

Committee Substitute for Senate Bill No. 1748

An act relating to the Department of Revenue; amending s. 195.022, F.S.; revising provisions relating to forms prescribed by the Department of Revenue for the administration and collection of ad valorem taxes; amending s. 213.24, F.S.; imposing an administrative collection processing fee for collection events; providing definitions; providing exceptions for extraordinary circumstances; providing for the allocation of the fees collected; amending s. 213.75, F.S.; revising application of payments; providing for application of the administrative collection processing fees to certain collection events; providing for retroactive application; providing effective dates.

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

Section 1. Effective July 1, 2009, section 195.022, Florida Statutes, is amended to read:

195.022 Forms to be prescribed by Department of Revenue.—The Department of Revenue shall prescribe all forms to be used by property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards in administering and collecting ad valorem taxes. The department shall prescribe a form for each purpose. ~~For counties with a population of 100,000 or fewer, the Department of Revenue shall furnish the forms. For counties with a population greater than 100,000, The county officer shall reproduce forms for distribution at the expense of his or her office. A county officer may use a form other than the form prescribed by the department upon obtaining written permission from the executive director of the department; however, a county officer may not shall use a form if the substantive content of the form varies from which is at variance with the form prescribed by the department for the same or a similar purpose. If the executive director finds good cause to grant such permission he or she may do so. The county officer may continue to use the such approved form until the law that which specifies the form is amended or repealed or until the officer receives written disapproval from the executive director. Otherwise, all such officers and their employees shall use the forms, and follow the instructions applicable to the forms, which are prescribed by the department. The department, Upon request of any property appraiser or, in any event, at least once every 3 years, the department shall prescribe and furnish such aerial photographs and nonproperty ownership maps to the property appraisers as are necessary to ensure that all real property within the state is properly listed on the roll. All photographs and maps furnished to counties with a population of 25,000 or fewer shall be paid for by the department as provided by law. For counties with a population greater than 25,000, the department shall furnish such items at the property appraiser's expense. The department may incur reasonable expenses for procuring aerial photographs and nonproperty ownership maps and may charge a fee to the respective property appraiser equal to the cost incurred. The department shall deposit such fees into the Certification Program Trust Fund created pursuant to s. 195.002. There shall be a separate account in the trust fund~~

for the aid and assistance activity of providing aerial photographs and non-property ownership maps to property appraisers. The department shall use money in the fund to pay such expenses. ~~All forms furnished by the department shall be paid for by the department as provided by law.~~ All forms and maps and instructions relating to their use must shall be substantially uniform throughout the state. An officer may employ supplemental forms and maps, at the expense of his or her office, which he or she deems expedient for the purpose of administering and collecting ad valorem taxes. The forms required in ss. 193.461(3)(a) and 196.011(1) for renewal purposes must shall require sufficient information for the property appraiser to evaluate the changes in use since the prior year. If the property appraiser determines, in the case of a taxpayer, that he or she has insufficient current information upon which to approve the exemption, or if the information on the renewal form is inadequate for him or her to evaluate the taxable status of the property, he or she may require the resubmission of an original application.

Section 2. Section 213.24, Florida Statutes, is amended to read:

213.24 Accrual of penalties and interest on deficiencies; deficiency billing costs.—

(1) If notice and demand is made for the payment of any amount due under laws ~~made~~ applicable to this chapter and if such amount is paid within 30 days after the date of such billing or notice and demand, no additional penalties or interest under this section on the amount so paid shall be imposed for the period after the date of such notice and demand.

(2)(a) Billings for deficiencies or automated refunds of tax, penalty, or interest may shall not be issued for an any amount less than the actual costs incurred to produce a billing or automated refund.

(b) The cost of issuing billings or automated refunds for any tax or fee enumerated in s. 213.05 or chapter 443 shall be computed in a study performed by the inspector general of the department. The study shall be conducted every 3 years and at such other times as deemed necessary by the inspector general. A minimum billing and automated refund amount shall be established and adjusted in accordance with the results of such study.

(c) Any change in minimum billing or automated refund amounts is shall ~~be made~~ effective on July 1 following the completion of the study.

(3) An administrative collection processing fee shall be imposed to offset payment processing and administrative costs incurred by the state due to late payment of a collection event.

(a) As used in this subsection, the term:

1. "Collection event" means when a taxpayer fails to:

a. Timely file a complete return;

b. Timely pay the full amount of tax reported on a return; or

c. Timely pay the full amount due resulting from an audit after all appeal rights have expired or the result has been finally determined.

2. "Extraordinary circumstances" means events beyond the control of the taxpayer, including, but not limited to, the taxpayer's death; acts of war or terrorism; natural disaster, fire, or other casualty; or the nonfeasance or misfeasance of the taxpayer's employee or representative responsible for complying with the taxes and fees listed in s. 213.05 and chapter 443. With respect to acts of the taxpayer's employee or representative, the taxpayer must show that the principals of the business lacked actual knowledge of the collection event and any notification of the collection event.

(b) The department shall collect the fee from a taxpayer who fails to pay the full amount of tax, penalty, and interest due within 90 days following initial notification of the collection event. The department may waive or reduce the fee if the taxpayer demonstrates that the failure to pay the full amount due within 90 days following the initial notification was due to extraordinary circumstances. The fee applies to those taxes and fees listed in s. 213.05 and chapter 443 and administered by the department.

(c) The fee is equal to 10 percent of the total amount of tax, penalty, and interest which remains unpaid after 90 days, or \$10 for each collection event, whichever is greater. The fee shall be imposed in addition to the taxes, fees, penalties, and interest prescribed by law.

(d) Fees collected pursuant to this subsection shall be distributed each fiscal year as follows:

1. The first \$6.2 million collected shall be deposited into the department's Operations Trust Fund.

2. Any amount collected above \$6.2 million shall be deposited into the General Revenue Fund.

Section 3. Section 213.75, Florida Statutes, is amended to read:

213.75 Application of payments.—

(1) Except for any payment made pursuant to s. 213.21, or as otherwise specified by the taxpayer at the time he or she makes a payment, ~~if whenever any~~ payment is made to the department with respect to any of the revenue laws of this state, such payment shall be applied in priority order as follows:

(a) First, against the accrued interest, if any;

(b) The remaining amount, if any, ~~remaining after the application to interest~~ shall be credited against any accrued penalty; ~~and~~

(c) The remaining amount, if any, shall be credited against the administrative collection processing fee; and

(d) The remaining amount, if any, remaining after application to interest and penalty shall be credited to any tax due.

(2) If a warrant or lien has been filed and recorded by the department, a payment shall be applied in priority order as follows:

(a) First, against the costs to record ~~of recordation~~ of the warrant or lien, if any;

(b) The remaining amount, if any, shall be credited against the administrative collection processing fee;

(c) The remaining amount, if any, ~~remaining~~ shall be applied to accrued interest;

~~(d)(e)~~ The remaining amount, if any, ~~remaining after the application to interest~~ shall be credited against any accrued penalty; and

~~(e)(d)~~ The remaining amount, if any, ~~remaining after application to costs, interest, and penalty~~ shall be credited to any tax due.

(3) If a levy has been made by the department, a payment shall be applied in priority order as follows:

(a) First, against the costs to execute ~~of execution~~ of the levy, if any;

(b) The remaining amount, if any, shall be credited against the administrative collection processing fee;

(c) The remaining amount, if any, ~~remaining~~ shall be applied to accrued interest;

~~(d)(e)~~ The remaining amount, if any, ~~remaining after the application to interest~~ shall be credited against any accrued penalty; and

~~(e)(d)~~ The remaining amount, if any, ~~remaining after application to costs, interest, and penalty~~ shall be credited to any tax due.

(4) Any surplus proceeds remaining after the application of subsection (3) shall, upon application and satisfactory proof thereof, be refunded by the Chief Financial Officer to the person or persons legally entitled ~~thereto~~ pursuant to s. 215.26.

Section 4. The fee imposed by s. 213.24(3), Florida Statutes, as created by this act, applies retroactively to any remaining unpaid amount of tax, interest, and penalty due from any collection event occurring before the effective date of this act. However, the Department of Revenue may not collect such fee until September 1, 2009, calculated on the amount remaining unpaid on that date.

Section 5. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor May 27, 2009.

Filed in Office Secretary of State May 27, 2009.