filing deadline applicable to
5 dealers who are required to calculate and pay
6 estimated tax liability; increasing the
7 threshold for determining whether a dealer is
8 subject to said requirement; amending ss.
9 212.04 and 212.15, F.S., to conform; providing
10 an effective date.

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

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14 Section 1. Subsections (1) and (4) of section 212.11,
15 Florida Statutes, 1998 Supplement, are amended to read:

16 212.11 Tax returns and regulations.--

17 (1)(a) Each dealer shall calculate his or her
18 estimated tax liability for any month by one of the following
19 methods:

20 1. Sixty-six percent of the current month's liability
21 pursuant to this chapter as shown on the tax return;

22 2. Sixty-six percent of the tax reported on the tax
23 return pursuant to this chapter by a dealer for the taxable
24 transactions occurring during the corresponding month of the
25 preceding calendar year; or

26 3. Sixty-six percent of the average tax liability
27 pursuant to this chapter for those months during the preceding
28 calendar year in which the dealer reported taxable
29 transactions.

30 (b) For the purpose of ascertaining the amount of tax
31 payable under this chapter, it shall be the duty of all

1 dealers to file a return and remit the tax, on or before the
2 20th day of the month, or on or before the 28th day of the
3 month if the dealer is complying with paragraph (a),to the
4 department, upon forms prepared and furnished by it or in a
5 format prescribed by it. Such return must show the rentals,
6 admissions, gross sales, or purchases, as the case may be,
7 arising from all leases, rentals, admissions, sales, or
8 purchases taxable under this chapter during the preceding
9 calendar month.

10 (c) However, the department may require:

11 1. A quarterly return and payment when the tax
12 remitted by the dealer for the preceding four calendar
13 quarters did not exceed \$1,000.

14 2. A semiannual return and payment when the tax
15 remitted by the dealer for the preceding four calendar
16 quarters did not exceed \$500.

17 3. An annual return and payment when the tax remitted
18 by the dealer for the preceding four calendar quarters did not
19 exceed \$100.

20 4. A quarterly return and monthly payment when the tax
21 remitted by the dealer for the preceding four calendar
22 quarters exceeded \$1,000 but did not exceed \$12,000.

23 (d) The department may authorize dealers who are newly
24 required to file returns and pay tax quarterly to file returns
25 and remit the tax for the 3-month periods ending in February,
26 May, August, and November, and may authorize dealers who are
27 newly required to file returns and pay tax semiannually to
28 file returns and remit the tax for the 6-month periods ending
29 in May and November.

30 (e) The department shall accept returns, except those
31 required to be initiated through an electronic data

1 interchange, as timely if postmarked on or before the 20th day
2 of the month, or on or before the 28th day of the month if the
3 dealer is required to file under paragraph (a); if the filing
4 date deadline ~~20th day~~ falls on a Saturday, Sunday, or federal
5 or state legal holiday, returns shall be accepted as timely if
6 postmarked on the next succeeding workday. Any dealer who
7 operates two or more places of business for which returns are
8 required to be filed with the department and maintains records
9 for such places of business in a central office or place shall
10 have the privilege on each reporting date of filing a
11 consolidated return for all such places of business in lieu of
12 separate returns for each such place of business; however,
13 such consolidated returns must clearly indicate the amounts
14 collected within each county of the state. Any dealer who
15 files a consolidated return shall calculate his or her
16 estimated tax liability for each county by the same method the
17 dealer uses to calculate his or her estimated tax liability on
18 the consolidated return as a whole. Each dealer shall file a
19 return for each tax period even though no tax is due for such
20 period.

21 (f)1. A taxpayer who is required to remit taxes by
22 electronic funds transfer shall make a return in a manner that
23 is initiated through an electronic data interchange. The
24 acceptable method of transfer, the method, form, and content
25 of the electronic data interchange, giving due regard to
26 developing uniform standards for formats as adopted by the
27 American National Standards Institute, the circumstances under
28 which an electronic data interchange shall serve as a
29 substitute for the filing of another form of return, and the
30 means, if any, by which taxpayers will be provided with
31 acknowledgments, shall be as prescribed by the department. The

1 department must accept such returns as timely if initiated and
2 accepted on or before the 20th day of the month, or on or
3 before the 28th day of the month if the dealer is required to
4 file under paragraph (a). If the filing date deadline ~~20th day~~
5 falls on a Saturday, Sunday, or federal or state legal
6 holiday, returns must be accepted as timely if initiated and
7 accepted on the next succeeding workday.

8 2. The department may waive the requirement to make a
9 return through an electronic data interchange due to problems
10 arising from the taxpayer's computer capabilities, data
11 systems changes, and taxpayer operating procedures. To obtain
12 a waiver, the taxpayer shall demonstrate in writing to the
13 department that such circumstances exist.

14 (4)(a) Each dealer who is subject to the tax imposed
15 by this chapter and who paid such tax for the preceding state
16 fiscal year in an amount greater than or equal to \$200,000
17 ~~\$100,000~~ shall calculate the amount of estimated tax due
18 pursuant to this section for any month as provided in
19 paragraph (1)(a).

20 (b) The amount of any estimated tax shall be due,
21 payable, and remitted by electronic funds transfer by the 28th
22 ~~20th~~ day of the month for which it is estimated. The
23 difference between the amount of estimated tax paid and the
24 actual amount of tax due under this chapter for such month
25 shall be due and payable by the first day of the following
26 month and remitted by electronic funds transfer by the 28th
27 ~~20th~~ day thereof.

28 (c) Any dealer who is eligible to file a consolidated
29 return and who paid the tax imposed by this chapter for the
30 immediately preceding state fiscal year in an amount greater
31 than or equal to \$200,000 ~~\$100,000~~ or would have paid the tax

1 in such amount if he or she had filed a consolidated return
2 shall be subject to the provisions of this subsection
3 notwithstanding an election by the dealer in any month to file
4 a separate return.

5 (d) A dealer engaged in the business of selling boats,
6 motor vehicles, or aircraft who made at least one sale of a
7 boat, motor vehicle, or aircraft with a sales price of
8 \$200,000~~\$100,000~~ or greater in the previous state fiscal year
9 may qualify for payment of estimated sales tax pursuant to the
10 provisions of this paragraph. To qualify, a dealer must apply
11 annually to the department prior to October 1, and, if
12 qualified, the department must grant the application for
13 payment of estimated sales tax pursuant to this paragraph for
14 the following calendar year. In lieu of the method for
15 calculating estimated sales tax liability pursuant to
16 subparagraph (1)(a)3., a qualified dealer must calculate that
17 option as 66 percent of the average tax liability pursuant to
18 this chapter for all sales excluding the sale of each boat,
19 motor vehicle, or aircraft with a sales price of \$200,000
20 ~~\$100,000~~ or greater during the state fiscal year ending the
21 year in which the application is made. A qualified dealer
22 must also remit the sales tax for each sale of a boat, motor
23 vehicle, or aircraft with a sales price of \$200,000~~\$100,000~~
24 or greater by either electronic funds transfer on the date of
25 the sale or on a form prescribed by the department and
26 postmarked on the date of the sale.

27 (e) The penalty provisions of this chapter, except s.
28 212.12(2)(c), apply to the provisions of this subsection.

29 Section 2. Subsection (4) of section 212.04, Florida
30 Statutes, 1998 Supplement, is amended to read:

31 212.04 Admissions tax; rate, procedure, enforcement.--

1 (4) Each person who exercises the privilege of
2 charging admission taxes, as herein defined, shall apply for,
3 and at that time shall furnish the information and comply with
4 the provisions of s. 212.18 not inconsistent herewith and
5 receive from the department, a certificate of right to
6 exercise such privilege, which certificate shall apply to each
7 place of business where such privilege is exercised and shall
8 be in the manner and form prescribed by the department. Such
9 certificate shall be issued upon payment to the department of
10 a registration fee of \$5 by the applicant. Each person
11 exercising the privilege of charging such admission taxes as
12 herein defined shall cause to be kept records and accounts
13 showing the admission which shall be in the form as the
14 department may from time to time prescribe, inclusive of
15 records of all tickets numbered and issued for a period of not
16 less than the time within which the department may, as
17 permitted by s. 95.091(3), make an assessment with respect to
18 any admission evidenced by such records and accounts, and
19 inclusive of all bills or checks of customers who are charged
20 any of the taxes defined herein, showing the charge made to
21 each for that period. The department is empowered to use each
22 and every one of the powers granted herein to the department
23 to discover the amount of tax to be paid by each such person
24 and to enforce the payment thereof as are hereby granted the
25 department for the discovery and enforcement of the payment of
26 taxes hereinafter levied on the sales of tangible personal
27 property. The failure of any person to pay such taxes before
28 the 21st day of the succeeding month after the taxes are
29 collected, except as otherwise provided in this chapter, shall
30 render such person liable to the same penalties that are
31 hereafter imposed upon such person for being delinquent in the

1 payment of taxes imposed upon the sales of tangible personal
2 property; the failure of any person to render returns and to
3 pay taxes as prescribed herein shall render such person
4 subject to the same penalties, by way of charges for
5 delinquencies, at the rate of 10 percent per month for a total
6 amount of tax delinquent up to a total of 50 percent of such
7 tax and at the rate of 100-percent penalty for attempted
8 evasion of payment of any such tax or for any attempt to file
9 false or misleading returns that are required to be filed by
10 the department.

11 Section 3. Subsection (1) of section 212.15, Florida
12 Statutes, is amended to read:

13 212.15 Taxes declared state funds; penalties for
14 failure to remit taxes; due and delinquent dates; judicial
15 review.--

16 (1) The taxes imposed by this chapter shall, except as
17 provided in s. 212.06(5)(a)2.e., become state funds at the
18 moment of collection and shall for each month be due to the
19 department on the first day of the succeeding month and be
20 delinquent on the 21st day of such month, except as otherwise
21 provided in this chapter. All returns postmarked after the
22 20th day of such month are delinquent, except as otherwise
23 provided in this chapter.

24 Section 4. This act shall take effect July 1, 1999.

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27 HOUSE SUMMARY

28
29 Extends the filing deadline applicable to sales tax
30 dealers who are required to calculate and pay estimated
31 tax liability from the 20th to the 28th day of the month.
Increases the threshold for determining whether a dealer is
subject to said requirement from \$100,000 to \$200,000.