

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on Finance and Tax

BILL: CS/SB 2068

INTRODUCER: Budget Subcommittee on Finance and Tax

SUBJECT: Taxation

DATE: February 1, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Diez-Arguelles	BFT	Fav/CS
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill limits the dealer’s collection allowance to those tax dealers who file returns and pay taxes by electronic means. The dealer collection allowance compensates sales tax dealers up to \$30 per return for keeping records, filing timely tax returns and properly accounting and remitting taxes.

This bill updates the Florida Income Tax Code to reflect changes Congress made to the U.S. Internal Revenue Code of 1986 by adopting the Internal Revenue Code as in effect on January 1, 2012. The change will apply retroactively to January 1, 2012.

This bill also revises the date on which an estimated corporate tax payment is due. Currently estimated payments are due on the last day of the applicable month; if the last day of the month falls on a Saturday, Sunday, or legal holiday these payments are not credited to the state until the next business day. This bill provides that, effective July 1, 2012, if the estimated tax payment falls due on a Saturday, Sunday, or legal holiday these payments must be paid on or before the preceding day that is not a Saturday, Sunday, or holiday.

The bill has an effective date of upon becoming law and applies retroactively to January 1, 2012 unless otherwise provided.

The bill substantially amends ss. 212.12, 220.03, 220.13, 220.33, F.S., and reenacts s. 723.008, F.S.

II. Present Situation:

Dealer's Collection Allowance

Section 212.12, F.S., provides a credit, referred to as the dealer's collection allowance, against sales tax due, for the purpose of compensating sales tax remitters for keeping prescribed records, filing timely tax returns, and properly accounting and remitting taxes. The amount of the credit, which is taken as a deduction from taxes due, is 2.5 percent of the amount of tax due. However, no credit is allowed for any tax due that exceeds \$1,200, effectively capping the credit at \$30 per reporting period.

Section 213.755, F.S., authorizes the executive director of the Department of Revenue (department) to require certain taxpayers to file returns and remit payments by electronic means. If the taxpayer has paid a tax in the prior state fiscal year of at least \$20,000, including combined returns for two or more places of business, the taxpayer is subject to this requirement. The department may waive the requirement for a taxpayer who is unable to comply despite good faith efforts or due to circumstances beyond the taxpayer's control.

Corporate Income Tax

Section 220.11, F.S., imposes a 5.5 percent tax on the taxable income of corporations doing business in Florida. For simplicity's sake, the determination of taxable income for Florida tax purposes begins with the taxable income used for Federal income tax purposes. This means that a corporation paying taxes in Florida receives the same benefits from deductions allowed in determining its federal taxable income. With federal taxable income as a starting point, Florida law then requires a variety of additions and subtractions to reflect Florida-specific policies.

Florida maintains this relationship by each year adopting the Federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income. The bill adopting the federal code is referred to as the "piggyback bill."

Section 220.24, F.S., requires each corporate income taxpayer to declare its estimated tax for the taxable year, if the amount payable as estimated tax can be expected to be more than \$2,500. Section 220.33, F.S., requires these taxpayers to pay estimated taxes in equal installments, depending upon when they are required to file their declarations of estimated taxes. The payments are due before the first day of specified months, including the 7th month of the taxable year, which for calendar-year corporations is also the first month of the state's fiscal year.

If the day on which an estimated payment due is a Saturday, Sunday, or legal holiday, payments made on that day will not be credited to the state until the following business day. Under this circumstance, estimated payments due before July 1 will fall into the next state fiscal year.

III. Effect of Proposed Changes:

The bill amends s. 212.12, F.S., to provide that the dealer's collection allowance applies to only those taxpayers who file returns and pay taxes due on those returns by electronic means. The bill also reenacts s. 723.008, F.S., which contains a reference to s. 212.12, F.S.

The bill updates the Florida Income Tax Code to reflect changes Congress made to the U.S. Internal Revenue Code of 1986 by adopting the Internal Revenue Code as in effect on January 1, 2012. The change will apply retroactively to January 1, 2012.

The bill also amends s. 220.33, F.S., to provide that, notwithstanding any administrative rule or department determination to the contrary, any estimated payment which would otherwise be due no later than Sunday, June 30, 2013 must be paid on or before June 28, 2013. This section takes effect July 1, 2012, and will have the effect of shifting corporate tax revenue from fiscal year 2013-14 to fiscal year 2012-13. It does not affect total tax revenue collected over the two years.

The bill requires the department to provide adequate notice to affected taxpayers of the change in due date, by revising its corporate income tax forms, creating a Taxpayer Information Publication, and revising the due dates provided on its electronic filing calendar.

The department is granted emergency rulemaking authority in order to implement the provisions of the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has estimated that eliminating the dealer's collection allowance for paper filers increases General Revenue by \$8.1 million in 2012-13. Local revenue increases by \$1.9 million in 2012-13, and EETF revenue decreases

\$0.2 million in that period. All of these amounts are expected to decrease over time as additional taxpayers switch to electronic returns and payments.

This bill maintains the link between Florida's corporate income tax code and the current federal income tax code.

The REC estimates that changing the filing date for the corporate income tax estimated payment due in June 2013 increases General Revenue by \$100 million in FY 2012-13, and decreases FY 2013-14 General Revenue by \$100 million.

B. Private Sector Impact:

In FY 2010-11, 1.7 million sales tax paper tax returns were filed and the filers received \$16.7 million in collection allowance. It is estimated that passage of this bill will encourage 30 percent of all paper returns to be switched to electronic filing in FY 2012-13, and the number will grow to 40 percent by FY 2014-14 and thereafter.

Paper filers collect mostly small amounts of tax; 1.3 million returns (of the 1.7 million total paper returns) received a collection allowance of less than \$15; almost 800,000 paper returns received a collection allowance of less than \$5.

This bill allows taxpayers to use their federal tax returns as the starting point for their Florida returns and simplifies filing and recordkeeping requirements for Florida corporations. It also requires estimated payments to be made on the preceding business day if the estimated tax payment falls due on a Saturday, Sunday, or legal holiday.

C. Government Sector Impact:

This bill encourages taxpayers to file tax returns and make payments electronically, which will improve efficiency and reduce costs for the department.

It also shifts \$100 million in General Revenue from FY 2013-14 to FY 2012-13.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Budget Subcommittee on Finance and Tax on February 1, 2012:

- Provides that the estimated corporate income tax payment otherwise due on June 30, 2013 must be paid by June 28, 2013.

- Requires the Department of Revenue to take specific actions to provide adequate notice of the change in due date.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
