

By the Committee on Budget Subcommittee on Finance and Tax

593-02321-12

20122068

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.; specifying the date by which  
16 estimated tax payments must be made when the due date  
17 is a Saturday, Sunday, or legal holiday; authorizing  
18 the Department of Revenue to adopt emergency rules;  
19 reenacting s. 723.008, F.S., relating to certain fees,  
20 penalties, and fines applicable to the "Florida Mobile  
21 Home Act," to incorporate the amendment made to s.  
22 212.12, F.S., in a reference thereto; providing  
23 effective dates.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Effective July 1, 2012, and applicative to  
28 returns due on or after that date, subsection (1) of section  
29 212.12, Florida Statutes, is amended to read:

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30 212.12 Dealer's credit for collecting tax; penalties for  
31 noncompliance; powers of Department of Revenue in dealing with  
32 delinquents; brackets applicable to taxable transactions;  
33 records required.-

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

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

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

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

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

85 2. The department shall adopt rules requiring such  
86 information as it may deem necessary to ensure that the tax  
87 levied hereunder is properly collected, reviewed, compiled,

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

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

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

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

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

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

140  
141 Notwithstanding any provision of chapter 120 to the contrary,  
142 the Department of Revenue may adopt rules to carry out the  
143 amendment made by chapter 2006-52, Laws of Florida, to this  
144 section.

145         Section 2. Effective upon this act becoming a law and

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146 operating retroactively to January 1, 2012, paragraph (n) of  
147 subsection (1) and subsection (2) of section 220.03, Florida  
148 Statutes, are amended to read:

149 220.03 Definitions.—

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

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

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

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

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

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

174 Section 3. Present subsection (7) of section 220.33,

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175 Florida Statutes, is redesignated as subsection (8), and a new  
176 subsection (7) is added to that section, to read:

177       220.33 Payments of estimated tax.—A taxpayer required to  
178 file a declaration of estimated tax pursuant to s. 220.24 shall  
179 pay such estimated tax as follows:

180       (7) If an estimated tax payment required under this section  
181 is due on a Saturday, Sunday, or legal holiday, the estimated  
182 tax payment shall be made on or before the preceding day that is  
183 not a Saturday, Sunday, or legal holiday.

184       Section 4. (1) The executive director of the Department of  
185 Revenue is authorized to adopt emergency rules pursuant to ss.  
186 120.536(1) and 120.54(4), Florida Statutes, for the purpose of  
187 implementing section 3 of this act.

188       (2) Notwithstanding any other law, the emergency rules  
189 adopted pursuant to this section shall remain in effect for 6  
190 months after adoption and may be renewed during the pendency of  
191 procedures to adopt permanent rules addressing the subject of  
192 the emergency rules.

193       Section 5. For the purpose of incorporating the amendments  
194 made by this act to section 212.12, Florida Statutes, in a  
195 reference thereto, section 723.008, Florida Statutes, is  
196 reenacted to read:

197       723.008 Applicability of chapter 212 to fees, penalties,  
198 and fines under this chapter.—The same duties and privileges  
199 imposed by chapter 212 upon dealers in tangible property  
200 respecting the collection and remission of tax; the making of  
201 returns; the keeping of books, records, and accounts; and the  
202 compliance with the rules of the enforcing agency in the  
203 administration of that chapter apply to and are binding upon all

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204 persons who are subject to the fee, penalty, and fine provisions  
205 of this chapter. However, the provisions of s. 212.12(1) do not  
206 apply to this chapter.

207 Section 6. Except as otherwise expressly provided in this  
208 act and except for this section, which shall take effect upon  
209 this act becoming a law, this act shall take effect July 1,  
210 2012.