

CHAPTER 2011-86

Committee Substitute for House Bill No. 641

An act relating to tax administration; amending s. 198.13, F.S.; extending the period of exemption under certain circumstances from the filing of returns with respect to tax on estates of decedents or tax on generation-skipping transfers; providing for retroactive application; creating s. 212.133, F.S.; requiring sellers of alcoholic beverages or tobacco products to file information reports of sales of those products to retailers in this state with the Department of Revenue; providing definitions; requiring such reports to be filed electronically and to include specified information; authorizing the department to waive certain requirements; providing penalties for noncompliance; providing an effective date.

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

Section 1. Retroactive to January 1, 2011, subsection (4) of section 198.13, Florida Statutes, is amended to read:

198.13 Tax return to be made in certain cases; certificate of nonliability.

(4) Notwithstanding any other provisions of this section and applicable to the estate of a decedent who dies after December 31, 2004, if, upon the death of the decedent, a state death tax credit or a generation-skipping transfer credit is not allowable pursuant to the Internal Revenue Code of 1986, as amended:

(a) The personal representative of the estate is not required to file a return under subsection (1) in connection with the estate.

(b) The person who would otherwise be required to file a return reporting a generation-skipping transfer under subsection (3) is not required to file such a return in connection with the estate.

The provisions of this subsection do not apply to estates of decedents dying after December 31, 2012 ~~2010~~.

Section 2. Section 212.133, Florida Statutes, is created to read:

212.133 Information reports required for sales of alcoholic beverages and tobacco products.—

(1)(a) For the sole purpose of enforcing the collection of the tax levied by this chapter on retail sales, the department shall require every seller of alcoholic beverages or tobacco products to file an information report of any sales of those products to any retailer in this state.

(b) As used in this section, the term:

1. “Retailer” means a person engaged in the business of making sales at retail and who holds a license pursuant to chapters 561 through 565 or a permit pursuant to chapters 210 and 569.

2. “Seller” means any manufacturer, wholesaler, or distributor of alcoholic beverages or tobacco products who sells to a retailer in this state.

(2)(a) The information report must be filed electronically by using the department’s e-filing website or secure file transfer protocol or electronic data interchange files with the department’s e-filing provider. The information report must contain:

1. The seller’s name.
2. The seller’s beverage license or tobacco permit number.
3. The retailer’s name.
4. The retailer’s beverage license or tobacco permit number.
5. The retailer’s address, including street address, municipality, state, and five-digit zip code.
6. The general item type, such as cigarettes, cigars, tobacco, beer, wine, spirits, or any combination of those items.
7. The net monthly sales total, in dollars sold to each retailer.

(b) The department may annually waive the requirement to submit the information report through an electronic data interchange due to problems arising from the seller’s computer capabilities, data system changes, or operating procedures. The annual request for a waiver must be in writing and the seller must demonstrate that such circumstances exist. A waiver under this paragraph does not operate to relieve the seller from the obligation to file an information report.

(3) The information report must contain the required information for the period from July 1 through June 30. The information report is due annually on July 1 for the preceding reporting period and is delinquent if not received by the department by September 30.

(4) Any seller who fails to provide the information report by September 30 is subject to a penalty of \$1,000 for every month, or part thereof, the report is not provided, up to a maximum amount of \$10,000. This penalty must be settled or compromised if it is determined by the department that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor May 31, 2011.

Filed in Office Secretary of State May 31, 2011.