

By the Committee on Business Regulation & Consumer Affairs  
 and Representatives Wiles, Hafner, Ritchie, Turnbull, Ryan,  
 Levine and Henriquez

1                                   A bill to be entitled  
 2           An act relating to tax on sales, use, and other  
 3           transactions; amending s. 212.12, F.S.;  
 4           revising provisions which authorize the  
 5           Department of Revenue to sample a dealer's  
 6           records when such records are adequate but  
 7           voluminous, in order to determine the dealer's  
 8           tax liability; providing that overpayments and  
 9           deficiencies shall be projected over the entire  
 10          audit period, and the tax deficiency reduced or  
 11          refund made as necessary; providing intent;  
 12          providing an effective date.

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

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 16           Section 1. Paragraph (c) of subsection (6) of section  
 17 212.12, Florida Statutes, is amended to read:

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

22           (6)

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

1 agreement provides for the means and methods to be used in the  
2 sampling process. In the event that no agreement is reached,  
3 the dealer is entitled to a review by the executive director.

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

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

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

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