

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 987 CS

Tax on Sales, Use, and Other Transactions

SPONSOR(S): Gottlieb

TIED BILLS:

IDEN./SIM. BILLS: SB 1590

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Education Appropriations Committee</u>	<u>16 Y, 0 N, w/CS</u>	<u>Eggers</u>	<u>Hamon</u>
2) <u>Fiscal Council</u>	<u>19 Y, 2 N</u>	<u>Eggers</u>	<u>Kelly</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

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 The election must be made with the timely filing of a return and cannot be rescinded once made.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.

The maximum amount of collection allowance is \$30 per month for each sales dealer. 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 can not be determined.

The bill appropriates \$112,920 from the General Revenue Fund to the Department of Revenue for the purpose of administering the program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility—The bill authorizes sales tax dealers entitled to a collection allowance to forgo the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund.

B. EFFECT OF PROPOSED CHANGES:

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 chapter 212, F.S. and on communications services by chapter 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 surcharge¹, the waste tire fee², the lead-acid battery fee³, or the motor vehicle warranty fee⁴.

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.

Effect of Proposed Changes

The bill 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 transferred 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

¹ Section 212.0606, F.S.

² Section 403.718, F.S.

³ Section 403.7185, F.S.

⁴ Section 681.117, F.S.

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 bill provides that the election to forego the collection allowance applies to all taxes, surtaxes, and any local option taxes administered under chapter 212, F.S., and remitted directly to the Department of Revenue. This election does not apply to any locally imposed and self-administered convention development tax⁵, tourist development tax⁶, or tourist impact tax⁷ administered under chapter 212, F.S.

The bill provides that notwithstanding the provisions of chapter 120, F. S., to the contrary, the Department of Revenue may adopt rules to carry out the amendments made by this act to s. 212.12, F.S.

The bill appropriates the sum of \$112,920 from the General Revenue Fund to the Department of Revenue for the purpose of administrating the amendments to s. 212.12, F.S., made by this act. The bill authorizes the Department of Revenue to retain all of the dealer collection allowance revenues directed to be transferred into the Educational Enhancement Trust Fund until the \$112,920 General Revenue appropriation is recovered.

The bill 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 the Department of Revenue shall provide to the Department of Education quarterly information about such revenues by county to which the collection allowance was attributed.

The bill provides that this act shall take effect January 1, 2007.

C. SECTION DIRECTORY:

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 transferred into the Educational Enhancement Trust Fund.

Section 2. Provides that notwithstanding the provisions of chapter 120, F. S., to the contrary, the Department of Revenue may adopt rules to carry out the amendments made by this act to s. 212.12, F.S.

Section 3. Appropriates the sum of \$112,920 from the General Revenue Fund to the Department of Revenue for the purpose of administrating the amendments to s. 212.12, F.S., made by this act.

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.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁵ Section 212.0305, F.S.

⁶ Section 125.0104, F.S.

⁷ Section 125.0108, F.S.

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.

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 can not be determined.

2. Expenditures:

In order to administer the bill properly, the Department of Revenue (DOR) would be required to modify its sales and use tax returns forms (DR-15 and DR-15EZ in both hardcopy and electronic formats) to include a check box option directing the DOR to transfer the collection allowance into the Educational Enhancement Trust Fund. This will require computer 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. The DOR estimates the cost of implementing this bill to be \$112,920. The bill appropriates \$112,920 to the DOR to administer the program. The bill specifies that the DOR shall retain all of the dealer collection allowances transferred in the Educational Enhancement Trust Fund until the \$112,920 is recovered.

B. FISCAL IMPACT ON LOCAL GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "FISCAL IMPACT ON STATE GOVERNMENT."

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue is granted rule making authority to carry out the amendment to section 212.12, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 4, 2006, the Education Appropriations Committee adopted an amendment revising the General Revenue Fund appropriation to the Department of Revenue from \$36,465 to \$112,920 to administer the program. The amendment clarified that collection allowances are deposited into the General Revenue Fund and subsequently transferred to the Educational Enhancement Trust Fund.