

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Commerce and Consumer Services Committee

BILL: CS/SB 1590

SPONSOR: Government Efficiency Appropriations Committee and Senator Rich

SUBJECT: Sales Tax Collection Allowance

DATE: April 5, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	<u>Fav/CS</u>
2.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

Effective January 1, 2007, sales tax dealers entitled to a collection allowance pursuant to s. 212.12, F.S., may elect to forego the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund. The election must be made with the timely filing of a return and cannot be rescinded once made. If a dealer making the election files a delinquent return, underpays the tax, or files an incomplete return, the amount transferred into the Educational Enhancement Trust Fund shall be the collection allowance remaining after resolution of liability for all tax, interest, and penalty due.

This committee substitute amends section 212.12 of the Florida Statutes.

## II. Present Situation:

Chapter 212, F.S., levies a 6 percent sales and use tax on most sales of tangible personal property and a limited number of services. Local governments are authorized to levy numerous types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. Under the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions “subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions” by ch. 212, F.S., and on communications services by ch. 202, F.S. Section 212.0305, F.S., authorizes the levy of the local option Convention Development Tax at the rate of 3 percent in Miami-Dade County, and at the rate of 2 percent in Duval County and Volusia County.

Section 212.12, F.S., provides sales and use tax dealers a collection allowance of 2.5 percent of the amount of the tax due for the purpose of compensating dealers for the keeping of prescribed records, filing timely returns, and proper accounting and remitting of taxes. No collection

allowance is allowed on tax collected and remitted in excess of \$1,200 per month, resulting in a maximum collection allowance of \$30 per month for the majority of dealers. The dealer's collection allowance does not apply to the rental car surcharge,<sup>1</sup> the waste tire fee,<sup>2</sup> the lead-acid battery fee,<sup>3</sup> or the motor vehicle warranty fee.<sup>4</sup>

Article X, Sec. 15, of the State Constitution, provides for a state operated lottery. Chapter 24, F.S., provides the statutory authority for the state lottery. Section 24.121(2), F.S., provides that variable percentages of the gross revenue, as determined by the Department of the Lottery, from the sale of on-line and instant lottery tickets and other earned revenue shall be deposited into the Educational Enhancement Trust Fund to be administered by the Department of Education. Funds from the Educational Enhancement Trust Fund shall be used to the benefit of public education as provided for in s. 24.121, F.S.

### III. Effect of Proposed Changes:

**Section 1** amends s. 212.12(1), F.S., creating paragraph (c), providing that sales tax dealers entitled to a collection allowance pursuant to s. 212.12, F.S., may elect to forego the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund. The election must be made with the timely filing of a return and cannot be rescinded once made. If a dealer making the election files a delinquent return, underpays the tax, or files an incomplete return, the amount deposited into the Educational Enhancement Trust Fund shall be the collection allowance remaining after resolution of liability for all tax, interest, and penalty due. The Department of Education shall distribute the remaining amount from the trust fund to the school districts that have adopted resolutions stating that those funds will be used to ensure that up-to-date technology is purchased for the classrooms in the district and that teachers are trained in the use of that technology. Revenues collected in districts that do not adopt such a resolution shall be equally distributed to districts that have adopted such resolutions.

The committee substitute provides that the election to forego the collection allowance applies to all taxes, surtaxes, and any local option taxes administered under ch. 212, F.S., and remitted directly to the Department of Revenue (DOR). This election does not apply to any locally imposed and self-administered convention development tax<sup>5</sup>, tourist development tax<sup>6</sup>, or tourist impact tax<sup>7</sup> administered under ch. 212, F.S.

**Section 2** provides that, notwithstanding the provisions of ch. 120, F.S., to the contrary, DOR may adopt rules to carry out the amendments made by this act to s. 212.12, F.S.

**Section 3** appropriates \$112,920 from the General Revenue Fund to DOR for the purpose of administering the amendments to s. 212.12, F.S., made by this act. The committee substitute authorizes DOR to retain all of the dealer collection allowance revenues directed to be

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<sup>1</sup> Section 212.0606, F.S.

<sup>2</sup> Section 403.718, F.S.

<sup>3</sup> Section 403.7185, F.S.

<sup>4</sup> Section 681.117, F.S.

<sup>5</sup> Section 212.0305, F.S.

<sup>6</sup> Section 125.0104, F.S.

<sup>7</sup> Section 125.0108, F.S.

transferred into the Educational Enhancement Trust Fund until the \$112,920 General Revenue Appropriation is recovered.

**Section 4** requires that revenues from the dealer collection allowances shall be transferred quarterly from the General Revenue Fund to the Educational Enhancement Trust Fund and that DOR must provide to the Department of Education quarterly information about such revenues by county to which the collection allowance was attributed.

**Section 5** provides that this act shall take effect January 1, 2007.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Sales and use tax dealers may elect to donate their collection allowance to the Educational Enhancement Trust Fund. By doing this, such dealers will forgo a maximum dealer collection allowance of \$30 a month, which is deducted from the total of all taxes collected and remitted on Forms DR-15 and DR-15EZ, Sales and Use Tax Returns.

C. Government Sector Impact:

To the degree that sales tax dealers donate their collection allowance to the Educational Enhancement Trust Fund, such trust fund will realize an increase in revenues to the benefit of public education. The increase to the trust fund cannot be determined.

In order to administer the committee substitute properly, DOR would be required to modify its sales and use tax return forms (DR-15 and DR-15EZ in both hardcopy and electronic formats) to include a check box option directing DOR to deposit the collection allowance into the Educational Enhancement Trust Fund. This will require computer

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programming of SAP to identify the amounts to be transferred to the trust fund, and a Tax Information Publication (TIP) would need to be sent to all sales and use tax dealers to allow them sufficient time to make internal systems changes. DOR has estimated the cost of implementing this committee substitute to be \$112,920.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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