

Bill No. CS for CS for SB 1106

Amendment No. Barcode 921916

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senators Clary and Geller moved the following amendment:

Senate Amendment (with title amendment)

On page 183, between lines 27 and 28,

insert:

Section 19. Effective July 1, 2004, section 212.11, Florida Statutes, is amended to read:

212.11 Tax returns and regulations.--

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

1. Sixty percent of the current month's liability pursuant to this chapter as shown on the tax return;
2. Sixty percent of the tax reported on the tax return pursuant to this chapter by a dealer for the taxable transactions occurring during the corresponding month of the preceding calendar year; or
3. Sixty percent of the average tax liability pursuant to this chapter for those months during the preceding calendar year in which the dealer reported taxable transactions.

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1 (b) For the purpose of ascertaining the amount of tax
2 payable under this chapter, it shall be the duty of all
3 dealers to file a return and remit the tax, on or before the
4 20th day of the month, to the department, upon forms prepared
5 and furnished by it or in a format prescribed by it. Such
6 return must show the rentals, admissions, gross sales, or
7 purchases, as the case may be, arising from all leases,
8 rentals, admissions, sales, or purchases taxable under this
9 chapter during the preceding 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
24 The department is authorized to allow a dealer filing returns
25 and paying tax under subparagraph 1., subparagraph 2.,
26 subparagraph 3., or subparagraph 4. to continue to use the
27 same filing frequency, even though the dealer has paid tax in
28 a filing period that is greater than the maximum amount
29 allowed for such period. The dealer must submit a written
30 request to the department to be continued on the same filing
31 frequency, and such request must be based on an explanation

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1 that the tax amount submitted represents nonrecurring business
2 activity.

3 (d) The department may authorize dealers who are newly
4 required to file returns and pay tax quarterly to file returns
5 and remit the tax for the 3-month periods ending in February,
6 May, August, and November, and may authorize dealers who are
7 newly required to file returns and pay tax semiannually to
8 file returns and remit the tax for the 6-month periods ending
9 in May and November.

10 (e) The department shall accept returns, except those
11 required to be initiated through an electronic data
12 interchange, as timely if postmarked on or before the 20th day
13 of the month; if the 20th day falls on a Saturday, Sunday, or
14 federal or state legal holiday, returns shall be accepted as
15 timely if postmarked on the next succeeding workday. Any
16 dealer who operates two or more places of business for which
17 returns are required to be filed with the department and
18 maintains records for such places of business in a central
19 office or place shall have the privilege on each reporting
20 date of filing a consolidated return for all such places of
21 business in lieu of separate returns for each such place of
22 business; however, such consolidated returns must clearly
23 indicate the amounts collected within each county of the
24 state. Any dealer who files a consolidated return shall
25 calculate his or her estimated tax liability for each county
26 by the same method the dealer uses to calculate his or her
27 estimated tax liability on the consolidated return as a whole.
28 Each dealer shall file a return for each tax period even
29 though no tax is due for such period.

30 (f)1. A taxpayer who is required to remit taxes by
31 electronic funds transfer shall make a return in a manner that

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1 is initiated through an electronic data interchange. The
2 acceptable method of transfer, the method, form, and content
3 of the electronic data interchange, giving due regard to
4 developing uniform standards for formats as adopted by the
5 American National Standards Institute, the circumstances under
6 which an electronic data interchange shall serve as a
7 substitute for the filing of another form of return, and the
8 means, if any, by which taxpayers will be provided with
9 acknowledgments, shall be as prescribed by the department. The
10 department must accept such returns as timely if initiated and
11 accepted on or before the 20th day of the month. If the 20th
12 day falls on a Saturday, Sunday, or federal or state legal
13 holiday, returns must be accepted as timely if initiated and
14 accepted on the next succeeding workday.

15 2. The department may waive the requirement to make a
16 return through an electronic data interchange due to problems
17 arising from the taxpayer's computer capabilities, data
18 systems changes, and taxpayer operating procedures. To obtain
19 a waiver, the taxpayer shall demonstrate in writing to the
20 department that such circumstances exist.

21 (2)(a) The sales and use tax on services imposed by
22 this chapter shall be computed according to the brackets set
23 forth in s. 212.12 on the sales price or cost price of the
24 service at the time of the sale, and is due and payable as
25 provided under this section, unless the dealer elects to remit
26 the tax pursuant to paragraph (b).

27 (b) A dealer may elect to ascertain the amount of the
28 tax payable under this chapter on the basis of cash receipts
29 for all taxable transactions under this chapter. Such election
30 shall be made and may be changed by the dealer pursuant to
31 procedures established by rule of the department. The

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1 department shall provide by rule for the issuance and periodic
2 renewal every 5 years of registrations for dealers registered
3 as service providers. Only those persons primarily engaged in
4 the business of selling services are eligible for such
5 registration.

6 (c) However, if a transaction involves both the sale
7 or use of services and the sale or use of tangible personal
8 property, and the tangible personal property is not an
9 inconsequential element of the transaction, the sales and use
10 tax on services shall be computed and remitted as provided in
11 paragraph (a), and paragraph (b) is not applicable.

12 (3)(2) Gross proceeds from rentals or leases of
13 tangible personal property shall be reported and the tax shall
14 be paid with respect thereto in accordance with such rules and
15 regulations as the department may prescribe.

16 (4)(3) Except as otherwise expressly provided for
17 herein, it is hereby declared to be the intention of this
18 chapter to impose a tax on the gross proceeds of all leases
19 and rentals of tangible personal property in this state when
20 the lease or rental is a part of the regularly established
21 business, or the same is incidental or germane thereto.

22 (5)(4)(a) Each dealer who is subject to the tax
23 imposed by this chapter and who paid such tax for the
24 preceding state fiscal year in an amount greater than or equal
25 to \$200,000 shall calculate the amount of estimated tax due
26 pursuant to this section for any month as provided in
27 paragraph (1)(a).

28 (b) The amount of any estimated tax shall be due,
29 payable, and remitted by electronic funds transfer by the 20th
30 day of the month for which it is estimated. The difference
31 between the amount of estimated tax paid and the actual amount

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1 of tax due under this chapter for such month shall be due and
2 payable by the first day of the following month and remitted
3 by electronic funds transfer by the 20th day thereof.

4 (c) Any dealer who is eligible to file a consolidated
5 return and who paid the tax imposed by this chapter for the
6 immediately preceding state fiscal year in an amount greater
7 than or equal to \$200,000 or would have paid the tax in such
8 amount if he or she had filed a consolidated return shall be
9 subject to the provisions of this subsection notwithstanding
10 an election by the dealer in any month to file a separate
11 return.

12 (d) A dealer engaged in the business of selling boats,
13 motor vehicles, or aircraft who made at least one sale of a
14 boat, motor vehicle, or aircraft with a sales price of
15 \$200,000 or greater in the previous state fiscal year may
16 qualify for payment of estimated sales tax pursuant to the
17 provisions of this paragraph. To qualify, a dealer must apply
18 annually to the department prior to October 1, and, if
19 qualified, the department must grant the application for
20 payment of estimated sales tax pursuant to this paragraph for
21 the following calendar year. In lieu of the method for
22 calculating estimated sales tax liability pursuant to
23 subparagraph (1)(a)3., a qualified dealer must calculate that
24 option as 60 percent of the average tax liability pursuant to
25 this chapter for all sales excluding the sale of each boat,
26 motor vehicle, or aircraft with a sales price of \$200,000 or
27 greater during the state fiscal year ending the year in which
28 the application is made. A qualified dealer must also remit
29 the sales tax for each sale of a boat, motor vehicle, or
30 aircraft with a sales price of \$200,000 or greater by either
31 electronic funds transfer on the date of the sale or on a form

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1 prescribed by the department and postmarked on the date of the
2 sale.

3 (e) The penalty provisions of this chapter, except s.
4 212.12(2)(e), apply to the provisions of this subsection.

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6 (Redesignate subsequent sections.)

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9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:

11 On page 2, line 15, after the semicolon,

12

13 insert:

14 amending s. 212.11, F.S.; authorizing certain
15 dealers to elect to pay sales tax on services
16 on a cash basis; providing for registration of
17 such dealers by the Department of Revenue;

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