



499264

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2011	.	
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The Committee on Commerce and Tourism (Lynn) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 3134 - 3252  
and insert:

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported



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13 on the same documents utilized for the sales and use tax, as  
14 compensation for the keeping of prescribed records, filing  
15 timely tax returns, and the proper accounting and remitting of  
16 taxes by them, such seller, person, lessor, dealer, owner, or  
17 ~~and~~ remitter shall be allowed a collection allowance based on a  
18 percentage of tax remitted for a reporting period. The rate of  
19 compensation is:

20 1. 0.75 percent of the first \$6,250 of tax remitted,

21 2. 0.375 percent of the tax remitted exceeding \$6,250 and  
22 less than or equal to \$62,500, and

23 3. 0.1875 percent of the tax remitted exceeding \$62,500.

24 (a) The amount of collection allowance for each seller,  
25 person, lessor, dealer, owner, or remitter is limited based on  
26 the amount of sales and use tax remitted in the twelve month  
27 period ending June 30 of the previous calendar year. No  
28 collection allowance will be allowed on the total tax remitted  
29 by any seller, person, lessor, dealer, owner, or remitter in any  
30 month in excess of:

31 1. \$750,000, if the total amount remitted by all dealers in  
32 the previous year was equal to or less than \$1,000,000,000.00;

33 2. \$1,000,000, if the total amount remitted by all dealers  
34 in the previous year was greater than \$1,000,000,000.00 but  
35 equal to or less than \$2,500,000,000.00;

36 3. \$3,000,000.00, if the total amount remitted by all  
37 dealers in the previous year was greater than \$2,500,000,000.00  
38 but equal to or less than \$5,000,000,000.00;

39 4. \$5,000,000.00, if the total amount remitted by all  
40 dealers in the previous year was greater than \$5,000,000,000.00  
41 but equal to or less than \$7,500,000,000.00;



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42           5. \$7,000,000.00, if the total amount remitted by all  
43 dealers in the previous year was greater than \$7,500,000,000.00  
44 but equal to or less than \$10,000,000,000.00; or

45           6. \$10,000,000.00, if the total amount remitted by all  
46 dealers in the previous year was greater than \$10,000,000.00.  
47 ~~(except dealers who make mail order sales) shall be allowed 2.5~~  
48 ~~percent of the amount of the tax due and accounted for and~~  
49 ~~remitted to the department, in the form of a deduction in~~  
50 ~~submitting his or her report and paying the amount due by him or~~  
51 ~~her; the department shall allow such deduction of 2.5 percent of~~  
52 ~~the amount of the tax to the person paying the same for~~  
53 ~~remitting the tax and making of tax returns in the manner herein~~  
54 ~~provided, for paying the amount due to be paid by him or her,~~  
55 ~~and as further compensation to dealers in tangible personal~~  
56 ~~property for the keeping of prescribed records and for~~  
57 ~~collection of taxes and remitting the same. However, if the~~  
58 ~~amount of the tax due and remitted to the department for the~~  
59 ~~reporting period exceeds \$1,200, no allowance shall be allowed~~  
60 ~~for all amounts in excess of \$1,200. The executive director of~~  
61 ~~the department is authorized to negotiate a collection~~  
62 ~~allowance, pursuant to rules promulgated by the department, with~~  
63 ~~a dealer who makes mail order sales. The rules of the department~~  
64 ~~shall provide guidelines for establishing the collection~~  
65 ~~allowance based upon the dealer's estimated costs of collecting~~  
66 ~~the tax, the volume and value of the dealer's mail order sales~~  
67 ~~to purchasers in this state, and the administrative and legal~~  
68 ~~costs and likelihood of achieving collection of the tax absent~~  
69 ~~the cooperation of the dealer. However, in no event shall the~~  
70 ~~collection allowance negotiated by the executive director exceed~~



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71 ~~10 percent of the tax remitted for a reporting period.~~

72 (b) ~~(a)~~ The Department of Revenue may deny the collection  
73 allowance if a taxpayer files an incomplete return or if the  
74 required tax return or tax is delinquent at the time of payment.

75 1. An "incomplete return" is, for purposes of this chapter,  
76 a return that ~~which~~ is lacking such uniformity, completeness,  
77 and arrangement that the physical handling, verification, review  
78 of the return, or determination of other taxes and fees reported  
79 on the return may not be readily accomplished.

80 2. The department shall adopt rules requiring such  
81 information as it may deem necessary to ensure that the tax  
82 levied hereunder is properly collected, reviewed, compiled,  
83 reported, and enforced, including, but not limited to: the  
84 amount of gross sales; the amount of taxable sales; the amount  
85 of tax collected or due; the amount of lawful refunds,  
86 deductions, or credits claimed; the amount claimed as the  
87 dealer's collection allowance; the amount of penalty and  
88 interest; the amount due with the return; and such other  
89 information as the Department of Revenue may specify. The  
90 department shall require that transient rentals and agricultural  
91 equipment transactions be separately shown. Sales made through  
92 vending machines as defined in s. 212.0515 must be separately  
93 shown on the return. Sales made through coin-operated amusement  
94 machines as defined by s. 212.02 and the number of machines  
95 operated must be separately shown on the return or on a form  
96 prescribed by the department. If a separate form is required,  
97 the same penalties for late filing, incomplete filing, or  
98 failure to file as provided for the sales tax return shall apply  
99 to said form.



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100            (c) ~~(b)~~ The collection allowance and other credits or  
101 deductions provided in this chapter shall be applied  
102 proportionally to any taxes or fees reported on the same  
103 documents used for the sales and use tax.

104            (d) ~~(e)~~ 1. A dealer entitled to the collection allowance  
105 provided in this section may elect to forego the collection  
106 allowance and direct that said amount be transferred into the  
107 Educational Enhancement Trust Fund. Such an election must be  
108 made with the timely filing of a return and may not be rescinded  
109 once made. If a dealer who makes such an election files a  
110 delinquent return, underpays the tax, or files an incomplete  
111 return, the amount transferred into the Educational Enhancement  
112 Trust Fund shall be the amount of the collection allowance  
113 remaining after resolution of liability for all of the tax,  
114 interest, and penalty due on that return or underpayment of tax.  
115 The Department of Education shall distribute the remaining  
116 amount from the trust fund to the school districts that have  
117 adopted resolutions stating that those funds will be used to  
118 ensure that up-to-date technology is purchased for the  
119 classrooms in the district and that teachers are trained in the  
120 use of that technology. Revenues collected in districts that do  
121 not adopt such a resolution shall be equally distributed to  
122 districts that have adopted such resolutions.

123            2. This paragraph applies to all taxes, surtaxes, and any  
124 local option taxes administered under this chapter and remitted  
125 directly to the department. This paragraph does not apply to any  
126 locally imposed and self-administered convention development  
127 tax, tourist development tax, or tourist impact tax administered  
128 under this chapter.



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129           3. Revenues from the dealer-collection allowances shall be  
130 transferred quarterly from the General Revenue Fund to the  
131 Educational Enhancement Trust Fund. The Department of Revenue  
132 shall provide to the Department of Education quarterly  
133 information about such revenues by county to which the  
134 collection allowance was attributed.

135  
136 Notwithstanding any provision of chapter 120 to the contrary,  
137 the Department of Revenue may adopt rules to carry out the  
138 amendment made by chapter 2006-52, Laws of Florida, to this  
139 section.

140           (e) Notwithstanding paragraph (a), a small remote seller  
141 may elect to receive a collection allowance of 20 percent of the  
142 tax to be remitted to the state, not to exceed compensation of  
143 \$85.00 in any month in lieu of compensation provided in  
144 subparagraph (b). Such election shall be effective for a six-  
145 month period beginning with the first month that such seller  
146 collects Florida tax. After six months, the collection allowance  
147 shall be those rates established in subsection (b). The  
148 increased amount of collection allowance by this paragraph shall  
149 be available to a small remote seller which begins collecting  
150 tax for the state within the first 12 months following the date  
151 of registration.

152           1. "Small remote seller" means a new remote seller which  
153 has gross national remote sales of no more than \$5,000,000.00  
154 and would not otherwise be required to register in this state.

155           2. "New remote seller" means a remote seller who registers  
156 under the agreement, as provided in s. 213.2567, and who was not  
157 previously required to collect sales or use tax. A seller merely



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158 reincorporating, changing its name, or having a change in  
159 ownership or any other similar change in its business structure  
160 or operation is not a new remote seller.

161 3. "Remote seller" means a seller not that would not be  
162 registered in this state but for the ability of this state to  
163 require the seller to collect sales or use tax under federal  
164 authority.

165 (f) If sales and use tax collection from remote sellers is  
166 not greater than 20 percent of the amount determined by the  
167 Revenue Estimating Conference of potential collections by July  
168 1, 2014, then the collection allowance shall be reduced to 2.5  
169 percent of tax collected, not to exceed \$30.

170 (g) Notwithstanding paragraphs (a) and (b), a Model 1  
171 seller, as defined in s. 213.256 is not entitled to the  
172 collection allowance described in paragraphs (a) and (b).

173 (h)1. In addition to any collection allowance that may be  
174 provided under this subsection, the department may provide the  
175 monetary allowances required to be provided by the state to  
176 certified service providers and voluntary sellers pursuant to  
177 Article VI of the Streamlined Sales and Use Tax Agreement, as  
178 amended.

179 2. Such monetary allowances must be in the form of  
180 collection allowances that certified service providers or  
181 voluntary sellers are permitted to retain from the tax revenues  
182 collected on remote sales to be remitted to the state pursuant  
183 to this chapter.

184  
185 ===== T I T L E A M E N D M E N T =====

186 And the title is amended as follows:



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187           Between lines 79 and 80  
188 insert:  
189           authorizing collection allowances; setting  
190           requirements for a collection allowance to be allowed;  
191           authorizing collection allowances for certain remote  
192           sellers; providing for a reduction;