

By Senator Rich

34-1409-05

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled
An act relating to the tax on sales, use, and other transactions; amending s. 212.12, F.S.; authorizing a dealer to elect to forego the collection allowance and direct that the collection allowance be transferred to the Educational Enhancement Trust Fund; providing exceptions; providing for rulemaking by the Department of Revenue; providing an appropriation; providing for costs recovery; providing an effective date.

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

Section 1. Subsection (1) 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.--

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records, filing timely tax returns, and the proper

1 | accounting and remitting of taxes by them, such seller,
2 | person, lessor, dealer, owner, and remitter (except dealers
3 | who make mail order sales) shall be allowed 2.5 percent of the
4 | amount of the tax due and accounted for and remitted to the
5 | department, in the form of a deduction in submitting his or
6 | her report and paying the amount due by him or her; the
7 | department shall allow such deduction of 2.5 percent of the
8 | amount of the tax to the person paying the same for remitting
9 | the tax and making of tax returns in the manner herein
10 | provided, for paying the amount due to be paid by him or her,
11 | and as further compensation to dealers in tangible personal
12 | property for the keeping of prescribed records and for
13 | collection of taxes and remitting the same. However, if the
14 | amount of the tax due and remitted to the department for the
15 | reporting period exceeds \$1,200, no allowance shall be allowed
16 | for all amounts in excess of \$1,200. The executive director of
17 | the department is authorized to negotiate a collection
18 | allowance, pursuant to rules promulgated by the department,
19 | with a dealer who makes mail order sales. The rules of the
20 | department shall provide guidelines for establishing the
21 | collection allowance based upon the dealer's estimated costs
22 | of collecting the tax, the volume and value of the dealer's
23 | mail order sales to purchasers in this state, and the
24 | administrative and legal costs and likelihood of achieving
25 | collection of the tax absent the cooperation of the dealer.
26 | However, in no event shall the collection allowance negotiated
27 | by the executive director exceed 10 percent of the tax
28 | remitted for a reporting period.

29 | (a) The Department of Revenue may deny the collection
30 | allowance if a taxpayer files an incomplete return or if the
31 |

1 required tax return or tax is delinquent at the time of
2 payment.

3 1. An "incomplete return" is, for purposes of this
4 chapter, a return which is lacking such uniformity,
5 completeness, and arrangement that the physical handling,
6 verification, review of the return, or determination of other
7 taxes and fees reported on 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 reported, and enforced, including, but not limited to: the
13 amount of gross sales; the amount of taxable sales; the amount
14 of tax collected or due; the amount of lawful refunds,
15 deductions, or credits claimed; the amount claimed as the
16 dealer's collection allowance; the amount of penalty and
17 interest; the amount due with the return; and such other
18 information as the Department of Revenue may specify. The
19 department shall require that transient rentals and
20 agricultural equipment transactions be separately shown. Sales
21 made through vending machines as defined in s. 212.0515 must
22 be separately shown on the return. Sales made through
23 coin-operated amusement machines as defined by s. 212.02 and
24 the number of machines operated must be separately shown on
25 the return or on a form prescribed by the department. If a
26 separate form is required, the same penalties for late filing,
27 incomplete filing, or failure to file as provided for the
28 sales tax return shall apply to said form.

29 (b) The collection allowance and other credits or
30 deductions provided in this chapter shall be applied

31

1 proportionally to any taxes or fees reported on the same
2 documents used for the sales and use tax.

3 (c) A dealer entitled to the collection allowance
4 provided in this section may elect to forego the collection
5 allowance and direct that the said amount be transferred into
6 the Educational Enhancement Trust Fund. Such an election must
7 be made with the timely filing of a return and cannot be
8 rescinded once made. When a dealer who makes such an election
9 files a delinquent return, underpays the tax, or files an
10 incomplete return, the amount transferred into the Educational
11 Enhancement Trust Fund shall be the collection allowance
12 remaining after resolution of liability for all of the tax,
13 interest, and penalty due on that return or underpayment of
14 tax. This paragraph does not apply to s. 212.0305 or to any
15 other tax, fee, or levy that is administered, collected, and
16 enforced pursuant to the procedures under chapter 212.

17 Section 2. Notwithstanding the provisions of chapter
18 120, Florida Statutes, to the contrary, the Department of
19 Revenue may adopt rules to carry out the amendments made by
20 this act to section 212.12, Florida Statutes.

21 Section 3. The sum of \$236,465 is appropriated from
22 the General Revenue Fund to the Department of Revenue for the
23 purpose of administering the amendments to section 212.12,
24 Florida Statutes, made by this act.

25 Section 4. The Department of Revenue shall retain all
26 of the dealer collection allowance revenues directed to be
27 deposited into the Educational Enhancement Trust Fund until
28 the \$236,465 General Revenue Appropriation is recovered. The
29 \$236,465 retained by the department shall be transferred into
30 the General Revenue Fund.

31 Section 5. This act shall take effect January 1, 2006.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Authorizes a dealer to elect to forego the collection allowance on the sales tax which is provided under s. 212.12, F.S. Directs that the amount of such a collection allowance be transferred to the Educational Enhancement Trust Fund, with exceptions. Allows the Department of Revenue to make rules. Provides an appropriation. Provides for costs recovery.