

1 (b) A registered dealer that purchases property for
2 the dealer's own use, pays tax on acquisition, and sells the
3 property subsequent to acquisition without ever having used
4 the property is entitled to reimbursement, in the manner
5 prescribed by the department, of the amount of tax paid on the
6 property's acquisition.

7 (c) If the tax has not been remitted by a dealer to
8 the department, the dealer may deduct the same in submitting
9 his or her return upon receipt of a signed statement of the
10 dealer as to the gross amount of such refunds during the
11 period covered by said signed statement, which period shall
12 not be longer than 90 days. The department shall issue to the
13 dealer an official credit memorandum equal to the net amount
14 remitted by the dealer for such tax collected or paid. Such
15 memorandum shall be accepted by the department at full face
16 value from the dealer to whom it is issued, in the remittance
17 for subsequent taxes accrued under the provisions of this
18 chapter. If a dealer has retired from business and has filed a
19 final return, a refund of tax may be made if it can be
20 established to the satisfaction of the department that the tax
21 was not due.

22 (2) A dealer who has paid the tax imposed by this
23 chapter on tangible personal property sold under a retained
24 title, conditional sale, or similar contract, or under a
25 contract wherein the dealer retains a security interest in the
26 property pursuant to chapter 679, may take credit or obtain a
27 refund for the tax paid by the dealer on the unpaid balance
28 due him or her when he or she repossesses (with or without
29 judicial process) the property within 12 months following the
30 month in which the property was repossessed. When such
31

1 repossessed property is resold, the sale is subject in all
2 respects to the tax imposed by this chapter.

3 (3) A dealer who has paid the tax imposed by this
4 chapter on tangible personal property or services may take a
5 credit or obtain a refund for any tax paid by the dealer on
6 the unpaid balance due on worthless accounts within 12 months
7 following the month in which the bad debt has been charged off
8 for federal income tax purposes. If any accounts so charged
9 off for which a credit or refund has been obtained are
10 thereafter in whole or in part paid to the dealer, the amount
11 so paid shall be included in the first return filed after such
12 collection and the tax paid accordingly.

13 (4)(a) The department shall design, prepare, print and
14 furnish to all dealers, except dealers filing through
15 electronic data interchange, or make available or prescribe to
16 the dealers, all necessary forms for filing returns and
17 instructions to ensure a full collection from dealers and an
18 accounting for the taxes due, but failure of any dealer to
19 secure such forms does not relieve the dealer from the payment
20 of the tax at the time and in the manner provided.

21 (b) The department shall prescribe the format and
22 instructions necessary for filing returns in a manner that is
23 initiated through an electronic data interchange to ensure a
24 full collection from dealers and an accounting for the taxes
25 due. The failure of any dealer to use such format does not
26 relieve the dealer from the payment of the tax at the time and
27 in the manner provided.

28 (5) The department and its assistants are hereby
29 authorized and empowered to administer the oath for the
30 purpose of enforcing and administering the provisions of this
31 chapter.

1 (6) The department has authority to adopt rules
2 pursuant to ss. 120.536(1) and 120.54 to enforce the
3 provisions of this chapter.

4 (7) The department, where admissions, license fees, or
5 rental payments or payments for services are made and
6 thereafter returned to the payors after the taxes thereon have
7 been paid, shall return or credit the taxpayer for taxes so
8 paid on the moneys returned in the same manner as is provided
9 for returns or credits of taxes where purchases or tangible
10 personal property are returnable to a dealer.

11 (8)(a) In the case of private label credit card
12 accounts found to be worthless and deductible as bad debts for
13 federal income tax purposes, a dealer or lender may take a
14 credit or obtain a refund of the taxes previously paid by the
15 dealer under this chapter on the unpaid balance due on the
16 worthless accounts if a proper election is made by the dealer
17 and lender and the following conditions are met:

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

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

24 3. The accounts are found to be worthless on or after
25 July 1, 2007, and the credit or refund is claimed not later
26 than 12 months following the date on which the federal income
27 tax return on which the accounts were deducted was filed.

28 (b) If a dealer or lender thereafter collects in whole
29 or in part any account for which a credit or refund has been
30 obtained under this subsection, the dealer or the lender shall
31 include the amount collected and account for tax on that

1 amount in the earlier of the dealer's or lender's first return
2 or refund claim filed after the collection or a statement
3 filed with the department by the 20th day of the month
4 following the month in which the amount was collected.

5 (c) For purposes of this subsection, the term "lender"
6 means any of the following:

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

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

14 3. Any person who is an affiliated entity, under 26
15 U.S.C. s. 1504, of a person described in subparagraph 1. or
16 subparagraph 2. or an assignee or other transferee of a person
17 described in subparagraph 1. or subparagraph 2.

18 (d) For purposes of this subsection, the term "private
19 label credit card" means any charge card or credit card that
20 carries, refers to, or is branded with the name or logo of a
21 dealer and can be used for purchases from the dealer whose
22 name or logo appears on the card or for purchases from any of
23 the dealer's affiliates. For purposes of this paragraph, the
24 term "dealer's affiliates" means all entities affiliated with
25 the dealer under 26 U.S.C. s. 1504. In the case of a private
26 label credit card that also may be used to make purchases from
27 persons other than the dealer whose name or logo appears on
28 the card or the dealer's affiliates, the sales receipts of the
29 dealer and the dealer's affiliates must be capable of
30 identification apart from any receipts reflecting sales by
31 such unrelated persons. Nothing in this subsection authorizes

1 any credit or refund with respect to sales by such unrelated
2 persons.

3 (e) Before a dealer or lender may take a credit or
4 obtain a refund under this subsection, the lender and the
5 dealer shall file a joint election with the department, signed
6 by the dealer and lender, designating whether the dealer or
7 lender is entitled to claim the credit or refund. This
8 election may not be revoked unless a written notice, signed by
9 the dealer and lender who signed the election being revoked,
10 is filed with the department.

11 (f) The dealer or lender shall maintain adequate
12 books, records, or other documentation supporting the
13 deduction taken for the bad debts found to be worthless for
14 which a credit was taken or a refund was claimed under this
15 subsection. If a dealer remits sales tax or use tax to this
16 state and one or more other states, the dealer or its lender
17 claiming any credits or refunds under this subsection may use
18 an apportionment method to substantiate the amount of tax
19 imposed under this chapter included in the bad debts to which
20 the credit or refund applies. The apportionment method must
21 use the dealer's Florida and non-Florida sales, the dealer's
22 taxable and nontaxable sales, and the amount of tax the dealer
23 remitted to this state. Alternatively, the dealer or lender
24 may treat a specified percentage of the private label credit
25 card accounts as giving rise to a credit or refund under this
26 subsection, which percentage is derived from a sampling of the
27 dealer's or lender's records in accordance with a methodology
28 agreed upon by the department and the dealer or lender.

29 (g) A lender as defined in paragraph (c) may have its
30 credit for bad debts claimed on a consolidated sales and use
31 tax return.

1 (h) The department may adopt rules pursuant to ss.
2 120.536(1) and 120.54 governing the implementation of this
3 subsection.

4 (i) This subsection shall not apply to any credit or
5 refund claim presented under subsection (2) or subsection (3),
6 any assessment or refund denial pertaining to a credit or
7 refund claim made under subsection (2) or subsection (3), or
8 any audit or administrative or judicial proceeding relating to
9 such credit or refund claims pending as of July 1, 2007.

10 Section 2. This act shall take effect July 1, 2007.