

1 A bill to be entitled
 2 An act relating to administrative collection processing
 3 fees for taxpayer noncompliance; amending s. 213.24, F.S.;
 4 imposing an administrative collection processing fee for
 5 collection events; providing exceptions for extraordinary
 6 circumstances; requiring fees collected to be deposited in
 7 the General Revenue Fund; providing definitions; expanding
 8 the scope of a study on the cost of issuing billings or
 9 automated refunds for specified taxes to include the taxes
 10 and fees to which the administrative collection processing
 11 fee applies; amending s. 213.75, F.S.; revising
 12 application of payments; providing for retroactive
 13 application; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Section 213.24, Florida Statutes, is amended to
 18 read:

19 213.24 Accrual of penalties and interest on deficiencies;
 20 deficiency billing costs.--

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

27 (2) (a) Billings for deficiencies or automated refunds of
 28 tax, penalty, or interest shall not be issued for any amount

29 | less than the actual costs incurred to produce a billing or
 30 | automated refund.

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

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

41 | (3) (a) An administrative collection processing fee is
 42 | hereby imposed to offset payment processing and administrative
 43 | costs incurred by the state due to late payments of collection
 44 | events. The department shall collect the administrative
 45 | collection processing fee from any taxpayer who fails to pay the
 46 | full amount of tax, penalty, and interest due within 90 days
 47 | from initial notification of the collection event. The
 48 | department may waive or reduce the administrative collection
 49 | processing fee if the taxpayer demonstrates that the failure to
 50 | pay the full amount due within 90 days from the initial
 51 | notification was due to extraordinary circumstances. The
 52 | administrative collection processing fee shall apply to those
 53 | taxes and fees listed in s. 213.05 and chapter 443.

54 | (b) As used in this subsection:

- 55 | 1. "Collection event" means when a taxpayer fails to:
 56 | a. Timely file a complete return;

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

58 or

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

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

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

78 (d) Administrative collection processing fees collected
 79 pursuant to this subsection shall be deposited into the General
 80 Revenue Fund.

81 Section 2. Section 213.75, Florida Statutes, is amended to
 82 read:

83 213.75 Application of payments.--

84 (1) Except for any payment made pursuant to s. 213.21, or

85 as otherwise specified by the taxpayer at the time he or she
 86 makes a payment, whenever any payment is made to the department
 87 with respect to any of the revenue laws of this state, such
 88 payment shall be applied in priority order as follows:

- 89 (a) First, against the accrued interest, if any;
- 90 (b) The remaining amount, if any, ~~remaining after the~~
 91 ~~application to interest~~ shall be credited against any accrued
 92 penalty; ~~and~~
- 93 (c) The remaining amount, if any, shall be credited
 94 against the administrative collection processing fee; and
- 95 (d) The remaining amount, if any, ~~remaining after~~
 96 ~~application to interest and penalty~~ shall be credited to any tax
 97 due.

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

- 101 (a) First, against the costs to record ~~of recordation of~~
 102 the warrant or lien, if any;
- 103 (b) The remaining amount, if any, shall be credited
 104 against the administrative collection processing fee;
- 105 (c) The remaining amount, if any, ~~remaining~~ shall be
 106 applied to accrued interest;
- 107 (d)~~(e)~~ The remaining amount, if any, ~~remaining after the~~
 108 ~~application to interest~~ shall be credited against any accrued
 109 penalty; and
- 110 (e)~~(d)~~ The remaining amount, if any, ~~remaining after~~
 111 ~~application to costs, interest, and penalty~~ shall be credited to
 112 any tax due.

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

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

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

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

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

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

127 (4) Any surplus proceeds remaining after the application
 128 of subsection (3) shall, upon application and satisfactory proof
 129 thereof, be refunded by the Chief Financial Officer to the
 130 person or persons legally entitled thereto pursuant to s.
 131 215.26.

132 Section 3. The fee imposed by section 213.24(3), Florida
 133 Statutes, shall apply retroactively to any remaining unpaid
 134 amount of tax, interest, and penalty due from any collection
 135 event occurring prior to the effective date of this act;
 136 however, the Department of Revenue may not collect such fee
 137 until September 1, 2009, calculated on the amount remaining
 138 unpaid on that date.

139 Section 4. This act shall take effect upon becoming a law.