

By the Committee on Finance and Tax

593-03942-23

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1 A bill to be entitled
2 An act relating to taxes on purchases made through
3 private-label credit card programs; amending s.
4 212.17, F.S.; deleting the authority of a dealer,
5 under certain circumstances, to claim a credit for, or
6 obtain a refund of, sales tax remitted by the dealer
7 on the unpaid balance due on certain accounts and
8 receivables; deleting requirements, procedures,
9 limitations, and definitions relating to such credits
10 and refunds; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsections (3) and (4) of section 212.17,
15 Florida Statutes, are amended to read:

16 212.17 Tax credits or refunds.—

17 (3) ~~Except as provided in subsection (4),~~ A dealer who has
18 paid the tax imposed by this chapter on tangible personal
19 property or services may take a credit or obtain a refund for
20 any tax paid by the dealer on the unpaid balance due on
21 worthless accounts within 12 months after the month in which the
22 bad debt has been charged off for federal income tax purposes.
23 If any accounts so charged off for which a credit or refund has
24 been obtained are subsequently, in whole or in part, paid to the
25 dealer, the amount so paid shall be included in the first return
26 filed after such collection and the tax paid accordingly.

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

29 ~~(a) If consumer accounts or receivables are found to be~~

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30 ~~worthless or uncollectible, the dealer may claim a credit for,~~
31 ~~or obtain a refund of, the tax remitted by the dealer on the~~
32 ~~unpaid balance due if:~~

33 ~~1. The accounts or receivables have been charged off as bad~~
34 ~~debt on the lender's books and records on or after January 1,~~
35 ~~2014;~~

36 ~~2. A credit was not previously claimed and a refund was not~~
37 ~~previously allowed on any portion of the accounts or~~
38 ~~receivables; and~~

39 ~~3. The credit or refund is claimed within 12 months after~~
40 ~~the month in which the bad debt has been charged off by the~~
41 ~~lender for federal income tax purposes.~~

42 ~~(b) If the dealer or the lender subsequently collects, in~~
43 ~~whole or in part, the accounts or receivables for which a credit~~
44 ~~or refund has been granted under paragraph (a), the dealer shall~~
45 ~~include the taxable percentage of the amount collected in the~~
46 ~~first return filed after the collection and pay the tax on the~~
47 ~~portion of that amount for which a credit or refund was granted.~~

48 ~~(c) The credit or refund allowed includes all credit sale~~
49 ~~transaction amounts that are outstanding in the specific~~
50 ~~private-label credit card account or receivable at the time the~~
51 ~~account or receivable is charged off, regardless of the date on~~
52 ~~which the credit sale transaction actually occurred.~~

53 ~~(d) A dealer must use one of the following methods to~~
54 ~~determine the amount of the credit or refund:~~

55 ~~1. An apportionment method to substantiate the amount of~~
56 ~~tax imposed under this chapter which is included in the bad debt~~
57 ~~to which the credit or refund applies. The method must use the~~
58 ~~dealer's Florida and non-Florida sales, the dealer's taxable and~~

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59 ~~nontaxable sales, and the amount of tax the dealer remitted to~~
60 ~~this state; or~~

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

65 ~~(c) For purposes of computing the credit or refund,~~
66 ~~payments on the accounts or receivables shall be allocated based~~
67 ~~on the terms and conditions of the contract between the dealer~~
68 ~~or lender and the consumer.~~

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

72 ~~(g) The amount of the credit or refund that a dealer is~~
73 ~~eligible to recover under this subsection is limited to 64.4~~
74 ~~percent of the tax paid to the department which is attributable~~
75 ~~to bad debt.~~

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

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

80 ~~2. "Lender" means a person who owns or has owned a private-~~
81 ~~label credit card account or an interest in a private-label~~
82 ~~credit card receivable that:~~

83 ~~a. The person purchased directly from a dealer who remitted~~
84 ~~the tax imposed under this chapter or from the dealer's~~
85 ~~affiliates, or that was transferred from a third party;~~

86 ~~b. The person originated pursuant to that person's contract~~
87 ~~with a dealer who remitted the tax imposed under this chapter or~~

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88 ~~with the dealer's affiliates; or~~

89 ~~e. Is affiliated in the manner described under 26 U.S.C. s.~~
90 ~~1504, regardless of whether the different entities are~~
91 ~~corporations, with a person described in sub-subparagraph a. or~~
92 ~~sub-subparagraph b. or with an assignee or other transferee of~~
93 ~~such person.~~

94 ~~3. "Private-label credit card" means a charge card or~~
95 ~~credit card that carries, refers to, or is branded with the name~~
96 ~~or logo of a dealer and can be used for purchases from the~~
97 ~~dealer whose name or logo appears on the card or for purchases~~
98 ~~from the dealer's affiliates or franchises.~~

99 Section 2. This act shall take effect July 1, 2023.