



747306

LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
04/25/2014	.	
	.	
	.	
	.	

---

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



747306

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



747306

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



747306

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



747306

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



747306

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



747306

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,