



747306

LEGISLATIVE ACTION

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

1 **Senate Amendment to Amendment (477076) (with title**
2 **amendment)**

3
4 Between lines 98 and 99
5 insert:

6 Section 5. Section 212.17, Florida Statutes, is reordered
7 and amended to read:

8 212.17 Tax credits or refunds ~~for returned goods, rentals,~~
9 ~~or admissions; goods acquired for dealer's own use and~~
10 ~~subsequently resold; additional powers of department.-~~

11 (1) (a) If ~~In the event~~ purchases are returned to a dealer



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

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

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

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



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41 property pursuant to chapter 679, may take credit or obtain a
42 refund for the tax paid by the dealer on the unpaid balance due
43 him or her when he or she repossesses the property, ~~(with or~~
44 ~~without judicial process,)~~ the property within 12 months after
45 ~~following~~ the month in which the property was repossessed. If
46 ~~When~~ such repossessed property is resold, the sale is subject in
47 all respects to the tax imposed by this chapter.

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

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

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

65 1. The accounts or receivables have been charged off as bad
66 debt on the lender's books and records on or after January 1,
67 2014;

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



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70 receivables; and

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

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

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

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

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

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

97 (e) For purposes of computing the credit or refund,
98 payments on the accounts or receivables shall be allocated based



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99 on the terms and conditions of the contract between the dealer
100 or lender and the consumer.

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

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

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

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

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

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

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

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

126 3. "Private-label credit card" means a charge card or
127 credit card that carries, refers to, or is branded with the name



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128 or logo of a dealer and can be used for purchases from the
129 dealer whose name or logo appears on the card or for purchases
130 from the dealer's affiliates or franchisees.

131 (6)-(4)-(a) The department shall:

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

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

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

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

153 (5)-(7) ~~If The department, where~~ admissions, license fees,
154 ~~or~~ rental payments, or payments for services are made and
155 ~~thereafter~~ returned to the payors after the taxes ~~thereon~~ have
156 been paid, the department shall return or credit the taxpayer



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157 for taxes ~~so~~ paid on the moneys returned in the same manner as
158 ~~is~~ provided for returns or credits of taxes if ~~where~~ purchases
159 or tangible personal property are returnable to a dealer.

160

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

162 And the title is amended as follows:

163 Delete line 387

164 and insert:

165 the communications services tax; amending s. 212.17,
166 F.S.; providing procedures, requirements, and
167 calculation methodologies that allow dealers to obtain
168 tax credits or refunds for taxes paid on worthless or
169 uncollectible private-label credit card accounts or
170 receivables; providing a cap on the amount that may be
171 recovered; providing definitions; amending s. 212.20,