



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 under  
17 paragraph (e) by the dealer and lender and the following  
18 conditions are met:

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

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

25           3. The accounts are found to be worthless on or after  
26 July 1, 2007, and the credit or refund is claimed not later  
27 than 12 months following the date on which the accounts are  
28 charged off for federal income tax purposes.

29           (b) If a dealer or lender thereafter collects in whole  
30 or in part any account for which a credit or refund has been  
31 obtained under this subsection, the dealer or the lender shall

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

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

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

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

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

19 (d) For purposes of this subsection, the term "private  
20 label credit card" means any charge card or credit card that  
21 carries, refers to, or is branded with the name or logo of a  
22 dealer and can be used for purchases from the dealer whose  
23 name or logo appears on the card or for purchases from any of  
24 the dealer's affiliates. For purposes of this paragraph, the  
25 term "dealer's affiliates" means all entities affiliated with  
26 the dealer under 26 U.S.C. s. 1504. In the case of a private  
27 label credit card that also may be used to make purchases from  
28 persons other than the dealer whose name or logo appears on  
29 the card or the dealer's affiliates, the sales receipts of the  
30 dealer and the dealer's affiliates must be capable of  
31 identification apart from any receipts reflecting sales by

1 such unrelated persons. Nothing in this subsection authorizes  
2 any credit or refund with respect to sales by such unrelated  
3 persons.

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

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

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

4           (h) The department may adopt rules pursuant to ss.  
5 120.536(1) and 120.54 governing the implementation of this  
6 subsection.

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

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

14  
15           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
16           COMMITTEE SUBSTITUTE FOR  
17           Senate Bill 982

18 The Committee Substitute for Senate Bill 982 differs from the  
19 bill as filed in the following ways:

- 20 - A dealer or lender may claim a sales tax refund or sales  
21 tax credit no later than 12 months from the date a  
22 worthless account was written off for federal income tax  
23 purposes, rather than 12 months from the filing date of  
24 the federal income tax return on which the charge-off was  
25 taken.
- 26 - For clarity, an early reference to the process by which a  
27 dealer or lender elects to take the tax credit or tax  
28 refund is cross-referenced to a description of the  
29 process later in the bill.