

**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 Appropriations Subcommittee on Finance and Tax

BILL: CS/SB 1280

INTRODUCER: Appropriations Subcommittee on Finance and Tax and Senator Sachs

SUBJECT: Tax Dealer Collection Allowances

DATE: April 11, 2013                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McLaughlin	Klebacha	ED	<b>Favorable</b>
2.	Cote	Diez-Arguelles	AFT	<b>Fav/CS</b>
3.			AP	
4.				
5.				
6.				

**I. Summary:**

CS/SB 1280 revises the process through which sales tax dealers forgo the sales tax collection allowance and direct the collection allowance amount to be transferred into the Educational Enhancement Trust Fund. The proposed change would keep the election for the remainder of the calendar year unless the dealer indicates termination of the election by filing a return that deducts the collection allowance from the amount of tax due.

This bill has no impact on state or local revenues.

This bill provides an effective date of January 1, 2014.

This bill amends section 212.12 of the Florida Statutes.

**II. Present Situation:**

**Sales and Use Taxes**

Chapter 212, F.S., contains the state’s statutory provisions authorizing the levying and collection of Florida’s sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Florida imposes a six percent tax on tangible personal property sold, used, consumed, distributed, stored for use or consumption, rented, or leased in Florida.<sup>1</sup>

<sup>1</sup> See ss. 212.05 and 212.06, F.S.

Section 212.12(1)(d), F.S., allows sales tax dealers who are entitled to a collection allowance to direct the amount of the allowance be deposited into the Educational Enhancement Trust Fund (EETF) when filing a sales tax return with the Florida Department of Revenue. The return must be timely filed for the dealer to make the election.<sup>2</sup> If the return is filed late, or the election is not made on the return when filed, the dealer is prohibited from making the election for that reporting period.<sup>3</sup> The dealer must make an election for each return filed.

### **The Educational Enhancement Trust Fund (EETF)**

The EETF was established to administer the proceeds from lottery sales and the slot machine tax revenues.<sup>4</sup> The first lottery revenues transferred to the EETF in each fiscal year are secured for debt service payable on the bonds issued by the state for the construction, maintenance, or repair of schools under the Classrooms First Program (the 1997 School Capital Outlay Bond Program) and the Classrooms for Kids Program (the 2003 Class Size Reduction Lottery Revenue Program).<sup>5</sup>

The revenue remaining in the EETF after providing for debt service obligations is appropriated to benefit public education, at the discretion of the Legislature.<sup>6</sup> The largest appropriation from the Educational Enhancement Trust Fund<sup>7</sup> is for the Bright Futures Scholarship Program, which is a merit-based scholarship program designed to provide college scholarships to students who achieve certain academic levels in high school.<sup>8</sup>

The next largest appropriations are the Florida School Recognition Program, which rewards individual public K-12 schools that sustain high performance or demonstrate exemplary improvement<sup>9</sup> and the class size reduction appropriation, which provides operating funds to school districts for the purpose of reducing class sizes.<sup>10</sup>

Public educational programs and purposes funded by the EETF may include, but are not limited to: endowments, scholarships, matching funds, direct grants, research and economic development related to education, salary enhancement, contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education, and other educational programs or purposes deemed desirable by the Legislature.<sup>11</sup>

### **III. Effect of Proposed Changes:**

SB 1280 provides that the sales tax dealer's election to direct the amount of the allowance deposited into the EETF will remain the dealer's election for subsequent periods of the calendar

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<sup>2</sup> s. 212.12(1)(a)2.b., F.S.

<sup>3</sup> s. 212.12(1)(d)1, F.S.

<sup>4</sup> See ss. 24.121(2) and 551.106(2)(b), F.S.

<sup>5</sup> See ss. 24.121(2), 1013.68, 1013.70, 1013.735, and 1013.737, F.S.

<sup>6</sup> s. 24.121(2), F.S.

<sup>7</sup> *2012-13 Education Appropriations*, Florida Department of Education, October 2012, [www.fldoe.org/fefp/pdf/lotbook.pdf](http://www.fldoe.org/fefp/pdf/lotbook.pdf) (last visited March 21, 2013)

<sup>8</sup> See ss. 1009.53-1009.538, F.S.

<sup>9</sup> s. 1008.36, F.S.

<sup>10</sup> See ss. 1003.03 and 1011.685, F.S.

<sup>11</sup> s. 24.121(5)(a), F.S.

year unless the dealer indicates termination of the election by filing a return that deducts the collection allowance from the amount of tax due. This would allow the sales tax dealer to make one election in a calendar year instead of having to make the election on each return.

The bill is effective January 1, 2014 and applies to sales and use tax returns due on or after February 1, 2014.

**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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

In order to implement the statutory change in this bill, the Department of Revenue (DOR) may need to change the programming for the electronic sales and use tax return and the instructions regarding how to make the election.

**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.)

**Recommended CS by Appropriations Subcommittee on Finance and Tax on April 11, 2013:**

The CS changes the effective date to January 1, 2014.

- B. **Amendments:**

None.