

FIRST OFFENSE	Misdemeanor - Reprimand Felony – Revocation	Misdemeanor - \$10,000 fine, suspension Felony – revocation
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64B5-13.005(ggg) shall read as:

(ggg) Being convicted of, or entering a plea of guilty or nolo contendere, to any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud. (Section 456.072(1)(II) F.S.)		
FIRST OFFENSE	Misdemeanor - Reprimand Felony – Revocation	Misdemeanor - \$10,000 fine, suspension Felony – revocation
SECOND OFFENSE	\$10,000 fine, revocation	\$10,000 fine, revocation

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

Section IV Emergency Rules

DEPARTMENT OF REVENUE

RULE NO.: 12ER10-03
 RULE TITLE: Florida’s 2010 Tax Amnesty Program
 SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 1, Chapter 2010-166, L.O.F., authorizes the Department of Revenue to promulgate an emergency rule to implement the provisions of the law, establish forms, procedures, terms, conditions, and methods of payment appropriate for fair and effective administration of Florida’s 2010 Tax Amnesty Program, and to ensure taxpayers’ ongoing compliance with Florida’s revenue laws. This emergency rule establishes the administration of Florida’s 2010 Tax Amnesty Program during the period July 1, 2010, through September 30, 2010. To comply with the effective dates of this Program, the Department must adopt an emergency rule as provided by the law so that eligible taxpayers can apply under the Program to report and pay outstanding state and/or local tax liabilities during the tax amnesty period.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of an emergency rule to administer the provisions of Section 1, Chapter 2010-166, L.O.F., which establishes Florida’s 2010 Tax Amnesty

Program beginning July 1, 2010, through September 30, 2010. This emergency rule establishes the terms and conditions of eligibility to participate in the program, the procedures to obtain amnesty under the program for any outstanding state and/or local tax liability incurred prior to July 1, 2010, and the forms necessary to apply for tax amnesty and to report and pay outstanding liabilities during the tax amnesty period.

SUMMARY: Emergency Rule 12ER10-03, (Florida’s 2010 Tax Amnesty Program), establishes the procedures the Department of Revenue will use to administer the tax amnesty program authorized under Section 1, Chapter 2010-166, L.O.F. This emergency rule: (1) provides when a taxpayer is eligible to participate in Florida’s 2010 Tax Amnesty Program during the period from 12:01 a.m., July 1, 2010, through midnight, September 30, 2010; (2) requires eligible taxpayers to file a 2010 Tax Amnesty Agreement (Form DR-100000) with the Department, declaring eligibility to participate in the program; (3) provides when the Department will rescind a taxpayer’s eligibility to participate in the program; (4) establishes when a reduction of 50 percent interest or when a reduction of 25 percent interest will be authorized under the program; (5) establishes procedures for eligible taxpayers who have submitted a 2010 Tax Amnesty Agreement to report and pay outstanding state and/or local tax liabilities; (6) establishes procedures to convert a sales and use tax audit to the certified audit program; (7) establishes procedures for entering into a 2010 Amnesty Stipulation Agreement (Form DR-682010) to pay outstanding liabilities under the tax amnesty program; and (8) provides the effective period of this emergency rule authorized by Section 1, Chapter 2010-166, L.O.F.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE EMERGENCY RULE IS:

12ER10-03 Florida’s 2010 Tax Amnesty Program.

(1) Scope. This rule establishes the procedures the Department of Revenue will use to administer the tax amnesty program authorized by Section 1, Chapter 2010-166, L.O.F.

(a) The Department is authorized to offer to any eligible taxpayer the opportunity to pay their state and/or local tax liability due prior to July 1, 2010, and to avoid criminal prosecution and the imposition of penalties and a portion of the interest due.

(b) Taxpayers are encouraged to participate in this tax amnesty program as a means of resolving any unpaid liabilities for state and/or local tax, penalty, and interest. Participation in this program does not increase the possibility that a taxpayer will be subject to an audit.

(2) Definitions. For the purposes of this rule, the following terms and phrases mean:

(a) “Department” means the Florida Department of Revenue.

(b) “Eligible taxpayer” means any taxpayer who meets the criteria for participation in the tax amnesty program as provided by Section 1, Chapter 2010-166, L.O.F., and these rules. The term “eligible taxpayer” does not include any taxpayer who is under:

1. Criminal investigation, indictment, information, or prosecution by any state or local entity for a violation of a Florida revenue law; or

2. A pretrial intervention or diversion program, probation, community control, or in a work camp, jail, state prison, or another correctional system regarding a Florida revenue law.

(c) “State and/or local tax” means any of the following when regulated, controlled, and administered by the Department:

1. Communications services tax.

2. Corporate income and emergency excise tax.

3. Documentary stamp tax.

4. Estate tax.

5. Fuel taxes on motor fuel, diesel fuel, aviation fuel, and alternative fuel, including local option taxes.

6. Government leasehold intangible personal property tax.

7. Gross receipts tax on dry-cleaning.

8. Gross receipts tax on natural or manufactured gas or electricity.

9. Insurance premium taxes, fees, regulatory assessments, excise taxes, and surcharges required to be remitted to the Department;

10. Local option convention development tax, tourist development tax, and tourist impact tax administered by the Department and by counties that self-administer these taxes and elected to participate in the amnesty program.

11. Motor vehicle warranty fee.

12. Nonrecurring intangible personal property tax.

13. Pollutant taxes imposed under Part IV, Chapter 206, F.S., and Section 376.75, F.S.

14. Rental car surcharge.

15. Sales and use tax and local option discretionary sales surtaxes.

16. Severance taxes, fees, and surcharges on gas and sulfur production, oil production, and solid minerals.

17. Solid waste fees, including the new tire fee and the new or remanufactured lead-acid battery fee.

(d) “Revenue law” means the Florida statutes applicable to any state and/or local tax, fee, surcharge, surtax, assessment, or other revenue-producing imposition collected and administered by the Department.

(e) “Settlement of liability” means a written agreement between the Department and the taxpayer in which the taxpayer has agreed to the amount of any state and/or local tax, penalty, interest, administrative collection processing fee, and

filing fees for any taxable period ending prior or subsequent to the date of the agreement as provided in closing agreements, stipulated time payment agreements, and settlement agreements.

(f) “Tax amnesty period” begins at 12:01 a.m., July 1, 2010, and ends at midnight on September 30, 2010.

(3) Amnesty Program Schedule Requirements.

(a) Eligible taxpayers must submit to the Department, within the tax amnesty period, the 2010 Tax Amnesty Agreement, all tax returns, and all payments for the state and/or local taxes, interest, administrative collection processing fee, and filing fees included under the tax amnesty program. Eligible taxpayers who are unable to pay the liability due under the tax amnesty program may enter into a payment agreement to make installment payments as provided in subsection (6).

(b) The Department will not grant extensions of time beyond the end of the tax amnesty period for:

1. Filing a properly completed 2010 Tax Amnesty Agreement;

2. Paying in full the correct state and/or local tax, fees, surcharges, interest, administrative collection processing fee, and filing fees due, unless the taxpayer has entered into a stipulated payment agreement as provided in subsection (6) to pay such liabilities; or

3. Entering into a stipulated payment agreement as provided in subsection (6).

(c) To determine the date of submission of a tax amnesty program return and/or the date of any tax amnesty program payment, the Department will apply one or more of the following criteria:

1. For returns and/or payments submitted by United States mail, the postmark date.

2. For hand-delivered returns and/or payments, the date the item is received by the Department.

3. For returns and/or payments delivered by an express service or delivery service, the date on which the taxpayer delivers the document to the express service or delivery service.

4. For returns and/or payments submitted by electronic means, the date such return is submitted or the date such payment is initiated.

(4) Eligibility Criteria.

(a) Every eligible taxpayer requesting permission to participate in the tax amnesty program must complete a 2010 Tax Amnesty Agreement (Form DR-100000, R. 06/10, hereby incorporated by reference, effective 07/10) and declare and agree to the terms and conditions contained in the 2010 Tax Amnesty Agreement. Failure to sign the Agreement to declare and agree to the terms and conditions of the Agreement will result in the Department denying the taxpayer’s request to participate in the tax amnesty program.

(b) Any person qualified to represent a taxpayer, as provided in Rule 12-6.005, must submit a completed and signed Power of Attorney (Form DR-835, incorporated by reference in Rule 12-6.0015, F.A.C.) with the 2010 Tax Amnesty Agreement on behalf of the taxpayer represented.

(c) Only one 2010 Tax Amnesty Agreement is required to participate in the tax amnesty program for any state and/or local tax. Eligible taxpayers are not required to submit an additional Agreement to subsequently disclose additional state and/or local tax liabilities during the tax amnesty period.

(d) The Department will rescind a grant of tax amnesty if the taxpayer has:

1. Misrepresented the taxpayer's eligibility to participate in the tax amnesty program;

2. Misrepresented the interest reduction for which the taxpayer qualifies;

3. Filed false returns or other forms associated with the tax amnesty program request;

4. Failed to file completed forms or returns during the tax amnesty period; or,

5. Failed to pay the amounts due under the tax amnesty program or to enter into an Amnesty Stipulation Agreement during the tax amnesty period.

(5) Penalty; Interest; Fees; Statute of Limitations.

(a) Eligible taxpayers participating in the tax amnesty program will have all penalties imposed on unpaid state and/or local tax liabilities waived, including any specific and/or mandatory penalties imposed for failing to comply with a revenue law.

(b) The Department is authorized to reduce the interest due from taxpayers participating in the tax amnesty program as follows:

1. If the Department has not sent the taxpayer a jeopardy assessment letter, a Notice of Tax Action, a billing, a delinquency letter, a notice of intent to conduct an audit, or any notification reflecting a specifically identified liability, or the Department has not filed a tax warrant, lien, or notice of lien against the taxpayer, the statutorily imposed interest will be reduced by 50 percent.

2. If the Department has sent the taxpayer or filed any document listed in subparagraph 1., the statutorily imposed interest will be reduced by 25 percent.

(c)1. The administrative collection processing fee imposed by Section 213.24, F.S., is calculated on the tax, penalty, and interest due before the reductions allowed by the amnesty program.

2. No reductions are allowed under the tax amnesty program for any charge incurred by the Department in connection with recording any warrant, lien, or notice of lien issued by the Department, or any modification, amendment, satisfaction, or cancellation of any warrant, lien, or notice of lien.

(d)1. If the Department has not sent the taxpayer any document listed in subparagraph (b)1., the period for any state and/or local tax liability disclosed is limited as prescribed by Section 213.21(7)(a) and (d), F.S.

2. When the Department has sent any of the documents listed in subparagraph (b)1., the statute of limitations on actions to collect taxes provided in Section 95.091, F.S., applies.

(6) Department Procedures for Administering the Tax Amnesty Program.

(a) Eligible taxpayers who have completed and submitted a 2010 Tax Amnesty Agreement must file a new or amended return for each taxable period covered under the taxpayer's tax amnesty program request. Eligible taxpayers must use the appropriate current or prior return to report any state and/or local tax liability under the tax amnesty program. A link to current tax year and prior tax year returns is on the Department's Florida's Tax Amnesty Program webpage (<http://dor.mflorida.com/dor/amnesty>). If the appropriate return for a prior year or other reporting period is not available on-line, taxpayers may obtain returns for prior years by calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time.

(b) Eligible taxpayers are encouraged to use the Department's Florida's Tax Amnesty Program webpage to file new and amended returns and to make payment of outstanding liabilities. Eligible taxpayers currently enrolled with the Department's e-Services Program may use their user identification number and password to remit taxes and fees and submit returns by electronic means using the Florida's Tax Amnesty Program webpage. Eligible taxpayers who have not enrolled in the Department's e-Services Program must enroll to file and pay by electronic means. Taxpayers may enroll for e-Services at <http://dor.myflorida.com/dor/eservices>.

(c) Taxpayers who have been issued a Notice of Intent to Audit and wish to convert a sales and use tax audit to the Department's certified audit program may contact the program at (850)922-6949. Taxpayers must receive Department approval to convert an audit to the certified audit program and must pay the state and/or local tax and interest determined to be due under the tax amnesty program during the tax amnesty period. Any payment after September 30, 2010, will not qualify for the compromise of penalty and interest available under the tax amnesty program. Eligible taxpayers who comply with the following conditions will be approved to convert an audit to the certified audit program during the tax amnesty period:

1. Only a sales and use tax audit can be converted to the certified audit program.

2. The beginning date of the audit period for certified audit purposes must be the same as the beginning date of the audit period stated on the Notice of Intent to Audit Books and Records that was originally issued by the Department prior to July 1, 2010.

3. All sales and use tax audits converted to the certified audit program must comply with the requirements and procedures established in Part II, Rule Chapter 12-25, F.A.C.

(d) An eligible taxpayer who has multiple issues or multiple state and/or local taxes may request to participate in the tax amnesty program for some or all outstanding liabilities, based on the following provisions:

1. If the taxpayer has more than one tax liability for which the Department has not issued any of the documents listed in subparagraph (5)(b)1. to the taxpayer, the taxpayer will be eligible to receive the benefits provided under the tax amnesty program for those liabilities disclosed during the tax amnesty period.

2. If the taxpayer has received any of the documents listed in subparagraph (5)(b)1. regarding tax liabilities on multiple issues, the taxpayer may choose to pay the liability due under the tax amnesty program on one or more of those issues, and continue to timely protest the remaining liabilities contained in any document issued by the Department. The taxpayer must state in writing the issues that the taxpayer agrees to include under the tax amnesty program and the issues that the taxpayer does not want included in the tax amnesty program.

(e) An eligible taxpayer may request to make installment payments of the liability due under the tax amnesty program by entering into a stipulated payment agreement with the Department. Eligible taxpayers must contact their local service center to enter into a stipulated payment agreement with the Department. A list of local service centers is available on the Department's website at <http://dor.myflorida.com/dor/taxes/servicecenters.html>. A Department representative at the local service center will prepare a 2010 Amnesty Stipulation Agreement, including a payment schedule of up to seven monthly installment payments. The eligible taxpayer must sign the 2010 Amnesty Stipulation Agreement (Form DR-682010, N. 07/10, hereby incorporated by reference, effective 07/10) and pay at least 12.5 percent of the outstanding amount due under the tax amnesty program during the tax amnesty period. Interest will continue to accrue during the term of the payment agreement and will be included in the monthly installment payments included in the amortization schedule. If a taxpayer fails to make a monthly amnesty installment payment or is delinquent with an amnesty installment payment, the taxpayer's 2010 Tax Amnesty Agreement and 2010 Amnesty Stipulation Agreement will be voided. The original liability, including any interest, penalty, or fees due prior to the waiver of penalty and the reduction of interest under the amnesty program, less any payments received under the stipulation agreement, will be due.

(7) Taxpayers who need assistance in determining the amount due under the tax amnesty program or who need help in complying with the tax amnesty program provisions should contact the Department by calling the Taxpayer Services office at (800)352-3671 (Monday through Friday, 8 a.m. to 7 p.m.) or by visiting the local service center nearest them (open Monday through Friday, 8 a.m. to 5 p.m.). A list of local service centers is available at <http://dor.myflorida.com/dor/taxes/servicecenters.html>.

(8) Copies of forms used by the Department in the administration of Florida's 2010 Tax Amnesty Program and prior year and current tax returns are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

(9) Pursuant to Section 1, Ch. 2010-166, L.O.F., this emergency rule will remain in effect until the later of six months after its effective date or until the date of final resolution of all tax amnesty applications filed during the tax amnesty period.

Rulemaking Authority s. 1, Ch. 2010-166, L.O.F. Law Implemented 213.21, s. 1, Ch. 2010-166, L.O.F. History—New 7-7-10.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: July 7, 2010

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."