

By the Committee on Fiscal Resource and Senator Kurth

314-1911-00

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A bill to be entitled
An act relating to tax on sales, use, and other transactions; amending s. 212.12, F.S.; providing that, when a dealer's records are adequate but voluminous and the Department of Revenue statistically samples those records to determine the dealer's tax liability, overpayments shall be projected over the entire audit period, and the tax liability reduced or refund made as necessary; providing intent; providing an effective date.

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

Section 1. Paragraph (c) of subsection (6) of section 212.12, Florida Statutes, is amended to read:

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

(6)

(c)1. If the records of a dealer are adequate but voluminous in nature and substance, the department may statistically sample such records, except for fixed assets, and project the audit findings derived therefrom over the entire audit period to determine the proportion that taxable retail sales bear to total retail sales or the proportion that taxable purchases bear to total purchases. In order to conduct such a sample, the department must first make a good faith effort to reach an agreement with the dealer, which agreement provides for the means and methods to be used in the

1 sampling process. In the event that no agreement is reached,
2 the dealer is entitled to a review by the executive director.

3 2. For the purposes of sampling pursuant to
4 subparagraph 1. the department shall project any deficiencies
5 and overpayments derived therefrom over the entire audit
6 period. In determining the dealer's compliance, the department
7 shall reduce any tax deficiency as derived from the sample by
8 the amount of any overpayment derived from the sample. If the
9 department determines from the sample results that the dealer
10 has a net tax overpayment, the department shall provide the
11 findings of this overpayment to the Comptroller for repayment
12 of funds paid into the State Treasury through error pursuant
13 to s. 215.26.

14 Section 2. It is the intent of the Legislature that
15 this act clarify rather than change existing law. Further,
16 this act shall apply to all tax periods that are still open
17 for assessment or refund when this act takes effect, including
18 tax periods that are the subject of assessment or refund
19 claims that are pending in administrative or judicial
20 proceedings when this act takes effect.

21 Section 3. This act shall take effect upon becoming a
22 law.

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24 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
25 COMMITTEE SUBSTITUTE FOR
26 SB 1648

27 Provides intent language that this act clarifies rather than
28 changes existing law. Also, the amendment specifies that this
29 act shall apply to all tax periods that are still open for
30 assessment of refund when this act takes effect.
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