

HB 5139

2009

1                   A bill to be entitled  
2           An act relating to administrative collection processing  
3           fees for taxpayer noncompliance; amending s. 213.24, F.S.;  
4           imposing an administrative collection processing fee for  
5           collection events; providing exceptions for extraordinary  
6           circumstances; requiring fees collected to be deposited in  
7           the General Revenue Fund; providing definitions; expanding  
8           the scope of a study on the cost of issuing billings or  
9           automated refunds for specified taxes to include the taxes  
10          and fees to which the administrative collection processing  
11          fee applies; amending s. 213.75, F.S.; revising  
12          application of payments; providing for retroactive  
13          application; providing an effective date.

14  
15   Be It Enacted by the Legislature of the State of Florida:

16  
17          Section 1.   Section 213.24, Florida Statutes, is amended to  
18          read:

19          213.24   Accrual of penalties and interest on deficiencies;  
20          deficiency billing costs.--

21          (1)   If notice and demand is made for the payment of any  
22          amount due under laws made applicable to this chapter and if  
23          such amount is paid within 30 days after the date of such  
24          billing or notice and demand, no additional penalties or  
25          interest under this section on the amount so paid shall be  
26          imposed for the period after the date of such notice and demand.

27          (2) (a)   Billings for deficiencies or automated refunds of  
28          tax, penalty, or interest shall not be issued for any amount

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29 | less than the actual costs incurred to produce a billing or  
30 | automated refund.

31 |       (b) The cost of issuing billings or automated refunds for  
32 | any tax or fee enumerated in s. 213.05 or chapter 443 shall be  
33 | computed in a study performed by the inspector general of the  
34 | department. The study shall be conducted every 3 years and at  
35 | such other times as deemed necessary by the inspector general. A  
36 | minimum billing and automated refund amount shall be established  
37 | and adjusted in accordance with the results of such study.

38 |       (c) Any change in minimum billing or automated refund  
39 | amounts shall be made effective on July 1 following the  
40 | completion of the study.

41 |       (3) (a) An administrative collection processing fee is  
42 | hereby imposed to offset payment processing and administrative  
43 | costs incurred by the state due to late payments of collection  
44 | events. The department shall collect the administrative  
45 | collection processing fee from any taxpayer who fails to pay the  
46 | full amount of tax, penalty, and interest due within 90 days  
47 | from initial notification of the collection event. The  
48 | department may waive or reduce the administrative collection  
49 | processing fee if the taxpayer demonstrates that the failure to  
50 | pay the full amount due within 90 days from the initial  
51 | notification was due to extraordinary circumstances. The  
52 | administrative collection processing fee shall apply to those  
53 | taxes and fees listed in s. 213.05 and chapter 443.

54 |       (b) As used in this subsection:

- 55 |       1. "Collection event" means when a taxpayer fails to:  
56 |       a. Timely file a complete return;

57 b. Timely pay the full amount of tax reported on a return;

58 or

59 c. Timely pay the full amount due resulting from an audit  
 60 after all appeal rights have expired or the result has been  
 61 finally determined.

62 2. "Extraordinary circumstances" means events beyond the  
 63 control of the taxpayer, including, but not limited to: the  
 64 taxpayer's death; acts of war or terrorism; natural disaster,  
 65 fire, or other casualty; or the nonfeasance or misfeasance of  
 66 the taxpayer's employee or representative responsible for  
 67 complying with the taxes and fees listed in s. 213.05 and  
 68 chapter 443. With respect to acts of the taxpayer's employee or  
 69 representative, the taxpayer must show that the principals of  
 70 the business lacked actual knowledge of the collection event and  
 71 any notification of the collection event.

72 (c) The administrative collection processing fee shall be  
 73 equal to 10 percent of the total amount of tax, penalty, and  
 74 interest that remains unpaid after 90 days, or \$10 for each  
 75 collection event, whichever is greater. The administrative  
 76 collection processing fee shall be imposed in addition to the  
 77 taxes, fees, penalties, and interest prescribed by law.

78 (d) Administrative collection processing fees collected  
 79 pursuant to this subsection shall be deposited into the General  
 80 Revenue Fund.

81 Section 2. Section 213.75, Florida Statutes, is amended to  
 82 read:

83 213.75 Application of payments.--

84 (1) Except for any payment made pursuant to s. 213.21, or

85 as otherwise specified by the taxpayer at the time he or she  
 86 makes a payment, whenever any payment is made to the department  
 87 with respect to any of the revenue laws of this state, such  
 88 payment shall be applied in priority order as follows:

- 89 (a) First, against the accrued interest, if any;
- 90 (b) The remaining amount, if any, ~~remaining after the~~  
 91 ~~application to interest~~ shall be credited against any accrued  
 92 penalty; ~~and~~
- 93 (c) The remaining amount, if any, shall be credited  
 94 against the administrative collection processing fee; and
- 95 (d) The remaining amount, if any, ~~remaining after~~  
 96 ~~application to interest and penalty~~ shall be credited to any tax  
 97 due.

98 (2) If a warrant or lien has been filed and recorded by  
 99 the department, a payment shall be applied in priority order as  
 100 follows:

- 101 (a) First, against the costs to record ~~of recordation of~~  
 102 the warrant or lien, if any;
- 103 (b) The remaining amount, if any, shall be credited  
 104 against the administrative collection processing fee;
- 105 (c) The remaining amount, if any, ~~remaining~~ shall be  
 106 applied to accrued interest;
- 107 (d)~~(e)~~ The remaining amount, if any, ~~remaining after the~~  
 108 ~~application to interest~~ shall be credited against any accrued  
 109 penalty; and
- 110 (e)~~(d)~~ The remaining amount, if any, ~~remaining after~~  
 111 ~~application to costs, interest, and penalty~~ shall be credited to  
 112 any tax due.

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113 (3) If a levy has been made by the department, a payment  
 114 shall be applied in priority order as follows:

115 (a) First, against the costs to execute ~~of execution of~~  
 116 the levy, if any;

117 (b) The remaining amount, if any, shall be credited  
 118 against the administrative collection processing fee;

119 (c) The remaining amount, if any, ~~remaining~~ shall be  
 120 applied to accrued interest;

121 (d)~~(e)~~ The remaining amount, if any, ~~remaining after the~~  
 122 ~~application to interest~~ shall be credited against any accrued  
 123 penalty; and

124 (e)~~(d)~~ The remaining amount, if any, ~~remaining after~~  
 125 ~~application to costs, interest, and penalty~~ shall be credited to  
 126 any tax due.

127 (4) Any surplus proceeds remaining after the application  
 128 of subsection (3) shall, upon application and satisfactory proof  
 129 thereof, be refunded by the Chief Financial Officer to the  
 130 person or persons legally entitled thereto pursuant to s.  
 131 215.26.

132 Section 3. The fee imposed by section 213.24(3), Florida  
 133 Statutes, shall apply retroactively to any remaining unpaid  
 134 amount of tax, interest, and penalty due from any collection  
 135 event occurring prior to the effective date of this act;  
 136 however, the Department of Revenue may not collect such fee  
 137 until September 1, 2009, calculated on the amount remaining  
 138 unpaid on that date.

139 Section 4. This act shall take effect upon becoming a law.