



FLORIDA AUTOMOBILE DEALERS ASSOCIATION

MEMORANDUM: REVISED

To: FADA Dealer Members

Date: September 26, 2018 (Revisions Highlighted In Yellow)

Re: The Hope Scholarship Program – Effective Oct. 1, 2018

You have new responsibilities beginning on October 1, 2018 and you will be subject to fines and penalties if you do not comply.

The legislature has created a new sourcing fund for a program aimed at education. Dealers will be required to add new DOR forms to your sales presentation, create a new fund to hold monies donated by your customers and remit these funds along with your quarterly sales tax on the 20th day following the end of the monthly reporting period.

OVERVIEW:

The Hope Scholarship Program (Program) provides a public-school student, who was subjected to an incident of violence or bullying at school, the opportunity to apply for a scholarship to attend an eligible private school rather than remain in an unsafe school environment.

Who needs to know about this program in your store(s)?

- Sales staff – new and used
- F&I staff
- Comptrollers, CFO's and Office Managers

Why are you being impacted?

You are now the physical collection point for contributions under this new law because the former Speaker of the House wanted to tap into sales tax to fund the Program. Automotive sales tax is the most lucrative area of sales tax and it is already highly regulated.

The Program takes effect on October 1, 2018 and **impacts all sales of new and used motor vehicles (including SUVs), whether individual sales or commercial** – those purchased from dealers and those sold by individuals, excluding:

- Heavy trucks, truck tractors, motorcycles and mopeds
- Rentals and leases of motor vehicles

On October 1, 2018 every customer who purchases a new or used vehicle may designate a portion of their sales tax to the Program. Your sales team has three new responsibilities beginning that day:

- 1) Provide a customer with a Hope Scholarship contribution election form – DR HS1
- 2) Collect the monies designated in every deal where a customer elects to contribute
- 3) Remit and report these collections for the Hope Scholarship program to *Step Up for Students* using the form – DR HS2 and report these collections to the Department of Revenue using form DR HS2 and on your DR 15 – lines 6 and 16.

Dealer Requirements:

As the chief collection agent you will have these responsibilities on October 1, 2018:

- You must give the vehicle buyer an “opportunity” to contribute a portion of their sales tax to the Hope Scholarship fund via an organization called *Step Up for Students*.
- If the buyer wishes to contribute:
 - Provide and complete the proper form for a contribution: DR HS1 -Hope Scholarship Contribution Election Form
 - Keep the copy of the completed DR HS1 form in the deal jacket (but only if they decide to make a contribution)

Note: Dealers will need to create a new sub-account or liability account to properly track funds. Funds must be reported to the Department of Revenue and remitted to *Step Up for Students Inc.* timely (see ‘Reporting Deadlines’ below).

- If the buyer **does not wish** to make a designation/contribution:
 - You are not required to have a form with “No” for those who *do not* want to contribute
 - Form DR HS1 - Hope Scholarship Contribution Election Form does NOT need to be completed/retained

Important information for dealer compliance:

- At the point of sale, giving the customer the “opportunity to contribute” is not defined. There is only one clear and specific requirement on your store and that is you must have the Form DR HS1 present in case a customer comes in with an intent to contribute and requests a form.
- If the customer is unaware of this possible designation of funds to this scholarship it is not clear that you have to explain this program. You must just make the contribution Election Form DR HS1 available. You are not required to make any specific disclosure or retain a copy of the Form DR HS1, unless the buyer makes a contribution.
- FADA recommends that you make a copy of the Form DR HS1 or perhaps laminate a copy for a standup desk presentation and have it available at each sales desk or present in your sales forms, if you use digital presentation tools only.
- Even though no verbal presentation is required we would recommend a verbal suggestion to each customer, such as, “Would you be interested in making a contribution to the new *Step Up for Students* program?” and refer to the laminated copy or present a copy of Form DR HS1.
- If a customer asks for elaborate information in order to decide then you can simply offer the Form DR HS1 and allow them time away from the process to review it.

Calculating the exact contribution allowed to the Hope Scholarship:

- Anyone, regardless of being a Florida resident, may designate to the Program the lesser of \$105, or the amount of Florida state sales tax due on the transaction. This means a customer only can contribute less than \$105 if the sales tax due is less than \$105. If the sales tax due is over \$105 then the customer electing to give must give \$105, not a lesser amount.
- The amount of contribution allowed is calculated on the Florida state sales tax due on the vehicle only – the rule excludes any sales tax on service warranties or other taxable items (hard-adds).
- The amount of the Hope Scholarship contribution cannot exceed the amount of Florida state sales tax due (the county discretionary sales tax is not included in the calculation).

Reporting Deadlines - Hope Contributions:

- **DR HS2 reports** by motor vehicle dealers are due on the 1st day of the month following the sales and use tax reporting period and are late after the 20th day of the month following each reporting period. If the 20th falls on a Saturday, Sunday, or a state or federal holiday, the report will be timely if received on the first business day following the 20th.
 - Form DR HS2 - Hope Scholarship Program - Dealer Contribution Collection Report
 - Using the new 3-part form, DR HS2 - Hope Scholarship Program - Dealer Contribution Collection Report, dealers need to remit monthly contributions to *Step Up for Students* using DR HS2 Copy A, report the funds to the Department of Revenue using DR HS2 Copy B and retain DR HS2 Copy C for their records.
 - Form DR HS2 - Hope Scholarship Program - Dealer Contribution Collection Report does NOT need to be retained/submitted to DOR or *Step Up for Students* if no dollars are collected during reporting period.
 - By the 20th of each month, dealers who receive contributions will remit those contributions to *Step Up For Students* through the secure online payment portal at www.StepUpForHope.org along with a copy of the DR HS2. Checks can also be mailed to *Step Up For Students*, ATTN: Hope Processing, PO Box 54429, Jacksonville, Florida 32245-4367.
- **DR-15 Sales and Use Tax Returns:** Tax Credit and Hope Contributions Report
 - Motor vehicle dealers must report Hope contributions on their Sales and Use Tax Return beginning with the October 2018 reporting period.
 - Enter the total Hope Scholarship credits on Line 16 and include the total amount of credits in the amount entered on Line 6 (For more information/instructions, see Form DR 15N: http://floridarevenue.com/Forms_library/current/dr15n.pdf).
 - The credit will go to reduce the amount of tax to remit to the Department of Revenue on a dollar for dollar basis (similar to a federal income tax credit). Contributions may not be netted against the tax otherwise due.
 - Note:
 - The Hope Scholarship funds collected are remitted to Step-Up for Students
 - If \$0 is collected during the reporting period, it must be still be reported correctly on your DR 15 report.

Fines and Penalties for Dealers:

- The only fines and penalties under this new law stem from **a failure to report contributions** made by customers to DOR and *Step Up for Students* **or a failure to remit those contributions** at the end of the DOR reporting period to *Step Up for Students*.
- A motor vehicle dealer who fails to submit timely reports, will face a \$1,000 penalty to the dealer for every month, or part thereof, the report is not provided, up to a maximum of \$10,000 by the DOR, unless noncompliance is due to reasonable cause.
- An individual who defrauds or misappropriates funds (those collected under this program) greater than \$300 is subject to felony charges.

Dealer Audits:

- It is unclear how the Department of Revenue will handle the audits of dealers under this program. The rules for this program were developed under an emergency process and to date the DOR is cooperating as much as possible with FADA. We anticipate a more formal rulemaking process in the first quarter of 2019 which will allow FADA a greater amount of input into the future processes involved.
- Please set up a process to receive these funds and remit them on the proper DOR forms as part of your monthly sales tax process. Most dealers, not knowing how many customers will desire to contribute, are not making programming changes in their DMS and will handle the contributions with manual transactions.

Questions and Answers from September 21, 2018 FADA Webinar:

Q. Does the exception apply for vehicles over 5,000 lbs refer to GVW or net weight?

A. Exception applies to any truck with a net vehicle weight (curb weight) of 5,000 pounds or more. The statute refers to these as "heavy trucks." SUVs are not excluded, as they are not heavy trucks.

NOTE: Because of the lack of clarity in the rule and statute, it was inadvertently stated in the webinar that the exception was for any vehicle with a gross vehicle weight over 5,000 pounds. This was a mistake. As a reminder, these are emergency rules that will eventually be replaced with formal rules that should clarify these sorts of issues.

Q. Does this apply to service and parts sales?

A. No. It only applies to the sale of new and used vehicles.

Q. Is it a one-time donation or can someone donate at each purchase?

A. A customer can designate the lesser of \$105 or the amount of state sales tax due on each vehicle purchased. It is a one-time donation on each motor vehicle purchased.

Q. If customer declines, do they need to indicate by writing declined on the form?

A. No. You are not required to keep a copy of Form DR HS1 if the purchaser declined nor do you have to keep a copy of the Form DR HS1 form in the customer's dealer jacket.

Q. Do we have to clarify on whether a customer can contribute less than the \$105?

A. According to DOR, the customer can only contribute less than \$105 if the sales tax due is less than \$105. If the sales tax due is over \$105 then the customer electing to give must give \$105, not a lesser amount.

Q. What about having to give credit towards tag & title fees? Are we obligated to give credit towards these fees when the sales tax is less than \$105?

- A. The calculation for the amount that a purchaser may designate is calculated only on the selling price of the vehicle. It applies only to any Florida state sales tax owed. It excludes any discretionary taxes, additions, dealer fees, etc. There are no credits for tag and title fees or anything else.

Q. Can the customer claim the contribution on their income tax return?

- A. This is not a contribution by the customer that is tax deductible. The customer must pay the entire sales tax owed on their vehicle purchase. As of October 1, they now have the option to designate up to \$105 of sales tax owed on their purchase to the Hope Scholarship program.

Q. The only form that requires a customer signature is the Form DR HS1, correct? Do you give the customer a copy of the form? Does the customer need to be provided some sort of receipt that they have donated?

- A. The only form that requires a customer signature is the Form DR HS1, when a customer desires to contribute. You are not required to give the customer a copy of their contribution election Form DR HS1, but you may choose to do so and you must keep a copy in the deal jacket.

Q. For out of state deals, how do we address the sales tax?

- A. Even out of state buyers may contribute but only on the sales tax due to Florida DOR.

Q. Do you include the discretionary county tax (0-2%) in the calculation amount?

- A. *No. Only the state rate of 6 percent.*

Q. Is disclosure required on the buyer's order for the amount contributed?

- A. *No, as specified in the rule, dealers are not required to separately state a contribution on the buyers order.*

Q. Please clarify, Form DR HS2 submission and contributions: Copy A to Step Up, Copy B to the State, Copy C is our copy. But do we need to include a check to Step Up for Students with Copy A? What if we file online, what option will be available?

- A. All Form DR HS 1's should be totaled at the end of the month and that amount is reported. At the end of the month you are writing two checks now – one to *Step Up for Students* (unless you pay them online) for the aggregate of all contributions received with a copy of the Form DR HS2 and one check for the balance of funds being remitted to DOR with the new Form DR 15 and a copy of the Form HS2 for that month's Hope contributions. For DOR Form DR HS2 filings, the fastest and easiest way to complete is online, which will be available for filing the October return.