



350176

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/25/2014	.	
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The Committee on Appropriations (Lee) recommended the following:

Senate Amendment (with title amendment)

Between lines 642 and 643
insert:

Section 8. Section 212.17, Florida Statutes, is reordered
and amended to read:

212.17 Tax credits or refunds ~~for returned goods, rentals,
or admissions; goods acquired for dealer's own use and
subsequently resold; additional powers of department.-~~

(1) (a) If ~~In the event~~ purchases are returned to a dealer
by the purchaser or consumer after the tax imposed by this



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12 chapter has been collected from or charged to the account of the
13 consumer or user, the dealer is ~~shall be~~ entitled to
14 reimbursement of the amount of tax collected or charged by the
15 dealer, in the manner prescribed by the department.

16 (b) A registered dealer that purchases property for the
17 dealer's own use, pays tax on acquisition, and sells the
18 property subsequent to acquisition without ~~ever~~ having used the
19 property is entitled to reimbursement, in the manner prescribed
20 by the department, of the amount of tax paid on the property's
21 acquisition.

22 (c) If the tax has not been remitted by a dealer to the
23 department, the dealer may deduct the same in submitting his or
24 her return upon receipt of a signed statement by ~~of~~ the dealer
25 as to the gross amount of such refunds during the period covered
26 by the ~~said~~ signed statement, which may ~~period shall~~ not be
27 longer than 90 days. The department shall issue to the dealer an
28 official credit memorandum equal to the net amount remitted by
29 the dealer for such tax collected or paid. Such memorandum shall
30 be accepted by the department at full face value from the dealer
31 to whom it is issued upon, ~~in~~ the remittance of ~~for~~ subsequent
32 taxes accrued under ~~the provisions of~~ this chapter. If a dealer
33 has retired from business and ~~has~~ filed a final return, a refund
34 of tax may be made if it can be established to the satisfaction
35 of the department that the tax was not due.

36 (2) A dealer who has paid the tax imposed by this chapter
37 on tangible personal property sold under a retained title,
38 conditional sale, or similar contract, or under a contract in
39 which ~~wherein~~ the dealer retains a security interest in the
40 property pursuant to chapter 679, may take credit or obtain a



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41 refund for the tax paid by the dealer on the unpaid balance due
42 him or her when he or she repossesses the property, ~~(with or~~
43 ~~without judicial process,)~~ the property within 12 months after
44 ~~following~~ the month in which the property was repossessed. If
45 ~~When~~ such repossessed property is resold, the sale is subject in
46 all respects to the tax imposed by this chapter.

47 (3) Except as provided under subsection (4), a dealer who
48 has paid the tax imposed by this chapter on tangible personal
49 property or services may take a credit or obtain a refund for
50 any tax paid by the dealer on the unpaid balance due on
51 worthless accounts within 12 months after ~~following~~ the month in
52 which the bad debt has been charged off for federal income tax
53 purposes. If any accounts so charged off for which a credit or
54 refund has been obtained are subsequently, ~~thereafter~~ in whole
55 or in part, paid to the dealer, the amount so paid shall be
56 included in the first return filed after such collection and the
57 tax paid accordingly.

58 (4) With respect to the payment of taxes on purchases made
59 through a private-label credit card program:

60 (a) If consumer accounts or receivables are found to be
61 worthless or uncollectible, the dealer may claim a credit for,
62 or obtain a refund of, the tax remitted by the dealer on the
63 unpaid balance due if:

64 1. The accounts or receivables have been charged off as bad
65 debt on the lender's books and records on or after January 1,
66 2014;

67 2. A credit was not previously claimed and a refund was not
68 previously allowed on any portion of the accounts or
69 receivables; and



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70 3. The credit or refund is claimed within 12 months after
71 the month in which the bad debt is charged off by the lender for
72 federal income tax purposes.

73 (b) If the dealer or the lender subsequently collects, in
74 whole or in part, the accounts or receivables for which a credit
75 or refund has been granted under paragraph (a), the dealer must
76 include the taxable percentage of the amount collected in the
77 first return filed after the collection and pay the tax on the
78 portion of that amount for which a credit or refund was granted.

79 (c) The credit or refund allowed includes all credit sale
80 transaction amounts that are outstanding in the specific
81 private-label credit card account or receivable at the time the
82 account or receivable is charged off, regardless of the date on
83 which the credit sale transaction actually occurred.

84 (d) A dealer may use one of the following methods to
85 determine the amount of the credit or refund:

86 1. An apportionment method to substantiate the amount of
87 tax imposed under this chapter which is included in the bad debt
88 to which the credit or refund applies. The method must use the
89 dealer's Florida and non-Florida sales, the dealer's taxable and
90 nontaxable sales, and the amount of tax the dealer remitted to
91 this state; or

92 2. A specified percentage of the accounts or receivables
93 giving rise to the credit or refund, which is derived from a
94 sampling of the dealer's or lender's records in accordance with
95 a methodology agreed upon by the department and the dealer.

96 (e) For purposes of computing the credit or refund,
97 payments on the accounts or receivables shall be allocated based
98 on the terms and conditions of the contract between the dealer



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99 or lender and the consumer.

100 (f) The credit or refund for tax on bad debt may be claimed
101 on any return filed by an entity related by a direct or indirect
102 common ownership of 50 percent or more.

103 (g) The amount of the credit or refund a dealer is eligible
104 to recover under this subsection is limited to 25 percent of the
105 tax paid to the department which is attributable to bad debt.

106 (h) As used in this subsection, the term:

107 1. "Dealer's affiliates" means an entity affiliated with
108 the dealer under 26 U.S.C. s. 1504 or an entity that would be an
109 affiliate under that section if the entity were a corporation.

110 2. "Lender" means a person who owns or has owned a private-
111 label credit card account or an interest in a private-label
112 credit card receivable that:

113 a. The person purchased directly from a dealer who remitted
114 the tax imposed under this chapter or from the dealer's
115 affiliates, or that was transferred from a third party;

116 b. The person originated pursuant to that person's contract
117 with a dealer who remitted the tax imposed under this chapter or
118 with the dealer's affiliates; or

119 c. Is affiliated in the manner described under 26 U.S.C. s.
120 1504, regardless of whether the different entities are
121 corporations, to a person described in sub-subparagraph a. or
122 sub-subparagraph b. or to an assignee or other transferee of
123 such person.

124 3. "Private-label credit card" means a charge card or
125 credit card that carries, refers to, or is branded with the name
126 or logo of a dealer and can be used for purchases from the
127 dealer whose name or logo appears on the card or for purchases



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128 from the dealer's affiliates or franchisees.

129 (6)-(4)-(a) The department shall:

130 (a) Design, prepare, print and furnish to all dealers,
131 except dealers filing through electronic data interchange, or
132 make available or prescribe to the dealers, all necessary forms
133 for filing returns and instructions to ensure a full collection
134 from dealers and an accounting for the taxes due. The, but
135 failure of a any dealer to secure such forms does not relieve
136 the dealer from the payment of the tax at the time and in the
137 manner provided.

138 (b) The department shall Prescribe the format and
139 instructions necessary for filing returns in a manner that is
140 initiated through an electronic data interchange to ensure a
141 full collection from dealers and an accounting for the taxes
142 due. The failure of a any dealer to use such format does not
143 relieve the dealer from the payment of the tax at the time and
144 in the manner provided.

145 (7)-(5) The department and its assistants are hereby
146 authorized and empowered to administer the oath for the purpose
147 of enforcing and administering the provisions of this chapter.

148 (8)-(6) The department may has authority to adopt rules
149 pursuant to ss. 120.536(1) and 120.54 to administer and enforce
150 the provisions of this section chapter.

151 (5)-(7) If The department, where admissions, license fees,
152 or rental payments, or payments for services are made and
153 thereafter returned to the payors after the taxes thereon have
154 been paid, the department shall return or credit the taxpayer
155 for taxes so paid on the moneys returned in the same manner as
156 is provided for returns or credits of taxes if where purchases



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157 or tangible personal property are returnable to a dealer.

158

159 ===== T I T L E A M E N D M E N T =====

160 And the title is amended as follows:

161 Delete line 33

162 and insert:

163 provision to changes made by the act; amending s.
164 212.17, F.S.; providing procedures, requirements, and
165 calculation methodologies that allow dealers to obtain
166 tax credits or refunds for taxes paid on worthless or
167 uncollectible private-label credit card accounts or
168 receivables; providing a cap on the amount that may be
169 recovered; providing definitions; amending s.