

1                                   A bill to be entitled  
 2           An act relating to sales and use tax credits or refunds;  
 3           amending s. 212.17, F.S.; authorizing dealers to take  
 4           certain credits or obtain refund of taxes paid for  
 5           worthless private label credit card accounts; specifying  
 6           conditions; providing for phased application; providing  
 7           for remittances of taxes collected on such accounts;  
 8           providing definitions; requiring dealers and lenders to  
 9           file a joint election to receive the credit or refund;  
 10          providing recordkeeping requirements; authorizing the  
 11          Department of Revenue to adopt rules; specifying  
 12          nonapplication to certain claims for credits or refunds;  
 13          providing for future repeal unless reviewed and saved from  
 14          repeal by reenactment; providing an effective date.

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

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 18           Section 1. Subsection (8) is added to section 212.17,  
 19   Florida Statutes, to read:

20           212.17 Credits for returned goods, rentals, or admissions;  
 21   goods acquired for dealer's own use and subsequently resold;  
 22   worthless private label credit card accounts; additional powers  
 23   of department.--

24           (8) (a) In the case of private label credit card accounts  
 25   found to be worthless and deductible as bad debts for federal  
 26   income tax purposes, a dealer or lender may take a credit or  
 27   obtain a refund of the taxes previously paid by the dealer under  
 28   this chapter on the unpaid balance due on the worthless accounts

29 if a proper election under paragraph (f) is made by the dealer  
30 and lender and the following conditions are met:

31 1. No credit or refund was previously claimed or allowed  
32 on any portion of the account.

33 2. The accounts have been found worthless and are  
34 deductible as bad debts for federal income tax purposes by the  
35 lender or any entity affiliated with the lender under 26 U.S.C.  
36 s. 1504.

37 3. The accounts are found to be worthless on or after  
38 January 1, 2008, and the credit or refund is claimed not later  
39 than 12 months following the date on which the accounts are  
40 deducted as bad debts for federal income tax purposes.

41 (b) The credit or refund authorized by this subsection  
42 shall apply as follows:

43 1. Beginning January 1, 2008, the credit or refund  
44 authorized by this subsection shall be 25 percent of the tax  
45 paid to the department attributed to the bad debt.

46 2. Beginning January 1, 2009, the credit or refund  
47 authorized by this subsection shall be 50 percent of the tax  
48 paid to the department attributed to the bad debt.

49 3. Beginning January 1, 2010, the credit or refund  
50 authorized by this subsection shall be 75 percent of the tax  
51 paid to the department attributed to the bad debt.

52 4. Beginning January 1, 2011, the credit or refund  
53 authorized by this subsection shall be 100 percent of the tax  
54 paid to the department attributed to the bad debt.

55 (c) If a dealer or lender thereafter collects in whole or  
56 in part any account for which a credit or refund has been

57 obtained under this subsection, the dealer or the lender shall  
58 include the amount collected and account for tax on that amount  
59 in the earlier of the dealer's or lender's first return or  
60 refund claim filed after the collection or a statement filed  
61 with the department by the 20th day of the month following the  
62 month in which the amount was collected.

63 (d) For purposes of this subsection, the term "lender"  
64 means any of the following:

65 1. Any person who owns or has owned a private label credit  
66 card account that the person purchased directly from a dealer  
67 who remitted the tax imposed under this chapter;

68 2. Any person who owns or has owned a private label credit  
69 card account pursuant to that person's contract directly with  
70 the dealer who remitted the tax imposed under this chapter; or

71 3. Any person who is an affiliated entity, under 26 U.S.C.  
72 s. 1504, of a person described in subparagraph 1. or  
73 subparagraph 2. or an assignee or other transferee of a person  
74 described in subparagraph 1. or subparagraph 2.

75 (e) For purposes of this subsection, the term "private  
76 label credit card" means any charge card or credit card that  
77 carries, refers to, or is branded with the name or logo of a  
78 dealer and can be used for purchases from the dealer whose name  
79 or logo appears on the card or for purchases from any of the  
80 dealer's affiliates. For purposes of this paragraph, the term  
81 "dealer's affiliates" means all entities affiliated with the  
82 dealer under 26 U.S.C. s. 1504. In the case of a private label  
83 credit card that also may be used to make purchases from persons  
84 other than the dealer whose name or logo appears on the card or

85 the dealer's affiliates, the sales receipts of the dealer and  
86 the dealer's affiliates must be capable of identification apart  
87 from any receipts reflecting sales by such unrelated persons.  
88 Nothing in this subsection authorizes any credit or refund with  
89 respect to sales by such unrelated persons.

90 (f) Before a dealer or lender may take a credit or obtain  
91 a refund under this subsection, the lender and the dealer shall  
92 file a joint election with the department, signed by the dealer  
93 and lender, designating whether the dealer or lender is entitled  
94 to claim the credit or refund. This election may not be revoked  
95 unless a written notice, signed by the dealer and lender who  
96 signed the election being revoked, is filed with the department.

97 (g) The dealer or lender shall maintain adequate books,  
98 records, or other documentation supporting the deduction taken  
99 for the bad debts found to be worthless for which a credit was  
100 taken or a refund was claimed under this subsection. If a dealer  
101 remits sales tax or use tax to this state and one or more other  
102 states, the dealer or its lender claiming any credits or refunds  
103 under this subsection may use an apportionment method to  
104 substantiate the amount of tax imposed under this chapter  
105 included in the bad debts to which the credit or refund applies.  
106 The apportionment method must use the dealer's Florida and non-  
107 Florida sales, the dealer's taxable and nontaxable sales, and  
108 the amount of tax the dealer remitted to this state.  
109 Alternatively, the dealer or lender may treat a specified  
110 percentage of the private label credit card accounts as giving  
111 rise to a credit or refund under this subsection, which  
112 percentage is derived from a sampling of the dealer's or

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113 lender's records in accordance with a methodology agreed upon by  
114 the department and the dealer or lender.

115 (h) A lender as defined in paragraph (d) may have its  
116 credit for bad debts claimed on a consolidated sales and use tax  
117 return.

118 (i) The department may adopt rules pursuant to ss.  
119 120.536(1) and 120.54 governing the implementation of this  
120 subsection.

121 (j) This subsection shall not apply to any credit or  
122 refund claim presented under subsection (2) or subsection (3),  
123 any assessment or refund denial pertaining to a credit or refund  
124 claim made under subsection (2) or subsection (3), or any audit  
125 or administrative or judicial proceeding relating to such credit  
126 or refund claims pending as of January 1, 2008.

127 (k) This subsection is repealed December 31, 2010, unless  
128 reviewed and saved from repeal through reenactment by the  
129 Legislature.

130 Section 2. This act shall take effect January 1, 2008.