

By the Committees on Budget Subcommittee on Finance and Tax; and
Budget Subcommittee on Finance and Tax

593-02760-12

20122068c1

1 A bill to be entitled

2 An act relating to taxation; amending s. 212.12, F.S.;
3 providing for the collection of allowances of the
4 amount of tax due by persons who file returns only by
5 electronic means and pay the amount due on such
6 returns only by electronic means; deleting provisions
7 that provide for the collection of such allowances by
8 persons who file paper returns; defining the term
9 "electronic means" for purposes of collecting
10 allowances of the amount of tax due by persons who
11 file sales and use tax returns; providing for
12 applicability; amending s. 220.03, F.S.; adopting the
13 2012 version of the Internal Revenue Code for purposes
14 of ch. 220, F.S.; providing for retroactive operation;
15 amending s. 220.33, F.S.; changing the filing date for
16 estimated tax under certain circumstances; providing
17 for future expiration; authorizing the Department of
18 Revenue to adopt emergency rules; reenacting s.
19 723.008, F.S., relating to certain fees, penalties,
20 and fines applicable to the "Florida Mobile Home Act,"
21 to incorporate the amendment made to s. 212.12, F.S.,
22 in a reference thereto; requiring the Department of
23 Revenue to provide adequate notice to affected
24 taxpayers relating to earlier due dates for making an
25 estimated payment; providing effective dates.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Effective July 1, 2012, and applicative to

593-02760-12

20122068c1

30 returns due on or after that date, subsection (1) of section
31 212.12, Florida Statutes, is amended to read:

32 212.12 Dealer's credit for collecting tax; penalties for
33 noncompliance; powers of Department of Revenue in dealing with
34 delinquents; brackets applicable to taxable transactions;
35 records required.—

36 (1) (a)1. Notwithstanding any other ~~provision of~~ law and for
37 the purpose of compensating persons granting licenses for and
38 the lessors of real and personal property taxed hereunder, for
39 the purpose of compensating dealers in tangible personal
40 property, for the purpose of compensating dealers providing
41 communication services and taxable services, for the purpose of
42 compensating owners of places where admissions are collected,
43 and for the purpose of compensating remitters of any taxes or
44 fees reported on the same documents utilized for the sales and
45 use tax, as compensation for the keeping of prescribed records,
46 filing timely tax returns, and the proper accounting and
47 remitting of taxes by them, such seller, person, lessor, dealer,
48 owner, and remitter (except dealers who make mail order sales)
49 who files the return required pursuant to s. 212.11 only by
50 electronic means and who pays the amount due on such return only
51 by electronic means shall be allowed 2.5 percent of the amount
52 of the tax due, ~~and~~ and accounted for, and remitted to the
53 department, ~~in the form of a deduction in submitting his or her~~
54 ~~report and paying the amount due by him or her; the department~~
55 ~~shall allow such deduction of 2.5 percent of the amount of the~~
56 ~~tax to the person paying the same for remitting the tax and~~
57 ~~making of tax returns in the manner herein provided, for paying~~
58 ~~the amount due to be paid by him or her, and as further~~

593-02760-12

20122068c1

59 ~~compensation to dealers in tangible personal property for the~~
60 ~~keeping of prescribed records and for collection of taxes and~~
61 ~~remitting the same.~~ However, if the amount of the tax due and
62 remitted to the department by electronic means for the reporting
63 period exceeds \$1,200, an ~~no~~ allowance is not ~~shall be~~ allowed
64 for all amounts in excess of \$1,200. For purposes of this
65 subparagraph, the term "electronic means" has the same meaning
66 as provided in s. 213.755(2)(c).

67 2. The executive director of the department is authorized
68 to negotiate a collection allowance, pursuant to rules
69 promulgated by the department, with a dealer who makes mail
70 order sales. The rules of the department shall provide
71 guidelines for establishing the collection allowance based upon
72 the dealer's estimated costs of collecting the tax, the volume
73 and value of the dealer's mail order sales to purchasers in this
74 state, and the administrative and legal costs and likelihood of
75 achieving collection of the tax absent the cooperation of the
76 dealer. However, in no event shall the collection allowance
77 negotiated by the executive director exceed 10 percent of the
78 tax remitted for a reporting period.

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

82 1. An "incomplete return" is, for purposes of this chapter,
83 a return which is lacking such uniformity, completeness, and
84 arrangement that the physical handling, verification, review of
85 the return, or determination of other taxes and fees reported on
86 the return may not be readily accomplished.

87 2. The department shall adopt rules requiring such

593-02760-12

20122068c1

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

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

111 (d) ~~(e)~~ 1. A dealer entitled to the collection allowance
112 provided in this section may elect to forego the collection
113 allowance and direct that the ~~said~~ amount be transferred into
114 the Educational Enhancement Trust Fund. Such an election must be
115 made with the timely filing of a return and may not be rescinded
116 once made. If a dealer who makes such an election files a

593-02760-12

20122068c1

117 delinquent return, underpays the tax, or files an incomplete
118 return, the amount transferred into the Educational Enhancement
119 Trust Fund shall be the amount of the collection allowance
120 remaining after resolution of liability for all of the tax,
121 interest, and penalty due on that return or underpayment of tax.
122 The Department of Education shall distribute the remaining
123 amount from the trust fund to the school districts that have
124 adopted resolutions stating that those funds will be used to
125 ensure that up-to-date technology is purchased for the
126 classrooms in the district and that teachers are trained in the
127 use of that technology. Revenues collected in districts that do
128 not adopt such a resolution shall be equally distributed to
129 districts that have adopted such resolutions.

130 2. This paragraph applies to all taxes, surtaxes, and any
131 local option taxes administered under this chapter and remitted
132 directly to the department. This paragraph does not apply to a
133 ~~any~~ locally imposed and self-administered convention development
134 tax, tourist development tax, or tourist impact tax administered
135 under this chapter.

136 3. Revenues from the dealer-collection allowances shall be
137 transferred quarterly from the General Revenue Fund to the
138 Educational Enhancement Trust Fund. The Department of Revenue
139 shall provide to the Department of Education quarterly
140 information about such revenues by county to which the
141 collection allowance was attributed.

142
143 Notwithstanding any provision of chapter 120 to the contrary,
144 the Department of Revenue may adopt rules to carry out the
145 amendment made by chapter 2006-52, Laws of Florida, to this

593-02760-12

20122068c1

146 section.

147 Section 2. Effective upon this act becoming a law and
148 operating retroactively to January 1, 2012, paragraph (n) of
149 subsection (1) and subsection (2) of section 220.03, Florida
150 Statutes, are amended to read:

151 220.03 Definitions.—

152 (1) SPECIFIC TERMS.—When used in this code, and when not
153 otherwise distinctly expressed or manifestly incompatible with
154 the intent thereof, the following terms shall have the following
155 meanings:

156 (n) "Internal Revenue Code" means the United States
157 Internal Revenue Code of 1986, as amended and in effect on
158 January 1, 2012 ~~2011~~, except as provided in subsection (3).

159 (2) DEFINITIONAL RULES.—When used in this code and neither
160 otherwise distinctly expressed nor manifestly incompatible with
161 the intent thereof:

162 (a) The word "corporation" or "taxpayer" shall be deemed to
163 include the words "and its successors and assigns" as if these
164 words, or words of similar import, were expressed;

165 (b) Any term used in any section of this code with respect
166 to the application of, or in connection with, the provisions of
167 any other section of this code shall have the same meaning as in
168 such other section; and

169 (c) Any term used in this code shall have the same meaning
170 as when used in a comparable context in the Internal Revenue
171 Code and other statutes of the United States relating to federal
172 income taxes, as such code and statutes are in effect on January
173 1, 2012 ~~2011~~. However, if subsection (3) is implemented, the
174 meaning of any term shall be taken at the time the term is

593-02760-12

20122068c1

175 applied under this code.

176 Section 3. Present subsection (7) of section 220.33,
177 Florida Statutes, is renumbered as subsection (8), and a new
178 subsection (7) is added to that section, to read:

179 220.33 Payments of estimated tax.—A taxpayer required to
180 file a declaration of estimated tax pursuant to s. 220.24 shall
181 pay such estimated tax as follows:

182 (7) Notwithstanding any administrative rule or
183 determination of the department which allows estimated payments
184 otherwise due on a Saturday, Sunday, or legal holiday to be paid
185 on the next succeeding day that is not a Saturday, Sunday, or
186 legal holiday, any estimated tax payment required under this
187 section which would otherwise be due no later than Sunday, June
188 30, 2013, shall be paid on or before June 28, 2013. This
189 subsection expires July 1, 2014.

190 Section 4. (1) The executive director of the Department of
191 Revenue is authorized to adopt emergency rules pursuant to ss.
192 120.536(1) and 120.54(4), Florida Statutes, for the purpose of
193 implementing section 3 of this act.

194 (2) Notwithstanding any other law, the emergency rules
195 adopted pursuant to this section shall remain in effect for 6
196 months after adoption and may be renewed during the pendency of
197 procedures to adopt permanent rules addressing the subject of
198 the emergency rules.

199 Section 5. For the purpose of incorporating the amendments
200 made by this act to section 212.12, Florida Statutes, in a
201 reference thereto, section 723.008, Florida Statutes, is
202 reenacted to read:

203 723.008 Applicability of chapter 212 to fees, penalties,

593-02760-12

20122068c1

204 and fines under this chapter.—The same duties and privileges
205 imposed by chapter 212 upon dealers in tangible property
206 respecting the collection and remission of tax; the making of
207 returns; the keeping of books, records, and accounts; and the
208 compliance with the rules of the enforcing agency in the
209 administration of that chapter apply to and are binding upon all
210 persons who are subject to the fee, penalty, and fine provisions
211 of this chapter. However, the provisions of s. 212.12(1) do not
212 apply to this chapter.

213 Section 6. The Department of Revenue shall provide adequate
214 notice to affected taxpayers of the earlier due date for making
215 an estimated payment established by this act. The department may
216 satisfy this requirement by revising its corporate income tax
217 return forms, creating a Tax Information Publication, and
218 revising the due dates provided on its electronic filing
219 calendar.

220 Section 7. Except as otherwise expressly provided in this
221 act and except for this section, which shall take effect upon
222 this act becoming a law, this act shall take effect July 1,
223 2012.