

Committee Substitute for Senate Bill No. 1590

An act relating to the tax on sales, use, and other transactions; amending s. 212.12, F.S.; authorizing a dealer to elect to forego the collection allowance and direct that the collection allowance be transferred to the Educational Enhancement Trust Fund, to be distributed to school districts as specified; providing exceptions; providing for rulemaking by the Department of Revenue; providing an appropriation; providing for costs recovery; requiring that the Department of Revenue report collection information to the Department of Education; providing an effective date.

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

Section 1. Subsection (1) of section 212.12, Florida Statutes, is amended to read:

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

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records, filing timely tax returns, and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter (except dealers who make mail order sales) shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his or her report and paying the amount due by him or her; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax and making of tax returns in the manner herein provided, for paying the amount due to be paid by him or her, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,200, no allowance shall be allowed for all amounts in excess of \$1,200. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no

event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

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

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

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, reported, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer’s collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. Sales made through vending machines as defined in s. 212.0515 must be separately shown on the return. Sales made through coin-operated amusement machines as defined by s. 212.02 and the number of machines operated must be separately shown on the return or on a form prescribed by the department. If a separate form is required, the same penalties for late filing, incomplete filing, or failure to file as provided for the sales tax return shall apply to said form.

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

(c)1. A dealer entitled to the collection allowance provided in this section may elect to forego the collection allowance and direct that said amount be transferred into the Educational Enhancement Trust Fund. Such an election must be made with the timely filing of a return and may not be rescinded once made. If a dealer who makes such an election files a delinquent return, underpays the tax, or files an incomplete return, the amount transferred into the Educational Enhancement Trust Fund shall be the amount of the collection allowance remaining after resolution of liability for all of the tax, interest, and penalty due on that return or underpayment of tax. The Department of Education shall distribute the remaining amount from the trust fund to the school districts that have adopted resolutions stating that those funds will be used to ensure that up-to-date technology is purchased for the classrooms in the district and that teachers are trained in the use of that technology. Revenues collected in districts that do not adopt such a resolution shall be equally distributed to districts that have adopted such resolutions.

2. This paragraph applies to all taxes, surtaxes, and any local option taxes administered under this chapter and remitted directly to the department. This paragraph does not apply to any locally imposed and self-

administered convention development tax, tourist development tax, or tourist impact tax administered under this chapter.

Section 2. Notwithstanding any provision of chapter 120, Florida Statutes, to the contrary, the Department of Revenue may adopt rules to carry out the amendment made by this act to s. 212.12, Florida Statutes.

Section 3. The sum of \$112,920 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering the amendment to s. 212.12, Florida Statutes, made by this act. The Department of Revenue shall retain all of the revenues from dealer-collection allowances which are transferred into the Educational Enhancement Trust Fund until the \$112,920 appropriated from the General Revenue Fund has been recovered.

[Section 3 of ch. 2006-52, Laws of Florida, has been vetoed by the Governor.]

Section 4. Revenues from the dealer-collection allowances shall be transferred quarterly from the General Revenue Fund to the Educational Enhancement Trust Fund. The Department of Revenue shall provide to the Department of Education quarterly information about such revenues by county to which the collection allowance was attributed.

Section 5. This act shall take effect January 1, 2007.

Approved by the Governor May 30, 2006.

Filed in Office Secretary of State May 30, 2006.