



Finance and Tax Subcommittee

Wednesday, April 10, 2013

3:30 p.m.

Morris Hall

MEETING PACKET

The Florida House of Representatives

Finance and Tax Subcommittee



Will Weatherford
Speaker

Ritch Workman
Chair


AGENDA

April 10, 2013
3:30 p.m.
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. **Consideration of the following bill(s):**
HB 1081 Discretionary Sales Surtaxes by Williams, A.
- IV. **Workshop on the following:**
HB 825 Tax Credits or Refunds by Raulerson
- V. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1081 Discretionary Sales Surtaxes
SPONSOR(S): Williams
TIED BILLS: IDEN./SIM. BILLS: SB 1052

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Education Appropriations Subcommittee	11 Y, 1 N	Seifert	Heflin
2) Finance & Tax Subcommittee		Flieger BF	Langston 
3) Appropriations Committee			

SUMMARY ANALYSIS

The School Capital Outlay Surtax, also known as the "school half-cent sales tax", is a sales surtax that may be levied by a school board after a favorable vote of the electorate through a local referendum. The sales tax rate may not exceed 0.5 percent. The school half-cent sales tax proceeds must be used for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses that have a useful life expectancy of five or more years, and any land acquisition, land improvement, design, and engineering costs associated with such facilities and campuses.

The bill amends statutes relating to discretionary sales surtaxes by expanding the allowable use of the surtax to include the purchase of school buses.

There is no fiscal impact to state or local governments.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.¹ The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent. The surtax does not apply to sales price above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals.

School Capital Outlay Surtax

The School Capital Outlay Surtax, also known as the "school half-cent sales tax", is a sales tax that may be levied in a county by a school board after a favorable vote of the electorate through a local referendum.² The sales tax rate may not exceed 0.5 percent.³

The school half-cent sales tax proceeds must be used for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses that have a useful life expectancy of five or more years, and any land acquisition, land improvement, design, and engineering costs associated with such facilities and campuses. Additionally, the plan for the projects must include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses.⁴

The voters in 15 school districts have passed a school half-cent sales tax that will generate an estimated \$351.0 million during the county fiscal year ending September 30, 2013.^{5, 6}

School District	Effective Date	Tax Rate (percent)	Estimated Revenue
Bay	Jan. 1, 2011 to Dec. 31, 2020	.5	\$16,040,097
Calhoun	Jan. 1, 2009 to Dec. 31, 2018	.5	\$379,932
Escambia	Jan. 1, 2003 to Dec. 31, 2017	.5	\$20,645,592
Flagler	Jan. 1, 2003 to Dec. 31, 2022	.5	\$4,331,685
Hernando	Jan. 1, 2005 to Dec. 31, 2014	.5	\$7,856,046
Jackson	Jul. 1, 2006 to Dec. 31, 2015	.5	\$2,024,372
Leon	Jan. 1, 2003 to Dec. 31, 2012	.5	\$4,482,052

¹ The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

² Section 212.055(6)(a), F.S.

³ Id.

⁴ Section 212.055(6)(c), F.S.

⁵ 2012 Local Government Financial Information Handbook, <http://edr.state.fl.us/Content/local-government/reports/lghih12.pdf>; estimated funds for Flagler and Leon were based on their expiration of December 12, 2012. Subsequent to the publishing of the Handbook, the surtax was extended for both districts.

⁶ Discretionary Sales Surtax Information for CY 2013, <http://dor.myflorida.com/dor/forms/index.html#discretionary>

Liberty	Jan. 1, 2012 to Dec. 31, 2020	.5	\$150,254
Manatee	Jan. 1, 2003 to Dec. 31, 2017	.5	\$23,287,028
Monroe	Jan. 1, 2006 to Dec. 31, 2015	.5	\$13,826,450
Orange	Jan. 1, 2003 to Dec. 31, 2015	.5	\$173,911,955
Polk	Jan. 1, 2004 to Dec. 31, 2018	.5	\$32,851,041
St. Lucie	Jan. 1, 2006 to Dec. 31, 2026	.5	\$13,009,879
Santa Rosa	Oct. 1, 1998 to Dec. 31, 2018	.5	\$6,597,493
Volusia	Jan. 1, 2002 to Dec. 16, 2016	.5	\$31,625,465
TOTAL			\$351,019,337

The resolution of a district school board providing for the imposition of the school half-cent sales tax may include a covenant to decrease the Capital Outlay Discretionary Property Tax⁷ and to maintain that tax at the reduced millage as long as the tax is in effect. The resolution may also provide that the tax shall sunset on December 31 of any year in which the district school board levies the Capital Outlay Discretionary Tax at a millage rate in excess of the reduced millage rate promised in the resolution.⁸

For example, voters could approve the levy of a school half-cent sales tax for 15 years in order to raise capital outlay revenues under the condition that a half-mill of the Capital Outlay Discretionary Tax is reduced while the school half-cent sales tax is in effect.

School Buses

In January 2013, Florida's public school districts had a total of 18,574 school buses in their fleets that were available to transport students (including spare and activity buses). The age breakdown of those buses was as follows:⁹

- 0-5 Years Old: 4,182 buses
- 6-10 Years Old: 8,104 buses
- 11-15 Years Old: 4,022 buses
- 16-20 Years Old: 2,112 buses
- 21-28 Years Old: 154 buses
- Average Bus Age (statewide): 9.23 years

In 2011-12 there were 14,514 public school buses in daily service in Florida.

Proposed Change

In addition to the previously noted uses of the surtax, the bill expands the allowable use of the surtax to include the purchase of school buses.

The purchase of school buses is currently an allowable expense of the 1.5 mills district school tax authorized under section 1011.71(2), F.S. The bill provides an additional funding source for school districts for the purchase of school buses.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.055(6), F.S., expanding the allowable use of the surtax.

Section 2: Provides an effective date.

⁷ Section 1011.71(2), F.S.

⁸ Sections 1011.715 and 1011.71(2), F.S.

⁹ Florida Department of Education, *Legislative Bill Analysis for HB 1081* (March 30, 2013).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the 2012 Local Government Financial Information Handbook, there are 52 districts that are not levying the local discretionary sales surtax with a combined unrealized local use tax revenues of \$1.065 billion.

The bill provides greater flexibility in how sales surtax proceeds may be spent. The bill would provide flexibility in the use of available revenues from the proceeds of voter approved sales surtax to meet the capital outlay needs of the school districts.

The average price of a 65-passenger school bus with air conditioning and no options as of January 2012 was \$93,400.

School buses purchased by school districts from the Department of Education's volume purchasing contract over the last 5 fiscal years were as follows: 1,228 buses in 2007-08; an average of 387 buses per year for the 2008-09 and 2009-10 two-year bid period; and an average of 607 buses per year for the 2010-11 and 2011-12 two-year bid period. Based on a 5-year average, an estimated 645 buses will be replaced in the next school year.

The cost to purchase 645 buses is \$60,243,000 (645 × \$93,400). The number of buses that would be purchased with half-cent school capital outlay sales surtax revenues under the bill is not known.¹⁰

¹⁰ Florida Department of Education, *Legislative Bill Analysis for HB 1081* (March 30, 2013).
STORAGE NAME: h1081b.FTSC.DOCX
DATE: 4/8/2013

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to discretionary sales surtaxes;
 3 amending s. 212.055, F.S.; authorizing a county school
 4 board to use the school surtax to purchase school
 5 buses; providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:

8
 9 Section 1. Subsection (6) of section 212.055, Florida
 10 Statutes, is amended to read:

11 212.055 Discretionary sales surtaxes; legislative intent;
 12 authorization and use of proceeds.—It is the legislative intent
 13 that any authorization for imposition of a discretionary sales
 14 surtax shall be published in the Florida Statutes as a
 15 subsection of this section, irrespective of the duration of the
 16 levy. Each enactment shall specify the types of counties
 17 authorized to levy; the rate or rates which may be imposed; the
 18 maximum length of time the surtax may be imposed, if any; the
 19 procedure which must be followed to secure voter approval, if
 20 required; the purpose for which the proceeds may be expended;
 21 and such other requirements as the Legislature may provide.
 22 Taxable transactions and administrative procedures shall be as
 23 provided in s. 212.054.

24 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

25 (a) The school board in each county may levy, pursuant to
 26 resolution conditioned to take effect only upon approval by a
 27 majority vote of the electors of the county voting in a
 28 referendum, a discretionary sales surtax at a rate that may not

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29 exceed 0.5 percent.

30 (b) The resolution shall include a statement that provides
 31 a brief and general description of the school capital outlay
 32 projects to be funded by the surtax. The statement shall conform
 33 to the requirements of s. 101.161 and shall be placed on the
 34 ballot by the governing body of the county. The following
 35 question shall be placed on the ballot:

36
FOR THECENTS TAX

37
AGAINST THECENTS TAX

38
 39 (c) The resolution providing for the imposition of the
 40 surtax shall set forth a plan for use of the surtax proceeds for
 41 fixed capital expenditures or fixed capital costs associated
 42 with the construction, reconstruction, or improvement of school
 43 facilities and campuses that ~~which~~ have a useful life expectancy
 44 of 5 or more years; for, and any land acquisition, land
 45 improvement, design, and engineering costs related thereto; and
 46 for the purchase of school buses. Additionally, the plan must
 47 ~~shall~~ include the costs of retrofitting and providing for
 48 technology implementation, including hardware and software, for
 49 the various sites within the school district. Surtax revenues
 50 may be used for the purpose of servicing bond indebtedness to
 51 finance projects authorized by this subsection, and any interest
 52 accrued ~~thereto~~ may be held in trust to finance such projects.
 53 Neither the proceeds of the surtax nor any interest accrued may
 54 ~~thereto shall~~ be used for operational expenses.

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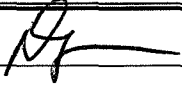
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55 (d) Surtax revenues collected by the Department of Revenue
56 pursuant to this subsection shall be distributed to the school
57 board imposing the surtax in accordance with law.

58 Section 2. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 825 Tax Credits or Refunds
SPONSOR(S): Raulerson
TIED BILLS: IDEN./SIM. **BILLS:** SB 1006

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee		Flieger <i>BF</i>	Langston 
2) Insurance & Banking Subcommittee			
3) Appropriations Committee			

SUMMARY ANALYSIS

Current law s. 212.17(3), F.S., allows sales tax dealers to take a credit or seek a refund for any sales tax collected by that dealer on the unpaid balance of a sale made on credit that is written off as uncollectable. The credit or refund must be claimed within 12 months following the month in which the bad debt has been charged off for federal income tax purposes by the dealer.

Dealers who choose to contract with third party lenders to offer private label credit cards as a financing option to their customers are unable to receive a refund or credit if those debts are written off as uncollectable.

The bill creates a new subsection of s. 212.17, F.S. allowing refunds or credits to be granted for taxes paid on purchases made through a private label credit card that are written off as bad debts. The bill provides definitions and procedures for the Department of Revenue, dealers, and lenders to follow in administering those credits or refunds.

On March 16, 2013, the Revenue Estimating Conference adopted an estimate that this bill would have an impact of -\$11.2 million to General Revenue in FY 2013-14 (-\$8.9 million recurring) and an impact of -\$2.5 million to local governments in FY 2013-14 (-\$2.0 million recurring).

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Section 212.17(3), F.S., allows sales tax dealers to take a credit or seek a refund for any sales tax collected by that dealer on the unpaid balance of a sale made on credit that is written off as uncollectable. The credit or refund must be claimed within 12 months following the month in which the dealer has charged off the bad debt for federal income tax purposes by the dealer.

Private Label Credit Cards

Section 212.17, F.S., was last amended in 1998.¹ Some retailers no longer offer credit to customers themselves, instead preferring to contract with outside lenders to offer financing for purchases on credit. This can be accomplished through so called "private label credit cards," credit cards associated with and branded for a specific retailer. While a third-party lender issues the cards and collects the payments from cardholders, the card itself may only be used to make purchases at that dealer's retail establishments. The private label credit card market is a significant portion of the consumer credit market. In May of 2012 Standard and Poor's rating service tracked approximately \$52.8 billion in private label credit card receivables, compared to \$265.7 billion in traditional bank issued credit cards. Approximately 6.1% of that private label debt had been written off as uncollectable and worthless bad debt, compared to a 4.1% charge-off percentage for traditional bank issued credit cards.²

Retailers who choose to utilize private label credit cards to finance their customer's purchases as a business arrangement currently forfeit any ability to claim a credit or refund for the sales tax collected on bad debts. The 1st District Court of Appeal has ruled that, "[a]t common law, there was no right to a refund of taxes from the sovereign. Thus, statutes authorizing tax refunds or exemptions are in derogation of common law; statutes in derogation of the common law must be strictly construed."³ Therefore, in a situation where a bad debt is written off as worthless by a private label credit card lender, neither the dealer (who did not charge off the bad debt) nor the lender (who was not the dealer who paid the tax) may claim a refund of the sales tax collected on that purchase.

Proposed Changes

Substantively, the bill creates a new subsection (4) of s. 212.17, F.S. allowing refunds or credits to be granted for taxes paid on purchases made via a private label credit card or a dealer credit program that are written off as bad debts.

"Private-label credit card" is defined by the bill as a charge card or credit card that is branded with the name or logo of a dealer that may be used to make purchases from the dealer. The term also includes "dual cards", which are cards branded with more than one name or logo and may be used to make purchases from persons other than the dealer. However, no credit or refund is authorized for the tax collected on sales made via such card by persons who are not the dealer or an affiliate of the dealer.

"Dealer credit program" is defined as credit extended by a dealer to a customer, but does not include purchases of titled property such as motor vehicles or vessels.

The bill also provides a definition of "lender" that limits the term to such persons that own a private label credit card or dealer credit program receivable account who either purchased that receivable account

¹ Section 14, ch. 98-342, L.O.F.

² <http://www.standardandpoors.com/ratings/articles/en/us/?articleType=HTML&assetID=1245336769124> (last visited 4/8/13)

³ *Dep't of Revenue v. Bank of Am., N.A.*, 752 So. 2d 637, 641 (Fla. 1st DCA 2000).

directly from a dealer, have a contract with a dealer under which the receivable accounts are originated, or are part of the same affiliated group of corporations as a dealer or the assignee of that dealer who would be eligible to receive refunds under paragraphs (1)(a) or (1)(b) of current law s. 212.17, F.S.⁴

Further, a dealer or lender is not eligible to receive a credit or take a refund for a written off private-label credit card account unless:

- The accounts or receivables have been charged off as bad debt on the lender's books on or after January 1, 2013;
- No credits or refunds for those accounts or receivables had been previously allowed under current law s. 212.17, F.S.;
- The credit or refund is claimed within 12 months after the month in which the bad debt is charged off by the lender for federal income tax purposes.

If a dealer or lender receives a credit or refund but subsequently collects a portion of the accounts or receivables for which the credit or refund was granted, the dealer must pay the applicable tax on the taxable percentage of the amount collected.

The bill provides two methods for a dealer to determine the amount of credit or refund. They may use either:

- An apportionment method based on the dealer's Florida and non-Florida sales and the amount of tax remitted, or
- A specified percentage method derived from a sampling of their books and records using a methodology agreed upon in advance by DOR

The credit or refund may be claimed by any entity that shares common ownership of 50 percent or more with an entity that has a right to such a credit or refund.

The bill also amends the entirety of s. 212.17, F.S., to bring it in accord with currently preferred word usage standards. Existing law subsections of s. 212.17, F.S., are also renumbered.

B. SECTION DIRECTORY:

Section 1. Amends s. 212.17, F.S., providing that lenders and dealers may receive a credit or refund for sales tax collected on certain purchases.

Section 2. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On March 16, 2013, the Revenue Estimating Conference adopted an estimate that this bill would have an impact of -\$11.2 million to General Revenue in FY 2013-14 (-\$8.9 million recurring).

2. Expenditures:

None.

⁴ Using "affiliated group" as defined in 26 U.S.C. s. 1504

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On March 16, 2013, the Revenue Estimating Conference adopted an estimate that this bill would have an impact of -\$2.5 million to local governments in FY 2013-14 (-\$2.0 million recurring).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Retailers who currently contract with outside lenders to provide private label credit cards to their customers and lenders who provide those cards will be able to receive refunds of sales tax collected on purchases made via those cards that are written off as bad debts.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because the bill is expected to result in a reduction in local option sales taxes. However, an exemption may apply because negative impact to local government taxing authority may be below the threshold for the insignificant fiscal impact on local government exemption.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to tax credits or refunds; reordering
 3 and amending s. 212.17, F.S.; providing procedures,
 4 requirements, and calculation methodologies that allow
 5 dealers or lenders to obtain tax credits or refunds
 6 for taxes paid on worthless or uncollectable private-
 7 label credit card or dealer credit card program
 8 accounts or receivables; providing definitions;
 9 providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 212.17, Florida Statutes, is reordered
 14 and amended to read:

15 212.17 Tax credits or refunds ~~for returned goods, rentals,~~
 16 ~~or admissions; goods acquired for dealer's own use and~~
 17 ~~subsequently resold; additional powers of department.-~~

18 (1) (a) If ~~In the event~~ purchases are returned to a dealer
 19 by the purchaser or consumer after the tax imposed by this
 20 chapter has been collected from or charged to the account of the
 21 consumer or user, the dealer is ~~shall be~~ entitled to
 22 reimbursement of the amount of tax collected or charged by the
 23 dealer, in the manner prescribed by the department.

24 (b) A registered dealer that purchases property for the
 25 dealer's own use, pays tax on acquisition, and sells the
 26 property subsequent to acquisition without ~~ever~~ having used the
 27 property is entitled to reimbursement, in the manner prescribed
 28 by the department, of the amount of tax paid on the property's

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29 acquisition.

30 (c) If the tax has not been remitted by a dealer to the
31 department, the dealer may deduct the same in submitting his or
32 her return upon receipt of a signed statement by ~~of~~ the dealer
33 as to the gross amount of such refunds during the period covered
34 by the ~~said~~ signed statement, which may ~~period shall~~ not be
35 longer than 90 days. The department shall issue to the dealer an
36 official credit memorandum equal to the net amount remitted by
37 the dealer for such tax collected or paid. Such memorandum shall
38 be accepted by the department at full face value from the dealer
39 to whom it is issued upon, ~~in~~ the remittance of ~~for~~ subsequent
40 taxes accrued under ~~the provisions of~~ this chapter. If a dealer
41 has retired from business and ~~has~~ filed a final return, a refund
42 of tax may be made if it can be established to the satisfaction
43 of the department that the tax was not due.

44 (2) A dealer who has paid the tax imposed by this chapter
45 on tangible personal property sold under a retained title,
46 conditional sale, or similar contract, or under a contract where
47 ~~wherein~~ the dealer retains a security interest in the property
48 pursuant to chapter 679, may take credit or obtain a refund for
49 the tax paid by the dealer on the unpaid balance due him or her
50 when he or she repossesses the property, ~~(with or without~~
51 ~~judicial process,)~~ ~~the property~~ within 12 months after ~~following~~
52 the month in which the property was repossessed. If ~~When~~ such
53 repossessed property is resold, the sale is subject in all
54 respects to the tax imposed by this chapter.

55 (3) Except as provided under subsection (4), a dealer who
56 has paid the tax imposed by this chapter on tangible personal

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57 property or services may take a credit or obtain a refund for
58 any tax paid by the dealer on the unpaid balance due on
59 worthless accounts within 12 months after ~~following~~ the month in
60 which the bad debt has been charged off for federal income tax
61 purposes. If any accounts so charged off for which a credit or
62 refund has been obtained are subsequently, ~~thereafter~~ in whole
63 or in part, paid to the dealer, the amount so paid shall be
64 included in the first return filed after such collection and the
65 tax paid accordingly.

66 (4) With respect to the payment of taxes on purchases made
67 through a private-label credit card or dealer credit program:

68 (a) If consumer accounts or receivables are found to be
69 worthless or uncollectible, the dealer or lender may claim a
70 credit for, or obtain a refund of, the tax remitted by the
71 dealer on the unpaid balance due if:

72 1. The accounts or receivables have been charged off as
73 bad debt on the lender's books and records on or after January
74 1, 2013;

75 2. A credit was not previously claimed and a refund was
76 not previously allowed on any portion of the accounts or
77 receivables; and

78 3. The credit or refund is claimed within 12 months after
79 the month in which the bad debt is charged off by the lender for
80 federal income tax purposes.

81 (b) If the dealer or the lender subsequently collects, in
82 whole or in part, the accounts or receivables for which a credit
83 or refund has been granted under paragraph (a), the dealer must
84 include the taxable percentage of the amount collected in the

85 first return filed after the collection and pay the tax on the
86 portion of that amount for which a credit or refund was granted.

87 (c) The credit or refund allowed includes all credit sale
88 transaction amounts that are outstanding in the specific
89 private-label credit card account or receivable at the time the
90 account or receivable is charged off, regardless of the date the
91 credit sale transaction actually occurred.

92 (d) A dealer may use one of the following methods to
93 determine the amount of the credit or refund:

94 1. An apportionment method to substantiate the amount of
95 tax imposed under this chapter which is included in the bad debt
96 to which the credit or refund applies. The method must use the
97 dealer's Florida and non-Florida sales, the dealer's taxable and
98 nontaxable sales, and the amount of tax the dealer remitted to
99 this state; or

100 2. A specified percentage of the accounts or receivables
101 giving rise to the credit or refund, which is derived from a
102 sampling of the dealer's or lender's records in accordance with
103 a methodology agreed upon by the department and the dealer.

104 (e) For purposes of computing the credit or refund,
105 payments on the accounts or receivables shall be allocated based
106 on the terms and conditions of the contract between the dealer
107 or lender and the consumer.

108 (f) A dealer's credit or refund for tax on bad debt may be
109 claimed on any return filed by an entity related by a direct or
110 indirect common ownership of 50 percent or more.

111 (g) For purposes of this subsection, the term:

112 1. "Dealer's affiliates" means an entity affiliated with

113 the dealer under 26 U.S.C. s. 1504, or an entity that would be
 114 an affiliate under that section had the entity been a
 115 corporation.

116 2. "Dealer credit" means program arrangements where credit
 117 is extended for a specific purchase from a dealer. The term does
 118 not include arrangements for purchases of titled property such
 119 as motor vehicles, vessels, or motor homes.

120 3. "Lender" means a person who owns or owned a private-
 121 label credit card account or a dealer credit account, or an
 122 interest in a private-label credit card receivable or dealer
 123 credit receivable that:

124 a. The person purchased directly from a dealer or its
 125 affiliates who remitted the tax imposed under this chapter or
 126 transferred from a third party;

127 b. The person originated pursuant to that person's
 128 contract with the dealer or its affiliates who remitted the tax
 129 imposed under this chapter; or

130 c. Is affiliated in the manner described under 26 U.S.C.
 131 s. 1504, regardless of whether the different entities are
 132 corporations, to a person described in paragraph (1) (a) or
 133 paragraph (1) (b), or an assignee or other transferee of such
 134 person.

135 4. "Private-label credit card" means a charge card or
 136 credit card that carries, refers to, or is branded with the name
 137 or logo of a dealer and can be used for purchases from the
 138 dealer whose name or logo appears on the card or for purchases
 139 from the dealer's affiliates or franchisees. The term includes
 140 dual cards, which are cobranded credit cards that may also be

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141 used to make purchases from persons other than the dealer whose
 142 name or logo appears on the card or the dealer's affiliates or
 143 franchisees. The sales receipts of the dealer and the dealer's
 144 affiliates or franchisees must be identifiable apart from any
 145 receipts reflecting sales by unrelated persons. This subsection
 146 does not authorize any credits or refunds with respect to sales
 147 by such unrelated persons.

148 (6)~~(4)~~(a) The department shall design, prepare, print and
 149 furnish to all dealers, except dealers filing through electronic
 150 data interchange, or make available or prescribe to the dealers,
 151 all necessary forms for filing returns and instructions to
 152 ensure a full collection from dealers and an accounting for the
 153 taxes due. The~~but~~ failure of a ~~any~~ dealer to secure such forms
 154 does not relieve the dealer from the payment of the tax at the
 155 time and in the manner provided.

156 (b) The department shall prescribe the format and
 157 instructions necessary for filing returns in a manner that is
 158 initiated through an electronic data interchange to ensure a
 159 full collection from dealers and an accounting for the taxes
 160 due. The failure of a ~~any~~ dealer to use such format does not
 161 relieve the dealer from the payment of the tax at the time and
 162 in the manner provided.

163 (7)~~(5)~~ The department and its assistants are ~~hereby~~
 164 authorized and empowered to administer the oath for the purpose
 165 of enforcing and administering ~~the provisions of~~ this chapter.

166 (8)~~(6)~~ The department may ~~has authority to~~ adopt rules
 167 pursuant to ~~ss. 120.536(1) and 120.54~~ to administer and enforce
 168 ~~the provisions of this section~~ chapter.

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169 (5)~~(7)~~ The department, where admissions, license fees, or
170 rental payments or payments for services are made and ~~thereafter~~
171 returned to the payors after the taxes ~~thereon~~ have been paid,
172 shall return or credit the taxpayer for taxes ~~so~~ paid on the
173 moneys returned in the same manner as ~~is~~ provided for returns or
174 credits of taxes where purchases or tangible personal property
175 are returnable to a dealer.

176 Section 2. This act shall take effect July 1, 2013.