

By the Committee on Budget Subcommittee on Finance and Tax

593-02321-12

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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.