

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF INSURANCE

RULE TITLE: Annual Audited Financial Reports
RULE NO.: 4-137.002
PURPOSE AND EFFECT: Proposed amended rule 4-137.002(7)(c) would specify criteria for relief from the 7-year limit for an independent CPA to render audited financial reports of an insurer. Proposed amended rule 4-137.002(8) would reduce the per-day fine for late applications for approval of combined financial reports. Proposed deleted rule 4-137.002(16) would delete an unnecessary severability provision.

SUBJECT AREA TO BE ADDRESSED: Qualifications of independent Certified Public Accountants, consolidated or combined audits, severability provision.

SPECIFIC AUTHORITY: 624.308(1), 624.424(8)(e) FS.

LAW IMPLEMENTED: 624.324, 624.424(8) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., December 5, 2000

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Wayne Johnson, Bureau Chief, Property and Casualty Insurer Solvency, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0329, (850)413-5232

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)413-4214.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-137.002 Annual Audited Financial Reports.

(1) through (6) No change.

(7) Qualifications of Independent Certified Public Accountant.

(a) through (b) No change.

(c) A partner or other person responsible for rendering a report may not act in that capacity for more than seven (7) consecutive years. Following any period of service that person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates

for a period of two (2) years. An insurer may make application to the Department for relief from the above rotation requirement on the basis of a determination by the Department that the accountant is exercising independent judgement that is not unduly influenced by the insurer, considering the following factors: pursuant to Section 624.424, Florida Statutes:

1. Number of partners, expertise of the partners, or the number of insurance clients in the currently registered firm;

2. Premium volume of the insurer; and

3. Number of jurisdictions in which the insurer transacts business.

(d) through (e) No change.

(8) Consolidated or Combined Audits.

(a) No change.

~~1.(b)~~ The application for approval to consolidate is required each year, and must be filed with the Department prior to the end of the calendar year for which the approval is being granted, except that applications for approval will be accepted after the end of such calendar year subject to the imposition of an administrative fine on each insurer involved in such application as provided for in section 624.4211(2), Florida Statutes ~~provided such application is received by the Department prior to March 1 immediately subsequent to the end of the calendar year for which such approval is being requested.~~

2. The amount of the fine shall be \$50 \$500 per day for each day beyond the end of the calendar year, not to exceed an aggregate amount of \$10,000 for the group of insurers requesting permission to file on a consolidated basis.

(c) No change.

(9) through (15) No change.

~~(16) Severability Provision. If a subsection or portion of a subsection of this rule or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the rule or the applicability of the provision to other persons or circumstances shall not be affected thereby.~~

Specific Authority 624.308(1), 624.424(8)(e) FS. Law Implemented 624.324, 624.424(8) FS. History—New 3-31-92, Amended 3-14-94, 8-17-98,_____.

DEPARTMENT OF INSURANCE

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Standard Risk Rates	4-149, Part X
RULE TITLES:	RULE NOS.:
Scope	4-149.201
Standard Risk Rates	4-149.202
Group Conversion Premium	4-149.203
Outline of Coverage	4-149.204
Indemnity Stand Risk Rates	4-149.205
Preferred Provider/Exclusive Provider	
Stand Risk Rates	4-149.206
Health Maintenance Organization Stand	
Risk Rates	4-149.207

PURPOSE AND EFFECT: Section 627.6675, F.S. requires that the Department annually survey the market to determine the "standard risk rates". The results of our latest survey is the basis for 2001 rates. The Rule where these rates have been published is updated to reflect these new results.

SUBJECT AREA TO BE ADDRESSED: Annual determination of standard risk rates by the Department of Insurance.

SPECIFIC AUTHORITY: 624.308, 627.6675(3)(c) FS.

LAW IMPLEMENTED: 627.307(1), 627.6498(4), 627.6675(3), 641.3922(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m., December 6, 2000

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE IS: Frank Dino, Actuary, Life & Health Forms & Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Frank Dino at (850)413-5014.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Fire Prevention – General Provisions
RULE CHAPTER NO.: 4A-3

PURPOSE AND EFFECT: Revise laws implemented; update rules to refer to the State Uniform Firesafety Standards; revise rules to provide for inspections of state owned buildings; repeal certain rules providing for inspections of state leased buildings.

SUBJECT AREAS TO BE ADDRESSED: Above changes.

SPECIFIC AUTHORITY: 633.01(1) FS.

LAW IMPLEMENTED: 633.022 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW.

TIME AND DATE: 9:00 a.m., December 6, 2000

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, FL 32399

TIME AND DATE: 9:00 a.m., December 7, 2000

PLACE: State Service Center, Hurston Building, South Tower Conference Rooms A and B, 400 W. Robinson Street, Orlando, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, FL 32399-0342, (850)413-3620

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Millicent King, (850)413-3619.

THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE AT THIS TIME.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Fire Prevention – Precautions
RULE CHAPTER NO.: 4A-28

PURPOSE AND EFFECT: Repeal chapter as without statutory authority and unnecessary.

SUBJECT AREAS TO BE ADDRESSED: Repeal of chapter.

SPECIFIC AUTHORITY: 633.01(1) FS.

LAW IMPLEMENTED: 633.022 FS.

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DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards for Mobile Home Parks and Recreational Vehicle Parks
RULE CHAPTER NO.: 4A-42

PURPOSE AND EFFECT: Revise law implemented; update NFPA 501A to 1996 edition.

SUBJECT AREAS TO BE ADDRESSED: Above changes.

SPECIFIC AUTHORITY: 633.01(1) FS.

LAW IMPLEMENTED: 633.022 FS.

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THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE AT THIS TIME.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards for Transient Public Lodging Establishments and Timeshare Plans or Timeshare Unit Facilities
RULE CHAPTER NO.: 4A-43

PURPOSE AND EFFECT: Revise laws implemented; make chapter applicable to timeshare plans or facilities; revise law implemented; revise to provide that existing facilities may continue to use battery powered smoke detectors with certain restrictions; adopt certain portions of NFPA 72; repeal adoption of NFPA 74-6-2; require all public lodging establishments and time share plans and units to be sprinklered in accordance with Sections 509.215 and 721.24, Florida Statutes; repeal provisions for extensions; adopt NFPA 72 and repeal NFPA 74.

SUBJECT AREAS TO BE ADDRESSED: All of the above changes.

SPECIFIC AUTHORITY: 633.01(1) FS.

LAW IMPLEMENTED: 633.022 FS.

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THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE AT THIS TIME.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards for Elevators
 RULE CHAPTER NO.: 4A-47

PURPOSE AND EFFECT: Revise laws implemented; provide technical, non-substantive changes; revise definition of "machine rooms or spaces" as the space in which the driving machine and the association control equipment for an elevator or group of elevators, dumbwaiter, or escalators is located; revise references to include the Florida Building Code; reference Rule 61C-5.001, F.A.C.; update editions of certain codes adopted; adopt NFPA 72.

SUBJECT AREAS TO BE ADDRESSED: All of the above changes.

SPECIFIC AUTHORITY: 633.01(1) FS.

LAW IMPLEMENTED: 633.022 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW.

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THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE AT THIS TIME.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Fire Safety Standards for Fire Alarm Systems
 RULE CHAPTER NO.: 4A-48

PURPOSE AND EFFECT: Update laws implemented; provide for continuation of use of certain fire alarm systems provided they are fully functional and approved by the authority having jurisdiction; provide for fire alarm systems to be approved by nationally recognized testing laboratory; substitute Record of

Completion for test certificate in 4A-48.005(1), F.A.C.; provide additional requirements for fire alarms; provide certain requirements for companies wishing to do monitoring in fire departments' areas.

SUBJECT AREAS TO BE ADDRESSED: All of the above changes.

SPECIFIC AUTHORITY: 633.01(1) FS.

LAW IMPLEMENTED: 633.022 FS.

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THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE AT THIS TIME.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards for Self-Service Gasoline Stations
 RULE CHAPTER NO.: 4A-49

PURPOSE AND EFFECT: Revise laws implemented; provide new requirements for self-service gasoline stations.

SUBJECT AREAS TO BE ADDRESSED: All of the above changes.

SPECIFIC AUTHORITY: 633.01(1) FS.

LAW IMPLEMENTED: 633.022 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW.

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THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE AT THIS TIME.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Fees Rule Chapter RULE CHAPTER NO.: 4A-52

PURPOSE AND EFFECT: Revise laws implemented; clarify application of fees; update to conform to change in statute of application to state-leased buildings; clarify application of inspection fees.

SUBJECT AREAS TO BE ADDRESSED: All of the above changes.

SPECIFIC AUTHORITY: 633.01(1) FS.

LAW IMPLEMENTED: 633.022 FS.

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THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE AT THIS TIME.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards RULE CHAPTER NO.: 4A-53

for Hospitals and Nursing Homes PURPOSE AND EFFECT: Clarify that rules apply to new and existing hospitals and nursing homes.

SUBJECT AREAS TO BE ADDRESSED: Fire safety for hospitals and nursing homes.

SPECIFIC AUTHORITY: 633.01(1) FS.

LAW IMPLEMENTED: 633.022 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW.

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THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE AT THIS TIME.

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards for Correctional Facilities RULE CHAPTER NO.: 4A-54

PURPOSE AND EFFECT: Revise laws implemented; provide that rules are applicable to both new and existing correctional facilities; adopt and incorporate Department of Management Services, General Services Standard (850)500-170 or ASTM E 906; adopt NFPA 101, Chapter 22 or 23, as applicable.

SUBJECT AREAS TO BE ADDRESSED: All of the above changes.

SPECIFIC AUTHORITY: 633.01(1) FS.
 LAW IMPLEMENTED: 633.022 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW.
 TIME AND DATE: 9:00 a.m., December 6, 2000
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DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards for Public Food Service Establishments
 RULE CHAPTER NO.: 4A-55
 PURPOSE AND EFFECT: Revise laws implemented; substitute a public food service establishment for correctional facilities; repeal 4A-55.004, Definition, as unnecessary.
 SUBJECT AREAS TO BE ADDRESSED: All of the above changes.

SPECIFIC AUTHORITY: 633.01(1) FS.
 LAW IMPLEMENTED: 633.022 FS.
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DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards for Migrant Labor Camps
 RULE CHAPTER NO.: 4A-56
 PURPOSE AND EFFECT: Revise laws implemented; clarification of technical references; revise applicability of chapter to migrant labor camps using manufactured homes.
 SUBJECT AREAS TO BE ADDRESSED: All of the above changes.

SPECIFIC AUTHORITY: 633.01(1) FS.
 LAW IMPLEMENTED: 633.022 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW.
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DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER TITLE: Aquaculture Best Management Practices

RULE CHAPTER NO.: 5L-3

PURPOSE AND EFFECT: The purpose and effect is to make amendments and additions to the Aquaculture Best Management Practices Manual, July 2000.

SUBJECT AREA TO BE ADDRESSED: Aquaculture Best Management Practices Manual, July 2000.

SPECIFIC AUTHORITY: 570.07(23), 597.004(2)(b) FS.

LAW IMPLEMENTED: 597.002, 597.003, 597.004 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sherman Wilhelm, Division of Aquaculture, 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301, Phone (850)488-4033
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Communities Trust

RULE CHAPTER TITLE: Florida Forever Program

RULE CHAPTER NO.: 9K-7

RULE TITLE(S): Florida Forever Program

RULE NO.: 9K-7.001

PURPOSE AND EFFECT: Establish Florida Communities Trust grant application procedures for Florida Forever funds

SUBJECT AREA TO BE ADDRESSED: Grant application procedures of the Florida Communities Trust under Florida Forever.

SPECIFIC AUTHORITY: 380.507(11) FS.

LAW IMPLEMENTED: 259.105, 259.1051, 380.501-.515 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 12:00 noon, Monday, December 4, 2000

PLACE: Room 166, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, (850)922-2207, SunCom 292-2207, at least seven days before the date of the hearing. If you are hearing or

speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at (800)955-8770 (Voice) or (800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, (850)922-2207, SunCom 292-2207

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Communities Trust

RULE CHAPTER TITLE: Florida Forever Land Acquisition Procedures

RULE CHAPTER NO.: 9K-8

RULE TITLE: Florida Forever Land Acquisition Procedures

RULE NO.: 9K-8.001

PURPOSE AND EFFECT: Establish Florida Communities Trust land acquisition procedures for Florida Forever funds.

SUBJECT AREA TO BE ADDRESSED: Land acquisition procedures of the Florida Communities Trust under Florida Forever.

SPECIFIC AUTHORITY: 380.507(11) FS.

LAW IMPLEMENTED: 259.105, 259.1051, 380.501-.515 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 12:00 noon, Monday, December 4, 2000

PLACE: Room 166, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, (850)922-2207, SunCom 292-2207, at least seven days before the date of the hearing. If you are hearing or

speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, (850)922-2207, SunCom 292-2207

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Specific Exemptions	12A-1.001
Schools Offering Grades K Through 12; Parent-Teacher Associations; and Parent-Teacher Organizations	12A-1.0011
Sales Tax Brackets	12A-1.004
Aircraft, Boats, Mobile Homes, and Motor Vehicles	12A-1.007
Receipts from Services Rendered by Insect or Pest Exterminators	12A-1.009
Cleaning Services	12A-1.0091
Receipts from Sales by Barber Shops and Beauty Shops	12A-1.010
Food and Drink for Human Consumption; Sales of Food or Drinks Served, Cooked, Prepared, or Sold by Restaurants or Other Like Places of Business	12A-1.011
Credit for Taxes Paid in Error	12A-1.013
Refunds and Credits for Sales Tax Erroneously Paid	12A-1.014
Trade and Cash Discounts	12A-1.018
Occasional or Isolated Sales or Transactions Involving Tangible Personal Property or Services	12A-1.037
Sales by Photographers, Photofinishers and Photostat Producers, Photoengravers, Wood Engravers and Public Officials of Public Records	12A-1.041
Vending Machines	12A-1.044
Sale of Agricultural Products	12A-1.048
Tax Due at Time of Sale; Tax Returns and Regulations	12A-1.056
Waiver of Electronic Data Interchange Sales and Use Tax Return Filing Requirements	12A-1.0565
Trade Stamps	12A-1.058
Registration	12A-1.060
Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats	12A-1.064
Sales by Governmental Agencies and Instrumentalities and Exempt Institutions	12A-1.069
Concession Prizes; The Sale of Food, Drink, and Tangible Personal Property at Concession Stands	12A-1.080
Partial Exemption for Farm Equipment; Suggested Exemption Certificate for Items Used for Agricultural Purposes	12A-1.087
Use Tax	12A-1.091
Authority to Issue Subpoenas and Subpoenas Duces Tecum	12A-1.0935

Revocation of Sales Tax Certificates of Registration	12A-1.0955
Industrial Machinery and Equipment for Use in a New or Expanding Business	12A-1.096
Public Use Forms	12A-1.097
Service Warranties	12A-1.105
PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.001, F.A.C. Specific Exemptions, is to: (1) remove unnecessary references to other rules sections; (2) remove provisions regarding the exemption provided for religious publications that are clearly provided in s. 212.06(9), F.S.; (3) remove provisions regarding the sale of fertilizers, insecticides, fungicides, seeds, and the purchase of nets and other items by commercial fishermen that will be provided in Rules 12A-1.048 and 12A-1.087, F.A.C., as amended; (4) remove language that is redundant of the provisions of Rule 12A-1.064, F.A.C., regarding the purchase of certain items used in the repair and maintenance of vessels; (5) remove provisions regarding the sale of fuel that are provided in Rule 12A-1.059, F.A.C.; (6) remove provisions regarding the exemption provided for hospital rooms and meals that are clearly provided in s. 212.08(7)(i), F.S.; (7) remove obsolete provisions regarding the sale of advertising slides; (8) remove provisions regarding safety deposit boxes that are repetitive of Rule 12A-1.070, F.A.C.; (9) remove provisions regarding purchases by and sales by schools that will be provided in Rule 12A-1.0011, F.A.C., as created; (10) remove provisions regarding professional, insurance, or personal service transactions and the sale of information services that are redundant of the provisions of s. 212.08(7)(v), F.S., or Rule 12A-1.062, F.A.C.; (11) clarify provisions regarding the exemption provided for guide dogs and remove the unnecessary incorporation by reference of forms DR-151 and DR-152, which are not required to be adopted as a rule, as defined in s. 120.52(15), F.S.; (12) remove provisions regarding the sale of artificial commemorative flowers that are clearly provided in s. 212.08(7)(a), F.S.	
The purpose of the proposed creation of Rule 12A-1.0011, F.A.C., Schools Offering Grades K through 12; Parent-Teacher Organizations; and Parent-Teacher Associations, is to: (1) consolidate guidelines for schools offering grades K through 12, parent-teacher associations (PTAs), and parent-teacher organizations (PTOs) into one administrative rule; (2) define the terms "schools offering grades K through 12," "parent-teacher associations," and "parent-teacher organizations"; (3) provide guidelines for when school districts may make tax exempt purchases for parent-teacher associations or parent-teacher organizations; (4) provide guidelines for when schools offering grades K through 12, PTAs, and PTOs may pay tax on their purchases in lieu of collecting tax on their sales of taxable items, such as those sold in fund-raising projects; (5) provide guidelines for the taxability of admission charges; and (6) provide guidelines for the sale of school books and supplies, yearbooks and other	

publications, and food and beverages sold in the student lunchroom or dining room or sold or dispensed through vending machines or other dispensing devices.

The purpose of the proposed substantial rewording of Rule 12A-1.004, F.A.C. is to: (1) change the title to "Sales Tax Brackets" to reflect the substantial rewording of the rule text; and (2) provide the effective sales tax brackets for transactions taxable at the rates of 2.5%, 6%, and 7% for counties that do not impose a discretionary sales surtax that are required by s. 212.12(11), F.S., as amended by s. 1, Chapter 2000-276, L.O.F.; (3) provide for easier reading of the sales tax brackets; and (4) remove the requirement to certify forms containing the sales tax brackets.

The purpose of the proposed amendments to Rule 12A-1.007, F.A.C., Aircraft, Boats, Mobile Homes, and Motor Vehicles, is to incorporate the amendments to s. 215.26, F.S. (s. 10, ch. 94-314, L.O.F., and s. 10, ch. 99-239, L.O.F.), and the provisions of s. 213.255, F.S., created by s. 9, ch. 99-239, L.O.F. Section 215.26, F.S., provides that an application for refund of tax paid must be filed with the Department within 3 years after the date of payment of the tax. Section 213.255(3), F.S., provides that an application for a refund of tax paid will be considered complete when all requested information is received by the Department.

The purpose of the proposed amendments to Rule 12A-1.009, F.A.C., Pest Control Services, is to: (1) provide that charges for pest control services for tangible personal property are not subject to tax; (2) provide that charges for pest control services rendered to residential facilities used as living accommodations are not subject to tax, even though the rental or lease charges to guests to use such accommodations may be subject to the taxes imposed on transient rentals; (3) remove provisions regarding the Department's presumption that pest control services rendered to public lodging establishments advertised or held out to the public as places regularly rented to transient guests are taxable as nonresidential pest control services; (4) remove all guidelines related to establishing whether the pest control services provided to such living accommodations are for nonresidential or for residential use; and (5) remove references to rules that are no longer applicable.

The purpose of the proposed amendments to Rule 12A-1.0091, F.A.C., Cleaning Services, is to provide that charges for pest control services for tangible personal property are not subject to tax.

The purpose of the proposed amendments to Rule 12A-1.010, F.A.C., Receipts from Sales by Barber Shops and Beauty Shops, is to: (1) incorporate the legislative changes to s. 212.07, F.S., which require dealers who purchase items for the purposes of resale to extend a copy of their Annual Resale Certificate to make tax exempt purchases; (2) clarify that when tax has been paid to a supplier on items that are resold by the

owner or operator of the shop, a credit or refund may be obtained, as provided in Rule 12A-1.014, F.A.C.; and (3) make grammatical technical changes.

The purpose of the proposed amendments to Rule 12A-1.011, F.A.C., is to: (1) change the title to "Food and Drink for Human Consumption; Sales of Food or Drinks Served, Cooked, Prepared, or Sold by Restaurants or Other Like Places of Business" to reflect the removal of provisions for sales through vending machines; (2) remove provisions regarding sales to or sales by schools offering grades K through 12, PTAs, and PTOs that will be provided in Rule 12A-1.0011, F.A.C., as created; (3) remove the repetition of provisions regarding the sale of food and beverages by concessionaires that are provided in Rule 12A-1.080, F.A.C.; and (4) remove provisions regarding sales of food items through vending machines that are provided in s. 212.0515, F.S., or Rule 12A-1.044, F.A.C., as amended.

The purpose of the proposed repeal of Rule 12A-1.013, F.A.C., Credit for Taxes Paid in Error, is to consolidate into Rule 12A-1.014, F.A.C., guidelines for when dealers are allowed to apply for a refund or allowed to take a credit for tax paid on certain property and for sales tax erroneously paid.

The purpose of the proposed amendments to Rule 12A-1.014, F.A.C., is to: (1) change the title to "Refunds and Credits for Sales Tax Erroneously Paid"; and (2) incorporate the amendments to s. 215.26, F.S. (s. 10, ch. 94-314, L.O.F., and s. 10, ch. 99-239, L.O.F.), and the provisions of s. 213.255, F.S., created by s. 9, ch. 99-239, L.O.F. Section 215.26, F.S., provides that an application for refund of tax paid must be filed with the Department within 3 years after the date of payment of the tax. Section 213.255(3), F.S., provides that an application for a refund of tax paid will be considered complete when all requested information is received by the Department.

The purpose of the proposed amendments to Rule 12A-1.018, F.A.C., Trade and Cash Discounts, is to clarify in an example that the value of the coupon reduces the sales price of the item sold; however, the amount of tax due in that example remains unchanged.

The purpose of the proposed amendments to Rule 12A-1.037, F.A.C., Occasional or Isolated Sales or Transactions Involving Tangible Personal Property or Services, is to: (1) remove a reference to Rule 12A-1.038, F.A.C., that is no longer applicable; (2) remove provisions regarding sales to or sales by schools offering grades K through 12, PTAs, and PTOs that will be provided in the newly created Rule 12A-1.0011, F.A.C.; (3) remove provisions regarding sales made by qualified exempt organizations that are no longer necessary under the provisions of s. 212.08(7), F.S., as revised under s. 1, Chapter 2000-388, L.O.F.; and (4) remove the requirement that a sale of property acquired by exempt organizations and institutions through donation will only qualify as an exempt occasional or isolated sale if the donor paid the applicable taxes due on the donated property. Although this requirement

is being removed, donors must continue to pay any applicable tax on property donated under the provisions of Rule 12A-1.077, F.A.C.

The purpose of the proposed amendments to Rule 12A-1.041, F.A.C., Sales by Photographers, Photofinishers and Photostat Producers, Photoengravers, Wood Engravers and Public Officials of Public Records, is to remove provisions regarding sales to, or sales by, schools offering grades K through 12, PTAs, and PTOs that will be provided in the newly created Rule 12A-1.0011, F.A.C.

The purpose of the proposed amendments to Rule 12A-1.044, F.A.C., Vending Machines, is to: (1) incorporate the statutory requirements in s. 212.0515, F.S. (as amended by s. 2, Ch. 98-141, s.7, Ch. 98-342, and s. 1, Ch. 99-366, L.O.F.), for sales made through vending machines; (2) remove the statutory recitation of the terms “vending machine” and “vending machine operator,” as mandated by s. 120.74(1), F.S.; (3) consolidate the exemptions provided for certain items sold through vending machines into one subsection of this rule; (4) remove the recitation of the tax reporting divisors for sales made through vending machines that are provided in s. 212.0515(2), F.S.; (5) remove provisions for filing quarterly information reports (forms DR-15V, DR-15VOC, and DR-15VW) and the posting of notices that are no longer required or imposed under the provisions of s. 212.0515, F.S.; (6) remove the recitation of s. 212.0515(4), F.S., which imposes penalty and interest for failure to display the notice required in that subsection; (7) provide clarifying language regarding the registration requirements imposed on owners or operators of vending machines; and (8) provide that dealers are required to issue a copy of their Annual Resale Certificate to make tax exempt purchases for the purposes of resale.

The purpose of the proposed amendment to Rule 12A-1.048, F.A.C., is to: (1) change the title to “Sale of Agricultural Products,” to reflect the proposed changes; (2) remove gender references; (3) reorganize the rule text to provide easier reading and clarity; (4) remove provisions regarding the sale of poultry and livestock that are provided in Rule 12A-1.049, F.A.C.; (5) clarify that sellers, including producers and other persons, who sell agricultural products that are not a marketable or finished product are not required to obtain an exemption certificate from the purchaser to make tax exempt sales of such agricultural products; (6) clarify that the sales of agricultural products as a marketable or finished product are subject to tax; (7) clarify that the sale of ornamental nursery stock, regardless of the state of growth or maturity, is subject to tax; (8) provide that the sales of certain items for agricultural use, as provided in s. 212.08(5), F.S., are exempt when the purchaser issues an exemption certificate to the seller; (9) remove the unnecessary listing of those items that are listed in the suggested exemption certificate provided in Rule 12A-1.087, F.A.C., as amended; and (10) provide that dealers

who purchase ornamental nursery stock for resale must be registered as a dealer and extend a copy of their Annual Resale Certificate to make tax exempt purchases.

The purpose of the proposed amendments to Rule 12A-1.056, F.A.C., Tax Due at Time of Sale; Tax Returns and Regulations, is to: (1) incorporate the provisions of ss. 1 and 2, Chapter 2000-345, L.O.F. (amends ss. 212.031(1)(a)12. and (3), F.S.; creates s. 212.04(3), F.S.), which provide that tax collected on certain admission charges and real property rentals is not due to the state on the first day of the month following the date of the transaction; (2) remove the unnecessary provision regarding the Department’s authority to deny the collection allowance when an incomplete return is filed that is clearly provided in s. 212.11(1)(a) and (b)1., F.S.; (3) provide guidelines that incorporate the provisions of s. 16, Chapter 2000-355, L.O.F. (amends s. 212.11(2)(c), F.S.), authorizing the Department to allow a taxpayer to continue on the same filing frequency when the increased payment would not permit the taxpayer to continue to file on the same frequency schedule; and (4) remove provisions for the payment of estimated tax on the waste newsprint disposal fee that is no longer imposed.

The purpose of the proposed amendments to Rule 12A-1.0565, F.A.C., Waiver of Electronic Data Interchange Sales and Use Tax Return Filing Requirements, is to remove the incorporation by reference of form DR-654 (EDI Waiver Request) which does not meet the definition of a rule, as defined by s. 120.52(15), F.S., and is not required to be adopted by reference.

The purpose of the proposed repeal of Rule 12A-1.058, F.A.C., Trade Stamps, is to remove from the administrative code an unnecessary rule regarding the sale of trade stamps.

The purpose of the proposed amendments to Rule 12A-1.060, F.A.C., Registration, is to: (1) incorporate the provisions of s. 1, Chapter 2000-206, L.O.F., which repealed s. 212.18(5), F.S., which required certain taxpayers to pay an annual registration fee; (2) provide technical changes to properly advise the titles of forms and how forms may be obtained from the Department and properly reference Rule 12A-1.039, F.A.C.; (3) remove the unnecessary incorporation by reference of forms that do not meet the definition of a rule, as defined by s. 120.52(15), F.S., and are not required to be adopted by reference; and (4) remove unnecessary provisions regarding the requirement of bonds that are clearly provided in the statutes.

The purpose of the proposed amendments to Rule 12A-1.064, F.A.C., is to: (1) remove the unnecessary listing of an exemption for nets and parts thereof that is listed in the suggested exemption certificate provided in Rule 12A-1.087, F.A.C., as amended; and (2) remove provisions regarding the charge for printing catalogs that are provided in Rule 12A-1.027, F.A.C., as amended.

The proposed repeal of Rule 12A-1.069, F.A.C., is to remove from the administrative code an unnecessary rule regarding sales by government entities and by exempt organizations that are clearly addressed in s. 212.08(6) and (7), F.S.

The purpose of the proposed amendments to Rule 12A-1.080, F.A.C., is to: (1) amend the title to "Concession Prizes; The Sale of Food, Drink, and Tangible Personal Property at Concession Stands" and provide current guidelines for sales made at concession stands; (2) provide guidelines for the payment of tax due on prizes awarded for concession games; and (3) provide the method and tax divisor rates for concessionaires to remit tax due on sales.

The purpose of the proposed amendment to Rule 12A-1.087, F.A.C., is to: (1) change the title to "Partial Exemption for Farm Equipment; Suggested Exemption Certificate for Items Used for Agricultural Purposes," to reflect the changes made to the rule; (2) incorporate the provisions of s. 1, Chapter 2000-276, L.O.F., which reduces to 2.5 percent the tax rate on certain farm equipment used in agricultural production (amends s. 212.08(5)(a), F.S.) and provides a definition of the term "agricultural production" (creates s. 212.02(34), F.S.); (3) provide that liquefied petroleum gas, diesel, and kerosene used for agricultural purposes are exempt; and (4) provide guidelines for the issuance of a certificate to purchase tax exempt items used for agricultural purposes and a suggested exemption certificate.

The purpose of the proposed amendments to Rule 12A-1.091, F.A.C., Use Tax, is to: (1) provide a definition for the term "legal holiday"; (2) remove provisions regarding the payment of use tax on promotional materials that are repetitive of those provided in Rule 12A-1.034, F.A.C.; and (3) remove technical cross references to other rule sections that no longer apply.

The purpose of the proposed amendments to Rule 12A-1.0935, F.A.C., Authority to Issue Subpoenas and Subpoenas Duces Tecum, is to: (1) remove the incorporation by reference of the Department's internal forms DR-13, DR-13A, and DR-13B which do not meet the definition of a rule, as defined by s. 120.52(15), F.S., and are not required to be adopted by reference; (2) provide reference to the forms currently used internally in the Department's process to issue subpoenas and/or subpoena duces tecum; and (3) provide guidelines to third-party record keepers to submit a claim for reimbursement of expenses incurred.

The purpose of the proposed amendments to Rule 12A-1.0955, F.A.C., Revocation of Sales Tax Certificates of Registration, is to remove the incorporation by reference of forms previously used by the Department in the process of revoking sales tax certificates of registration that do not meet the definition of a rule, as defined by s. 120.52(15), F.S., and are not required to be adopted by reference.

The purpose of the proposed amendments to Rule 12A-1.096, F.A.C., Industrial Machinery and Equipment for Use in a New or Expanding Business, is to incorporate the provisions of s.

54, Chapter 2000-165, L.O.F., which removed the requirement that a business entity be registered with the WAGES Program Business Registry to be eligible to receive an exemption for the purchase or lease of machinery and equipment used in a new or expanding business.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C., Public Use Forms, is to: (1) incorporate and certify the changes to forms that have been amended by the Department; (2) remove forms used internally by the Department in the administration of sales tax that do not meet the definition of a rule, as defined by s. 120.52(15), F.S., and are not required to be adopted by reference; and (3) remove all obsolete forms that are no longer used by the Department.

The purpose of the proposed amendments to Rule 12A-1.105, F.A.C., Service Warranties, is to incorporate the legislative changes to s. 212.07, F.S., that require dealers who purchase items for the purposes of resale to extend a copy of their Annual Resale Certificate to make tax exempt purchases.

SUBJECT AREA TO BE ADDRESSED: The purpose of this rule development workshop is to provide an opportunity for public comment regarding these proposed amendments to Rule Chapter 12A-1, Sales and Use Tax.

SPECIFIC AUTHORITY: 72.011, 212.05(1), 212.0515, 212.08(5)(b)4., 212.12(11), 212.17(6), 212.18(2), 213.06(1), 213.21, 213.255(11) FS.

LAW IMPLEMENTED: 72.011, 92.525, 95.091, 119.07(1), 119.085, 120.57(1),(2), 120.60(5), 120.80(14), 125.0104(3)(g), 125.0108(2)(a), 212.02(1),(2),(4),(7),(9),(10),(12),(14),(15), (16),(19)-(22),(24),(29)-(34), 212.03, 212.0305(3)(c),(h), 212.031, 212.04, 212.05, 212.0501, 212.0506, 212.0515, 212.052, 212.054, 212.055, 212.0596, 212.0598, 212.06, 212.0601, 212.0606, 212.07(1),(2),(5),(6),(7),(8), 212.08(1), (3)-(11), 212.0805, 212.0821, 212.085, 212.096, 212.11, 212.12(1)-(9),(11),(12), 212.13(1),(2), 212.14(2),(5),(7), 212.15(1),(2), 212.16(1),(2), 212.17(1),(6), 212.18(2),(3), 212.183, 212.21(2),(3), 213.12(2), 213.06(1), 213.20, 213.235, 213.255, 213.35, 213.37, 213.755, 213.756, 215.01, 215.26(2), 366.051, 376.11, 403.715, 403.718, 403.7185, 634.011, 634.131, 634.401, 634.415 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 28, 2000

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

Copies of the agenda for the rule development workshop may be obtained from 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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the

Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT 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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.001 Specific Exemptions.

Rulemaking power; rules promulgated by the Department of Revenue cannot be construed to extend exemptions beyond the scope of those intended by the statutes.

(1) ~~ADMISSIONS.~~ See Rule 12A-1.005.

(2) ~~BIBLES.~~

(a) ~~Bibles, hymn books, prayer books and religious publications similar thereto, altar paraphernalia, sacramental chalices, and like church service and ceremonial raiment and equipment are exempt. (See Rule 12A-1.008(11), F.S., for sale or purchase of religious publications.)~~

(b) ~~Christian Science reading rooms are allowed to sell Bible and religious publications and literature tax exempt.~~

(c) ~~A book of sermons does not fall within the specific exemptions provided under Rule 12A-1.001 and the sale thereof is taxable.~~

~~(1)(3) No change.~~

(4) ~~DRUGS.~~ Drugs and medicines are exempt. Certain disability appliances are also exempt. (See Rules 12A-1.020, 12A-1.021).

(5) ~~FERTILIZERS, INSECTICIDES, FUNGICIDES.~~

(a) ~~Fertilizers (including peat, topsoil, and manure, but not fill dirt), insecticides, pesticides, fungicides, herbicides and weed killers used for application on or in the cultivation of crops, groves and home vegetable gardens or by commercial nurserymen are exempt. These exemptions shall not be allowed unless the purchaser furnishes the seller a certificate stating that the item to be exempted is to be used exclusively for one of the foregoing purposes on a farm. When these items are used on lawns, golf courses, shrubbery, ornamentals, flower gardens, or for any purpose other than one of those specifically named herein as exempt, they are taxable. The sale of fill dirt is taxable.~~

(b) ~~Insecticides, pesticides and fungicides, including disinfectants used in dairy barns or on poultry farms for the purpose of protecting cows or poultry or used directly on livestock, are exempt.~~

(c) ~~Sales of the items referred to in paragraph (a) above to commercial farm or grove caretakers, or to cooperatives or to anyone else for use on farms are exempt. (See Rule 12A-1.039, F.A.C.)~~

(6) ~~FISHERIES.~~

(a) ~~Nets and materials, parts and labor used in the repair thereof, are exempt when used exclusively by commercial fishermen. (Sponge fishermen qualify as commercial fishermen). To purchase such nets tax exempt, a certificate in substantial conformity with the certificate suggested in Rule 12A-1.039 must be executed.~~

(b) ~~The sale of fuels, vessels, and equipment, including but not limited to, materials, parts and labor used in the repair and maintenance of such ships and equipment, are taxable to the extent provided in Section 212.08(4) and (8), F.S. Items such as cleaning materials, lubricating oils and greases, ice, fish bait, charts, foul weather gear, gloves, boots, rain clothing, rope, fishing tackle, and logs are taxable to the extent provided in Rule 12A-1.064, F.A.C., when purchased by commercial fisheries and commercial fishermen to fulfill the purpose for which the vessel is designed. Bait purchased by commercial fishermen which is used solely for the entrapment of stone crabs and blue crabs is specifically exempt.~~

(c) ~~Charter boats, party boats, pleasure fishing boats, and equipment, materials, parts and labor used in the repair and maintenance of such boats and equipment are taxable.~~

(d) ~~Lumber, rope and plastic floats used in the construction of crawfish traps are taxable.~~

(e) ~~The breeding and raising of fish constitutes an agricultural project. Equipment and supplies used for such purposes are subject to tax in the same manner as any other agricultural activity. (See Rule 12A-1.087.)~~

(7) ~~FUELS.~~ Fuels used by public or private utilities, including municipal corporations and rural cooperative associations, in generating electric power or energy for sale to the general public are exempt from all taxes imposed under Chapter 212, F.S. (For other exempt and taxable fuels, see Rule 12A-1.059.)

(8) ~~GASES.~~ Gases used for medical or therapeutic purposes are exempt. For taxable gases, see Rule 12A-1.015.

~~(2)(9) No change.~~

(10) ~~GROCERIES.~~ See Rule 12A-1.011, F.A.C.

(11) ~~HOSPITALS.~~ Room charges and meals furnished to patients or inmates as a part of the room charges are exempt, as are rooms and meals furnished employees under their employment contract. This rule also applies to institutions designed and operated primarily for the care of persons who are ill, aged infirm, mentally or physically incapacitated, or for any reason dependent upon special care or attention.

~~(3)(12) RADIO AND TELEVISION STATIONS.~~

(a) through (c) No change.

(d) The sale of an advertising slide for use in a television broadcast and the art work pertaining to its production are taxable.

(13) SAFETY DEPOSIT BOXES. The rental of safety deposit boxes is exempt.

(14) SCHOOLS AND SCHOOLBOOKS.

(a) The sale of schoolbooks, including printed textbooks and workbooks, containing printed instructional material, and questions and answers for school purposes used in regularly prescribed courses of study in public, parochial, or nonprofit private schools grades K through 12 are exempt. Schools as used herein shall mean tax supported or parochial, church, and nonprofit private schools conducting regular classes and courses of study required for accreditation by or membership in the Southern Association of Colleges and Schools, State Department of Education, the Florida Council of Independent Schools, or Florida Association of Christian Colleges and Schools, Inc. Yearbooks, magazines, directories, bulletins, papers, and similar publications distributed by educational institutions to the students are classified as schoolbooks and are treated in the same manner as other schoolbooks. Sales of all such items by junior colleges and institutions of higher learning, as well as by newsstands, and sales to the general public are taxable. Sales of school materials and supplies are taxable regardless of by whom sold; however, for the sake of convenience, schools grades K through 12 and their respective P.T.A.'s or P.T.O.'s have been granted the privilege of paying tax to their suppliers on school materials and supplies that they purchase for resale to students and the tax is passed on to the student as part of the selling price. All others making sales of school supplies and materials are required to register as dealers and collect the tax thereon from the purchaser.

(b) The sale of photographs by photographers for use in students' yearbooks is taxable if the purchase and payment are made by the student. They are exempt only if payment is made from school funds.

(c) Band uniforms, athletic uniforms and equipment, caps and gowns, and other items of clothing bought and paid for by a school with ownership and title remaining in the school are exempt.

(d)1. Tangible personal property sold outright or rented through the school to students is taxable based on delivered cost to the school or on the amount charged the student upon sale or rental. Student photographs, candies, confections, and novelties sold to students or the public for fund raising purposes come within this rule.

2. Food and beverages sold through vending machines located in the student lunchrooms or dining rooms of schools grades K through 12 are exempt. Sales of food and beverages through vending machines that are located elsewhere on the school's premises, other than the student lunchroom or dining room, are taxable. Schools grades K through 12 and their respective P.T.A.'s or P.T.O.'s which operate food and

beverage vending machines selling taxable items may pay the tax to their suppliers on the vended items or remit the tax to the Department on the total receipts from each machine. See Rule 12A-1.044, F.A.C.

(e) The same tax regulations which apply to schools also apply to parent teacher associations. Parent teacher associations may qualify for exemption as educational institutions and may make tax exempt purchases of items used in their customary activities or items donated by the associations to the schools. Parent teacher associations holding fund raising events such as spring festivals, fun houses, and games where prizes are given away shall pay the tax on all materials used, including the prizes awarded.

(15) SEEDS. Field and garden seeds sold for the purpose of growing vegetables and fruit for human consumption are exempt. Flower seeds are taxable except when sold to commercial nurserymen or by the producer as an agricultural product.

(4)(16) SERVICE TRANSACTIONS.

(a) Professional, insurance or personal service transactions which involve sales as inconsequential elements for which no separate charges are made are exempt.

(b) The exemption described in paragraph (a) does not apply to personal service transactions which involve sales of tangible personal property, whether or not as inconsequential elements, when the service provided is an information service involving the furnishing of printed, mimeographed, multigraphed matter, microfiche, microfilm, or matter duplicating written or printed matter. The furnishing of information, including a written report to a person of a personal or individual nature and which is not or may not be substantially incorporated in reports furnished to other persons, is not an information service within the meaning of the law and is exempt. In such cases the person furnishing the information is required to pay the tax on the purchases of tangible personal property used by him in connection therewith. (See Rule 12A-1.062, F.A.C.)

(c) through (e) renumbered (a) through (c) No change.

(f) The exemption described in paragraph (a) does not apply to services that are taxable under s. 212.05(1)(k), F.S., as detective, burglar protection, and other protection services enumerated in Industry Numbers 7381 and 7382 of the Standard Industrial Classification Manual, 1987, and nonresidential cleaning and nonresidential pest control services described in Industry Group Number 734 of that Manual. See Rule 12A-1.0161, F.A.C.

(g) The exemption described in paragraph (a) does not apply to any service warranty transaction taxable under s. 212.0506, F.S. See Rule 12A-1.105, F.A.C.

~~(h) The exemption described in paragraph (a) does not apply to the sale of electrical power or energy, telephone, telegraph, or other telecommunication services, or television system program services taxable under s. 212.05(1)(e), F.S. See Rules 12A-1.046 and 12A-1.053, F.A.C.~~

~~(5)(17) GUIDE DOGS FOR THE BLIND.~~

~~(a) A blind person who holds a Consumer's Certificate of Exemption for the Blind (form Form DR-152, incorporated by reference in Rule 12A-1.097, F.A.C.) issued by the Department Executive Director or the Executive Director's designee in the responsible program may purchase or rent a guide dog and purchase food or other items for the guide dog without payment of the tax at the time of purchase. The holder of the certificate is required to provide the certificate to the selling dealer at the time of purchase or lease. The selling exemption shall not be allowed unless the blind purchaser or lessee shall produce at the time of purchase or lease the Consumer's Certificate of Exemption for the Blind (Form DR-152) and the dealer is required to shall record the name, address, and identification card number of the certificate holder purchaser or lessee on the invoice or other written evidence of the sale. The Executive Director or the Executive Director's designee in the responsible program will issue, without charge, the Consumer's Certificate of Exemption for the Blind (Form DR-152) to any blind person who either owns, rents, or contemplates the ownership of a guide dog for the blind and who holds an identification card as provided in Section 413.091, Florida Statutes and completes a Blind Person's Application for Certificate of Exemption (Form DR-151, incorporated by reference in Rule 12A-1.097, F.A.C.).~~

~~(b) Any person who holds an identification card, as provided in s. 413.091, F.S., issued by the Department of Education may apply to the Department to obtain a Consumer's Certificate of Exemption for the Blind (form DR-152). The application submitted to the Department must be signed by the applicant and contain the applicant's name, address, and number of the identification card issued pursuant to s. 413.091, F.S. This information may be submitted to the Department on form DR-151, Blind Person's Application for Certificate of Exemption.~~

~~(6)(18) No change.~~

~~(19) ARTIFICIAL COMMEMORATIVE FLOWERS.~~

~~The sale of artificial commemorative flowers by a bona fide nationally chartered veterans' organization is exempt.~~

~~(20) through (21) renumbered (7) through (8) No change.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented ~~92-525, 212.02(10),(12),(16),(20),(21), 212.03, 212.031, 212.04, 212.05, 212.0515, 212.06(2),(9), 212.08(4),(5)(a),(e),(6),(7)(a),(b),(c),(d), (f),(g),(h),(i),(l),(m),(n),(o),(p),(q),(r),(s),(u),(v),(x),(bb),(cc),(dd),(kk),(mm); (8), 212.085, 212.17, 212.18, 213.12(2), 213.37, 403.715 FS. History—Revised 1-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 12-11-74, 5-27-75, 10-21-75, 9-7-78, 9-28-78, 10-18-78, 9-16-79, 2-3-80, 6-3-80, 7-7-80, 10-29-81, 12-3-81, 12-31-81, 7-20-82, 11-15-82, 10-13-83, 4-12-84, Formerly 12A-1.01, Amended 7-9-86, 1-2-89, 12-1-89, 7-7-92, 9-14-93, 5-18-94, 12-13-94, 3-20-96, 4-2-00, 6-28-00.~~

12A-1.0011 Schools Offering Grades K through 12; Parent-Teacher Associations; and Parent-Teacher Organizations.

(1)(a) For purposes of this rule, "schools offering grades K through 12" means state tax-supported, or parochial, church, and nonprofit private schools operated for and attended by pupils of grades K through 12.

(b) For purposes of this rule, "Parent-Teacher Organizations (PTOs)" and "Parent-Teacher Associations (PTAs)" mean those nonprofit organizations associated with schools whose purpose is to raise funds for schools teaching grades K through 12.

(2) PURCHASES BY SCHOOL DISTRICTS.

(a) School districts may purchase taxable goods and services necessary for parent-teacher associations or parent-teacher organizations tax exempt, as provided in s. 212.0821, F.S.

(b) The purchases made by the school district must be made with funds provided by the parent-teacher association or parent-teacher organization to the school district. The school district may extend a copy of its Consumer's Certificate of Exemption to the selling dealer at the time of the purchase to make such tax exempt purchases.

(3) SALES OF SCHOOL MATERIALS AND SUPPLIES AND FUND-RAISING ITEMS.

(a) The sale of school books used in regularly prescribed courses of study in schools offering grades K through 12 is exempt. School books include printed textbooks and workbooks containing printed instructional material, such as questions and answers, that are used in regularly prescribed courses of study in schools offering grades K through 12.

(b) The sale of yearbooks, magazines, newspapers, directories, bulletins, and similar publications distributed by schools offering grades K through 12 is exempt.

(c)1. Schools offering grades K through 12 and parent-teacher associations or parent-teacher organizations whose primary purpose is to raise funds for such schools may pay tax to their suppliers on the cost price of items in lieu of registering as a dealer, obtaining a Consumer's Certificate of Exemption, or collecting tax on their sales of the following taxable items:

a. school materials and supplies purchased, rented, or leased for resale or rental to students attending grades K through 12;

b. items sold for fund raising purposes, such as candy, photographs, greeting cards, wrapping paper, and similar fund raising items;

c. items sold through vending machines located on the school premises;

d. food and beverages sold through vending machines located on school premises in locations other than the student lunchroom, student dining room, or other area specifically designated for student dining. See subsection (4).

2. Example: A parent-teacher association operates a book store selling school supplies, such as pencils, paper, and notebooks, to elementary school students. The parent-teacher association is not registered as a dealer. The parent-teacher association must pay tax to its suppliers on items sold to students in the book store, but is not required to collect sales tax from the students purchasing items from the book store.

(d)1. Schools offering grades K through 12, parent-teacher associations, and parent-teacher organizations that do not elect to pay tax to their suppliers on the purchase of items, as provided in paragraph (c), must register in the same manner as other dealers and collect and remit tax on taxable transactions. (See Rule 12A-1.060, F.A.C.) As registered dealers, schools offering grades K through 12, parent-teacher associations, and parent-teacher organizations may issue a copy of their Annual Resale Certificate (form DR-13) in lieu of paying tax on the purchased items for the purposes of resale.

2. Example: A parent-teacher organization holds a fund raising event to purchase additional computers for the school library. The students and faculty will obtain orders for a variety of gift items that will be purchased from a company engaged in the business of assisting schools with fund raising events. The parent-teacher organization collects the orders, determines the gift items that have been ordered in total, and places its order with the company. Payment to the company is made directly by the parent-teacher organization. If the parent-teacher organization does not pay sales tax to the company for its purchases of gift items, the parent-teacher organization must register as a dealer and collect and remit sales tax on its sales of the gift items. The parent-teacher organization may extend a copy of its Annual Resale Certificate to purchase the gift items tax exempt for the purposes of resale.

(4) SALES OF FOOD AND BEVERAGES.

(a) Food and beverages sold or served in the student lunchroom, student dining room, or other area designated for student dining in schools offering grades K through 12, as part of a school lunch to students, teachers, school employees, or school guests are exempt.

(b) Food and beverages sold or dispensed through vending machines or other dispensing devices located in the student lunchroom, student dining room, or other area designated for student dining in schools offering grades K through 12 are exempt.

(c) Food and beverages sold through vending machines or other dispensing devices located in a gymnasium, shop, teachers' lounge, corridor, or other area accessible to the general public and not specifically designated for student dining are subject to tax at the rates established in s. 212.0515(2), F.S.

(5) ADMISSION CHARGES.

(a) When only student or faculty talent is used in an athletic or other event sponsored by a school, admission charges are exempt.

(b) When a student is required to participate in a sport or recreation pursuant to a program or activity sponsored by, and under the jurisdiction of, the student's school, admission charges for participation imposed by the place of sport or recreation are exempt. The student's school will issue a certificate for the student to present to the organization charging the admission. If the student attends such place as a spectator, admission charges are taxable.

(c) When a state tax-supported school or other governmental entity sponsors, administers, plans, supervises, directs, and controls an athletic or recreational program, participation or sponsorship fees are exempt. The athletic or recreational program may be run in conjunction with a not-for-profit entity under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(d) When state tax-supported schools sponsor an athletic or other event and the talent to provide the event is not limited to students or faculty, admission charges to the event are exempt when:

1. the risk of success or failure for the event lies completely with the school sponsoring the event;
2. the funds at risk for the event must belong completely to the school sponsoring the event; and
3. the event is held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility.

(e) Admission charges, dues, and membership fees to an event or program sponsored by a school, parent-teacher association, or parent-teacher organization that qualifies as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, are exempt. A school, parent-teacher association, or parent-teacher organization will be considered as a sponsor of the event or program when it:

1. actively participates in planning and conducting the event or program;
2. assumes complete responsibility for the safety and success of the event or program, such that it will be subject to a suit for damages for alleged negligence in its conduct;
3. is entitled to all the gross proceeds from the event or program and to all the net proceeds after payment of its costs; and
4. is responsible for payments of all costs of the event or program and for bearing any net loss if the costs exceed gross proceeds.

Specific Authority 212.17(6), 212.18(3), 213.06(1) FS. Law Implemented 212.04(2)(a), 212.08(7)(o),(r),(nn), 212.0821 FS. History--New

(Substantial Rewording of Rule 12A-1.004 follows. See Florida Administrative Code for present text.)

12A-1.004 Sales Tax Brackets Involving Less Than One Dollar.

(1) The following effective tax brackets are applicable to all transactions taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.09, 6% is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

<u>Amount of Sale</u>	<u>Tax</u>	<u>Amount of Sale</u>	<u>Tax</u>
<u>.10 – .16</u>	<u>.01</u>	<u>.51 – .66</u>	<u>.04</u>
<u>.17 – .33</u>	<u>.02</u>	<u>.67 – .83</u>	<u>.05</u>
<u>.34 – .50</u>	<u>.03</u>	<u>.84 – 1.09</u>	<u>.06</u>

(2) The following effective tax brackets are applicable to the transactions pursuant to s. 212.05(1)(e), F.S., that are taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.09, 7% is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

<u>Amount of Sale</u>	<u>Tax</u>	<u>Amount of Sale</u>	<u>Tax</u>
<u>.10 – .14</u>	<u>.01</u>	<u>.58 – .71</u>	<u>.05</u>
<u>.15 – .28</u>	<u>.02</u>	<u>.72 – .85</u>	<u>.06</u>
<u>.29 – .42</u>	<u>.03</u>	<u>.86 – 1.09</u>	<u>.07</u>
<u>.43 – .57</u>	<u>.04</u>		

(3) The following effective tax brackets are applicable to the sale, rental, lease, use, consumption, or storage for use in this state of self-propelled, power-drawn, or power-driven farm equipment taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$2.09, 5¢ is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

<u>Amount of Sale</u>	<u>Tax</u>
<u>.10 – .40</u>	<u>.01</u>
<u>.41 – .80</u>	<u>.02</u>
<u>.81 – 1.20</u>	<u>.03</u>
<u>1.21 – 1.60</u>	<u>.04</u>
<u>1.61 – 2.09</u>	<u>.05</u>

(4)(a) The Department has prepared, for public use, schedules and rate cards to provide the sales tax effective brackets for counties that do not impose a discretionary sales surtax and for counties that impose a discretionary sales surtax. Copies are available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at

<http://sun6.dms.state.fl.us/dor/taxes>. Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

(b) For information regarding sales tax brackets effective for transactions in counties imposing discretionary sales surtaxes, see Rule 12A-15.002, F.A.C.

Specific Authority ~~212.05(1)(j)~~, 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1),(3),(6), 212.031(1)(c),(d), 212.04(1), 212.05(1), 212.08(3), 212.12(9),(11) FS. History—Revised 10-7-68, 6-16-72, Amended 9-24-81, 7-20-82, Formerly 12A-1.04, Amended 12-13-88, 8-10-92, 3-17-93, 12-13-94.

12A-1.007 Aircraft, Boats, Mobile Homes, and Motor Vehicles.

(1) through (23) No change.

(24) Lemon Law.

(a) The following provisions shall apply when a manufacturer, pursuant to the provisions of s. 681.104, F.S., replaces or repurchases a motor vehicle:

1. No change.

2.a. When the manufacturer repurchases the motor vehicle, the Department of Revenue shall refund to the manufacturer any Florida sales tax ~~that which~~ the manufacturer refunded to the consumer, lienholder, or lessor under the provisions of s. 681.104, F.S. To receive the refund ~~the manufacturer must file, within 3 years from the date of payment of the tax, an Application for Refund from the State of Florida (Form DR-26), incorporated by reference in Rule 12-26.008, F.A.C.) must be filed by the manufacturer within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S. Applications for Refund (Form DR-26) are available by: 1) writing Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331. The In addition to the application for refund, the manufacturer must also shall submit, to the Department of Revenue, in conjunction with its application for refund, the following documentation: 1) a copy of the written agreement signed by the consumer, lienholder, or lessor under which the manufacturer refunded the Florida sales tax to the consumer, lienholder, or lessor; 2) a copy of the original sales invoice made out by the seller which affirmatively demonstrates payment of Florida sales tax on the purchase of the motor vehicle for which the refund is being sought; and 3) written documentation that the manufacturer~~

refunded the Florida sales tax to the consumer, lienholder, or lessor. An application for refund shall not be considered complete pursuant to s. 213.255(3), F.S., and a refund shall not be approved before the manufacturer provides such documentation.

- b. No change.
- (b) No change.
- (25) through (29) No change.

Specific Authority 212.05(1),~~(5)(b)~~, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2),(4),(10),(14),(15),(16),(19),(20), 212.03, 212.05(1), 212.06(1),(2),(4),(5),(7),(8),(10),(12), 212.0601, 212.07(2),(7), 212.08(5)(i),(7)(t),(aa),(cc),(ff),(10),(11), 212.12(2),(12), 213.255(1),(2),(3), 215.26(2) FS. History—Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, 8-18-73, 12-11-74, 6-9-76, Amended 2-21-77, 5-10-77, 9-26-77, 9-28-78, 3-16-80, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.07, Amended 1-2-89, 12-11-89, 3-17-93, 10-17-94, 3-20-96, 4-2-00,_____.

12A-1.009 Receipts from Services Rendered by Insect or Pest Exterminators.

(1)(a) Nonresidential ~~On or after September 1, 1992, nonresidential~~ pest control services are subject to tax. Nonresidential pest control services are those services (not involving repair) rendered to minimize or eliminate any infestation of nonresidential buildings by vermin, insects, and other pests that do not include services provided for tangible personal property, and include such, but are not limited to, the following services as which are subject to the State's sales and use tax:

- 1. Bird proofing;
- 2. Exterminating services;
- 3. Fumigating services;
- 4. Pest control in structures; and
- 5. Termite control.

(b)~~1. Residential pest~~ Pest control services rendered to residential buildings are not taxable. Charges for pest control services provided at residential facilities For the purpose of this rule, residential buildings are buildings that are used as living accommodations homes or regular places of abode for persons, (such as detached or single family dwellings, apartments, duplexes, triplexes, quadraplexes, residential condominiums, residential cooperatives, residential time-share units, beach cottages, nursing homes, and mobile home parks, and the common areas of those residential facilities, are not subject to tax. Residential facilities include multiple unit structures where each unit or accommodation is intended for use as a private temporary or permanent residence, but do not include a facility that is intended for commercial or industrial purposes. Charges for pest control services provided at residential facilities that provide temporary or permanent residences are not subject to tax, even though the rental, lease, letting, or licensing of such living accommodations may be subject to the tax imposed under s. 212.03, F.S. apartments, duplexes, triplexes, condominiums, or cooperatives, or other similar facilities) which do not regularly cater to the traveling public. Public lodging establishments, as defined in s. 509.013, F.S., or

~~portions thereof, and any other facilities or portions of facilities, which are advertised or generally held out to the public as places regularly rented to transients are presumed to be nonresidential buildings. Pest control services rendered to such nonresidential facilities are taxable. Sufficient documentation must be provided to substantiate whether the pest control service is provided to a residential or nonresidential building. See subsection (10) below for documentation requirements.~~

~~2. When a pest control service provider is contracted by a real estate agent, management company, or similar business to provide pest control services to a building or units within a building, and the service provider cannot determine whether the building or units are advertised or generally held out to the public as a place regularly rented to transients, the charges for such services are fully taxable, unless the real estate agency, management company, or similar business furnishes the service provider a written statement that the entire building or specific units within the building are residential. See subsection (10) below for specific allocation methods. Any pest control service provider who receives from the purchaser a written statement showing the percentage or portion, if any, of the property which is nonresidential, and who collects tax according to such statement, shall be entitled to rely upon the allocation provided in writing by the purchaser of the pest control service, unless the pest control service provider has reason to believe that such written statement is fraudulent.~~

~~a. Example: An apartment complex has 200 units of which 50 units operate under a collective license as a public lodging establishment and are advertised as available for rent on a daily or weekly basis. With proper documentation, only the 50 units are considered nonresidential and the pest control services for such units are taxable.~~

~~b. Example: Pest control services are rendered to a 500 unit condominium complex. The pest control services are contracted through the residing manager for the complex. The service provider cannot determine which units are residential and which units are nonresidential. The total charges for pest control services are taxable, unless the residing manager or owner(s) of the unit(s) furnishes the service provider a written statement identifying which unit(s) are residential.~~

~~(c) The services described in this rule are not taxable when provided by employees to their employers. See Rule 12A-1.0161, F.A.C.~~

~~(2) Where a person is providing pest control services to a nonresidential building and is required to spray in and around the building, the total charge is taxable.~~

~~(3) through (7) renumbered (2) through (6) No change.~~

~~(7)(8) Pest control services provided to farmers for agricultural purposes are not taxable. See Rules 12A-1.001(5) and 12A-1.087, F.A.C.~~

~~(8)(9)~~ Aircraft, boats, motor vehicles and other vehicles, except mobile homes, are not considered to be nonresidential buildings. Therefore, the charge for pest control services provided to such vehicles items is not taxable.

~~(10)(a)1.~~ Any person providing pest control services is required to document by notations on the sales invoice the name of the purchaser, the date of the service, the type of service, the price of the service, whether the service is for a residential or nonresidential building, if the building is used for both residential and nonresidential purposes, and the price of the service for each purpose.

~~2.~~ Any pest control service provider who fails to provide the notations described in subparagraph 1. above and who neglects, fails, or refuses to collect the tax herein provided upon any sales of pest control services which are subject to the tax, shall be liable for and pay the tax himself.

~~(b)1.~~ If a building is used for both residential and nonresidential purposes and the proportional mixed use is not subject to change, when the charges for residential and nonresidential pest control services are separately described and itemized, the total charge shall be allocated based on the square footage serviced for each exclusive purpose. Common areas such as lounges, day rooms, and hallways shall be allocated on the same proportion as the exclusively residential and nonresidential areas. However, an alternate method may be allowed if the service provider documents the basis and rationale for the alternate method.

~~2.~~ Example: A condominium complex has 600 units of which 200 units are used as a permanent residence by their owners. A pest control company charges the condominium complex for the treatment of all units in the complex, including the 200 owner occupied units and the common area facilities such as the complex club house. Since all living units in the complex are approximately equal in square footage area, one third (200 permanent residential units divided by 600 total units) of the total charge made by the pest control company may be made tax exempt, provided the pest control company makes a separate line item charge for the residential units and obtains the necessary certification by the residing manager or owners of the residential units.

~~(c)1.~~ If a building is used for both residential and nonresidential purposes and the proportional mixed use is subject to frequent or periodic change, such as time share resorts and other facilities or portions of facilities which are advertised or generally held out to the public as regularly rented to transients, the tax on pest control services shall be allocated to the total percentage of time which was made available for rent to the general public during the prior calendar quarter. Such time allocation shall be made on the basis of the smallest time unit denominator available for rent. So called "weekend" rentals shall be computed on and use days as the denominator. The entity managing the time share resort pursuant to s. 721.13, F.S., or other managing entity shall

~~prepare and present to any pest control service provider, a written statement specifying the percentage of time made available for rent to transient guests during the preceding quarter as the basis for the amount of pest control services subject to tax.~~

~~2. Example: A fee time share resort consists of 100 time share units for which 5,100 time share occupancy periods would typically be sold, i.e., 51 weeks per year per time share unit. In a calendar quarter, 1,275 time share weeks (5,100 divided by 4) would be available for use by the time share unit purchasers or the developer. During the last calendar quarter, 300 time share weeks were available for sale or rent by the developer and 125 time share purchasers requested that the managing entity make their time share weeks available for rent to the traveling public. These time share occupancy weeks owned by time share purchasers and by the developer which were available for rent to the traveling public are considered nonresidential and the pest control services sold for such units are taxable. One third (425 total weeks available for rent divided by 1,275 weeks in the quarter) of the charges for pest control services will be subject to sales tax.~~

~~3. Example: The owner of a beach cottage has an agreement with a local realtor whereby the realtor may rent the cottage to the traveling public for any length of time except for specific days or weekends reserved for use by the owner of the cottage. During the last calendar quarter, the owner of the cottage reserved the property for a total of 18 days while the remaining days were either rented or made available to the traveling public. Only 20 percent (18 owner reserved days divided by 90 days in the quarter) of the charges for pest control services will be exempt from sales tax.~~

~~(d)~~ If the charges for residential and nonresidential pest control services are not separately described and itemized, then the entire transaction is taxable.

~~(9)(H)~~ No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b),(j), ~~(k)~~, 212.07(2) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.09, Amended 5-13-93, 3-20-96, 4-2-00,_____.

12A-1.0091 Cleaning Services.

(1)(a) Nonresidential cleaning service are subject to tax. Nonresidential cleaning services are those services (not involving repair) rendered to maintain the clean and sanitary appearance and operating condition of a nonresidential building, but do not include cleaning services provided for tangible personal property. Examples of and include such services are as:

1. through 18. No change.

(b) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b),(j), 212.07(2) FS. History-New 5-13-93, Amended 3-20-96, 7-1-99, 4-2-00,_____.

12A-1.010 Receipts from Sales by Barber Shops and Beauty Shops.

(1) through (2) No change.

~~(3)(a) As a registered dealer, the owner or operator of the barber or beauty shop may provide a copy of the dealer's Annual Resale Certificate to purchase products and other items for resale in lieu of paying tax to the selling dealer. The operator or owner is required to pay use tax on any products or other items that are used or consumed in providing services. A resale certificate as provided in Rules 12A-1.038 and 12A-1.039, F.A.C., may be presented to the supplier in lieu of paying tax on products purchased for resale.~~

~~(a) If the barber or beauty shop owner or operator gives a resale certificate and thereafter consumes some of the materials and supplies purchased in performance of his services, use tax must be paid on the cost price of these materials and remitted on the sales and use tax return in addition to the sales tax due on any retail sales made by the business.~~

~~(b) An owner or operator of a barber or beauty shop who has paid tax on the purchase of materials and supplies may take a credit, or obtain a refund, as provided in Rule 12A-1.014, F.A.C., for the amount of tax paid on materials and supplies that are resold. The owner or operator must collect tax on the sale of the materials and supplies. If the barber or beauty shop owner or operator purchases materials and supplies without a resale certificate and subsequently sells some of them at retail or uses or consumes the items during the performance of services rendered, he must collect the tax on the sale of such items and report and pay same to the Department of Revenue. In such cases the owner may take a credit on the sales and use tax return for the sales tax paid to the supplier on the items sold.~~

~~(4)(a) When the owner or operator of a barber or beauty shop provides space to beauticians, manicurists, specialists of massage, pedicures, or make-overs, or any person, the amount charged by the owner or operator to such person is a rental charge or license fee to use real property and is taxable, as provided in Rule 12A-1.070, F.A.C.~~

~~(b) When the owner or operator of the business is also a lessee or licensee, a credit may be taken on the owner's or operator's sales and use tax return for the amount of tax paid on the floor space that is subleased or assigned which he subleases or assigns on a pro rata basis, as provided in Rule 12A-1.070, F.A.C.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g),(14),(15),(16),(19),(20), 212.031, 212.05(1), ~~212.054, 212.055, 212.07(1),(2), 212.08(7)(v), 212.11(1), 212.12(2),(3),(4),(9), 212.18(2),(3) FS.~~ History—Revised 10-7-68, 6-16-72, Formerly 12A-1.10, Amended 12-16-91, 3-20-96,_____.

12A-1.011 Food and Drink for Human Consumption; Sales of Food or Drinks Served, Cooked, Prepared, or Sold by Restaurants, Vending Machines or Other Like Places of Business.

(1)(a) No change.

1.a. No change.

~~b. School organizations which sell candy to raise money for their various activities may pay tax to their suppliers on the cost of the candy.~~

2. through (3) No change.

~~(4)(a) When surveys of the operations of concession stands selling food, drinks, tobacco products, etc., at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business reveal it may be impracticable to separately state Florida tax on the sales slip, invoice, or other tangible evidence of sale, the dealer shall remit tax at the rate of 6.59 percent of the total taxable sales, unless the records of the dealer clearly demonstrate without exception a lesser rate. To compute the correct amount of tax due, the dealer should divide his total receipts by 1.0659 to compute taxable sales and then subtract taxable sales from total receipts to arrive at the amount of tax due. The 6.59 percent rate recognizes the variations resulting from multiple sales transactions.~~

~~(b) Dealers operating concession stands selling food, drinks, tobacco products, etc., at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business and who separately record the sales price of the items sold and the tax thereon, must maintain accurate records of the tax so collected and the exact amount of tax must be remitted to the state.~~

(5) through (7) renumbered (4) through (6) No change.

~~(8)(a) Food and drinks sold through vending machines are taxable; however, food and drinks sold through vending machines located in dining rooms, lunchrooms, or cafeterias of elementary, junior high schools, and high schools are exempt. Food and drinks sold through vending machines located on the premises of elementary schools, junior high schools, and high schools other than in dining rooms, lunchrooms, and cafeterias, such as in shops, gyms, corridors, and teacher lounges are taxable. See Rule 12A-1.044, F.A.C., for method of remitting tax.~~

~~(b) The sale of food and drinks for human consumption sold for 25 cents or less through a coin-operated vending machine sponsored by a nonprofit organization is exempt from sales tax. To receive the exemption the sponsoring organization must be qualified as a nonprofit corporation under s. 501(e)(3) or s. 501(e)(4) of the U.S. Internal Revenue Code of 1986, as amended. The name and address of the qualified sponsoring organization must be affixed to each machine used for such exempt purpose.~~

(9) through (21) renumbered (7) through (19) No change.

~~(20)(22)(a) Tax is not due on the sale of food and beverages when:~~

~~1. Served as part of a school lunch to students, teachers, school employees or school guests in public, parochial or nonprofit schools operated for and attended by pupils in grades K through 12;~~

2. through 4. renumbered (a) through (c) No change.

(23) through (25) renumbered (21) through (23) No change.

~~(26) If meals for members of school organizations are paid for out of school funds, the person paying for them may give a certificate to the person collecting for them stating that the meals are purchased from school funds for school purposes. This will relieve the seller of the responsibility of collecting sales tax on the meals.~~

(27) through (31) renumbered (24) through (28) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02, 212.07(2), 212.08(1),(4)(a)1.,(7), 212.18(2) FS. History-Revised 10-7-68, 6-16-72, 9-28-78, 10-29-81, Formerly 12A-1.11, Amended 12-8-87, 1-2-89, 8-10-92,_____.

12A-1.013 Credit for Taxes Paid in Error.

~~If a dealer pays to his supplier tax on any purchase of tangible personal property which is later resold, he may, within 36 months from the date of payment, take the amount so paid as a credit against the tax to be remitted to the Department of Revenue. If a dealer purchases tangible personal property for resale and does not pay tax thereon, but consumes the property purchased, he is required to include the cost thereof and pay tax thereon in his report to the Department of Revenue.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(a), 212.05(1),(2), 212.17(1), 215.26(2) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.13, Repealed_____.

12A-1.014 Refunds and Credits for Sales Tax Erroneously Paid on Returned Merchandise and Exempt Sales.

~~(1) All dealers must maintain records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091, F.S., and make such records available to the Department upon request.~~

~~(1)(2) When a any sale, upon which the tax has been paid to the dealer by the purchaser, is cancelled or refunds the sales, lease, or rental price of admissions, tangible personal property, transient rentals, real property, or services upon which tax has been paid by the purchaser or lessee sold is returned to the dealer and remitted by the dealer to the state, and the sale price is refunded to the purchaser, the dealer shall also refund to the purchaser the tax paid by the purchaser. If, in lieu of a refund of the sale price, the dealer credits such amount on the purchaser's account, a corresponding credit for sales tax previously paid by the customer shall be made.~~

~~(2) A dealer who has paid tax on property acquired for use may take a credit, or obtain a refund, for the amount of tax paid on the acquired property if:~~

~~(a) the dealer sells the property within 3 years from the date of payment of the tax; and~~

~~(b) the dealer did not use the property prior to the date of sale.~~

~~(3) Any dealer who makes taxable sales to nontaxable persons, or refunds taxes paid to any purchaser, or pays any tax in error for which he later claims a refund or credit shall keep internal records to support such sales.~~

~~(4)(a) When any dealer refunds the tax paid by a purchaser, the Department of Revenue will refund such tax if application therefor is made in writing within 36 months from the date of payment of the tax to the state. The application for refund must state in clear and convincing terms the grounds for refund.~~

~~(b) Any dealer who is entitled to a refund of taxes paid to the Department of Revenue may, in lieu of applying to the Department for a refund, take credit for such amount on any subsequent report filed within 36 months of the date on which the dealer remitted the tax to the state. Such credits must be supported by schedules attached to the tax report and if, in the discretion of the Department, said credit is improperly taken, it may be disallowed by the Department within thirty-six (36) months of the date on which such credit is taken by the dealer. (See subparagraphs (2) and (3) of Rule 12A-1.012 for tax credits or refunds on repossessions and tax credits on bad debts written off.)~~

~~(5) Adequate records showing the amounts of returned merchandise, cancelled sales and merchandise purchased for use or consumption and subsequently resold which form the basis for a credit or refund, must be maintained by the dealer.~~

~~(6) through (7) renumbered (3) through (4) No change.~~

~~(5)(a) Any dealer entitled to a refund of tax paid to the Department of Revenue may seek a refund by filing an Application for Refund (Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26, Application for Refund, must be filed within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S., and must meet the requirements of s. 213.255, F.S., and Rule 12-26.003, F.A.C.~~

~~1. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.~~

~~2. Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.~~

~~(b) In lieu of a refund to which the dealer is entitled, the dealer may take a credit on the dealer's sales and use tax return within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S.~~

~~(6) Any dealer who takes a credit, or applies for a refund, for tax paid to the state is required to keep and preserve all information and documentation necessary to substantiate the dealer's entitlement to a refund or credit of tax paid until tax imposed under Chapter 212, F.S., may no longer be determined and assessed under s. 95.091, F.S.~~

Cross Reference – Rules 12A-1.007, 12A-1.034, and 12A-1.096, F.A.C., and Rule Chapter 12-26, F.A.C.

Specific Authority 212.17(6), 212.18(2), 213.06(1), ~~213.255(11)~~ FS. Law Implemented ~~95.091, 120.55(1)(a)4, 212.095, 212.12(6), 212.13(1), 212.17(1),(2),(3),(7), 212.67, 213.255(1),(2),(3)~~ 213.35, 215.26(2) FS. History–Revised 10-7-68, Amended 1-17-71, Revised 6-17-72, Amended 10-21-75, 9-28-78, 11-15-82, 10-13-83, Formerly 12A-1.14, Amended 6-10-87, 1-2-89, 8-10-92, 3-17-93, 1-3-96, 3-20-96, _____.

12A-1.018 Trade and Cash Discounts.

(1) through (3) No change.

(4) A dealer’s discount is a reduction in selling price if taken at the moment of sale or purchase of a product as illustrated by the following examples.

(a) No change.

(b) Example B: A customer has a coupon issued by the dealer which allows \$.50 off the sale price of a box of soap powder which retails for \$1.50. The dealer collects \$1.00 from the customer along with the coupon. ~~Tax is due on \$1.00. The taxable base is \$1.00~~ since the redemption of the coupon ~~reduces by the dealer does not affect~~ the sales price of the product ~~to that amount~~.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(16), 212.07(2), 212.12(9) FS. History–Revised 10-7-68, 6-16-72, Amended 6-3-80, Formerly 12A-1.18, Amended _____.

12A-1.037 Occasional or Isolated Sales or Transactions Involving Tangible Personal Property or Services.

(1) through (2) No change.

(a) The isolated sales exemption does not apply to:

1. No change.

2. The distribution or sale of inventory. ~~(However, for the sale of inventory see Rule 12A-1.038, F.A.C.)~~

3. through (6) No change.

~~(7) A sale or series of sales of tangible personal property purchased or acquired by nonprofit charitable, civic, educational, neighborhood, religious (except churches or synagogues), volunteer fireman organizations, and other nonprofit organizations or institutions qualify as exempt occasional sales, provided such sales comply with the requirements set forth herein and in subsection (3), above, and provided none of the elements set forth in subsection (5), above, are present.~~

~~(a) Such organization or institution must have paid any applicable tax on that tangible personal property, or if such organization or institution acquired the tangible personal property through a gift or donation, the donor must have paid any applicable tax on the purchase of such property which was donated, unless at the time of such transfer the statute of limitations for assessment of sales and use tax on the property had expired, as provided in s. 95.091, F.S.;~~

~~(b) However, for the sake of convenience, school grades K through 12 and their respective P.T.A.'s or P.T.O.'s have been granted the option of collecting sales tax on all their taxable sales, or of paying tax to their suppliers on all school materials~~

~~and supplies, without the limitations regarding the frequency and duration of such sales that they make. When the schools and their respective P.T.A.'s or P.T.O.'s make purchases for resale to students and pay the applicable tax to their vendors, the tax is passed on to the students as part of the selling price. All other persons making sales of school supplies and materials are required to register as dealers and collect the tax thereon from the purchaser.~~

~~(7)(8) The sales of second hand goods in a second hand store (including sales made by nonprofit organizations, other than churches) are not occasional sales, because second hand stores are in the business of selling such goods, and such items were purchased or acquired for resale; therefore, such sales are taxable as retail sales made in the regular course of business, and are not occasional sales.~~

(9) through (18) renumbered (8) through (17) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1),(2),(10)(g),(12),(14),(16),(19), 212.04, 212.05(1)(c),(d),(f),(h),(j), 212.06(1)(a),(2),(3),(8),(10), 212.07(1), ~~212.08(6),(7)(e)~~, 212.11(2),(3), 212.12(9), 212.18(2), 212.21(2), 213.06(1), 213.35 FS. History–Revised 10-7-68, 6-16-72, Amended 10-18-78, 5-8-79, 12-23-80, 12-3-81, 7-20-82, Formerly 12A-1.37, Amended 1-2-89, 8-15-94, _____.

12A-1.041 Sales by Photographers, Photofinishers and Photostat Producers, Photoengravers, Wood Engravers and Public Officials of Public Records.

(1) through (5) No change.

~~(6) The sale of photographs for use in students’ yearbooks is taxable if the purchase and payment are made by the student. They are exempt only if payment is made from school funds.~~

(7) through (9) renumbered (6) through (8) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 119.07(1), 119.085, 212.02(2),(14),(15),(16), 212.08(5),(6),(7)(e),(v) FS. History–Revised 10-7-68, Amended 12-8-68, 1-7-71, Revised 6-16-72, Amended 12-11-74, 5-27-75, Formerly 12A-1.41, Amended 7-30-91, 8-10-92, _____.

12A-1.044 Vending Machines.

~~(1)(a) For purposes of Definitions—The following terms and phrases when used in this rule, the terms "vending machine" and "vending machine operator" shall have the meaning ascribed to them in s. 212.0515(1), F.S. except where the context clearly indicates a different meaning:~~

~~(a) "Vending machine" means a machine, operated by coin, currency, credit card, slug, token, coupon, or similar device, which dispenses food, beverages, or other items of tangible personal property.~~

~~(b) "Vending machine operator" means any person who possesses a vending machine for the purpose of generating sales through that machine and who maintains the inventory in and removes the receipts from the machine.~~

~~(b)(e) No change.~~

~~(2) Vending machine sales; levy of tax; effective tax rates.~~

(2)(a) All sales made through vending machines of food, beverages, or other items are taxed in the manner and at the rates established in s. 212.0515(2), F.S., except as provided in paragraphs (a)-(c), taxable, unless specifically exempt. (See subsection (7) below.)

(a) Receipts from vending machines owned and operated by churches or synagogues are exempt. Such entities are not required to post a notice as required in subsection (4). However, the name and address of the church or synagogue should be affixed to such machines.

(b) Food and drinks sold for human consumption for 25 cents or less through a coin-operated vending machine sponsored by a nonprofit corporation under s. 501(c)(3) or (4) of the Internal Revenue Code of 1986, as amended, are exempt. The name and address of the qualified sponsoring organization must be affixed to each machine used for this exempt purpose. Operators of vending machines from which items of taxable merchandise, including soft drinks, are sold individually for 10 cents or more will be considered to be remitting sales tax at the rates prescribed by law if their remittances on the gross sales of such items do not fall below the effective tax rates established by this rule. These rates recognize the variations resulting from multiple sales. It is presumed that the selling price of the item vended was adjusted to include tax; therefore, the vendor should deduct the tax from the total gross receipts to arrive at gross sales.

(c) Food and beverages sold or dispensed through vending machines or other dispensing devices located in the student lunchroom, student dining room, or other area designated for student dining in state-supported or parochial, church, and nonprofit private schools operated for and attended by pupils of grades K through 12 are exempt. See Rule 12A-1.0011, F.A.C. Effective January 1, 1992, sales of beverages, including, but not limited to, soft drinks, coffee, tea, natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products; or natural fruit or vegetable juices through a vending machine are taxable at the rate of 6.65 percent. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0665 to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due. The milk products, natural fruit or vegetable juices are taxable at the rate of 6.65 percent until July 1, 1993.

2. Effective July 1, 1993, sales of natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products, natural fruit juices, or natural vegetable juices through a vending machine are taxable at the rate of 6.45 percent. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0645 to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

3. Effective January 1, 1992, sales of food items through a vending machine are taxable at the rate of 6.45 percent. For the purpose of this rule, gum and breath mints are considered food items. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0645 to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

4. All other sales through a vending machine are taxable at the rate of 6.59. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0659 to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

5. When there is a combination of beverages, food, or other items that are sold through the same vending machine, the vending machine operator may, if the operator can identify and account for each type of items vended, remit the tax at the appropriate rate for each type of items vended. Example: A vending machine contains various types of food and novelty items at different prices. If the operator can account for and identify the total number of food items vended times the sales price for the food items, the operator may remit the tax at the rate of 6.45 percent for the food items and 6.59 percent for the novelty items. When an operator cannot identify and account for each type of items sold through the vending machines, the highest tax rate for a product vended shall be used for all products sold through that machine.

(d) When a dealer can demonstrate to the satisfaction of the Department through its books and records that a lower rate than that which is provided in the preceding paragraphs of this rule is applicable, except for food and beverage vending machines on and after January 1, 1992, the total of the state tax and the surtax that is payable on sales through a vending machine shall be at that rate.

1.a. In order to substantiate a lower effective tax rate, a vending machine operator is required to maintain books and records which contain the total number of items sold in each machine in which similar kinds of items are vended and the sales price for each item vended.

b. Example: Company X wants to establish a lower effective tax rate for novelty items vended. The company must use the sale of all novelty items from each vending machine and the sales price of each item vended. The company should not include its food or drink sales in trying to establish a lower effective tax rate for its novelty items.

2. If an operator establishes a lower effective tax rate on a per vending basis, the operator must also establish an effective tax rate for any machine which produces a rate higher than that prescribed in this rule.

3. Operators using an effective tax rate other than the applicable rate prescribed within this rule must recompute the rate on a monthly basis.

~~(3) Quarterly information reports; penalties and interest.~~

~~(a)1. Effective October 1, 1991, a SALES AND USE TAX VENDING MACHINE OPERATOR QUARTERLY REPORT (Form DR-15VO), and a SALES AND USE TAX VENDING MACHINE OPERATOR QUARTERLY CONSOLIDATED REPORT (Form DR-15VOC), which are incorporated by reference in Rule 12A-1.097, F.A.C., are required to be filed by operators of food or beverage vending machines. Form DR-15VO is to be completed for each county sales tax registration, by operators who file separate sales and use tax returns. Forms DR-15VO and DR-15VOC are to be completed by operators filing a consolidated sales and use tax return. The reports provide the number of food or beverage vending machines being operated by that operator in this state, which number is coded to indicate whether the machines are food or beverage machines; separate statements for food machines and for beverage machines which indicate the total receipts from the operation of the machines during the quarterly period; and the amount of tax remitted pursuant to this part with respect to such receipts. All information shall be broken down by county.~~

~~2. Effective October 1, 1991, a SALES AND USE TAX VENDING MACHINE WHOLESALER QUARTERLY REPORT (Form DR-15VW), which is incorporated by reference in Rule 12A-1.097, F.A.C., is required from any person who sells food or beverages for resale. Effective July 8, 1992, the report is required to be filed only by persons who sell food or beverages to an operator for resale through vending machines or by persons who sell 25 cases or more of soft drinks per transaction as a tax-free sale for resale. The report identifies, by dealer registration number, each operator described in paragraph (4)(a) of this rule, who has purchased such items from said person and states the net dollar amount of purchases made by each operator from said person. In addition, the report shall also include the dealer's name, dealer registration number, and net dollar amount of any single purchase for resale of canned soft drinks of 25 cases or more for reports required to be filed after July 8, 1992.~~

~~3. Any person may file the quarterly reports, Forms DR-15VO, DR-15VOC, or DR-15VW, on magnetic media or floppy disks. Magnetic tape and floppy disk specifications and file descriptions may be obtained from Returns Reconciliation, 5050 West Tennessee Street, Building F-4, Tallahassee, Florida 32399-0100. The magnetic media shall be labeled, indicating name of company, Florida sales and use tax certificate of registration number, applied date, and type of tax information included on tape. Magnetic tapes shall be identified by reel number and disks by identification number. Submitters of magnetic media shall file the face of the report containing grand totals and the reel or disk identification number.~~

4. The Department has the authority to require that the quarterly reports be filed on magnetic media or floppy disks, and this method of report filing may be required in the future. The industry will be notified within a reasonable time period before it is required to file the reports on magnetic media or floppy disks.

(b) A penalty of \$250 is imposed on any person required to file the quarterly reports who fails to timely file these reports or who files false information. The \$250 penalty shall accrue interest at the rate of 1 percent per month from the date the report is due until the date the penalty is paid.

(c) Persons who sell food or beverages for 25 cents or less through a vending machine sponsored by an organization qualifying as a nonprofit corporation under s. 501(c)(3) or s. 501(c)(4) of the U.S. Internal Revenue Code of 1986, as amended, are not required to file the quarterly reports.

~~(4) Annual certificate required to be given by operators to food and beverage vendors; penalties and interest.~~

~~(a) Effective November 1, 1991, an ANNUAL CERTIFICATION TO FOOD OR BEVERAGE WHOLESALER is required to be provided by all operators to their food and beverage vendors when food or beverages are purchased for resale in vending machines. The certificate must affirmatively state that the purchaser is a vending machine operator. The certificate is due beginning November 1, 1991, and by November 1 of each year thereafter. If the first transaction between the parties occurs before November 1, then the certificate is due on the date of the transaction and by November 1 of each year thereafter. The following is a suggested form of the certificate to be completed by the operator purchasing food or beverages for resale in vending machines to be furnished to the selling dealer of the food and beverages.~~

INSTRUCTIONS

Florida law requires each sales tax dealer who purchases food or beverages for resale through vending machines to provide a completed copy of this certification to his Florida food or beverage supplier(s) by November 1, 1991, or upon first entering into a transaction with the supplier, and by November 1 of each year thereafter.

The certification need not be on a form provided by the Department of Revenue but must contain all the information listed hereon. This certification is in addition to the resale certificate required for a tax free purchase.

ANNUAL CERTIFICATION TO FOOD OR BEVERAGE WHOLESALER

Wholesaler to whom this certification is being presented:

Business Name _____

Business Address _____

City, State, Zip _____

Name and address of purchaser making this certification:

Business Name _____

Business Address _____

Florida Sales Tax Registration Number or Social Security Number
 Federal Employer Identification Number

The business or individual making this certification operates one or more food or beverage vending machines in Florida. The undersigned signature certifies that the above information is true and correct.

Signature of Owner, Partner, or Officer _____
 Date _____

(b) Effective July 8, 1992, a \$250 penalty is imposed on any vending machine operator who operates vending machines and who fails to provide the certificate to its food and beverage vendor(s) or who provides its vendor(s) with false information. The penalty shall accrue interest at the rate of 1 percent per month from the date the certificate is due until the date the penalty is paid.

(c) Persons who sell food or beverages for 25 cents or less through a vending machine sponsored by an organization qualifying as a nonprofit corporation under s. 501(c)(3) or s. 501(c)(4) of the U.S. Internal Revenue Code of 1986, as amended, are not required to submit the annual certificate to their food and beverage vendors.

(3)(5) Registration. Before any person may operate a vending machine in this state, such person must register with the Department of Revenue for sales and use tax purposes unless such person is already registered as a dealer. Owners or operators of vending machines must obtain a separate Sales and Use Tax Certificate of Registration (form DR-11) for each county in which the such machines are located. One Sales and Use Tax Certificate of Registration (Form DR-11) is sufficient for all the owner's or operator's machines within a single county. See Rule 12A-1.060, F.A.C. To receive a Certificate of Registration each person or business must file an Application for Sales and Use Tax Registration (Form DR-1). These forms are incorporated by reference in Rule 12A-1.097(7), F.A.C. A notice must be affixed to each vending machine which dispenses items of tangible personal property other than food and beverages showing the operator's name, address, and dealer's certificate of registration number. Agents of the Department of Revenue are authorized to seal vending machines upon which this information is not clearly posted.

(4)(6) Notice to be displayed on each vending machine; penalty and interest for failing to display notice; informant's fees.

- (a) No change.
- 1. through 3. renumbered (b) through (d) No change.

(e)(b) Any vending machine operator who fails to properly obtain and display the required notice on any vending machine is subject to the penalties and interest as provided in s. 212.0515(4), F.S. Upon a determination that a violation has occurred, the Department shall pay the informant up to 10 percent of previously unpaid sales tax and fees recovered as a result of the information provided. See Rule 12-18.008, F.A.C., for additional information on informant fees.

(7) Exemptions:

(a) Receipts from vending machines owned and operated by churches or synagogues are not taxable. The church or synagogue is not required to post a notice as required above on vending machines.

(b) Foods and drinks sold to students and faculty of elementary, middle school, junior high, and high schools through vending machines or dispensing devices located in dining rooms, lunchrooms, or cafeterias operated on the premises of such institutions are exempt. Sales of food and drinks through vending machines or devices located elsewhere on the grounds, such as in gyms, teacher's lounges, corridors, and shops, are taxable. Foods and drinks sold at junior colleges and institutions of higher learning are taxable no matter where or how sold.

(c) Food and drinks sold for human consumption for 25 cents or less through a coin-operated vending machine sponsored by a nonprofit organization are exempt from sales tax. To receive the exemption the sponsoring organization must be qualified as a nonprofit corporation under s. 501(c)(3) or s. 501(c)(4) of the U.S. Internal Revenue Code of 1986, as amended. The name and address of the qualified sponsoring organization must be affixed to each machine used for such exempt purpose.

(d) The sales through vending machines of ice cream or milk in quarts or larger containers are presumed to be for home consumption and are exempt. The sale of drinking water, including waters that contain minerals or carbonation in their natural state, is exempt. The sale of water to which carbonation or minerals have been added is taxable.

(e) The notice requirement provision in subsection (6) applies to all vending machines dispensing exempt food or beverage products, except vending machines owned and operated by churches or synagogues. This notice requirement is in addition to any other notice required to be posted on the vending machine, such as, the name and address of sponsoring organizations as required in paragraph (c) above. The penalty and interest provisions contained in subsection (6) for failing to post such notice, shall likewise apply.

Cross Reference — Rule 12A-1.011, F.A.C.

(5)(8) Purchases or leases of vending machines.

(a) No change.

(b) The purchase of machines, machine parts and repairs, and replacements thereof that which are a component part of the machine, by the machine owner or lessor for exclusive

rental is exempt. The machine owner or lessor must registered with the Department and must issue a copy of the dealer's Annual Resale Certificate. A resale certificate shall be presented to the selling dealer to purchase seller of these items by the purchaser in lieu of paying tax exempt for the purposes of leasing or renting the machine.

(c) through (d) No change.

~~(6)(9)~~ No change.

~~(7)(10)~~ The following examples are intended to provide further clarification of the provisions of this section:

(a) through (c) No change.

(d) Example: When a A bottler who removes from inventory a drink vending machine to be placed at a location under an agreement where the location owner is the operator, the bottler, as a registered dealer, may extend a copy of the dealer's Annual Resale Certificate (form DR-13) to a resale certificate in lieu of paying tax on the purchase of vending machines or component parts for exclusive rental. The rental of the vending machine may either be on a per case basis or a flat monthly rate. In such instances, the tax must be collected by the bottler and remitted at the rate of 6 percent of the amount received as rental. Also, tax is due on all merchandise sold through the machine by the location owner (operator).

~~(8)(11)~~ If any vending machine used on a full service basis or for exclusive rental is later sold as a "used" machine, the sale it becomes fully taxable to the purchasing customer is subject to tax buying it at the time of sale.

Specific Authority 212.0515, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g),(14),(15),(16),(19),(24), 212.031, 212.05(1)(i), 212.0515, ~~212.054, 212.055,~~ 212.07(1),(2), 212.08(1),(7),(8), 212.11(1), 212.12(2),(3),(4),(9), 212.18(2),(3) FS. History-Revised 10-7-68, 6-16-72, 1-10-78, Amended 7-20-82, Formerly 12A-1.44, Amended 12-13-88, 5-11-92, 3-17-93, 9-14-93, 12-13-94, 3-20-96, 7-1-99, _____.

~~12A-1.048 Sale of Agricultural Products, Including Poultry and Livestock.~~

~~(1)(a) The sale of agricultural products, poultry, and livestock direct from the farm when made directly by the producer producers is exempt. The producer is not required to obtain an exemption certificate from the purchaser to make tax exempt sales of agricultural products. This exemption does not apply to the sale of ornamental nursery stock. Agricultural products that are produced by the farmer and used by him and members of his family or employees on his farm are not subject to tax.~~

(b) Agricultural products that are produced by the farmer and used by the farmer or the farmer's family or employees on the farm are not subject to tax.

(c) The sale of agricultural products by persons who do not produce agricultural products to any person who does not directly consume the product, but acquires the raw product for resale to the ultimate retail customer, or for use in the process of preparing, finishing, or manufacturing agricultural products

for the ultimate retail consumer trade, is exempt. No certificate is required to be issued by the purchaser or obtained by the seller.

(d) The sale of agricultural products by any person, other than the producer, as a marketable or finished product to the ultimate consumer, except in the form of food or food products, is subject to tax. Example: Marketable products, such as nursery stock, and finished products, such as hides, bones, hooves, and feathers, are subject to tax.

(2)(a) The sale of ornamental nursery stock by any person, including producers of agricultural products, is subject to tax. The term "ornamental nursery stock" applies to all plants, shrubs, and trees customarily sold by nurseries for landscaping purposes, regardless of the state of growth or maturity, but does not include excluding plants used to produce food for human consumption. Sod and ferns are examples of ornamental nursery stock.

~~(b)1- The rental of ornamental nursery stock, such as plants, shrubs, or trees, is subject to tax, including the rental by the producer of the ornamental nursery stock. The sale of ornamental nursery stock by the producer to anyone for any purpose other than resale is subject to the tax. All sales of ornamental nursery stock will be presumed to be retail sales and subject to the tax, unless the seller shall have obtained a resale certificate from his customer in accordance with the provisions contained in the Florida Department of Revenue Rule 12A-1.038 and Rule 12A-1.039 or, in the case of an out-of-state dealer, an affidavit in accordance with the provisions contained in Rule 12A-1.064(2)(b)1., F.A.C.~~

~~2. For example: The sale by the producer of ornamental nursery stock (regardless of state of growth or maturity) to a broker, wholesaler or retailer will be regarded as a retail sale and taxable unless the purchaser furnishes the seller with a resale certificate or affidavit as provided in subparagraph (b)1-~~

(c) through (e) No change.

~~(3) The sale of agricultural products to any person who purchases them for the purpose of acquiring raw products not for direct consumption but for the use or for sale in the process of preparing, finishing or manufacturing such agricultural products for the ultimate retail consumer trade is exempt.~~

~~(4) A sale of such agricultural products or any part thereof, when sold by any person other than the producer as a marketable or finished product to the ultimate consumer (except in the form of general groceries, including food and food products) is taxable. Example: Marketable products, such as nursery stock, and finished products, such as hides, bones, hooves, and feathers, are taxable. For the sale of ornamental nursery stock by the producer, see subsection (1) of this rule.~~

(3)(5) The sale of topsoil Topsoil, peat moss, sand used for rooting purposes, compost, and manure are exempt as agricultural products when sold by the producer, but are

taxable when sold by anyone other than the producer. The sale of sod and ferns is taxable as the sale of ornamental nursery stock.

~~(4)~~(6) The sale of fill dirt is not the sale of an agricultural product and is subject to tax ~~taxable~~.

(5) The sales of certain items for agricultural use and items for agricultural purposes, as provided in s. 212.08(5)(a) and (e), F.S., are exempt. The exemption will not be allowed unless the purchaser furnishes the seller a written certificate stating that the purchased items qualify for exemption under s. 212.08(5)(a) or (e), F.S. The format of a suggested certificate is contained in Rule 12A-1.087(11), F.A.C.

(6) The sale of ornamental nursery stock for the purposes of resale, or for the purposes of producing for resale, is exempt. The seller must obtain a copy of the purchaser's Annual Resale Certificate (form DR-13) to make tax exempt sales for the purposes of resale.

~~(7) Plants used to produce food for human consumption are exempt.~~

~~(8) Nurserymen are in the same category as farmers and are entitled to the same exemptions on their purchases of tangible personal property for use exclusively in farming.~~

~~(9) Materials, containers, labels, sacks, or bags to be used one time only for packaging tangible personal property for shipment for sale, including burlap used to make bags for packaging plants and used cans for potting, are exempt to the commercial nurseryman.~~

~~(10) Clay pots and plastic containers used in potting and growing foliage and other plants are exempt to the commercial nurseryman. Pots and receptacles used for this purpose are classified as containers, and when eventually sold at retail along with the plant, they become a part of the tangible personal property sold and are taxable to the retail consumer.~~

~~(11) Registered dealers may extend resale certificates in writing to their suppliers in lieu of tax on items for resale as well as items entitled to exemption because of exclusive agricultural use.~~

~~(12) Items entitled to exemption when purchased for use on a farm include cloth, plastic, and other similar materials used for shade, mulch, and protection from frost or insects.~~

~~(13) Topsoil, sand used for rooting purposes, moss, compost, and manure, but not fill dirt, are exempt to a nurseryman when bought for exclusive use in crop production or when sold directly by the producer. (See subsection (1) of this rule.) When sold by other than the producer or purchased for other than crop production, these items are taxable.~~

~~(14) Nursery stock, plants, shrubs, and trees, purchased by one nurseryman from another for stock are exempt. Nursery stock purchased for direct resale and sold at retail is required to be purchased with a resale certificate and is subject to tax when sold to the ultimate consumer.~~

~~(16) Rentals of plants, shrubs, trees, etc., by the producer are taxable.~~

~~(17) The sale of field and garden seeds, including flower seeds, is exempt.~~

Specific Authority 212.17(6), 212.18(2), 213.06 FS. Law Implemented 212.02(29), 212.07(5),(6),(7), 212.08(5)(a),(e), 212.18(2) FS. History—Revised 10-7-68, 6-16-72, 12-11-74, Amended 7-20-82, Formerly 12A-1.48, Amended 3-1-00.

12A-1.056 Tax Due at Time of Sale; Tax Returns and Regulations.

(1)(a) The total amount of tax on cash sales, credit sales, installment sales, or sales made on any kind of deferred payment plan shall be due at the moment of the transaction. Except as provided in Rule Chapter 12-24, F.A.C., Rule 12A-1.005, F.A.C., Rule 12A-1.070, F.A.C., and this rule, all taxes required to be collected in any month by Chapter 212, F.S., are due the Department of Revenue on the first day of the month following the date of sale or transaction. The payment and return must either reach the office of the Department of Revenue or be postmarked on or before the 20th day of the month following the date of sale or transaction for a dealer to be entitled to the collection allowance and to avoid penalty and interest for late filing. When the 20th day falls on Saturday, Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department of Revenue on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Ch. 683, F.S., and Sec. 7503 of the Internal Revenue Code. A "legal holiday" pursuant to Section 7503 of the 1986 Revenue Code, as amended, means a legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) No change.

(c) When quarterly, semiannual, or annual reporting is authorized by the Department pursuant to s. 212.11(1)(c) or ~~(d)~~, F.S., the tax is due the first day of the month following the authorized reporting period and becomes delinquent on the 21st day of that month.

(d) Quarterly, semiannual, or annual filers that remit an excessive tax payment for the period July 1 through June 30 which represents a nonrecurring business activity can request to continue to file their returns quarterly, semiannual, or annually by submitting a written request to the Florida Department of Revenue, Central Registration, Post Office Box 6480, Tallahassee, Florida 32314-6480. When a dealer makes a written request to continue on the same filing frequency, the Executive Director or the Executive Director's designee will determine whether the dealer's request is based on a nonrecurring business activity, based upon the facts of each case, using the following guidelines:

1. The type of activity. The type of activity, as opposed to the level of activity, that makes that dealer's remittance unusual for its particular business.

2. The focus of the dealer's business. A change in the dealer's business focus will not be considered nonrecurring business activity.

3. The number of occurrences. When the dealer's remittance amount continues to exceed the maximum amount allowed for a quarterly, semi-annual, or annual filing frequency, the remittance will not be considered nonrecurring.

4. Regularity. If the events are so regular that the amounts exceeding the maximum remittance amounts allowed for a quarterly, semi-annual, or annual frequency can be predicted, the remittance will not be considered nonrecurring.

(2) through (3) No change.

(4) The following are not required to be included in computing the estimated tax liability due and payable;

(a) Any local option sales tax, such as the tourist development tax levied under authority of s. 125.0104, F.S.; the tourist impact tax levied under the authority of s. 125.0108, F.S.; the convention development tax levied under authority of s. 212.0305, F.S.; or the discretionary sales surtaxes levied under authority of s. 212.055, F.S.

(b) The rental car surcharge levied under the authority of s. 212.0606, F.S.

(c) Any solid waste fee, such as the new tire fee levied under the authority of s. 403.718, F.S., ~~or; the lead-acid battery fee levied under authority of s. 403.7185, F.S.; the waste newsprint disposal fee levied under the authority of s. 403.7195, F.S.; or the advance disposal fee levied under the authority of s. 403.7197, F.S.~~

(5)(a) No change.

(b) If the Executive Director or the Executive Director's designee in Return Reconciliation determines that the information required for the making of an accurate return cannot reasonably be compiled by a taxpayer on a calendar month basis, the Executive Director or the Executive Director's designee in the Return Reconciliation will notify the dealer in writing that the deviation from monthly filing of returns and remitting of tax is authorized. Such returns shall be due and payable on the first day succeeding the end of the reporting period and shall be delinquent on the twenty-first day succeeding the end of the reporting period. ~~However, any dealer who is subject to estimated tax filing provisions of this rule is required to remit by the 20th day of the reporting period for which the liability applies an estimated tax payment in the time and manner prescribed in 12A-1.056(2), F.A.C.~~

(6)(a) through (d) No change.

~~(e)1. The Executive Director of the Executive Director's designee is authorized to reduce the collection allowance by 10 percent when a dealer files an incomplete return as defined in subparagraph 2. of this paragraph.~~

~~2. An "incomplete return" means a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished, including but not limited to, the~~

~~failure to provide the amount of gross sales, exempt sales, taxable sales, tax collected or due, lawful refunds, deductions, or credits claimed, collection allowance, penalty, interest, estimated tax liability, and total amount due with the return.~~

~~(e)(f) No change.~~

~~(7) through (11) No change.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 125.0104(3)(g), 125.0108(2)(a), 212.03(2), 212.0305(3)(c),(h), 212.031(3), 212.04(3),(4),(5), 212.0506(4),(10), 212.054(4), 212.055, 212.06(1)(a), 212.0606, 212.11, 212.12(1),(2),(3),(4),(5), 212.14(2), 212.15(1), 213.235, 213.29, 213.755, 215.01, 376.11, 403.718, 403.7185 FS. History-Revised 10-7-68, 6-16-72, Amended 10-21-75, 6-9-76, 11-8-76, 2-21-77, 4-2-78, 10-18-78, 12-23-80, 8-26-81, 11-23-83, 5-28-85, Formerly 12A-1.56, Amended 3-12-86, 1-2-89, 12-19-89, 12-7-92, 10-20-93, 10-17-94, 3-20-96, 4-2-00_____.

12A-1.0565 Waiver of Electronic Data Interchange Sales and Use Tax Return Filing Requirements.

(1) Section 212.11(1)(f), Florida Statutes, authorizes the Department to require certain taxpayers to submit their sales and use tax returns using an electronic data interchange (EDI) method. Furthermore, this statute allows the Department to grant a waiver from this EDI requirement. To qualify for this waiver, the taxpayer or the owner or an officer, or the taxpayer's accountant or bookkeeper, must file an EDI Waiver Request (form DR-654) with the Department and certify that he or she meets at least one of the criteria established in subsection (2).

(2) through (4) No change.

~~(5)(a) The Department prescribes Form DR-654 (Florida EFT Program Electronic Tax Payment System, EDI Waiver Request; R-10/97), incorporated herein by reference, as the form to be used by persons to request a waiver pursuant to this rule.~~

~~(b) A taxpayer can obtain this form by using one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address show inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.~~

Specific Authority 212.18(2), 213.06(1) FS. Law Implemented 212.11(1)(f) FS. History-New 12-6-98, Amended_____.

12A-1.058 Trade Stamps.

(1) The amount charged by a trade stamp company to a dealer for the privilege of distributing trade stamps which are redeemable by the trade stamp company either in cash or in premiums is exempt.

(2) The trade stamp company is the final purchaser of and shall pay tax on the purchase of all trade stamps, stamp collection bonds, premium catalogs, advertising, promotional and similar materials that it uses or furnishes to its dealers at no specific charge.

(3) When a trade stamp company accepts trade stamps or a combination of trade stamps and cash in exchange for premiums, the transaction is taxable and the company shall collect tax from the surrenderer of the stamps computed on the total value of the stamp book and any cash paid. The trade stamp company is exempt on the purchase of such premiums, but should furnish its suppliers resale certificates as provided in Rule 12A-1.038.

Specific Authority 212.17(6), 212.18(2), 213.06 FS. Law Implemented 212.02(15),(19), 212.18(2) FS. History—Revised 10-7-68, 6-16-72, Amended 7-20-82, Formerly 12A-1.58, Repealed.

12A-1.060 Registration.

(1)(a) through (c)1. No change.

2. The agent, representative, or management company may collectively register properties described in subparagraph 1., above, that are located in a single county by filing an Application for Collective Registration for Rental of Living or Sleeping Accommodations (form Form DR-1C, incorporated by reference in Rule 12A-1.097, F.A.C.) for each county.

3. through 7. No change.

(d) Applications to Collect and or Report for Sales and Use Tax in Florida Registration (form Form DR-1) and Applications for Collective Registration for Rental of Living or Sleeping Accommodations (form Form DR-1C) are available, without cost, by: 1) writing the Florida upon written request to: Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Bureau of Tax Information, P. O. Box 7443, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call 32314-7443. Persons with FAX machines may obtain selected forms immediately from the Department's FAX on Demand System at 850-922-3676; or, 4) visiting any local Department of Revenue Center to personally obtain a copy; or, by calling 904-922-3676 from a touch tone telephone connected to a FAX machine. Applications are also available by 5) calling the Forms Request Line during regular office hours at 1-800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>) 904-488-6800 or at any local taxpayer service center. Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

(e) The Department will issue a The Executive Director or the Executive Director's designee in the responsible division, upon receipt of such application, will grant to the applicant a separate Sales and Use Tax Certificate of Registration (form Form DR-11, incorporated by reference in Rule 12A-1.097, F.A.C.) for each place of business for which it receives an application for registration. Engaging in a business listed in paragraph (a) of this subsection without first obtaining a Sales and Use Tax Certificate of Registration (Form DR-11) or after such certificate has been canceled by the Executive Director or the Executive Director's designee in the responsible division is prohibited. The failure or refusal of any person to register as a dealer is a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., or subject to injunctive proceeding as provided by law.

(f)1. No change.

2. An exhibitor is not required to register as a dealer if the agreement provides that the exhibitor shall make only wholesale sales, provided the exhibitor receives from each purchaser a copy of its Annual Resale Certificate, as provided in Rule resale certificate that meets the requirements of Rules 12A-1.038 and 12A-1.039, F.A.C. If an exhibitor fails to comply with these conditions, the exhibitor is required to register as a dealer if the exhibitor is a dealer within the definition of "dealer," as provided in s. 212.06(2) in subsection (2) of section 212.06, F.S.

3. through (2) No change.

(3)(a) The Executive Director or the Executive Director's designee in the responsible division is authorized to require any person liable for any tax imposed by Chapter 212, F.S., to place with the Department, before or after a dealer's certificate of registration is issued, a cash deposit, bond or other security as the Executive Director or the Executive Director's designee in the responsible division may determine necessary to secure the payment of any tax, interest, or penalty which may become payable. In making the determination as to whether security should be required and the amount of such security, the Executive Director or the Executive Director's designee in the responsible division shall consider and be guided by:

1. The prior history, if any, of the applicant's or dealer's compliance or noncompliance with the provisions of the law.

2. The type of business, including the transient or nontransient nature of the business.

3. The type of inventory, including whether the applicant or dealer has any equity in such inventory and the mobility of such inventory.

4. The location of the business.

5. The financial status of the applicant or dealer, including existence of money judgments against the applicant or dealer.

6. The anticipated volume of business.

(b) The security requested shall be an amount equal to three months' anticipated tax liability, or in the case of a registered dealer, an amount equal to three months' tax liability

based on an average of the tax due for the preceding twelve months. An adjustment shall be made to the next highest \$100 when the anticipated liability is not in even \$100 amounts. In any case where a bond is required as a condition to registration or retention of a dealer's certificate of registration, the minimum amount of such bond shall be \$100.

(c) If any taxpayer is delinquent in the payment of taxes imposed by Chapter 212, F.S., the Executive Director or the Executive Director's designee in the responsible division may, upon ten (10) days' notice, proceed against the bond to effect collection of the delinquent taxes, interest and penalties.

(d) No interest shall be paid by the state to any person for the deposit of security.

(e) The Department prescribes the following forms, incorporated by reference in Rule 12A-1.097, F.A.C., to be utilized in the administration of cash deposits and bonds it may determine necessary to secure the payment of any tax, interest, or penalty which may become payable:

1. Form DR-17, Sales and Use Tax Cash Bond;
2. Form DR-29, Refund of Cash Bond;
3. Form DR-76, Florida Contract Data Form;
4. Form DR-77, Contractor's Sales or Use Tax Bond;
5. Form DR-77A, Contractor's Sales or Use Tax Bond (Open Bond);
6. Form DR-92-1, Surety Bond - Sales and Use Tax.

(3)(4) No change.

(5)(a) In addition to the initial registration fee referred to in paragraph (1)(a), and any other fee, any person who holds a certificate of registration shall, with returns described in paragraph (b), pay an additional annual registration fee in the amount provided in paragraph (c) for each certificate of registration granted.

(b) Each such annual registration fee shall be due and payable with the person's January return or first quarterly return for each year. The Department prescribes Form DR-7AR, Annual Registration Fee (incorporated by reference in Rule 12A-1.097, F.A.C.), as the form to be utilized by dealers filing a consolidated sales and use tax return, and Form DR-15AR, Annual Registration Fee (incorporated by reference in Rule 12A-1.097, F.A.C.), as the form to be used by other dealers.

(c) The amount of each annual registration fee shall be as follows:

1. If the certificate holder's taxable sales or purchases during the calendar year immediately preceding the filing of the return were less than \$30,000, no annual registration fee shall be payable.
2. If such taxable sales or purchases were at least \$30,000 but less than \$200,000, the fee shall be \$25.
3. If such taxable sales or purchases were \$200,000 or more, the fee shall be \$50.

a. Example: Certificate holder had a total of \$185,000 taxable sales and \$134,000 taxable purchases during 1988. Since neither total exceeded \$200,000 (although the total of the two exceeded \$200,000) but each exceeded \$30,000, the annual registration fee due in 1989 would be \$25.

b. Example: Certificate holder had a total of \$22,000 of taxable purchases and a total of \$32,000 taxable sales during 1988. Since one of these totals exceeded \$30,000, the annual registration fee due in 1989 would be \$25.

(d) The annual registration fee for any dealer who files a consolidated return pursuant to s. 212.11, F.S., shall not exceed \$10,000.

(e) The collection allowance for the keeping of required records, accounting for, and remitting tax shall not be allowed for the annual registration fee.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1),(2), 212.04(4), 212.06(2), 212.12(2),(5),(6), 212.16(1),(2), 212.18(3),(5) FS.; s. 14, ch. 99-208, L.O.F. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 3-21-77, 5-10-77, 10-18-78, Formerly 12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 4-2-00, _____.

12A-1.064 Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats.

(1) through (5)(k) No change.

(4) Parts used in the repair of nets are exempt when used exclusively by commercial fishermen. (Sponge fishermen qualify as commercial fishermen.) To purchase such nets and parts thereof tax exempt, a certificate in substantial conformity with the certificate suggested in Rule 12A-1.039, F.A.C., must be executed.

(m) through (n) renumbered (1) through (m) No change.

(6) through (7) No change.

(8) A Florida dealer who prints his own catalogs and ships them free of charge to his representatives in other states is the consumer of such catalogs and is taxable on their cost as provided in Rule 12A-1.034.

(9) through (13) renumbered (8) through (12) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g), 212.05(1), 212.0598, 212.06(2),(5), 212.08(4)(a),(8),(9), 212.12(8), 212.13(1), 212.16, 212.21(3) FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 5-23-77, 9-26-77, 10-18-78, 3-30-79, 4-10-79, 3-27-80, 7-20-82, 10-13-83, 8-28-84, Formerly 12A-1.64, Amended 1-2-89, 10-16-89, 7-30-91, 3-20-96, 11-30-97, 7-1-99, _____.

12A-1.069 Sales by Governmental Agencies and Instrumentalities and Exempt Institutions.

(1) The State of Florida, any county, municipality, political subdivision, agency, bureau or department or other state or local governmental instrumentality or any institution making sales subject to the tax imposed by Chapter 212, F.S., shall qualify as a dealer and shall collect and remit the applicable tax.

(2) Churches are not required to collect tax on sales or rental of tangible personal property and are not required to register as dealers for such transactions.

~~(3) When churches, nonprofit religious, nonprofit educational or nonprofit charitable institutions rent or lease to others any real property as defined in Rule 12A-1.070, or rent or lease to others any parking or docking spaces as defined in Rule 12A-1.073, such institutions shall register as dealers and collect and remit tax on such transactions.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2),(12),(15), 212.05(1), 212.06(2), 212.08(7)(c),(10), 212.21(2) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Formerly 12A-1.69, Repealed _____.

12A-1.080 Concession Prizes; The Sale of Food, Drink, and Tangible Personal Property at Concession Stands.

(1) Operators of game concessions and other concessionaires who customarily award tangible personal property as prizes are the ultimate consumers of such property. ~~Operators may pay tax on the cost price of such property or pay tax on~~ As a basis for determining their tax liability for such prizes, concessionaires will be charged sales tax computed at 6 percent of 25 percent of the gross receipts from all such concession activity games.

(2)(a) ~~Concessionaires Vendors at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business events, where it is impracticable due to the nature of the business practices within that industry to separately state Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, may calculate tax due by using a divisor of 1.0659 in counties that do not impose a discretionary sales surtax shall be taxed at 6.59 percent of gross sales. To calculate compute the correct amount of tax due, the dealer should divide the his total gross receipts by 1.0659 to compute taxable sales. Subtract and then subtract taxable sales from the total gross receipts to compute arrive at the amount of tax due. The 6.59 percent recognizes the variation resulting from multiple sales transactions. See Rule 12A-15.010, F.A.C., for divisors in counties imposing a discretionary sales surtax.~~

(b) ~~Concessionaires Vendors at carnivals, fairs, and similar events that separately state Florida sales tax on their charge tickets, sales slips, invoices, or other tangible evidence of sale must remit to the state the amount of tax collected and due on their sales recording the sales price of the items sold and the tax thereon, must maintain accurate records of the tax so collected, and the amount of tax so collected and/or due must be remitted to the state.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(19), 212.05(1)(a)1.a.(n),(2),(3),(4), 212.06, 212.07(2), 212.12(6) FS. History—Revised 10-7-68, 6-16-72, Amended 7-20-82, Formerly 12A-1.80, Amended 12-13-88, _____.

12A-1.087 Partial Exemption for Farm Equipment; Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(1)(a) The sale, rental, lease, use, consumption, or storage of self-propelled, power-drawn, or power-driven farm equipment is taxable at the rate of 2.5 3 percent. To qualify for the partial exemption, such equipment must be used

exclusively on a farm or in a forest in the agricultural production of plowing, planting, cultivating, or harvesting crops or products as produced by those agricultural industries included in s. 570.02(1), F.S., or for fire prevention and suppression work with respect to such crops or products. Self-propelled, power-drawn, or power-driven farm equipment that is not purchased, leased, or rented for exclusive use in the agricultural production of planting, plowing, cultivating, or harvesting agricultural products, or for fire prevention or suppression work with respect to such crops or products, does not qualify for this partial exemption. This partial exemption is not forfeited by moving qualifying farm equipment between farms or forests.

(b) The exemption will not be allowed unless the purchaser furnishes the seller a written certificate that the purchased items qualify for the limitation under s. 212.08(3), F.S. ~~The format of~~ ~~Although the Department does not furnish the printed form to be executed by farmers by purchasing or leasing qualifying equipment,~~ a suggested certificate is contained in subsection (11) Rule 12A-1.039, F.A.C.

(c) Dealers who accept in good faith the required certificate from the purchaser will not be assessed sales tax in excess of 2.5 3 percent on sales of qualifying equipment purchased for a nonexempt use. In such instances, the Department will look solely to the purchaser for any additional sales tax due.

(2) For purposes of this rule, the following definitions will apply:

(a) No change.

(b) Agricultural production, as defined in s. 212.02(34), F.S., means the production of plants and animals useful to humans, including the preparation, planting, cultivating, or harvesting of these products or any other practices necessary to accomplish production through the harvest phase, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

(b) through (d) renumbered (c) through (e) No change.

~~(f)(e)~~ Harvesting means the act or process of cutting, reaping, digging up, or gathering an agricultural product or crop from a place where grown. Harvesting does not include the processing of crops or products.

~~(g)(f)~~ No change.

(3) Self-propelled farm equipment, as defined in s. 212.02(30), F.S., means equipment that contains within itself the means for its own propulsion, including, but not limited to tractors. In addition to tractors, qualifying self-propelled farm equipment also includes, but is not limited to:

(a) through (b) No change.

(c) Boats and boat motors, purchased together or separately, for use in the agricultural production of planting, cultivating, or harvesting aquaculture products on a farm. See subsection (4) of this rule regarding specific guidelines for persons engaging in aquaculture activities.

(d) through (j) No change.

(4)(a) Persons engaged in the agricultural production of planting, cultivating, and harvesting aquaculture products qualify for the partial exemption on their purchase or lease of a boat or boat motor to be used exclusively for aquacultural purposes. To qualify for exemption, such person must be registered with the Department of Agriculture and Consumer Services under s. 597.004, F.S., as a person engaged in aquaculture. For purposes of this rule, a farm includes submerged sites leased from the state under the authority of s. 253.68, F.S., by a person engaged in aquaculture activities.

(b) Example: A clam farmer leases a submerged site from the state pursuant to s. 253.68, F.S., and is certified under s. 597.004, F.S., with the Department of Agriculture and Consumer Services. The clam farmer qualifies for the partial exemption on the purchase or lease of a boat used exclusively in the agricultural production of for planting, cultivating, or harvesting clams on the leased site. The exemption is not forfeited by moving boats between farms.

(5) through (8)(a) No change.

(b)1. Generators purchased, rented, or leased for use on a poultry farm are exempt from sales tax under s. 212.08(5)(a), F.S. The exemption will not be allowed unless the purchaser or lessee issues to the seller a signed certificate stating the generator is purchased or leased for exclusive use on a poultry farm. Although the Department does not furnish the printed form to be executed by farmers when purchasing qualifying generators, a suggested certificate is contained in subsection (11) Rule 12A-1.039, F.A.C.

2. through (9) No change.

(10)(a) The following sales and uses of liquefied petroleum gas, diesel, and kerosene are exempt when:

1. sold for use in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.

2. consumed in transporting farm vehicles and farm equipment between farms.

3. sold for use to heat a structure in which started pullets or broilers are raised.

4. sold for use to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.

(b) Liquefied petroleum gas, diesel, and kerosene sold for use in any tractor or vehicle driven or operated upon the public highways of the state is subject to tax.

(11) Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(a) Any person who purchases items that qualify for the limitation under s. 212.08(3), F.S., must issue an exemption certificate to the selling dealer to purchase qualifying equipment at the rate of 2.5 percent. Any purchaser who purchases items for agricultural purposes must also issue an exemption certificate to the selling dealer in lieu of paying tax. The exemption certificate must contain the purchaser's name, address, the reason for which the use of the item qualifies for exemption based on its use, and the signature of the purchaser or an authorized representative of the purchaser.

(b) The selling dealer is only required to obtain one certificate for sales made for the purposes indicated on the certificate and is not required to obtain an exemption certificate for subsequent sales made for the exempt purpose indicated on the exemption certificate. The selling dealer must maintain the required exemption certificates in its books and records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

(c) Selling dealers may contact the Department at 1-800-352-3671 to verify the specific exemption specified by the purchaser. Persons with hearing or speech impairments may call the Department's TDD, at 1-800-367-8331.

(d) The following is a suggested format of an exemption certificate to be issued by any person purchasing items that qualify for the limitation under s. 212.08(3), F.S., or qualify for exemption as items for agricultural use or items for agricultural purposes. Exemption purposes listed on the suggested format that are not relevant to the purchaser may be eliminated from the certificate.

EXEMPTION CERTIFICATE
ITEMS FOR AGRICULTURAL USE OR FOR
AGRICULTURAL PURPOSES
AND CERTAIN FARM EQUIPMENT

This is to certify that the items identified below, purchased on _____ or after _____ (date) from _____ (Selling Dealer's Business Name) are purchased, leased, licensed, or rented for the following purpose as checked in the space provided. This is not intended to be an exhaustive list:

() Cloth, plastic, or similar material used for shade, mulch, or protection from frost or insects on a farm.

() Fertilizers (including peat, topsoil, sand used for rooting purposes, peatmoss, compost, and manure, but not fill dirt), insecticides, fungicides, pesticides, and weed killers used for application on or in the cultivation of crops, groves, home vegetable gardens, and commercial nurseries.

() Generators purchased, rented, or leased for exclusive use on a poultry farm.

() Insecticides and fungicides, including disinfectants, used in dairy barns or on poultry farms for the purpose of protecting cows or poultry or used directly on animals, as provided in s. 212.08(5)(a), F.S.

() Nets, and parts used in the repair of nets, purchased by commercial fisheries.

() Nursery stock, seedlings, cuttings, or other propagative material for growing stock.

() Portable containers, or moveable receptacles in which portable containers are placed, that are used for harvesting or processing farm products.

() Seeds, including field and garden seeds and flower seeds.

() Seeds, seedlings, cuttings, and plants used to produce food for human consumption.

() Items that are used by a farmer to contain, produce, or process an agricultural commodity, such as: glue for tin and glass for use by apiarists; containers, labels, and mailing cases for honey; wax moth control with paradichlorobenzene; cellophane wrappers; shipping cases; labels, containers, clay pots and receptacles, sacks or bags, burlap, cans, nails, and other materials used in packaging plants for sale; window cartons; baling wire and twine used for bailing hay; and other packaging materials for one time use in preparing an agricultural commodity for sale.

() Liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised.

() Liquefied gas, diesel, or kerosene used to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.

() Liquefied petroleum gas, diesel, or kerosene used for agricultural purposes in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.

() Self-propelled, power-drawn, or power-driven equipment, when purchased, rented, or leased for exclusive use in the agricultural production of crops or products as produced by those agricultural industries included in s. 570.02(1), F.S., or for fire prevention and suppression work with respect to such crops or products, taxable at the rate of 2.5 percent.

() Other (include description and statutory citation): _____
I understand that if I use the item for any purpose other than the one I stated, I must pay tax on the purchase or lease price of the taxable item directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

The exemption specified by the purchaser may be verified by calling 1-800-352-3671.

Purchaser's Name _____

Purchaser's Address _____

Name and Title of Purchaser's Authorized Representative _____

Sales and Use Tax Certificate of Registration No. (if applicable) By _____

(Signature of Purchaser or Authorized Representative) _____

Title _____

(Title – only if purchased by an authorized representative of a business entity)

Date _____

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c),(30),(31),(32),(33),(34), 212.05(1), 212.0501, 212.06(1), 212.07(5), 212.08(3),(5)(a),(e) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 10-18-78, 7-20-82, 4-12-84, Formerly 12A-1.87, Amended 12-13-88, 3-1-00, _____.

12A-1.091 Use Tax.

(1) through (13) No change.

(14)(a) Any person, whether registered or unregistered, who has purchased or leased tangible personal property either in this state or from out-of-state for use, consumption, or distribution, or for storage to be used or consumed in this state without having paid sales tax on such property if subject to tax, is required to remit use tax on the cost price and on the lease of such property. If such person is registered, use tax is to be remitted with the dealer's sales and use tax return. If such person is unregistered, use tax is to be remitted on Form DR-15MO, Mail Order/Use Tax Return (incorporated by reference in Rule 12A-1.097, F.A.C.), on or before the 20th day of the first month after the end of the calendar quarter during which any such property first came to rest and became a part of the general mass of property in this state. ~~When in those cases where~~ the 20th day falls on Saturday, Sunday, or a federal or state legal holiday, payments accompanied by returns will shall be accepted as timely if postmarked or delivered to the Department of Revenue on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and Section 7503 of the Internal Revenue Code. A "legal holiday" pursuant to Section 7503 of the 1986 Internal Revenue Code, as amended, means a legal holiday in the District of Columbia or a Statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) through (d) No change.

~~(15) The use tax applies to promotional materials, as defined in s. 212.06(11)(b), F.S., including mail order sales as defined in s. 212.0596, F.S. After July 1, 1992, an exemption is provided on promotional materials which are subsequently exported outside this state through a refund of previously paid taxes or by the dealer self-accruing taxes as provided in Rule 12A-1.0911, F.A.C. While a dealer purchasing and distributing the promotional materials and the seller of the promoted subscriptions to publications are not required to be the same person, the exemption only applies when the seller of the promoted subscriptions to publications sold in this state is a registered dealer and is remitting sales tax to the Department~~

on publications sold in this state. See Rule 12A-1.034, F.A.C., to obtain a refund of tax previously paid on promotional materials.

~~(15)(16)~~ For use tax on services taxable under Part I, Chapter 212, F.S., see Rule 12A-1.0161, F.A.C.

~~Cross Reference: Rules 12A-1.0161, 12A-1.034, and 12A-1.0911, F.A.C.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(7),(20),(21), 212.05(1), 212.0596(7), 212.06(1),(2),(4),(7),(8),(11), 212.07(8)(9), 212.183 FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 11-6-85, Formerly 12A-1.91, Amended 7-7-92, 6-2-93, 11-16-93, 1-4-94, 5-18-94.

12A-1.0935 Authority to Issue Subpoenas and Subpoenas Duces Tecum.

(1) through (3) No change.

(4) Procedure for issuing a subpoena or subpoena duces tecum.

(a) Any employee in the Compliance Support Process or the Compliance Enforcement Process of the General Tax Administration Program may apply for the issuance of a subpoena or subpoena duces tecum. The applicant must use an Application for Subpoena and/or Subpoena Duces Tecum Issued under Section 212.14, F.S. (form DR-400100) form DR-13, APPLICATION FOR SUBPOENA and/or SUBPOENA DUCES TECUM. The application must be sworn to by the applicant, and must include:

1. through 6. No change.

(b) After approving the application for issuance of a subpoena, the executive director or other Department employee designated in subsection (3) ~~of this rule section~~ must sign the Subpoena and/or Subpoena Duces Tecum (form DR-400101) subpoena or subpoena duces tecum, prior to it being issued for service to the intended party. ~~Form DR-13A, SUBPOENA and/or SUBPOENA DUCES TECUM, must be used for this purposes.~~

(c) Service of the Subpoena. The subpoena or subpoena duces tecum must:

1. through 4. No change.

5. The Department must notify the affected taxpayer that a subpoena or subpoena duces tecum is being issued to a recipient. ~~This notification must occur~~ within three working days after the day the subpoena or subpoena duces tecum is served or delivered to the recipient. The Department will issue a Notice of Subpoena and/or Subpoena Duces Tecum (form DR-400102) to notify ~~must use form DR-13B, NOTICE OF SUBPOENA and/or SUBPOENA DUCES TECUM, for this notification to~~ the affected taxpayer.

(d) through (e) No change.

~~(f) Form DR-13, APPLICATION FOR SUBPOENA and/or SUBPOENA DUCES TECUM, dated March, 1995, Form DR-13A, SUBPOENA and/or SUBPOENA DUCES TECUM, dated March, 1995, and Form DR-13B, NOTICE OF SUBPOENA and/or SUBPOENA DUCES TECUM, dated~~

~~March, 1995, are hereby adopted by reference as the forms used by the Department of Revenue for the purposes of this rule. An invalid copy of any of these forms may be obtained by writing to: Florida Department of Revenue, Taxpayer Assistance, P. O. Box 7443, Tallahassee, Florida 32314-7443.~~

(5) through (8) No change.

(9) Compensation for Travel or Production of Records.

(a) through (b) No change.

(c) After the subpoena duces tecum is served, the third-party record-keeper is required to keep accurate records of personnel search time, the actual distance traveled to and from the courts as required in s. 92.142, F.S., and the number of reproductions made. To request compensation, the third-party record-keeper is required to submit an invoice to the employee of the Department who served the subpoena. The invoice should contain: the requestor's name and Federal Employer Identification Number (FEIN); the name of the Department employee who served the subpoena; the case name and number; the name of the taxpayer to whom the records pertain; and an itemized listing of the incurred costs being submitted for compensation.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.142(1), 212.14(7) FS. History-New 3-27-95, Amended _____.

12A-1.0955 Revocation of Sales Tax Certificates of Registration.

(1) No change.

(2) The Department may commence a revocation action through issuance of a Preliminary Notice of Revocation ~~(Form DR-1PN)~~ to the last known address of record furnished by the dealer. This Notice informs the dealer that:

(a) through (3) No change.

(4) To challenge a revocation as stated in an Administrative Complaint, the dealer shall submit a completed Request for Hearing (Form DR-1AC) ~~or a~~ written petition requesting a hearing, postmarked or hand-delivered no later than 21 consecutive calendar days after the issuance date on the Complaint.

(a) No change.

(b) The written petition for a hearing ~~or the Request for Hearing form~~ submitted by the dealer shall include all the following information:

1. through 7. No change.

(5) In the event a dealer fails to submit a timely written petition for a hearing ~~or a Request for Hearing (Form DR-1AC)~~, or fails to submit a written petition ~~or a Request for Hearing~~ which complies with all the requirements set forth in subsection (4) above, the Department shall, without conducting a hearing, issue a Final Order revoking the dealer's certificate of registration. Issuance of a Final Order shall constitute Final Agency Action.

(6) When a dealer submits a timely written petition or Request for Hearing (Form DR-1AC) which complies with all the requirements set forth in subsection (4) above:

(a) through (9) No change.

~~(10) In addition to the forms prescribed in Chapter 12A-1, F.A.C. the following public-use forms and instructions are employed by the Department in its dealings with the public when administering this rule, and are incorporated herein by reference. Copies of these forms are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax-On-Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.~~

Form Number	Title	Effective Date
(1) DR-1PN	Preliminary Notice of Revocation	12/92
(2) DR-1AG	Agreement	12/92
(3) DR-1AC	Administrative Complaint/Request for Hearing	12/92

Specific Authority 72.011, 212.17(6), 212.18(2), 213.06(1), 213.21 FS. Law Implemented 72.011, 120.57(1),(2), 120.60(5), 120.80(14), 212.18(3) FS. History—New 12-8-92, Amended _____.

12A-1.096 Industrial Machinery and Equipment for Use in a New or Expanding Business.

(1) through (5) No change.

(6) Temporary Tax Exemption Permit-Refund or Credit.

(a)1. To receive the exemption provided under subsections (2) or (3), a qualifying business entity must apply to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443, for a temporary tax exemption permit. ~~(See subsection (12) for registration requirements with the WAGES Program Business Registry.)~~ The business entity seeking a temporary tax exemption must file an Application for Temporary Tax Exemption Permit (~~form~~ Form DR-1214), ~~incorporated by reference in Rule 12A-1.097, F.A.C.,~~ with the Department prior to receiving a permit or refund for the new or expanded business. Upon a tentative affirmative determination of the business's qualification for exemption by the Executive Director or the Executive Director's designee, a temporary tax exemption permit shall be issued to, or a refund authorized for, the business entity.

2. through (11) No change.

~~(12) WAGES Program Business Registry. No machinery and equipment purchased, or leases payments made, by any new or expanding business will be eligible for the exemption without that business being registered with the WAGES Program Business Registry.~~

Specific Authority 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4),(14),(21),(22), 212.05, 212.06, 212.08(5)(b), 212.0805, 212.13(2), 215.26(2) FS. History—New 5-11-92, Amended 7-1-99, 6-28-00, _____.

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
(2) DR-1	Application to Collect and/or Report and Use Tax in Florida Registration (r. 08/00 04/92)	08/92
(3) DR-2A	Sales Tax Brackets Effective 6% Taxable Transactions (r. 02/88)	08/92
(4) through (5)	renumbered (3) through (4) No change.	
(5)(6)(a) DR-7	Consolidated Sales and Use Tax Return (r. 01/01 03/92)	08/92
(b) DR-7AR	Annual Registration Fee (Consolidated Registration No.) (r. 01/92)	08/92
(7) *DR-11	Sales and Use Tax Certificate of Registration (r. 01/89)	08/92
(8) *DR-14	Consumer's Certificate of Exemption (r. 04/90)	08/92
(6)(9)(a) DR-15AR	Annual Registration Fee (r. 01/92)	08/92
(a)(b) DR-15CS	Sales and Use Tax Return (r. 01/01 04/92)	08/92
(b)(c) DR-15CSN	Sales and Use Tax Return - Line-by-Line Instructions (for Completing Form DR-15CS) (r. 01/01 06/94)	08/92
(d) through (e)	renumbered (c) through (d) No change.	
(e)(f) DR-15MO	Mail Order/Use Tax Return (r. 07/99 N-01/94)	08/92
(f)(g) DR-15S	Supplementary Sales & Use Tax Return for Multistate Business (r. 01/01 04/88)	08/92
(h) DR-15VO	Sales and Use Tax Vending Machine Operator Quarterly Report (N. 7/91)	08/92

(i) DR-15VOC	Sales and Use Tax Vending Machine Operator Quarterly Consolidated Report (N. 7/91)	08/92
(j) DR-15VW	Sales and Use Tax Vending Machine Wholesales Quarterly Report (N. 7/91)	08/92
(10) DR-17	Cash Bond, Sales and Use Tax (r. 04/77)	08/92
(7) DR-18	Application for Amusement Machine Certificate (r. 02/00)	_____
(11) DR-29	Refund of Cash Bond (r. 09/87)	08/92
(12) through (17)	renumbered (8) through (13) No change.	
(18) DR-76	Florida Contract Data Form (r. 05/91)	08/92
(19)(a) DR-77	Contractor's Sales and Use Tax Bond (r. 09/90)	08/92
(b) DR-77A	Contractor's Sales and Use Tax Bond (Open Bond) (r. 04/91)	08/92
(20) DR-92-1	Surety Bond Sales and Use Tax (r. 09/83)	08/92
(21)(a) DR-95	Schedule of Sales Tax Credits Claimed on Bad Debts (r. 07/88)	08/92
(14)(a)(b) DR-95A	Schedule of Florida Sales or Use Tax Credits Claimed on Tangible Personal Property Repossessed (r. 04/95 04/88)	_____ 08/92
(b)(e) DR-95B	Schedule of Florida Sales or Use Tax Credits Claimed on Repossessed Motor Vehicles (r. 04/93 04/88)	_____ 08/92
(22) through (23)	renumbered (15) through (16) No change.	
(24) DR-151	Blind Person's Application for Certificate of Exemption	08/92
(25) *DR-152	Consumer's Certificate of Exemption for the Blind	08/92
(17)(26) DR-1214	Application for Temporary Tax Exemption Permit (r. 08/00 09/99)	_____ 06/00
(27) DCAEZ-001	Florida Department of Community Affairs Job Creation Annual Report (N. 01/89)	08/92

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.17(6), 212.18(2),(3) FS. History--New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00,_____.

12A-1.105 Service Warranties.
 (1) through (2)(b) No change.
 (c) If the person receiving consideration from the service warranty agreement holder is not the person issuing such warranty, then the issuer of the service warranty shall take from that person, in lieu of sales tax, a copy of that person's Annual Resale Certificate (form DR-13) certificate to the effect that the service warranty was purchased for resale, consistent with the requirements stated in Rule 12A-1.038, F.A.C.

(d) through (6) No change.
 Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4),(14)(a),(16), 212.0506, 212.054, 212.055, 212.06, 212.08(7)(v), ~~212.17~~, 212.18(3), 634.011, 634.131, 634.401, 634.415 FS. History--New 1-2-89, Amended 12-11-89, 8-10-92, 1-4-94, 3-20-96, 4-2-00,_____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Newspapers, Magazines, and Periodicals	12A-1.008
Printing of Tangible Personal Property	12A-1.027
Sales to Persons Engaged in Printing	12A-1.028
The Printing of Promissory Notes, Securities and Checks	12A-1.030
The Printing of Lawyers' Briefs and Accountants' Reports	12A-1.031
Promotional Materials Exported from this State	12A-1.034
Information Services; Mailing Lists	12A-1.062

PURPOSE AND EFFECT: The purpose of the proposed substantial rewording of Rule 12A-1.008, F.A.C., Newspapers, Magazines, and Periodicals, is to: (1) remove provisions that have been rendered obsolete through statutory changes by the use of a substantial rewording of the rule text; (2) define the term "periodicals" to include newspapers, newsletters, magazines, and other periodicals, but to exclude books, whether published in serial form or otherwise; (3) provide guidelines for when sales of copies of periodicals, and sales of subscriptions to periodicals, are subject to tax; (4) provide guidelines for when a carrier that delivers newspapers for a publisher will be required to register as a dealer and collect tax; (5) provide guidelines for newspaper publishers that collect and remit tax on behalf of their carriers; (6) provide guidelines for the taxability of periodicals sold through rack machines; (7) provide guidelines for when inserts distributed with newspapers and magazines are exempt from tax; (8) provide that publications that are published on a regular basis, distributed free of charge, and whose content is primarily advertising, are exempt; (9) provide guidelines regarding the sale or distribution of periodicals by associations; and (10) provide guidelines for the taxability of materials, supplies, and publications that are either produced for sale by a publisher or used by the publisher.

The purpose of the proposed substantial rewording of Rule 12A-1.027, F.A.C., is to: (1) change the title to "Printing of Tangible Personal Property" to reflect the substantial changes to the rule provisions; (2) provide a definition of the term "printing" for purposes of this rule section; (3) provide that the sale of printed tangible personal property or graphic matter is subject to tax; (4) provide that charges for uncanceled postage that is separately stated are not subject to tax; (5) provide that any person who prints catalogs or other advertising materials that are distributed free of charge, in this state or outside this state, is required to pay tax on the cost of printing the materials; (6) incorporate the provisions of ss. 1 and 2, Chapter 2000-275, L.O.F., which provide that printers are not required to collect tax on printed materials that, based on the purchaser's order, are shipped to persons located within and outside Florida; (7) provide guidelines for when sales to a nonresident print purchaser for printing tangible personal property are not subject to tax; (8) incorporate the provisions of s. 1, Chapter 99-368, L.O.F. (creates s. 212.08(7)(fff) [now (aaa)], F.S.), which provides an exemption for film and other printing supplies used by businesses with certain SIC Code Numbers; (9) provide guidelines for the taxability of materials and supplies that become a part of the printed product for sale or that are used by the printer; (10) provide that selling printers who accept in good faith the required exemption certificates will not be held liable for any additional tax due; and (11) provide that printers are required to maintain the required certificates in their books and records.

The purpose of the proposed repeal of Rule 12A-1.028, F.A.C., Sales to Persons Engaged in Printing; Rule 12A-1.030, F.A.C., The Printing of Promissory Notes, Securities and Checks; and Rule 12A-1.031, F.A.C., Printing of Lawyers' Briefs and Accountants' Reports, is to remove rules that are redundant of the provisions regarding the printing of tangible personal property that will be provided in Rule 12A-1.028, F.A.C., as amended.

The purpose of the proposed amendments to Rule 12A-1.034, F.A.C., is to: (1) change the title to "Promotional Materials Exported from this State" to reflect the changes made to the rule; (2) remove provisions regarding the advertising materials and printed matter that are obsolete; (3) incorporate the amendments to s. 215.26, F.S. (s. 10, ch. 94-314, L.O.F., and s. 10, ch. 99-239, L.O.F.), and the provisions of s. 213.255, F.S., created by s. 9, ch. 99-239, L.O.F. Section 215.26, F.S., provides that an application for refund of tax paid must be filed with the Department within 3 years after the date of payment of the tax. Section 213.255(3), F.S., provides that an application for a refund of tax paid will be considered complete when all requested information is received by the Department.

The purpose of the proposed amendments to Rule 12A-1.062, F.A.C., is to: (1) change the title to "Information Services; Mailing Lists," to reflect the proposed changes to the rule; (2) clarify the exemption provided for information services furnished to radio and television stations; (3) incorporate the ruling rendered by the circuit court in *SOM Publishing, Inc. v. Department of Revenue*, Fla. 15th Cir. Ct. 1998 (Case No. CL 97-004482), which held that a publication deemed by the Department to be a magazine should be treated the same as a newspaper for the purposes of purchasing photo services exempt from tax; (4) clarify that information services furnished to publishers of newspapers, magazines, and similar publications are exempt; (5) remove portions of the definition of "information services" that are not consistent with the provisions of s. 212.08(7)(v), F.S.; and (6) provide that the charge for information services, such as press clipping services, is exempt.

SUBJECT AREA TO BE ADDRESSED: The purpose of this rule development workshop is to provide an opportunity for public comment regarding these proposed amendments to Rule Chapter 12A-1, Sales and Use Tax.

SPECIFIC AUTHORITY: 212.06(3)(b)1., 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 92.525(1)(b),(3), 95.091, 212.02(4), (14),(15),(16),(19),(20), 212.05(1), 212.0596(2)(j), 212.0598, 212.0515(1),(2), 212.06(1),(2),(3)(b),(5)(a),(9),(11),(16), 212.07(1),(2), 212.08(7)(o),(v),(w),(aaa), 212.18(3)(a), 212.183(6), 213.255(1),(2),(3), 213.37, 215.26(2) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 28, 2000

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

Copies of the agenda for the rule development workshop may be obtained from 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.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing- or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT 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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial Rewording of Rule 12A-1.008 follows. See Florida Administrative Code for present text.)

12A-1.008 Newspapers, Magazines, and Periodicals.

(1) NEWSPAPERS, MAGAZINES, AND OTHER PERIODICALS.

(a) For purposes of this rule, the term "periodicals" includes newspapers, newsletters, magazines, and other periodicals, but excludes books, whether published in serial form or otherwise.

(b)1. The sale of copies of periodicals is subject to tax. The sale of subscriptions to periodicals that are delivered to the customer by a carrier or means other than by mail, such as home delivery, is subject to tax.

2. The sale of subscriptions to periodicals that are delivered to the subscriber by mail are exempt.

(c) When a publisher bills or invoices the consumer directly for copies of or subscriptions to periodicals for delivery other than by mail, the publisher is required to register as a dealer and collect and remit tax. (See Rule 12A-1.060, F.A.C.)

(d)1.a. When a publisher sells newspapers to its carriers and the carriers bill their customers and collect the payments, the publisher may elect to remit the applicable tax due for the carriers. The Department will authorize a publisher that uses carriers to sell its newspapers to remit tax on the retail sales price charged to the ultimate consumer in lieu of having the carrier register as a dealer and remit the tax, if the publisher properly complies with the provisions of Rule 12A-1.0911, F.A.C., Self-Accrual Authorization.

b. A publisher that has elected to remit the tax due for its carriers may take a credit for the amount of tax paid on the uncollected charges for periodicals credited to the carrier's account. The publisher should obtain for its records a signed statement from the carrier indicating the uncollected amount of the retail sales price charged to its customers. (See Rules 12A-1.012 and 12A-1.014, F.A.C.)

c. For purposes of this rule, "carrier" means any independent contractor, agent, street news vendor, or other person distributing periodicals on their own account and not as an employee of the publisher.

2. Any person who purchases newspapers from a publisher that has not elected to remit the tax due as provided in subparagraph 1., is required to register as a dealer and collect and remit tax on the retail sales price of the newspaper. Dealers registered with the Department may extend a copy of their Annual Resale Certificate (form DR-13) to the publisher to purchase newspapers for resale tax exempt.

(2) PERIODICALS SOLD THROUGH RACK MACHINES.

(a) The sale of periodicals through rack machines is a sale of tangible personal property through vending machines, as defined in s. 212.0515(1), F.S., subject to tax at the rate established in s. 212.0515(2), F.S. A notice must be conspicuously displayed on the face of the rack machine that the purchase price of a copy includes sales tax.

1. If a rack machine is owned by a publisher and serviced by the publisher's employees, the publisher is required to remit tax on sales made through such machine.

2. If a rack machine is owned by a retail establishment and is serviced by the employees of that establishment, the retail establishment is required to remit tax on sales made through such machine.

3. If a rack machine is owned and serviced by a carrier of a publisher who has elected to remit tax for its carriers, as provided in paragraph (1)(d), the publisher is required to remit tax on sales made through such machine.

4. If a rack machine is owned and serviced by a carrier of a publisher that has not elected to remit tax for its independent carriers, the carrier is required to remit tax on sales made through such machine.

(b) Owners or operators of rack machines through which sales are made must obtain a separate Sales and Use Tax Certificate of Registration (form DR-11) for each county in which such machines are located. One Sales and Use Tax Certificate of Registration is sufficient for all the rack machines and devices within a single county. (See Rule 12A-1.060, F.A.C.)

(c) For guidelines on the purchase or repair of rack machines, see Rule 12A-1.044, F.A.C.

(d) When a rack machine is placed on location by the owner of the machine under a written agreement, the terms of the agreement will govern whether the lease is a lease or license to use tangible personal property or a lease or license to use real property. For guidelines on the purchase or lease of rack machines and the lease or license to use real property for the placement of rack machines, see Rule 12A-1.044, F.A.C.

(3) INSERTS DISTRIBUTED WITH NEWSPAPERS AND MAGAZINES.

(a) Inserts, such as magazines, handbills, circulars, flyers, advertising supplements, and other printed materials distributed with a newspaper or magazine are a component part of the newspaper or magazine.

(b) Inserts are exempt from tax when:

1. The inserts are either printed by the newspaper or magazine publisher or delivered directly to the publisher by any other printer for inclusion in a distributed newspaper or magazine;

2. The inserts are labeled as part of the designated newspaper or magazine in the masthead, logo, gang logo, or supplement line of the newspaper or magazine to which they are inserted; and

3. When the inserts are not printed by the publisher distributing the newspaper or magazine, the publisher presents a copy of the publisher's Annual Resale Certificate (form DR-13), as provided in Rule 12A-1.039, F.A.C., to the printer.

(4) PUBLICATIONS EXEMPT FROM TAX.

(a) Publications that meet the following requirements are exempt from tax:

1. The publication is published on a regular basis;

2. The publication is distributed free of charge by mail; home delivery, rack machines, newsstands, or similar method; and

3. The content of the publication is primarily advertising.

(b) Distributors of tax exempt publications may issue an exemption certificate to their vendors in lieu of paying tax on the publishing or printing costs of, or for the purchase of items, such as paper and ink, that are incorporated into and become a component part of, the publication.

(5) PERIODICALS SOLD OR DISTRIBUTED BY ASSOCIATIONS.

(a) Periodicals or other publications that are provided by an association to its members for a charge that is separate and apart from the payment of membership dues are considered to be sold by the association. If an association indicates on its dues invoices or membership billing statements that a specified portion of the dues payment by the member is attributed to a periodical subscription, the amount specified for the subscription constitutes a sale of a subscription to the specified periodical.

(b) The charge for copies of publications, and subscriptions to periodicals that are not delivered to the purchaser by mail, are subject to tax. However, charges for subscriptions to periodicals that are delivered by mail to the member are exempt, whether the charge for such subscription is separately stated or included in the members' dues.

(c) Associations that make taxable sales of copies of publications and of subscriptions to periodicals are required to register with the Department, and collect and remit the applicable tax on such sales. (See Rule 12A-1.060, F.A.C.) Associations may issue a copy of their Annual Resale Certificate to their vendors in lieu of paying tax on the publishing or printing costs of, or for the purchase of items, such as paper and ink, that are incorporated into and become a component part of, a publication that is sold to its members.

(d) 1. An association that publishes a periodical or other publication for distribution to its members is not selling such publications when:

a. each member is entitled to receive the publication in return for payment of dues; and

b. there is no charge made for the publication separate and apart from the payment of membership dues.

2. The purchase of printing or the cost of producing such publications by the association is subject to tax. If the association prints or otherwise produces the publication itself, it is required to pay tax on such publications, as provided in s. 212.06(16), F.S.

(6) MATERIALS, SUPPLIES, AND PUBLICATIONS USED BY A PUBLISHER.

(a) The purchase of materials and supplies, which become a component part of a newspaper, newsletter, magazine, periodical or similar publication for resale, is exempt from the tax. Examples of such items are: paper stock, including newsprint; printer's ink; and dry spray powder that is used to speed the drying of ink on printed matter.

(b) The purchase of items and materials used one time only for packaging publications, without which the delivery of the publication would be impractical, or for the convenience of the customer, is exempt. Examples of such packaging materials are: boxes, cans, mailing and wrapping paper, wax and plastic bags, twine, wire and steel band material, and shipping tags.

(c) The purchase of expendable materials, supplies, and other items that do not become a component part of, or accompany, the publication for sale is subject to tax. Examples of such items are: rosin paste, gummed paste, flash bulbs, felt packing, art supplies, photographs, engravings, cuts, mats, mat services, chemicals and additives used for processing printed materials, chemicals used as cleaning agents or detergents, blankets, rollers, matrix, wire machines, and other production and packaging equipment.

(d) The purchase, production, or creation of film, photographic paper, dyes used for embossing and engraving, artwork, typography, lithographic plates, and negatives used in producing publications for sale is subject to tax. When such items are manufactured, produced, compounded, processed, fabricated, or created by the publisher for his or her own use, the publisher shall pay tax on the cost price of such items. See Rule 12A-1.043, F.A.C. For the tax exemption provided for the purchase, production, or creation of these items to printers whose business is classified in the Standard Industrial Classification (SIC) Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President, as SIC Industry Numbers 275, 276, 277, 278, or 279, see Rule 12A-1.027, F.A.C.

(e) The use by the publisher of a newspaper, magazine, or periodical of copies for his or her own consumption or to be given away is taxable at the usual retail price thereof, if any, or at the cost price, as defined in s. 212.06(16), F.S.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), ~~212.034~~, 212.05(1)(a),(b),(h),(e),(d),(i), ~~212.054~~, 212.0515(1),(2), 212.06(1)(a),(b),(9),(16), 212.07(1),(2), 212.08(7)(o),(v),(w),(aaa), 212.18(3)(a) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Formerly 12A-1.08, Amended 4-22-86, 12-13-88, 1-30-91, 3-17-94, 3-20-96,_____.

(Substantial Rewording of Rule 12A-1.027 follows. See Florida Administrative Code for present text.)

12A-1.027 Sales by Persons Engaged in Printing of Tangible Personal Property.

(1) "Printing" is the transfer of an image or images by the use of ink, paint, dyes, or similar substrate from an original image to the final substrate through the process of letterpress, offset lithography, gravure, screen printing, or engraving. "Printing" includes the process of and the materials used in binding. "Printing" also includes reproducing an image or images from an original substrate through the electrophotographic, xerographic, laser, or offset process, or a combination of these processes, by which an operator can make more than one copy without handling the original, such as that used to reproduce publications.

(2)(a) The sale of printed tangible personal property or graphic matter is subject to tax. All charges to the consumer for materials, for the production or fabrication of items used, and for binding and finishing the printed property or graphic matter for distribution are subject to tax, even when such charges are separately stated on an invoice, customer bill, or other tangible evidence of sale.

(b) Charges for uncanceled postage that are separately stated on a customer's invoice, bill, or other tangible evidence of sale are not subject to tax.

(3) The charge for printing or imprinting items provided by the customer to the printer is subject to tax.

(4)(a) When a printer located in Florida agrees, as part of the purchaser's order, to deliver printed materials to the United States Postal Service for mailing, it is presumed that all materials printed at the Florida facility are mailed to persons located within Florida, and the printer must collect tax on the sale of printed materials.

(b)1. A printer is relieved of the responsibility of collecting tax on the sale of printed materials when the purchaser provides the printer a signed certificate which certifies that:

a. based on the designated print order, the printer is to deliver the printed materials to the United States Postal Service for mailing, at least in part, to persons, other than the purchaser, located outside Florida; and

b. the purchaser understands that, as a result of the issuance of the certificate, the purchaser must pay sales or use tax directly to the Department for all printed materials in the stated order that are mailed to persons located within Florida.

2. The purchaser is obligated to pay use tax directly to the Department of Revenue when, based on the order provided to the printer, more than an unsubstantial part of the printed matter is delivered by the printer to the United States Postal Service to be mailed to persons located outside Florida. If the purchaser is a registered dealer, the tax due may be reported and paid on the dealer's sales and use tax return. If the purchaser is not required to register as a dealer under the provisions of Rule 12A-1.060, F.A.C., the use tax may be

reported and paid on a Mail Order/Use Tax Return (form DR-15MO, incorporated by reference in Rule 12A-1.097, F.A.C.).

(c) The following is a suggested format of an exemption certificate to be completed by the purchaser and presented to the selling printer (dealer) at the time of sale:

EXEMPTION CERTIFICATE
PRINTED MATERIALS TO BE MAILED PARTLY
OUTSIDE FLORIDA

_____ (Name of Purchaser of Printed Materials) certifies that he or she has placed an order, dated or numbered or otherwise described as follows:

_____ with _____ (Name of Printing Facility) for the printing of certain materials, and as a part of that order the Printing Facility has agreed to deliver the printed materials to the United States Postal Service for mailing to an agreed list of persons.

The above-named Purchaser further certifies that, based on the mailing list, more than an unsubstantial part of the printed materials will be mailed to persons located outside Florida.

The Purchaser understands that, as a result of this certification, the Printing Facility has no obligation to collect any sales or use tax for the printed materials from the Purchaser, and that the Purchaser must pay sales or use tax directly to the Department of Revenue for all printed materials in the above order that are mailed to persons located within Florida. Such tax is due on the first day of the month following the sale of the materials and is delinquent on the 21st day of that month.

Under the penalties of perjury, I declare that I have read the foregoing Exemption Certificate for Printed Material to be Mailed Partly Outside Florida, and the facts stated in it are true.

_____ Purchaser's Name (Print or Type) _____ Florida Sales Tax Number (if registered)

_____ Signature and Title _____ Date

_____ Federal Employer Identification Number (F.E.I.) or Social Security Number _____ Telephone Number

(Form to be retained in Printing Facility's records)

(5)(a) Sales to a nonresident print purchaser for printing of tangible personal property are not subject to tax. A "nonresident print purchaser" is an out-of-state purchaser who is not required to be registered with the Department as a dealer under the provisions of s. 212.0596(2), F.S., and is purchasing printing of tangible personal property in this state. The nonresident print purchaser is required to furnish to the selling printer (dealer), at the time of sale, a certificate stating that the

printed material purchased will be resold by the nonresident print purchaser and that the nonresident print purchaser is not required to register as a dealer with the Department under the provisions of s. 212.0596(2), F.S.

(b) The following is a suggested format of an exemption certificate to be completed by the nonresident print purchaser and presented to the selling printer (dealer) at the time of sale:

EXEMPTION CERTIFICATE
PRINTED MATERIAL PURCHASED BY A
NONRESIDENT PURCHASER

Name of Printer: _____
Address of Printer: _____ (Street)
_____ (City) _____ (State)

This is to certify that all tangible personal property purchased after _____ (date) by the undersigned purchaser of printed material, who is not a dealer required to obtain a certificate of registration with the Florida Department of Revenue under the provisions of s. 212.0596(2), F.S., from the above named Florida printer, is printed material purchased for resale by the undersigned print purchaser and for no other purpose.

Under the penalties of perjury, I declare that I have read the foregoing Printed Material Exemption Certificate, and the facts stated in it are true.

Name of Nonresident Print Purchaser: _____
Address of Purchaser: _____ Street
_____ (City) _____ (State)
Federal Identification Number: _____

(Signature of Authorized Representative) Date

This certificate shall be considered a part of each order the Print Purchaser gives to the printer named above.

(6)(a) The purchase of materials and supplies that become a component part of printed matter for resale is exempt from the tax. Examples of such items are: paper stock, including newsprint; printer's ink; and dry spray powder that is used to speed the drying of ink on printed matter.

(b)1. The purchase, production, or creation of film, photographic paper, dyes used for embossing and engraving, artwork, typography, lithographic plates, and negatives used in producing graphic matter for sale by printers is exempt if the printer's business is classified in the Standard Industrial Classification (SIC) Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President, by one of the following classifications:

- a. SIC Industry Number 275, Commercial Printing;
- b. SIC Industry Number 276, Manifold Business Forms;
- c. SIC Industry Number 277, Greeting Cards;
- d. SIC Industry Number 278, Blankbooks, Looseleaf Binders, and Bookbinding and Related Work;
- e. SIC Industry Number 279, Service Industries for the Printing Trade.

2. The purchaser must extend an exemption certificate to the selling dealer to purchase tax exempt the items provided in paragraph (a). The following is a suggested exemption certificate:

EXEMPTION CERTIFICATE
PURCHASES OF FILM AND OTHER PRINTING
SUPPLIES

(Purchaser's Name) certifies that the film, photographic paper, dyes used for embossing and engraving, artwork, typography, lithographic plates, and/or negatives purchased on or after _____ (date) will be used to produce graphic matter for sale.

(Purchaser's Name) further certifies that its four-digit SIC Industry Number is classified under SIC Industry Group Number 275, 276, 277, 278, or 279, as contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

The undersigned understands that if such film, photographic paper, dyes used for embossing and engraving, artwork, typography, lithographic plates, and/or negatives do not qualify for exemption, the undersigned will be subject to sales and use tax, interest, and penalties. The undersigned further understands that when any person fraudulently, for the purpose of evading tax, issues to a vendor or to any agent of the state a certificate or statement in writing in which he or she claims exemption from the sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 200% of the tax, shall be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

_____ Purchaser's Name (Print or Type)	_____ Florida Sales Tax Number
_____ Signature and Title	_____ Date
_____ Federal Employer Identification Number (F.E.I.) or Social Security Number	_____ Telephone Number

3. Any person who prints or publishes tangible personal property that does not meet the requirements of this paragraph must pay tax on such items.

(c) The purchase of items and materials used one time only for packaging printed matter, without which the delivery of the matter would be impractical, or for the convenience of the customer, is exempt. Examples of such packaging materials are: boxes, cans, mailing and wrapping paper, wax and plastic bags, twine, wire and steel band material, and shipping tags.

(d) The purchase of expendable materials, supplies, and other items that do not become a component part of, or accompany, the printed matter for sale is subject to tax. Examples of such items are: rosin paste, gummed paste, flash bulbs, felt packing, art supplies, photographs, engravings, cuts,

mats, mat services, chemicals and additives used for processing printed materials, chemicals used as cleaning agents or detergents, blankets, rollers, matrix, wire machines, and other production and packaging equipment.

(7)(a) Selling printers (dealers) who accept in good faith the certificates required to be obtained from the purchaser will not be assessed tax on their sales of printed materials to that purchaser. The Department will look solely to the purchaser for any additional tax due.

(b) The selling printer (dealer) is required to maintain the certificates required to be obtained by the seller from the purchaser until tax imposed under Chapter 212, F.S., may no longer be determined and assessed under s. 95.091, F.S.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 212.06(3)(b) FS. Law Implemented 92.525(1)(b),(3), 212.02(14),(15)(c),(19), 212.0596(2)(j), 212.06(2),(3)(b),(5)(a), 212.08(7)(aaa), 213.37 FS. History-Revised 10-7-68, 6-16-72, Amended 5-18-74, Formerly 12A-1.27, Amended 5-18-94, _____.

12A-1.028 Sales to Persons Engaged in Printing.

(1) The purchase by a printer, including publishers of newspapers, magazines, periodicals, etc., of materials and supplies which become a component of the printed matter for resale, are exempt from the tax. Examples of such items are: paper stock, including newsprint; printer's ink; and dry spray powder, which is used by printers in speeding up the drying process of ink on printed matter.

(2) Photo and news services are exempt.

(3) Items for packaging tangible personal property for sale, which actually accompany the product sold to the customer without which the delivery of the product is impractical on account of the character of the contents and for which there is no separate charge are exempt. Examples of such items are: Boxes, cans, mailing and wrapping paper, wax and plastic bags, twine, wire and steel band material, and shipping tags.

(4) The following items are taxable: Rosin paste, gummed paste, paste labels (except address labels), flash bulbs, felt packing, film, zinc, photographic paper, art supplies, photographs, engravings, cuts, mats, mat services, art works, typography, chemicals used in processing printing and also chemicals used as cleaning agents or detergents, metals, including additives, blankets, rollers, wire machines and other packaging equipment, matrix and other printing plant production equipment.

(5) A printer who purchases, fabricates or produces expendable items of tangible personal property such as engravings, cuts, mats, art work, typography, photographs, perforating tape, printing plates, etc., for use in producing newspapers, magazines, or periodicals for sale or in processing a customer's engraving or printing order but which items themselves do not become an ingredient or component part of the finished product, is construed to be the consumer of such items and shall pay the tax on his cost thereof. When the printer purchases such expendable items, the entire purchase

price is subject to the tax. When he produces or fabricates such expendable items himself, his fabrication labor is not taxable but he shall pay the tax on the cost of the materials and supplies that he uses in the production or fabrication thereof. However, if by terms of the sales agreement, the printer agrees to sell such expendable items to his customer for an amount equal to or greater than his cost of the items and the printer separately bills his customer therefore and collects the tax thereon, in addition to the charge that he makes to the customer for the printing order, the printer is not the consumer of such items and is not liable for tax on his cost of the items sold.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c) FS. History-Revised 10-7-68, 6-16-72, Amended 1-19-74, Formerly 12A-1.28, Repealed.

12A-1.030 The Printing of Promissory Notes, Securities and Checks.

The printing of promissory notes, securities, evidences of debts, evidence of intangible rights, checks, bills of exchange and drafts is deemed the printing of tangible personal property and is taxable.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14),(15), 212.08(7)(v) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.30, Repealed.

12A-1.031 The Printing of Lawyers' Briefs and Accountants' Reports.

The printing of lawyers' briefs, accountants' reports or other representations of professional services is deemed the printing of tangible personal property and is taxable.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(15) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.31, Repealed.

12A-1.034 Direct Mail Advertising Matter, Handouts, Throw-Aways, Circulars, and Promotional Materials Exported from this State.

(1) Upon final sales to ultimate consumers of direct mail advertising pieces, circulars, hand-outs, throw-aways and similar advertising matter, the dealer shall collect the sales tax upon the selling price thereof from his purchaser.

(2) Advertising pieces, circulars, hand-outs and similar advertising matter are taxable.

(3) A printer (dealer) who operates a printing plant in which printed matter is manufactured for his own consumption, or for use in connection with fulfilling contracts, is taxable upon all materials going into the manufactured product. Costs of labor, power and other plant expenses incurred with respect to such items of tangible personal property are taxable.

(4) Although a publication may contain matters of general interest and reports of current events, it does not necessarily constitute a newspaper.

~~(1)(5)(a)~~ Promotional materials as defined in s. 212.06(11)(b), F.S., which are sold, purchased, imported, used, manufactured, fabricated, processed, printed, imprinted, assembled, distributed, or stored in this state after July 1, 1987, and are subsequently exported outside this state are exempt from sales tax.

~~(2)(b)~~ Any dealer who has ~~on or after July 1, 1992,~~ incurred use tax on the use in this state of promotional materials, as defined in s. 212.06(11)(b), F.S., may apply for a refund of tax paid on the promotional materials which are subsequently exported outside this state only when the seller of the promoted subscriptions to publications sold in this state is a registered dealer and is remitting sales tax to the Department on publications sold in this state. The dealer purchasing and distributing the promotional materials for promoted subscriptions and the seller of the promoted subscriptions to publications are not required to be the same person.

~~(3)(e)~~ Any dealer who is unable to determine at the time of purchase of promotional materials whether the promotional materials will be used in this state or exported from this state may also make a request in writing to the Department to obtain written consent from the Department to assume the obligation of self-accruing and remitting directly to the state the tax due on taxable purchases of promotional materials, as defined in s. 212.06(11)(b), F.S., only when the seller of the promoted subscriptions to publications sold in this state is a registered dealer and is remitting sales tax to the Department on publications sold in this state. (See Rule 12A-1.0911, F.A.C.)

~~(4)(d)~~ For purposes of this ~~rule subsection~~, "promotional materials," as defined in s. 212.06(11)(b), F.S., includes tangible personal property that is given away or otherwise distributed to promote the sale of a subscription; written or printed advertising material, direct-mail literature, correspondence, written solicitations, renewal notices, and billings for sales connected with or to promote the sale of a subscription to a publication; and the component parts of each of these types of promotional materials.

~~(5)(e)~~ A claim for exemption as provided in this ~~rule subsection~~ shall not be denied on the basis that the exportation process was not continuous and unbroken, that a separate consideration was not charged for the promotional materials so exported, or that the taxpayer kept, retained, or exercised any right, power, dominion, or control over the promotional materials before transporting them from the state or for the purpose of subsequently doing so.

~~(6)(f)1-~~ To receive a refund of tax paid to the Department for promotional materials, the dealer must file an Application for Refund from the State of Florida (form Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) within 3 years after the date the tax was paid in accordance with the timing provisions of s. 215.26(2), F.S. Applications for Refund from the State of Florida (Form DR-26) are available by: 1) writing the Florida Department of Revenue, Forms

Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331. However, an application for refund shall not be considered complete pursuant to s. 213.255(3), F.S., and a refund shall not be approved, before the date the promotional materials are exported from this state.

2. The right to a refund of taxes paid pursuant to this subsection shall accrue when both the tax has been paid and the promotional materials are exported from this state.

3. Applications for refunds shall be filed within 3 years after the right to refund accrues or else such right shall be barred.

~~(a)4-~~ When the dealer's claim for refund under this subsection has been approved, the amount refunded will be the amount of use tax paid by the dealer on promotional materials that were subsequently exported from this state.

~~(b)5-~~ Such use tax shall be refunded whether or not the dealer who paid the tax has been granted self-accrual authorization. See Rule 12A-1.0911, F.A.C.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091, 212.02(4),(14),(16),(20), 212.06(1)(b),(11), 212.183(6), 213.255(1),(2),(3), 215.26(2) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.34, Amended 5-19-93, 11-16-93, _____.

12A-1.062 Information Services; Mailing Lists.

(1) No change.

(2) Information services furnished to newspapers and radio and television stations are exempt.

(3) "Information ~~services~~ Services" means and includes the services of collecting, compiling or analyzing information of any kind of nature, or furnishing reports thereof to other persons. The charge for furnishing information services, such as newsletters, tax guides, research publications, and other written reports of compiled information, ~~which are not produced for and provided exclusively to a single customer,~~ is taxable.

(4) The charge for news research and information services, such as press clipping services, is exempt, even though the charge may be based on the number of clippings provided and the per clipping charge may be separately stated from the charge for providing the research and information service.

(5) The sale of mailing lists provided to the purchaser in printed form or on tape cartridges or diskettes is subject to tax.

(4) through (5) renumbered (6) through (7) No change.

~~Cross Reference Rule 12A-1.001(17), F.A.C.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.06(1), 212.08(7)(v) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.62, Amended 9-14-93,_____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
New Tire Fee	12A-12.001
Battery Fee	12A-12.0011
Reporting and Remitting Fees	12A-12.004

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rules 12A-12.001, F.A.C. (New Tire Fee), and 12A-12.0011, F.A.C. (Battery Fee), is to provide that the terms “resale certificate,” “sales tax resale certificate,” or “certificate,” mean “an Annual Resale Certificate (form DR-13) issued by a dealer to make tax exempt purchases for the purposes of resale as provided in Rule 12A-1.039, F.A.C.”

The purpose of the proposed amendments to Rule 12A-12.004, F.A.C. (Reporting and Remitting Fees), is to: (1) provide that a Solid Waste and Surcharge Return (form DR-15SW) and payment accompanying the return is due to the Department, as provided in Rule 12A-1.056, F.A.C.; (2) incorporate the May 1999 revisions to form DR-15SW; and (3) make a technical change to an address where a form may be obtained and to correctly reference subsection (8) of Rule 12A-1.056, F.A.C., effective April 2, 2000.

SUBJECT AREA TO BE ADDRESSED: The purpose of this rule development workshop is to provide an opportunity for the public comment regarding these proposed amendments to Rules 12A-12.001, 12A-12.0011, and 12A-12.004, F.A.C.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) 403.718(3)(b), 403.7185(3)(b) FS.

LAW IMPLEMENTED: 403.717, 403.718, 403.7185 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 28, 2000

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

Copies of the agenda for the rule development workshop may be obtained from 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.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing- or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT 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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-12.001 New Tire Fee.

(1) through (4) No change.

(5) For purposes of this rule:

(a) through (d) No change.

(e) The term “sales tax resale certificate” or “certificate” means an Annual Resale Certificate (form DR-13) issued by a dealer to make tax exempt purchases for the purposes of resale.

(e) through (g) renumbered (f) through (h) No change.

(6) through (8) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b) FS. Law Implemented 403.717, 403.718 FS. History—New 1-2-89, Amended 10-16-89, 12-16-91, 3-20-96,_____.

12A-12.0011 Battery Fee.

(1) through (5) No change.

(6) For purposes of this rule:

(a) through (b) No change.

(c) The term “resale certificate” or “sales tax resale certificate” means an Annual Resale Certificate (form DR-13) issued by a dealer to make tax exempt purchases for the purposes of resale.

(c) through (e) renumbered (d) through (f) No change.

(7) through (8) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.7185(3)(b) FS. Law Implemented 403.717(1)(b),(h), 403.7185 FS, ss. 1-2, ch. 99-281, L.O.F. History—New 10-16-89, Amended 12-16-91, 3-20-96, 4-2-00,_____.

12A-12.004 Reporting and Remitting Fees.

(1) No change.

~~(2)(a) A Solid Waste and Surcharge Return, form Form DR-15SW, reporting new tires and lead-acid batteries sold at retail shall be filed with the Department. The payment and the return must either reach the office of the Department of Revenue or be postmarked on or before the 20th day of the month fees shown by the return to be due shall be paid therewith on or before the twentieth day of the month following the date of month in which the retail sale, as provided in Rule 12A-1.056(1), F.A.C. occurred.~~

(b) The Solid Waste and Surcharge Return, form Form DR-15SW (r. 05/99), dated October 1994, is hereby incorporated by reference in this rule. Copies of this form are available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department’s automated

Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department’s Internet site at the address show inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department’s TDD at 1-800-367-8331.

~~(b) A Solid Waste and Surcharge Return, Form DR-15SW, reporting new tires and lead-acid batteries sold at retail shall be filed with the Department for each month during which the person owing a new tire fee or a battery fee was registered. The new tire and battery fees shown by the return to be due shall be paid therewith on or before the twentieth day of the month following the calendar month in which the retail sales of a new tire or a lead-acid battery occurred.~~

~~(b)(e)~~ No change.

~~(3) Requirements of Rule 12A-1.056(1), F.A.C., for timely filing and payment are applicable to such fees.~~

(4) through (5) renumbered (3) through (4) No change.

~~(5)(6)~~ As stated in Rule 12A-1.056~~(8)(9)~~, F.A.C., with reference to taxes, the department is not authorized to extend the time to make any return or to pay the fees; and the consequences described in that subsection are applicable to the fees.

(7) through (8) renumbered (6) through (7) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 403.718(3)(b), 403.7185(3)(b) FS. Law Implemented 403.718, 403.7185 FS. History—New 1-2-89, Amended 10-16-89, 12-16-91, 4-12-94, 3-21-95, 3-20-96, 4-2-00,

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Surtax Sales Brackets	12A-15.002
Imposition and Payment of Tax	12A-15.003
The Sale of Food, Drink, and Tangible	
Personal Property at Concession Stands	12A-15.010
Coin-Operated Amusement and Vending	
Machines, and Other Devices	12A-15.011
Alcoholic and Malt Beverages	12A-15.012
Public Use Forms	12A-15.015

PURPOSE AND EFFECT: The purpose of the proposed substantial rewording of Rule 12A-15.002, F.A.C., is to: (1) change the title to “Surtax Sales Brackets” to reflect the substantial rewording of the rule text; (2) provide the effective sales tax brackets for transactions taxable at the rates of 2.5%, 6%, and 7% for counties that impose discretionary sales surtaxes at the rates of 1/2%, 3/4%, 1%, and 1 1/2% that are required by s. 212.12(11), F.S., as amended by s. 1, Chapter 2000-276, L.O.F.; (3) provide for easier reading of the sales tax brackets; and (4) remove the requirement to certify forms containing the sales tax brackets.

The purpose of the proposed amendments to Rule 12A-15.003, F.A.C., Imposition and Payment of Tax, is to: (1) provide current guidelines and incorporate statutory changes regarding the sale of newspapers, magazines, and other periodicals; and (2) remove the itemization of services that are subject to sales tax and to discretionary sales surtax.

The purpose of the proposed amendments to Rule 12A-15.010, F.A.C., is to: (1) change the title to “The Sale of Food, Drink, and Tangible Personal Property at Concession Stands”; (2) simplify the guidelines provided for sales made by concessionaires; (3) clarify the method used to calculate tax and surtax due on sales made at concession stands; and (4) provide the applicable divisor rates for counties imposing no surtax and counties imposing discretionary sales surtax at the rates of 1/2%, 3/4%, 1%, and 1 1/2%.

The purpose of the proposed amendments to Rule 12A-15.011, F.A.C., Coin-Operated Amusement and Vending Machines, and Other Devices, is to: (1) simplify the guidelines for reporting discretionary sales surtax due on charges for amusement machines; (2) provide the applicable surtax reporting divisors for counties imposing no surtax and counties imposing surtax at the rates of 1/2%, 3/4%, 1%, and 1 1/2%; and (3) provide that the statutory tax reporting divisors for sales of food, beverages, and tangible personal property made through vending machines or other dispensing devices located in counties imposing a discretionary sales surtax are provided in s. 212.0515(2), F.S.

The purpose of the proposed amendments to Rule 12A-15.012, F.A.C., Alcoholic and Malt Beverages, is to: (1) simplify guidelines to taxpayers who sell alcoholic and malt beverages as package goods, mixed drinks, or a combination thereof; and (2) provide current tax reporting rates and divisors for counties imposing no discretionary surtax and counties imposing surtax at the rates of 1/2%, 3/4%, 1%, and 1 1/2%.

The purpose of the proposed amendments to Rule 12A-15.015, F.A.C., is to: (1) change the title to “Public Use Forms”; (2) remove forms that do not meet the definition of a “rule,” as defined by s. 120.52(15), F.S., and are not required to be incorporated by reference; (3) provide a technical change to the Department’s Internet address.

SUBJECT AREA TO BE ADDRESSED: The purpose of this rule development workshop is to provide an opportunity for the public to comment on the proposed amendments to Rules 12A-15.002, 12A-15.003, 12A-15.010, 12A-15.011, 12A-15.012, and 12A-15.015, F.A.C., regarding: (1) the effective sales tax rates for counties that impose a discretionary sales surtax; (2) surtax divisors to be used to calculate tax and surtax due on sales made by concessionaires and for charges for the use of amusement machines; (3) the effective surtax rates and divisors for taxpayers who sell alcoholic and malt beverages as package goods, mixed drinks, or a combination

thereof; (4) the application of surtax to the sale of subscriptions to publications; and (5) the removal of the incorporation by reference to forms providing the effective sales surtax brackets. SPECIFIC AUTHORITY: 212.05(1)(i), 212.0515, 212.07(2), 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(16),(24), 212.05(1), 212.0506, 212.0515, 212.054, 212.055, 212.06(1),(4),(7),(9),(10), 212.07(2),(4),(9), 212.08(4), 212.12(9),(10),(11), 212.15(1),(4), 212.18(3) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 28, 2000

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

Copies of the agenda for the rule development workshop may be obtained from the person listed below.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT 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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial Rewording of Rule 12A-15.002 follows. See Florida Administrative Code for present text.)

12A-15.002 ~~Rate of Surtax~~ Sales Brackets.

(1) SALES GREATER THAN \$5,000. On taxable transactions in which the sales price for any item of tangible personal property exceeds \$5,000, the first \$5,000 of sales price is subject to the appropriate bracket charges as provided in this rule section. The amount of sales price in excess of \$5,000 for any item of tangible personal property is taxed at 6%.

(2) 1/2% DISCRETIONARY SALES SURTAX.

(a) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$2.09, 13¢ is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
.10 - .15	.01	1.08 - 1.23	.08
.16 - .30	.02	1.24 - 1.38	.09

.31 - .46	.03	1.39 - 1.53	.10
.47 - .61	.04	1.54 - 1.69	.11
.62 - .76	.05	1.70 - 1.84	.12
.77 - .92	.06	1.85 - 2.09	.13
.93 - 1.07	.07		

(b) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$2.09, 15¢ is to be charged on each \$2 dollar of price, plus the tax amount due on any fractional part of \$2.

Amount of Sale	Tax	Amount of Sale	Tax
.10 - .13	.011	.07 - 1.20	.09
.14 - .26	.021	.21 - 1.33	.10
.27 - .40	.031	.34 - 1.46	.11
.41 - .53	.041	.47 - 1.60	.12
.54 - .66	.051	.61 - 1.73	.13
.67 - .80	.061	.74 - 1.86	.14
.81 - .93	.071	.87 - 2.09	.15
.94 - 1.06	.08		

(c) When the rate of the surtax is 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$1, 3% percent is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax
.10 - .35	.01
.36 - .65	.02
.66 - 1.00	.03

(3) 3/4% DISCRETIONARY SALES SURTAX.

(a) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.03, 7¢ is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
.10 - .14	.01	.60 - .74	.05
.15 - .29	.02	.75 - .88	.06
.30 - .44	.03	.89 - 1.03	.07
.45 - .59	.04		

(b) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.03, 8¢ is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

Amount of Sale	Tax	Amount of Sale	Tax
.10 - .12	.01	.52 - .64	.05
.13 - .25	.02	.65 - .77	.06

<u>.26 – .38</u>	<u>.03</u>	<u>.78 – .90</u>	<u>.07</u>
<u>.39 – .51</u>	<u>.04</u>	<u>.91 – 1.03</u>	<u>.08</u>

(c) When the rate of the surtax is 3/4%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2 1/2%. For taxable sales in the amounts of more than \$4.09, 13¢ is to be charged on each \$4 of price, plus the tax amount due on any fractional part of \$4.

<u>Amount of Sale</u>	<u>Tax</u>	<u>Amount of Sale</u>	<u>Tax</u>
<u>.10 – .30</u>	<u>.012</u>	<u>.16 – 2.46</u>	<u>.08</u>
<u>.31 – .61</u>	<u>.022</u>	<u>.47 – 2.76</u>	<u>.09</u>
<u>.62 – .92</u>	<u>.032</u>	<u>.77 – 3.07</u>	<u>.10</u>
<u>.93 – 1.23</u>	<u>.043</u>	<u>.08 – 3.38</u>	<u>.11</u>
<u>1.24 – 1.53</u>	<u>.053</u>	<u>.39 – 3.69</u>	<u>.12</u>
<u>1.54 – 1.84</u>	<u>.063</u>	<u>.70 – 4.09</u>	<u>.13</u>
<u>1.85 – 2.15</u>	<u>.07</u>		

(4) 1% DISCRETIONARY SALES SURTAX.

(a) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$1.09, 7¢ is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

<u>Amount of Sale</u>	<u>Tax</u>	<u>Amount of Sale</u>	<u>Tax</u>
<u>.10 – .14</u>	<u>.01</u>	<u>.58 – .71</u>	<u>.05</u>
<u>.15 – .28</u>	<u>.02</u>	<u>.72 – .85</u>	<u>.06</u>
<u>.29 – .42</u>	<u>.03</u>	<u>.86 – 1.09</u>	<u>.07</u>
<u>.43 – .57</u>	<u>.04</u>		

(b) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$1.09, 8¢ is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

<u>Amount of Sale</u>	<u>Tax</u>	<u>Amount of Sale</u>	<u>Tax</u>
<u>10 – .12</u>	<u>.01</u>	<u>.51 – .62</u>	<u>.05</u>
<u>13 – .25</u>	<u>.02</u>	<u>.63 – .75</u>	<u>.06</u>
<u>26 – .37</u>	<u>.03</u>	<u>.76 – .87</u>	<u>.07</u>
<u>38 – .50</u>	<u>.04</u>	<u>.88 – 1.09</u>	<u>.08</u>

(c) When the rate of the surtax is 1%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2 1/2%. For taxable sales in the amounts of more than \$2.09, 7¢ is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

<u>Amount of Sale</u>	<u>Tax</u>	<u>Amount of Sale</u>	<u>Tax</u>
<u>10 – .28</u>	<u>.011</u>	<u>.15 – 1.42</u>	<u>.05</u>
<u>29 – .57</u>	<u>.021</u>	<u>.43 – 1.71</u>	<u>.06</u>
<u>58 – .85</u>	<u>.031</u>	<u>.72 – 2.09</u>	<u>.07</u>
<u>86 – 1.14</u>	<u>.04</u>		

(5) 1 1/2% DISCRETIONARY SALES SURTAX.

(a) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 6%. For taxable sales in the amounts of more than \$2.09, 15¢ is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

<u>Amount of Sale</u>	<u>Tax</u>	<u>Amount of Sale</u>	<u>Tax</u>
<u>.10 – .13</u>	<u>.011</u>	<u>.07 – 1.20</u>	<u>.09</u>
<u>.14 – .26</u>	<u>.021</u>	<u>.21 – 1.33</u>	<u>.10</u>
<u>.27 – .40</u>	<u>.031</u>	<u>.34 – 1.46</u>	<u>.11</u>
<u>.41 – .53</u>	<u>.041</u>	<u>.47 – 1.60</u>	<u>.12</u>
<u>.54 – .66</u>	<u>.051</u>	<u>.61 – 1.73</u>	<u>.13</u>
<u>.67 – .80</u>	<u>.061</u>	<u>.74 – 1.86</u>	<u>.14</u>
<u>.81 – .93</u>	<u>.071</u>	<u>.87 – 2.09</u>	<u>.15</u>
<u>.94 – 1.06</u>	<u>.08</u>		

(b) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 7%. For taxable sales in the amounts of more than \$2.09, 17¢ is to be charged on each \$2 of price, plus the tax amount due on any fractional part of \$2.

<u>Amount of Sale</u>	<u>Tax</u>	<u>Amount of Sale</u>	<u>Tax</u>
<u>.10 – .11</u>	<u>.01</u>	<u>1.10 – 1.17</u>	<u>.10</u>
<u>.12 – .23</u>	<u>.02</u>	<u>1.18 – 1.29</u>	<u>.11</u>
<u>.24 – .35</u>	<u>.03</u>	<u>1.30 – 1.41</u>	<u>.12</u>
<u>.36 – .47</u>	<u>.04</u>	<u>1.42 – 1.52</u>	<u>.13</u>
<u>.48 – .58</u>	<u>.05</u>	<u>1.53 – 1.64</u>	<u>.14</u>
<u>.59 – .70</u>	<u>.06</u>	<u>1.65 – 1.76</u>	<u>.15</u>
<u>.71 – .82</u>	<u>.07</u>	<u>1.77 – 1.88</u>	<u>.16</u>
<u>.83 – .94</u>	<u>.08</u>	<u>1.89 – 2.09</u>	<u>.17</u>
<u>.95 – 1.09</u>	<u>.09</u>		

(c) When the rate of the surtax is 1 1/2%, the following effective tax brackets are applicable to all taxable transactions occurring in a taxing county that otherwise would have been taxable at the rate of 2.5%. For taxable sales in the amounts of more than \$1, 4¢ is to be charged on each \$1 of price, plus the tax amount due on any fractional part of \$1.

<u>Amount of Sale</u>	<u>Tax</u>
<u>10 – .25</u>	<u>.01</u>
<u>26 – .50</u>	<u>.02</u>
<u>51 – .75</u>	<u>.03</u>
<u>76 – 1.09</u>	<u>.04</u>

(6) The Department has prepared, for public use, schedules and rate cards to provide the sales tax effective brackets for counties imposing a discretionary sales surtax. Copies are available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4)

visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading the appropriate Sales Tax Bracket Cards from the Department's Internet site at <http://sun6.dms.state.fl.us/dor/taxes>. Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

Specific Authority 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.12(9),(10),(11) FS. History—New 12-11-89, Amended 8-10-92, 3-17-93, 12-13-94, 3-20-96.

12A-15.003 Imposition and Payment of Tax.

(1) All transactions occurring in a county imposing the surtax which are subject to the state tax imposed on sales, use, rentals, admissions, services, and other transactions by Chapter 212, F.S., are subject to the surtax. ~~Effective January 1, 1994, services which are subject to the state tax imposed by Chapter 212, F.S., are subject to the surtax. These services include detective, burglar protection, and other protection services, nonresidential cleaning and nonresidential pest control services.~~

(2) through (4) No change.

(5)(a) ~~The~~ A sale of subscriptions to a newspaper, magazine, or newsletter that is delivered to the purchaser by a carrier or means other than by mail, such as home delivery, a subscription or copy of a newspaper, magazine, or other publication is subject to a county's surtax if the publication is delivered to a purchaser is located in a county imposing a surtax, regardless of the physical location of the carrier or publication company. The sale of subscriptions to a newspaper, magazine, or newsletter that is delivered to a customer by mail is not subject to the surtax.

1. Example: A carrier or retailer that is registered to collect tax on the sale of newspapers is located in a county that does not impose the surtax and a newspaper it sells is delivered by a carrier into another county imposing the 1% surtax. Tax is due at the rate of 7% (6% state sales tax and 1% surtax).

2. Example: A carrier or retailer that is registered to collect tax on the sale of newspapers is located in a county that imposes a 1/2% surtax and a newspaper it sells is delivered by a carrier into another county imposing the 1% surtax. Tax is due at the rate of 7% (6% state sales tax and 1% surtax).

3. Example: A retailer that is registered to collect tax on the sale of magazines is located in a county that imposes a 1% surtax and a magazine it sells is delivered by means other than by mail into a county not imposing the surtax. Tax is due at the rate of 6% (6% state sales tax; no surtax is due).

(b) ~~A dealer who purchases a newspaper, magazine, or other publication, and did not pay sales tax, either because the vendor was located outside this state or for any other reason, but uses the publication in a county imposing the surtax, the purchasing dealer is required to accrue and remit not only the state use tax but also the county's surtax as a use tax. A~~

~~Likewise, a dealer who owes use tax on newspapers, magazines, or other publications it produces for its own use or purchases without paying the applicable sales tax due, is required to accrue and remit not only the state use tax and but also the surtax of the county in which it uses the publications.~~

(6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1), 212.0506, 212.054, 212.055, 212.06(1),(4),(7),(8),(10), 212.07(8)(9), 212.18(3) FS. History—New 12-11-89, Amended 1-30-91, 5-12-92, 8-10-92, 11-16-93, 3-20-96.

12A-15.010 The Sale of Food, Drink, and Tangible Personal Property at ~~by~~ Concession Stands.

(1)(a) ~~Concessionaires~~ Concession stands in a county levying the surtax at the rate of 1 1/2% selling food, drinks, tobacco products, and other items of tangible personal property at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business where it is impracticable due to the nature of the business practices within that industry to separately state Florida sales tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, may calculate tax due for counties imposing a surtax as follows: shall remit tax at the rate of 7.95% of their taxable sales. To compute the correct amount of tax due, the dealer should divide the dealer's total receipts by 1.0795 to compute taxable sales and then subtract taxable sales from total receipts to arrive at the amount of tax due. The 7.95% rate recognizes the variations resulting from multiple sales transactions.

1. Divide the total gross receipts by the divisors provided in paragraph (b) to compute taxable sales;

2. Subtract taxable sales from the total gross receipts to compute the amount of tax, plus surtax, due.

(b) Divisors for counties imposing surtax at the following rates are:

<u>Surtax Rate</u>	<u>Divisor</u>
<u>No Surtax</u>	<u>1.0659</u>
<u>1/2%</u>	<u>1.0697</u>
<u>3/4%</u>	<u>1.0724</u>
<u>1%</u>	<u>1.0751</u>
<u>1 1/2%</u>	<u>1.0795</u>

~~(2) Concession stands in a county levying the surtax at the rate of 1% selling food, drinks, tobacco products, and other items of tangible personal property at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business where it is impracticable due to the nature of the business practices within that industry to separately state Florida sales tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, shall remit tax at the rate of 7.51% of their taxable sales. To compute the correct amount of tax due, the dealer should divide the dealer's total receipts by 1.0751 to compute taxable sales and then subtract taxable sales from total receipts to arrive at the amount of tax due. The 7.51% rate recognizes the variations resulting from multiple sales transactions.~~

(3) ~~Concession stands in a county levying the surtax at the rate of 1/2% selling food, drinks, tobacco products, and other items of tangible personal property at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business, where it is impracticable due to the nature of the business practices within that industry to separately state Florida sales tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, shall remit tax at the rate of 6.97% of their taxable sales. To compute the correct amount of tax due, the dealer should divide the dealer's total receipts by 1.0697 to compute taxable sales and then subtract taxable sales from total receipts to arrive at the amount of tax due. The 6.97% rate recognizes the variations resulting from multiple sales transactions.~~

~~(2)(4) Concessionaires Dealers operating concession stands selling food, drinks, tobacco products, and other items of tangible personal property at arenas, auditoriums, carnivals, fairs, stadiums, theaters, and similar places of business that; separately state Florida sales tax on their charge tickets, sales slips, invoices, or other tangible evidence of sales recording the sales price of the items sold and the tax thereon, must maintain accurate records of the tax so collected and remit to the State the actual amount of the tax collected and due on their sales to the state.~~

Specific Authority 212.07(2), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055, 212.15(1),(4) FS. History—New 12-11-89, Amended 3-20-96,_____.

12A-15.011 Coin-Operated Amusement and Vending Machines, and Other Devices.

(1) Amusement machines sales; levy of tax; effective tax rates.

(a) Charges Effective July 1, 1991, charges for the use of amusement machines, as defined in s. 212.02(24), F.S., are subject to the surtax at the rate imposed by the county where the machine is located ~~taxable~~. To calculate the tax due in an applicable reporting period for amusement machines located in counties imposing a surtax:

1. Divide the total gross receipts from charges for the use of amusement machines by the divisors provided in paragraph (b) to compute taxable sales;

2. Subtract taxable sales from the total gross receipts to compute the amount of tax, plus surtax, due.

(b) Divisors for counties imposing surtax at the following rates are:

<u>Surtax Rate</u>	<u>Divisor</u>
<u>No Surtax</u>	<u>1.040</u>
<u>1/2%</u>	<u>1.045</u>
<u>3/4%</u>	<u>1.0475</u>
<u>1%</u>	<u>1.050</u>
<u>1 1/2%</u>	<u>1.055</u>

~~(c)(b) The sale of tokens, slugs, coupons, and other items over-the-counter by individuals for the use of entertainment or amusement devices is taxable. Surtax is to be collected by the seller from the customer on the sales price at the rate of tax imposed by the county where the business is located. The surtax rate of 1 percent or 1/2 percent shall be collected by the seller from the customer on the total selling price if the business is located in a county levying a surtax.~~

~~(e) Operators of amusement machines into which money is inserted will be considered to be remitting sales tax at the rate prescribed by law if their remittances on the charges for the use of the machines do not fall below the effective tax rate established by this rule. This rate recognizes the variations resulting from multiple charges. It is presumed that the charge for use of the machine was adjusted to include tax.~~

~~1. The tax rate for amusement machines located in a county imposing a 1 1/2 percent surtax is 5.5 percent. To compute the correct amount of tax due, the operators of amusement machines should divide their total receipts from these machines by 1.055 to compute their gross sales and subtract their gross sales from the total receipts to arrive at the amount of sales tax due.~~

~~2. The tax rate for amusement machines located in a county imposing a 1 percent surtax is 5 percent. To compute the correct amount of tax due, the operators of amusement machines should divide their total receipts from these machines by 1.050 to compute their gross sales and subtract their gross sales from the total receipts to arrive at the amount of sales tax due.~~

~~3. The tax rate for amusement machines located in a county imposing a 1/2 percent surtax is 4.5 percent. To compute the correct amount of tax due, the operators of amusement machines should divide their total receipts from these machines by 1.045 to compute their gross sales and subtract their gross sales from the total receipts to arrive at the amount of sales tax due.~~

~~4. Money inserted into a machine which dispenses tokens, slugs, coupons, or any other item for use of entertainment or amusement devices will also be taxable at 1.055 percent of the gross sales in a 1 1/2 percent surtax county, at 1.050 percent of the gross sales in a 1 percent surtax county, and at 1.045 percent of gross sales in a 1/2 percent surtax county. Again, the total receipts from the machines providing the tokens, slugs, coupons, etc., should be divided by 1.055 if the machines are located in county levying a 1 1/2 percent surtax; 1.050 if the machines are located in a county levying a 1 percent surtax; or 1.045 if the machines are located in a county levying the 1/2 percent surtax; by operators, to compute their gross sales, and they should subtract the gross sales amount from total receipts to arrive at the amount of sales tax due.~~

(2) Vending machine sales; levy of tax; effective tax rates. Section 212.0515, F.S., provides the amount of tax to be paid on food, beverages, or other items of tangible personal property that are sold through vending machines.

(a) All sales made through vending machines of food, beverages, or other devices dispensing taxable items having a sales price of ten cents or more are taxable, unless specifically exempt. See Rule 12A-1.044(7), F.A.C., for exemptions.

(b)1. Effective January 1, 1992, sales of beverages, including, but not limited to, soft drinks, coffee, tea, natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products; or natural fruit or vegetable juices through a vending machine are taxable at the rate of 8.31 percent in a county levying a 1 1/2 percent surtax, 7.76 percent in a county levying a 1 percent surtax, and 7.20 percent in a county levying the 1/2 percent surtax. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0831 in a 1 1/2 percent surtax county, 1.0776 in a 1 percent surtax county, or 1.0720 in a 1/2 percent surtax county to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due. The milk products, natural fruit or vegetable juices were taxable at the rate of 7.76 percent in a county levying a 1 percent surtax and 7.20 percent in a county levying the 1/2 percent surtax until July 1, 1993.

2. Effective July 1, 1993, sales of natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products, natural fruit juices, or natural vegetable juices through a vending machine are taxable at the rate of 8.06 percent in a county levying the 1 1/2 percent surtax, 7.53 percent in a county levying the 1 percent surtax and 6.99 percent in a county levying the 1/2 percent surtax. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0806 in a 1 1/2 percent surtax county, 1.0753 in a 1 percent surtax county, and 1.0699 in a 1/2 percent surtax county, to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

3. Effective January 1, 1992, sales of food items through a vending machine are taxable at the rate of 8.06 percent in a county levying the 1 1/2 percent surtax, 7.53 percent in a county levying the 1 percent surtax, and 6.99 percent in a county levying the 1/2 percent surtax. For the purpose of this rule, gum and breath mints are considered food items. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0806 in a 1 1/2 percent surtax county, 1.0753 in a 1 percent surtax county, or 1.0699 in a 1/2 percent surtax county to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

4. All other sales through a vending machine are taxable at the rate of 7.95 percent in a county levying the 1 1/2 percent surtax, 7.51 percent in a county levying the 1 percent surtax,

and 6.97 percent in a county levying the 1/2 percent surtax. To compute the correct amount of tax due, the operator should divide total receipts from such machines or devices by 1.0795 in a 1 1/2 percent surtax, 1.0751 in a 1 percent surtax county, or 1.0697 in a 1/2 percent surtax county to compute gross taxable sales and then subtract gross taxable sales from total receipts to arrive at the amount of tax due.

5. When there is a combination of beverages, food, or other items that are sold through the same vending machine, the vending machine operator may, if the operator can identify and account for each type of item vended, remit the tax at the appropriate rate for each type of item vended. Example: A vending machine contains various types of food and novelty items at different prices. If the operator can account for and identify the total number of food items vended times the sales price for these food items, the operator may remit the tax at the rate of 8.06 percent in a county imposing the 1 1/2 percent surtax, 7.53 percent in a county imposing the 1 percent surtax, and 6.99 percent in a county imposing the 1/2 percent surtax on the food items and 7.95 percent in a county imposing the 1 1/2 percent surtax, 7.51 percent in a county imposing the 1 percent surtax and 6.97 percent in a county imposing the 1/2 percent surtax on the novelty items. When an operator cannot identify and account for each type of item sold through the vending machine, the highest tax rate for a product vended shall be used for all products sold through that machine.

(e) Operators of vending machines or devices equipped with tax collecting devices are required to maintain accurate records and remit the actual tax collected.

(d)1. When a dealer can demonstrate to the satisfaction of the Department through its books and records that a lower rate than that which is provided in the preceding paragraphs of this subsection is applicable, except for food and beverage vending machines on and after January 1, 1992, or sales through an amusement machine on or after January 1, 1995, the total of the state tax and the surtax that is payable on sales through a vending machine or rack for selling newspapers, magazines, other publications, shall be at that rate. Effective January 1, 1992, operators of food and beverage vending machines must report the tax at the rate prescribed in s. 212.0515(2), F.S. Effective January 1, 1995, operators of amusement machines must report the tax at the rate prescribed in paragraph (1)(c) above.

2. In order to substantiate a lower effective tax rate, a vending machine operator is required to maintain books and records which contain the total number of items sold in each machine in which similar kinds of items are vended and the sales price for each item vended. Example: Company X wants to establish a lower effective tax rate for novelty items vended. The company must use the sale of all novelty items from each vending machine and the sales price of each item vended. The company should not include its food or drink sales in trying to establish a lower effective tax rate for its novelty items.

3. If an operator establishes a lower effective tax rate on a per vending basis, the operator must also establish an effective tax rate for any machine which produces a rate higher than that prescribed in this rule.

4. Operators using an effective tax rate other than the applicable rate prescribed within this rule must recompute the rate on a monthly basis.

~~(3) Owners or operators of coin-operated amusement and vending machines or devices dispensing taxable tangible personal property must obtain a separate sales and use tax Certificate of Registration (Form DR-11), incorporated in Rule 12A-1.097, F.A.C., for each county in which the coin-operated amusement and vending machines or devices dispensing taxable tangible personal property are located. Refer to Rule 12A-1.044(5), F.A.C., for further information on registration requirements.~~

~~(3)(4) No change.~~

Specific Authority 212.05(1)(i)(f), 212.0515, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(24), 212.05(1)(i)(f), 212.0515, 212.054, 212.055, 212.07(2), 212.18(3) FS. History—New 12-11-89, Amended 1-30-91, 5-12-92, 9-14-93, 11-16-93, 12-13-94, 3-20-96, _____.

12A-15.012 Alcoholic and Malt Beverages.

(1)(a) Alcoholic beverages, including beer, ale, and wine, are subject to surtax at the rate imposed by the county where the business is located taxable. The dealer shall add the sales tax, plus the applicable surtax, to the sales price (~~including any other state and federal taxes~~) of each sale. The dealer is not permitted to advertise or hold out to the public in any manner that the dealer will absorb any part of the sales tax or surtax due or that the dealer will relieve the purchaser from the payment of sales tax or surtax.

(b) In some instances, it may be impractical for dealers who sell package goods, mixed drinks, or a combination of package goods and mixed drinks a dealer to separately itemize record the sales price of the beverage and the tax ~~thereon~~. In such cases, a dealer is required to shall remit tax in accordance with one of the methods outlined below, and the dealer's records must substantiate the method chosen.

(2) DEALERS WHO DO NOT SELL MIXED DRINKS.

(a)1. When a dealer, located in a county imposing a surtax, who sells package goods but does not sell mixed drinks, does not put the public on notice that tax is included in the total charge, the dealer is required to remit tax at the following rates. The dealer should multiply the total gross receipts derived from the sale of package goods by the following effective tax rates to compute the amount of sales tax, plus surtax, due.

<u>County Surtax Rate</u>	<u>Effective Tax Rate</u>
<u>No Surtax</u>	<u>.0635</u>
<u>1/2%</u>	<u>.0677</u>
<u>3/4%</u>	<u>.07035</u>
<u>1%</u>	<u>.0730</u>
<u>1 1/2%</u>	<u>.0776</u>

1. When the business location is in a county levying the surtax at 1 1/2% and the public has not been put on notice through the posting of price lists or signs prominently throughout the establishment that tax is included in the total charge, package stores which sell no mixed drinks shall remit tax at the rate of 7.76% of their total receipts, and dealers who sell mixed drinks or combination of mixed drinks and package goods shall remit the tax at the rate of 7.95% of their total receipts.

2.a. Example: A package store located in a county imposing surtax at the rate of 1 1/2% that does not sell which sells no mixed drinks and whose total gross receipts are \$2,000 would multiply \$2,000 by .0776 7.76% to compute tax due of \$155.20. This is the amount of sales tax, plus surtax, due.

~~b. Example: A dealer who sells drinks or a combination of mixed drinks and package goods and whose total receipts are \$2,000 would multiply \$2,000 by 7.95% to compute tax due of \$159.00.~~

(b)1. When a dealer, located in a county imposing a surtax, who sells package goods but does not sell mixed drinks, puts the public on notice through the posting of price lists or signs prominently throughout the business establishment that tax is included in the total charge, the dealer is required to remit tax in the following manner:

a. Divide the total gross receipts by the following divisors to compute taxable sales:

<u>County Surtax Rate</u>	<u>Divisor</u>
<u>No Surtax</u>	<u>1.0635</u>
<u>1/2%</u>	<u>1.0677</u>
<u>3/4%</u>	<u>1.07035</u>
<u>1%</u>	<u>1.0730</u>
<u>1 1/2%</u>	<u>1.0776</u>

b. Subtract taxable sales from the total gross receipts to compute the amount of sales tax, plus surtax, due.

2. When the business location is in a county levying the surtax at 1 1/2% and the public has been put on notice by means of price lists or signs posted prominently throughout the establishment that the total charge includes tax, the dealer shall report the tax collected by deducting the tax from the total receipts using the methods shown below:

2.a. Example: A package store located in a county imposing a surtax at 1 1/2% that does not sell which sells no mixed drinks and whose total gross receipts are \$2,000 would divide \$2,000 by 1.0776 to compute taxable sales of \$1,855.98; and tax collected of \$144.02. The store would subtract \$1,855.98 from \$2,000 to compute \$144.02 tax due. This is the amount of sales tax, plus surtax, due.

(3) DEALERS WHO SELL MIXED DRINKS.

(a)1. When a dealer, located in a county imposing a surtax, sells mixed drinks or both mixed drinks and package goods and does NOT put the public on notice that tax is included in the total charge, the dealer is required to remit tax at the following

rates. The dealer should multiply the total gross receipts derived from the sale of mixed drinks and package goods by the following effective tax rates to compute the amount of sales tax, plus surtax, due.

County Surtax Rate	Effective Tax Rate
No Surtax	.0659
1/2%	.0697
3/4%	.0724
1%	.0751
1 1/2%	.0795

b. Example: A dealer who sells drinks or a combination of mixed drinks and package goods and whose total receipts are \$2,000 would divide \$2,000 by 1.0795 to compute taxable sales of \$1,852.71, and tax collected of \$147.29.

3. When the business location is in a county levying the surtax at 1% and the public has not been put on notice through the posting of price lists or signs prominently throughout the establishment that tax is included in the total charge, package stores which sell no mixed drinks shall remit tax at the rate of 7.30% of their total receipts, and dealers who sell mixed drinks or combination of mixed drinks and package goods shall remit the tax at the rate of 7.51% of their total receipts.

a. Example: A package store which sells no mixed drinks and whose total receipts are \$2,000 would multiply \$2,000 by 7.30% to compute tax due of \$146.

2.b. Example: A dealer located in a county imposing a 1% surtax who sells mixed drinks or both a combination of mixed drinks and package goods and whose total gross receipts are \$2,000 would multiply \$2,000 by .0751 7.51% to compute tax due of \$150.20. This is the amount of sales tax, plus surtax, due.

(b)1. When a dealer, located in a county imposing a surtax, sells mixed drinks or both mixed drinks and package goods and puts the public on notice through the posting of price lists or signs prominently throughout the business establishment that tax is included in the total charge, the dealer is required to remit tax in the following manner:

a. Divide total gross receipts by the following divisors to compute taxable sales:

County Surtax Rate	Divisor
No Surtax	1.0659
1/2%	1.0697
3/4%	1.0724
1%	1.0751
1 1/2%	1.0795

b. Subtract taxable sales from the total gross receipts to compute the amount of sales tax, plus surtax, due.

4. When the business location is in a county levying the surtax at 1% and the public has been put on notice by means of price lists or signs posted prominently throughout the

establishment that the total charge includes tax, the dealer shall report the tax collected by deducting the tax from the total receipts using the methods shown below:

a. Example: A package store which sells no mixed drinks and whose total receipts are \$2,000 would divide \$2,000 by 1.0730 to compute taxable sales of \$1,863.93, and tax collected of \$136.07.

2.b. Example: A dealer located in a county imposing a 1% surtax who sells mixed drinks or both a combination of mixed drinks and package goods and whose total gross receipts are \$2,000 would divide \$2,000 by 1.0751 to compute taxable sales of \$1,860.29, and tax collected of \$139.71. The dealer would subtract \$1,860.29 from \$2,000 to compute \$139.71 tax due. This is the amount of sales tax, plus surtax, due.

5. When the business location is in a county levying the surtax at 1/2% and the public has not been put on notice through the posting of price lists or signs prominently throughout the establishment that tax is included in the total charge, package stores which sell no mixed drinks shall remit tax at the rate of 6.77% of their total receipts, and dealers who sell mixed drinks or a combination of mixed drinks and package goods shall remit the tax at the rate of 6.97% of their total receipts.

a. Example: A package store which sells no mixed drinks and whose total receipts are \$2,000 would multiply \$2,000 by 6.77% to compute tax due of \$135.40.

b. Example: A dealer who sells mixed drinks or a combination of mixed drinks and package goods and whose total receipts are \$2,000 would multiply \$2,000 by 6.97% to compute tax due of \$139.40.

6. When the business location is in a county levying the surtax at 1/2% and the public has been put on notice by means of price lists or signs posted prominently throughout the establishment that the total charge includes tax, the dealer shall report the tax collected by deducting the tax from the total receipts using the methods shown below:

a. Example: A package store which sells no mixed drinks and whose total receipts are \$2,000 would divide \$2,000 by 1.0677 to compute taxable sales of \$1,873.19, and tax collected of \$126.81.

b. Example: A dealer who sells mixed drinks or a combination of mixed drinks and package goods and whose total receipts are \$2,000 would divide \$2,000 by 1.0697 to compute taxable sales of \$1,869.68, and tax collected of \$130.32.

(2) Notwithstanding other provisions of this section, dealers engaged in the business of making retail sales of alcoholic and malt beverages, who separately record the sales price of items sold and the tax thereon, must maintain accurate records of the tax collected, and the exact amount of tax must be remitted to the state.

Specific Authority 212.07(2), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(16), 212.054, 212.055, 212.07(2),(4), 212.08(4), 212.15(1),(4) FS. History--New 12-11-89, Amended 3-20-96,_____.

12A-15.015 Public Use Forms Used by Public.

In addition to the forms prescribed in Chapter 12A-1, F.A.C. the following public use public-use forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the surtax. These forms are hereby incorporated by reference in this rule. Copies of these forms are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

FORM	TITLE	EFFECTIVE DATE
(1) DR-2B	Sales Tax Brackets on all 6½% Taxable Transactions (r. 07/95)	02/96
(2) DR-2C	Sales Tax Brackets Effective on all 7% Taxable Transactions (r. 02/95)	02/96
(3) DR-2D	Sales Tax Brackets Effective on all 7.5% Taxable Transactions (r. 01/96)	02/96
(4) DR-2E	Sales Tax Brackets Effective on all 8% Taxable Transactions (r. 02/95)	02/96
(5) DR-2F	Sales Tax Brackets Effective on all 3.5% Taxable Transactions (r. 02/96)	02/96
(6) DR-2G	Sales Tax Brackets Effective on all 4% Taxable Transactions (N. 02/96)	02/96
(7) DR-2H	Sales Tax Brackets Effective on all 4.5% Taxable Transactions (N. 02/96)	02/96
(8) DR-2I	Sales Tax Brackets Effective on all 5% Taxable Transactions (N. 02/96)	02/96
(9) DR-2J	Sales Tax Brackets Effective on all 5.5% Taxable Transactions (N. 02/96)	02/96

~~(10) DR-2K Sales Tax Brackets Effective on all 8.5% Taxable Transactions (N. 02/96) 02/96~~

(11) through (12) renumbered (1) through (2) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.054, 212.055 FS. History--New 12-11-89, Amended 8-10-92, 9-14-93, 3-20-96,_____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Exemptions	12A-16.003
Registration	12A-16.004
Exemption Permits, Certificates, and Affidavits	12A-16.005
Public Use Forms	12A-16.008

PURPOSE AND EFFECT: The purpose of the proposed repeal of Rule 12A-16.003, F.A.C., Exemptions, is to remove provisions for exemptions from the rental car surcharge that are provided in Rule 12A-16.005, F.A.C., as amended.

The purpose of the proposed amendments to Rule 12A-16.004, F.A.C., Registration, is to: (1) correct the title of form DR-1, Application to Collect and/or Report Tax in Florida; and (2) remove the repetition of where to obtain forms that is currently provided in Rule 12A-16.008, F.A.C.

The purpose of the proposed amendments to Rule 12A-16.005, F.A.C., is to: (1) change the title to "Exemption Permits, Certificates, and Affidavits"; and (2) provide that entities holding a valid Consumer's Certificate of Exemption (form DR-14) issued by the Department may lease or rent a vehicle for hire exempt from the rental car surcharge.

The purpose of the proposed amendments to Rule 12A-16.008, F.A.C., is to: (1) change the title to "Public Use Forms"; (2) incorporate the May 1999 revisions to form DR-15SW; and (3) make a technical change to an address where a form may be obtained.

SUBJECT AREA TO BE ADDRESSED: The purpose of this rule development workshop is to provide an opportunity for the public to comment regarding these proposed amendments to rules regarding the rental car surcharge.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 212.05(1), 212.06(1), 212.0606, 212.08(6),(7), 212.18(3), 212.183 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 28, 2000

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

Copies of the agenda for the rule development workshop may be obtained from 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.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing- or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331). THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT 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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-16.003 Exemptions.

~~If the lease or rental of a for hire passenger motor vehicle is directly to an organization which is exempt from sales and use tax, such as a church or governmental entity, the lease or rental is likewise exempt from the surcharge. The exemption certificate required for sales and use tax shall satisfy the requirements of the surcharge.~~

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.08(6),(7) FS. History—New 11-14-89, Repealed.

12A-16.004 Registration.

(1)(a) Before any person may engage in or conduct business in this state of leasing or renting any for hire passenger motor vehicle, that person must first file an Application to Collect and/or Report for Sales and Use Tax in Florida Registration (form Form DR-1). Registration as a sales tax dealer is sufficient registration for purposes of the surcharge. See Rule 12A-16.008, F.A.C., for information on how to obtain forms.

~~(b) Applications for Sales and Use Tax Registration (Form DR-1), incorporated by reference in Rule 12A-1.097, F.A.C., are available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department’s automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department’s Internet site at the address show inside the parentheses (http://sun6.dms.state.fl.us/dor/revenue.html). Persons with hearing or speech impairments may call the Department’s TDD at 1-800-367-8331.~~

(2) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.18(3) FS. History—New 11-14-89, Amended 8-10-92, 3-21-95, _____.

12A-16.005 Exemption Permits, Certificates, and Affidavits.

(1) The lease or rental of a for hire passenger motor vehicle directly to an entity that holds a valid Consumer’s Certificate of Exemption (form DR-14) issued by the Department is exempt. Direct pay permits, exemption Permits, certificates, and exemption affidavits required to be issued to lease or rent a vehicle exempt from for sales and use tax shall satisfy the requirements of the exemption from the surcharge. However, if a permit, certificate, or affidavit is issued by the lessee or renter at the time of the lease or rental in lieu of surcharge, and the lessee makes a taxable use of the motor vehicle, the lessee or renter is required to remit the surcharge directly to the Department.

(2) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented ~~212.0606,~~ 212.05(1), 212.06(1), 212.0606, 212.18(3), 212.183 FS. History—New 11-14-89, Amended _____.

12A-16.008 Public Use Forms ~~Used by Public.~~

In addition to the forms prescribed in Chapter 12A-1, F.A.C., the following public use ~~public use~~ forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the surcharge. Copies of these forms are available, without cost, by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department’s automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department’s Internet site at the address show inside the parentheses (<http://sun6.dms.state.fl.us/dor/revenue.html>). Persons with hearing or speech impairments may call the Department’s TDD at 1-800-367-8331.

FORM NUMBER	TITLE	EFFECTIVE DATE
DR-15SW	Solid Waste and Surcharge Return (r. <u>05/99</u> 10/94)	<u>03/95</u>

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented ~~20.53(1)(b),~~ 212.0606, ~~212.17(4),~~ 212.18(2) FS. History—New 11-14-89, Amended 7-7-91, 8-10-92, 3-21-95, _____.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE TITLE: Forms
 RULE NO.: 12C-1.051

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.051, F.A.C., Forms, is to incorporate by reference amendments to forms used by the Department in the administration of corporate income tax.

SUBJECT AREA TO BE ADDRESSED: The purpose of this rule development workshop is to provide an opportunity for the public comment regarding the changes to forms used by the Department in the administration of corporate income tax.

SPECIFIC AUTHORITY: 213.06(1), 220.51 FS.

LAW IMPLEMENTED: 120.55(1)(a)4., 220.19, 220.21, 220.22, 220.221(3), 220.34, 220.51, 221.04 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 28, 2000

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

Copies of the agenda for the rule development workshop may be obtained from 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.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips at (850)488-0717. If you are hearing- or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4733.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12C-1.051 Forms.

The Department of Revenue adopts, and hereby incorporates by reference in this rule, the following forms and instructions:

FORM NUMBER	TITLE	EFFECTIVE DATE
(1) through (4)	No change.	
(5) F-1120A (Flats)	Florida Corporate Short Form Income Tax Return	<u>03/00</u>
	Return (r. <u>01/01</u> N- 01/99)	

(6)	No change.	
(7) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (r. <u>01/01</u> 01/99)	<u>03/00</u>
(8) F-1120N	Instructions for filing Form F-1120 Corporate Income/Franchise and Emergency Excise Tax Return (r. <u>01/01</u> 01/99)	<u>03/00</u>
(9) F-1120ES	Declaration/Installment of Florida Estimated Income/Franchise and/or Emergency Excise Tax (Installment 1, 2, 3, 4) (r. <u>01/01</u> 01/99)	<u>03/00</u>
(10)	No change.	
(11) F-1120P	Payment Coupon (r. <u>01/01</u> 01/99)	<u>03/00</u>
(12) F-1120X	Amended Florida Corporate Income/Franchise Return (r. <u>01/01</u> 01/99)	<u>03/00</u>
(13) through (16)	No change.	
(17) F-1157Z	Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (r. <u>01/01</u> 07/98)	<u>03/00</u>
(18) through (21)	No change.	
(22) F-7004	Tentative Income/Franchise and Emergency Excise Tax Return and Application for Extension of Time to File Return (r. <u>01/01</u> 01/99)	<u>03/00</u>

Copies of these forms are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax On Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at 800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

Specific Authority 213.06(1), 220.51 FS. Law Implemented 120.55(1)(a)4., 220.19, 220.21, 220.22, 220.221(3), 220.34, 220.51, 221.04 FS. History—New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, _____.

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE: Containers, Packs, Stamping and Labeling of Fresh Fruit
RULE CHAPTER NO.: 20-39

RULE TITLE: Approved Boxes
RULE NO.: 20-39.003

PURPOSE AND EFFECT: Would provide for two new containers to be added to the list of containers approved for use in shipping fresh Florida Citrus.

SUBJECT AREA TO BE ADDRESSED: Approved containers for use in shipping fresh Florida Citrus.

SPECIFIC AUTHORITY: 601.11 FS.

LAW IMPLEMENTED: 601.11 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT A TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE: Loading Manifest to be Furnished to the Inspector – Fresh Citrus Fruit
RULE CHAPTER NO.: 20-40

RULE TITLE: Mandatory Automated Reporting
RULE NO.: 20-40.005

PURPOSE AND EFFECT: Would provide for mandatory automated reporting of loading manifests by all fresh citrus fruit shippers by a date certain.

SUBJECT AREA TO BE ADDRESSED: Automated reporting of loading manifests.

SPECIFIC AUTHORITY: 601.10(1),(8), 601.15(1),(2), (4),(10), 601.155(7), 601.28(4), 601.69, 601.701 FS.

LAW IMPLEMENTED: 601.10(8), 601.15(1), 601.155(7), 601.69 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT A TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE: Ownership and Use of “Florida Sunshine Tree” Certification Mark
RULE CHAPTER NO.: 20-94

RULE TITLE: Withdrawal of License or Permission
RULE NO.: 20-94.005

PURPOSE AND EFFECT: Would provide for “Florida Sunshine Tree” products to be considered eligible for Department of Citrus promotion programs until September 1, 2001.

SUBJECT AREA TO BE ADDRESSED: “Florida Sunshine Tree” products eligibility for Department promotion programs.

SPECIFIC AUTHORITY: 601.10(1), 601.11, 601.15(2)(b),(10)(a) FS.

LAW IMPLEMENTED: 601.101 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT A TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

PUBLIC SERVICE COMMISSION

DOCKET NO: 001589-TL

RULE TITLE: Eligible Telecommunications Carrier (ETC) Information Requirements for Lifeline and Link Up Service
RULE NO.: 25-4.047

PURPOSE AND EFFECT: To require all Eligible Telecommunications Carriers (ETCs) to advertise the availability of Lifeline and Link Up throughout the ETCs’ service areas to increase participation in these programs.

SUBJECT AREA TO BE ADDRESSED: Advertisement of Lifeline and Link Up.

SPECIFIC AUTHORITY: 350.127(2) FS.

LAW IMPLEMENTED: 364.10, 364.0252 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:30 p.m., November 29, 2000

PLACE: Betty Easley Conference Center, Room 152, 4075 Esplanade Way, Tallahassee, Florida 32399-0850

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of Records and Reporting at (850)413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Rick Wright, Division of Competitive Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-4.047 Eligible Telecommunications Carrier (ETC) Information Requirements for Lifeline and Link Up Service.

(1) Purpose. The purpose of this rule is to require all Eligible Telecommunications Carriers (ETCs) to advertise the availability of Lifeline and Link Up throughout their service areas.

(2) Definitions.

(a) Eligible Telecommunications Carrier (ETC) means a common carrier designated by the Commission as eligible to receive federal universal service support.

(b) Lifeline means the discount on retail local service available only to qualifying low-income consumers, which is supported by the universal service fund as described in 47 CFR Ch. 1 §54.407(a).

(c) Link Up means the assistance program for qualifying low-income consumers that provides a reduction in the ETC's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence.

(d) Qualifying low-income consumer means a Florida consumer who participates in one of the following programs: Medicaid, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps, Federal Public Housing Assistance, or the Low Income Home Energy Assistance Program (LIHEAP).

(3) Advertising Media. Beginning the first calendar quarter after this rule becomes effective, each ETC shall advertise Lifeline and Link Up service offerings in the following media throughout all of its service area at the prescribed intervals:

(a) On television at least ten times a quarter between the hours of 6:00 p.m. and 9:00 p.m. Each advertisement shall last a minimum of thirty seconds.

(b) On a local radio station at least ten times a quarter between the hours of 6:00 a.m. and 9:00 a.m., 12:00 p.m. and 1:00 p.m., or 4:00 p.m. and 6:00 p.m. Each advertisement shall last a minimum of thirty seconds.

(c) In newspapers of general circulation at least once every six months. If the newspaper is published over the weekend, the advertisement must appear in the weekend edition. Each advertisement must be at least one quarter page.

(d) In a bill stuffer at least once a calendar year.

(4) Telephone Directories. Each ETC shall provide a full-page explanation of Lifeline and Link Up in all telephone directories published by or for the ETC that contain informational pages.

(5) Advertisement and Telephone Directory requirements. Each advertisement and telephone directory explanation must:

(a) Be in English and any other language that is predominant in the service area.

(b) Contain a statement that service cannot be disconnected for customers who are enrolled in the Lifeline program as long as all outstanding local service amounts due are timely paid.

(c) Contain a statement that service will be reconnected for customers who are enrolled in the Lifeline program when any overdue local service amounts are paid.

(d) Contain a statement specifying the amount that end-user charges will be reduced per month if enrolled in the Lifeline program.

(e) Contain a description of the requirements to participate in the Lifeline and Link Up programs.

(6) Additional requirements for bill stuffers and telephone directories. Each bill stuffer and telephone directory advertisement must also contain:

(a) Information concerning voluntary toll limitation services and the availability of reduced deposits.

(b) If the directory contains an index, Lifeline and Link Up must be listed in the index.

(7) Reporting Requirements. Each ETC shall submit a report to the Division of Competitive Services annually by February 15. The annual report must contain the following information for the preceding calendar year ending December 31, unless otherwise specified:

(a) The number of residential access lines in service.

(b) The number of customers receiving Lifeline Assistance at the end of each month.

(c) The number of Lifeline customers subscribed to toll-blocking services.

(d) The number of customers per month that received assistance through Link Up.

(e) The total dollar amount of connection charges credited to customers receiving assistance through Link Up.

(f) The number of customers that received discounted service under the provisions of Section 364.105, Florida Statutes.

(g) The amount of revenue foregone as a result of the provisions of Section 364.105, Florida Statutes.

(h) A list by calendar year quarter of all bill inserts and messages, as well as all radio, television, and newspaper advertisements, including the number of times each was run.

(i) The total advertising costs to comply with this rule, by calendar year quarter.

Specific Authority 350.127(2) FS. Law Implemented 364.10, 364.0252 FS. History—New _____.

PUBLIC SERVICE COMMISSION

DOCKET NO: 001521-EU

RULE TITLE:

RULE NO.:

Adequacy of Resources

25-6.035

PURPOSE AND EFFECT: This rule is being amended to clarify the original intent and to update current operating reserve practices. Deletions reflect the fact that the reserve margin criterion contained in this rule is for pricing purposes and not a prudence determination or planning criterion. References to the Southeastern Reliability Council are updated to reference the Florida Reliability Coordinating Council.

SUBJECT AREA TO BE ADDRESSED: The amended rule addresses the subject area of operating reserve practices.

SPECIFIC AUTHORITY: 366.05(1) FS.

LAW IMPLEMENTED: 366.03, 366.04(2)(c),(5), 366.055 FS.

IF TIMELY REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., November 30, 2000

PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, FL 32399-0850

THE WORKSHOP REQUEST MUST BE SUBMITTED IN WRITING WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE COMMISSION'S DIVISION OF RECORDS AND REPORTING, 2540 SHUMARD OAK BOULEVARD, TALLAHASSEE, FL 32399-0850.

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of Records and Reporting at (850)413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Richard C. Bellak, Division of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-6.035 Adequacy of Resources.

(1) Each electric utility shall maintain sufficient generating capacity, supplemented by regularly available generating and non-generating resources, in order to meet all reasonable demands for service and provide a reasonable reserve for emergencies. Each electric utility shall also coordinate the sharing of energy reserves with other electric utilities in Peninsular Florida. ~~To achieve an equitable sharing of energy reserves, Peninsular Florida utilities shall be required to maintain, at a minimum, a 15% planned reserve margin. The planned reserve margin for each utility shall be calculated as follows:~~

$$RM = [(C - L) / L] * 100 \text{ where;}$$

~~“RM” — Is defined as the utility's percent planned reserve margin;~~

~~“C” — Is defined as the aggregate sum of the rated dependable peak hour capabilities of the resources that are expected to be available at the time of the utility's annual peak; and~~

~~“L” — Is defined as the expected firm peak load of the system for which reserves are required.~~

The following shall be utilized as the operating reserve standard for Peninsular Florida's utilities: operating reserves shall be maintained by the combined Peninsular Florida system at a value equal to or greater than the loss of generation that would result from the most severe single contingency. The operating reserves shall be allocated among the utilities in proportion to each control area's peak hour net energy for load utility's maximum demand for the preceding year, and the summer gross Florida Southeastern Electric Reliability Coordinating Council (FRCC SERC) capability of its largest unit or ownership share of a joint unit, whichever is greater. Fifty percent shall be allocated on the basis of net energy for load demand and fifty percent on the basis of the summer gross FRCC SERC capability of the largest unit. Operating reserves shall be fully available within fifteen ten minutes. At least 25% of the operating reserves shall be in the form of spinning reserves which are automatically responsive to a frequency deviation from normal.

(2) through (5) No change.

Specific Authority 366.05(1) FS. Law Implemented 366.03, 366.04(2)(c), 366.04(5), 366.055 FS. History—New 7-29-69, Formerly 25-6.35, Amended 9-5-96.

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE TITLE:

RULE NO.:

Certificate of Need Application Procedures

59C-1.008

PURPOSE AND EFFECT: Section 408.039(3)(a), Florida Statutes, requires an applicant for a certificate of need (CON) to provide a copy of the application to the local health council. No deadline for this action is specified in statute. Existing rules 59C-1.008(1)(f) and 59C-1.008(4) specify that the local health council must receive a copy of a certificate of need (CON) application no later than 5 p.m. on the same day that the

application must be submitted to the agency. Additionally, these rules state that the agency cannot accept an application for review if the local health council fails to receive a copy of the application by that deadline. The proposed rule amendment eliminates the deadline for submission to the local health council, allowing the agency to initiate review activity independent of that submission, including a determination of whether the application is complete.

The agency has recently proposed other amendments to rule 59C-1.008 which will be adopted before this present amendment is proposed in a formal notice of rulemaking. Therefore that amended language is incorporated in the preliminary text which follows this notice.

SUBJECT AREA TO BE ADDRESSED: The deadline for submitting a CON application to the local health council.

SPECIFIC AUTHORITY: 408.15(8), 408.034(5) FS.

LAW IMPLEMENTED: 408.039(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., November 28, 2000

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: John Davis, Certificate of Need Office, 2727 Mahan Drive, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.008 Certificate of Need Application Procedures.

(1) Letters of Intent and applications subject to comparative review shall be accepted in two batching cycles annually each for hospital projects, and for nursing facility projects, as specified in paragraph (g) of this subsection. All other projects subject to comparative review shall be reviewed in the hospital batching cycle. "All other projects" include projects by or for hospices and intermediate care facilities for the developmentally disabled.

(a) through (e) No change.

(f) Certificate of Need Application Submission. An application for a certificate of need shall be submitted on AHCA Form CON-1, July 2000, which includes Schedules A or A-Trn, B or B-Trn, C, D, D-1, 1 or 1-Trn, 2, 3, 4, 5, 6, 6A, 7, 7A, 7B, 8, 8A, 9, 10, and 11-Trn which are incorporated by reference herein. A copy of Form CON-1 and the Schedules may be obtained from:

Agency for Health Care Administration
 Certificate of Need
 2727 Mahan Drive, Building 3
 Tallahassee, FL 32308

1. The application must be actually received by the agency by 5 p.m. local time ~~and a copy must actually be received by the local health council by 5 p.m. local time on or before the application due date.~~

2. ~~An application submitted to the agency shall not be accepted by the agency, and the application fee will be returned if a copy of the application is not received by the appropriate local health council as provided above.~~

~~2.3.~~ Applications for projects which exceed the proposed number of beds contained in the letter of intent shall not be deemed complete for review by the agency.

~~3.4.~~ Applications may propose a lesser number of beds than that contained in the letter of intent.

(g) through (3) No change.

(4) Submission to Local Health Council. Each applicant shall submit a copy of its application to the ~~applicable~~ local health council ~~at the same time the application is submitted to the agency. Failure to timely file with the local health council as set forth in paragraph (1)(f) of this rule will result in the application not being accepted by the agency.~~

(5) through (6) No change.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.037, 408.038, 408.039 FS. History—New 1-1-77, Amended 11-1-77, 9-1-78, 6-5-79, 2-1-81, 4-1-82, 7-29-82, 9-6-84, Formerly 10-5.08, Amended 11-24-86, 3-2-87, 6-11-87, 11-17-87, 3-23-88, 5-30-90, 12-20-90, 1-31-91, 9-9-91, 5-12-92, 7-1-92, 8-10-92, Formerly 10-5.008, Amended 4-19-93, 6-23-94, 10-12-94, 10-18-95, 2-12-96, 7-18-96, 9-16-96, 11-4-97, 7-21-98, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Dental Services **RULE NO.:** 59G-4.060

PURPOSE AND EFFECT: The 2000 Florida Legislature passed CS/SB 2034, Section 71, which amended § 409.912, Florida Statutes, to require the Agency for Health Care Administration to develop and implement a program that requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Reimbursement Handbook, Dental 111, February 2001, which contains the policy that Medicaid practitioners who prescribe drugs must use a counterfeit-proof prescription pad for Medicaid prescriptions. The effect will be to incorporate by reference in the rule the revised Florida Medicaid Provider Reimbursement Handbook, Dental 111, updated February 2001.

SUBJECT AREA TO BE ADDRESSED: Dental Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.912 FS.

IF REQUESTED IN WRITING BY AN AFFECTED PERSON AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 12:00 Noon, Wednesday, November 29, 2000

PLACE: Conference Room A, Bldg. 3, 2727 Mahan Blvd., Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gary Marsh, Medicaid Program Integrity, 2002 Old St. Augustine Road, Building B, Suite 10B, Tallahassee, Florida 32301, (850)922-4374

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.060 Dental Services.

(1) No change.

(2) All dental services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Dental Coverage and Limitations Handbooks, July 2000, and the Florida Medicaid Provider Reimbursement Handbook, Dental 111, February 2001 ~~October 1999~~, which are incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. All three handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.912 FS. History—New 7-10-80, Amended 2-19-81, 10-27-81, 7-21-83, Formerly 10C-7.523, Amended 9-11-90, 11-3-92, Formerly 10C-7.0523, Amended 6-29-93, Formerly 10P-4.060, Amended 7-19-94, 7-16-96, 3-11-98, 10-13-98, 12-28-98, 6-10-99, 4-23-00,_____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Prescribed Drug Services RULE NO.: 59G-4.250

PURPOSE AND EFFECT: The 2000 Florida Legislature passed CS/SB 2034, Section 71, which amended § 409.912, Florida Statutes, to require the Agency for Health Care Administration to develop and implement a program that requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Prescribed Drug Services, Coverage, Limitations and Reimbursement Handbook, February 2001, which contains the policy that Medicaid practitioners who prescribe drugs must use a counterfeit-proof prescription pad for Medicaid prescriptions. The effect will be to incorporate by reference in the rule the revised Florida Medicaid Prescribed Drug Coverage, Limitations, and Reimbursement Handbook, February 2001.

SUBJECT AREA TO BE ADDRESSED: Prescribed Drug Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906(20), 409.908, 409.912 FS.

IF REQUESTED IN WRITING BY AN AFFECTED PERSON AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 12:00 Noon, Wednesday, November 29, 2000

PLACE: Conference Room A, Bldg. 3, 2727 Mahan Blvd., Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gary Marsh, Medicaid Program Integrity, 2002 Old St. Augustine Road, Building B, Suite 10B, Tallahassee, Florida 32301, (850)922-4374

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.250 Prescribed Drug Services.

(1) No change.

(2) All participating prescribed drug services providers enrolled in the Medicaid program must comply with the provisions of the Florida Medicaid Prescribed Drug Services Coverage, Limitations and Reimbursement Handbook, February 2001 ~~November 2000~~, which is incorporated by reference, and available from the fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906(20), 409.908, 409.912 FS. History—New 1-1-77, Amended 6-30-77, 10-1-77, 2-1-78, 4-1-78, 9-28-78, 6-1-79, 2-28-80, 11-11-81, 7-3-84, Formerly 10C-7.42, Amended 3-11-86, 12-5-88, 6-4-90, 10-29-90, 5-20-92, 4-11-93, Formerly 10C-7.042, Amended 12-28-95, 8-3-97, 2-11-98, 9-13-99, 7-14-00,_____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Provider Requirements RULE NO.: 59G-5.020

PURPOSE AND EFFECT: The 2000 Florida Legislature passed CS/SB 2034, Section 71, which amended §409.912, Florida Statutes, to require the Agency for Health Care Administration to develop and implement a program that requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, February 2001, which contains the policy that Medicaid practitioners who prescribe drugs must use a counterfeit-proof prescription pad for Medicaid prescriptions. The effect will be to incorporate by reference in the rule the revised Florida Medicaid Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, updated February 2001.

SUBJECT AREA TO BE ADDRESSED: Provider Requirements.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.906, 409.907, 409.908, 409.912 FS.

IF REQUESTED IN WRITING BY AN AFFECTED PERSON AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 12:00 Noon, Wednesday, November 29, 2000

PLACE: Conference Room A, Bldg. 3, 2727 Mahan Blvd., Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gary Marsh, Medicaid Program Integrity, 2002 Old St. Augustine Road, Building B, Suite 10B, Tallahassee, Florida 32301, (850)922-4374

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-5.020 Provider Requirements.

All advanced registered nurse practitioners; ambulatory surgery centers; audiologists; birthing centers; child health check-up providers; chiropractors; community mental health services providers; county health departments; county health department certified match providers; dentists (when submitting claims on the HFCA-1500 claim form); durable medical equipment and medical supply providers; early intervention service providers; federally qualified health centers; freestanding dialysis centers; hearing aid specialists; home health agencies; independent laboratories; licensed midwives; Medicaid certified school match providers; medical foster care providers; opticians; optometrists; physicians; physician assistants; podiatrists; portable x-ray providers; prescribed pediatric extended care centers; registered nurse first assistants; rural health clinics; therapists; and visual services providers enrolled in the Medicaid program and their billing agents must comply with the provisions of the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, updated February 2001 ~~July 1999~~, which is incorporated by reference and available from the fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.906, 409.907, 409.908, 409.912 FS. History—New 9-22-93, Formerly 10P-5.020, Amended 7-8-97, 1-9-00,_____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLES: RULE NOS.:

Continuing Education Provider Approval 61-20.5081

Continuing Education Course Approval 61-20.5082

PURPOSE AND EFFECT: The Council proposes to amend these rules to incorporate revised forms.

SUBJECT AREA TO BE ADDRESSED: Incorporation of revised forms.

SPECIFIC AUTHORITY: 468.4315(2), 468.433 FS.

LAW IMPLEMENTED: 468.433, 468.4337 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Baker, Executive Director, Regulatory Council of Community Association Managers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Auctioneers

RULE TITLE: RULE NO.:

Advertising 61G2-5.004

PURPOSE AND EFFECT: The Board proposes to strike certain text from this rule as it lacks specific authority.

SUBJECT AREA TO BE ADDRESSED: Advertising.

SPECIFIC AUTHORITY: 468.384(2) FS.

LAW IMPLEMENTED: 468.388(6), 468.389(1)(d),(j) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Julie Baker, Executive Director, Board of Auctioneers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G2-5.004 Advertising.

(1) through (2) No change.

~~(3) The provisions of this rule apply to media exposure of any nature, regardless of whether it is in the form of paid advertising.~~

~~(4) The auction business shall be responsible for the content of all advertising disseminated in preparation for the auction.~~

~~(5) Failure to comply with this rule is a violation of Sections 468.389(1)(d) and (j) and Sections 455.227(1)(a) and (b), Florida Statutes.~~

Specific Authority 468.384(2) FS. Law Implemented 468.388(6), 468.389(1)(d),(j) FS. History—New 10-19-87, Formerly 21BB-5.004, Amended 10-12-93,_____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Geologists

RULE TITLE: Definitions
RULE NO.: 61G16-1.009

PURPOSE AND EFFECT: The purpose and effect of the rule is to establish procedures for "Long-term, ongoing relationship."

SUBJECT AREA TO BE ADDRESSED: Definitions.

SPECIFIC AUTHORITY: 492.104 FS.

LAW IMPLEMENTED: 492.105 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: D. A. O'Connor, Executive Director, Board of Professional Geologists, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G16-1.009 Definitions.

As used in Chapter 492 and in these rules where the context will permit the following terms have the following meanings:

(1) "Responsible Position" shall mean direct control and personal supervision of geological work done by oneself or by others over which the applicant exercises supervisory authority.

(2) "Long-term, ongoing relationship" shall mean a contractual relationship between the professional geologist and the firm, corporation, or partnership, in which the professional geologist performed or is responsible for the supervision, direction, or control of the work contained in the geological papers, reports, or documents that are signed, dated, and sealed by the professional geologist.

Specific Authority 492.104 FS. Law Implemented 492.105, 492.111 FS. History—New 4-27-88, Formerly 21DD-1.009, Amended 11-15-93, 5-14-97, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Geologists

RULE TITLE: Procedures for Signing and Sealing Geological Paper, Reports, or Other Documents
RULE NO.: 61G16-2.005

PURPOSE AND EFFECT: The purpose of the rule amendments is to update the rule text with regard to the procedures for signing and sealing geological papers, reports, or other documents.

SUBJECT AREA TO BE ADDRESSED: Procedures for Signing and Sealing Geological Papers, Reports, or Other Documents.

SPECIFIC AUTHORITY: 282.75, 492.104, 492.107 FS.

LAW IMPLEMENTED: 282.75, 492.107 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: D. A. O'Connor, Executive Director, Board of Professional Geologists, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G16-2.005 Procedures for Signing and Sealing Geological Papers, Reports, or Other Documents.

(1) All geological papers, reports, or other documents prepared or issued by a licensed professional geologist shall be signed, dated, and sealed by the professional geologist who performed or is responsible for the supervision, direction, or control of the work contained in the papers, reports, or documents actually prepared the geological papers, reports, or documents or who had direct responsibility for the supervision, direction, or control of their preparation.

(2) through (4) No change.

Specific Authority 282.75, 492.104, 492.107 FS. Law Implemented 282.75, 492.107 FS. History—New 2-9-00, Amended _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE TITLE: Experience
RULE NO.: 61G17-3.001

PURPOSE AND EFFECT: The Board proposes to review this rule to determine if any amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Experience.

SPECIFIC AUTHORITY: 472.008 FS.

LAW IMPLEMENTED: 472.013 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sherry Landrum, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE TITLE: Education
 RULE NO.: 61G17-3.0021

PURPOSE AND EFFECT: The Board proposes to amend this rule to remove inconsistencies and improve the clarity of the rule text.

SUBJECT AREA TO BE ADDRESSED: Education.

SPECIFIC AUTHORITY: 472.013 FS.

LAW IMPLEMENTED: 472.005, 472.013 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sherry Landrum, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial rewording of Rule 61G17-3.0021 follows. See Florida Administrative Code for present text.)

61G17-3.0021 Education.

(1) To determine whether an applicant for licensure has met the educational requirements of Section 472.013(2)(a), F.S., the applicant must demonstrate that he/she has:

(a) graduated from a college or university approved by the Board pursuant to Rule 61G17-1.010, F.A.C.; and

(b) completed a specific course of study which included at least thirty-two (32) semester hours or forty-eight (48) quarter hours in courses labeled by the program or university as courses in surveying and mapping or completed a course of study in surveying and mapping accredited in surveying by the Accreditation Board for Engineering and Technology (ABET).

(2) To determine whether an applicant for licensure has met the educational requirements of Section 472.013(2)(b), F.S., the applicant must demonstrate that he/she has:

(a) graduated from a college or university approved by the Board pursuant to Rule 61G17-1.010, F.A.C.; and

(b) completed a specific four (4) year course of study which included at least thirty-two (32) semester hours of study, or its academic equivalent, which included twenty-five (25) semester hours or thirty-seven (37) quarter hours in courses labeled by the college or university as courses in surveying and

mapping or in any combination of courses in civil engineering, forestry, mathematics, photogrammetry, land law, and the physical sciences.

Specific Authority 472.013 FS. Law Implemented 472.005, 472.013 FS. History—New 9-7-93, Amended 5-30-95, 10-1-97, 5-17-00,_____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE TITLE: Definitions
 RULE NO.: 61G17-6.002

PURPOSE AND EFFECT: The Board proposes to review this rule to determine if any amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Definitions.

SPECIFIC AUTHORITY: 472.008, 472.027 FS.

LAW IMPLEMENTED: 472.027 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sherry Landrum, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE TITLE: Boundary Survey, Map, and Report
 RULE NO.: 61G17-6.0031

PURPOSE AND EFFECT: The Board proposes to review this rule to determine if any amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Boundry survey, map, and report.

SPECIFIC AUTHORITY: 472.008, 472.027 FS.

LAW IMPLEMENTED: 472.027 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sherry Landrum, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE TITLE: Construction Layout Survey, Record or As-Built Survey, Quantity Survey, and Right-of-Way Survey
RULE NO.: 61G17-6.005

PURPOSE AND EFFECT: The Board proposes to review this rule to determine if any amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Construction layout survey, record or as-built-survey, quality survey, and right-of-way survey.

SPECIFIC AUTHORITY: 472.008, 472.027 FS.

LAW IMPLEMENTED: 472.027 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sherry Landrum, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE TITLE: Certificates of Authorization
RULE NO.: 61G17-7.003

PURPOSE AND EFFECT: The Board proposes to review this rule to determine if any amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Certificates of authorization.

SPECIFIC AUTHORITY: 472.021 FS.

LAW IMPLEMENTED: 472.021 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sherry

Landrum, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 00-56R

RULE CHAPTER TITLE: Noticed General Environmental
RULE CHAPTER NO.: 62-341

Resource Permits
RULE TITLE: General Permit for Dredging of Channels by the

West Coast Inland Navigation District
62-341.490

PURPOSE, EFFECT AND SUBJECT AREA TO BE ADDRESSED: A new environmental resource Noticed General Permit (NGP) (section 62-341.490, F.A.C.) is proposed to streamline the permitting of public navigation access channels dredged by the WCIND. The NGP will be available only within "traffichsheds" in specified inland waterways of Manatee and Sarasota Counties. The specific "traffichsheds" were identified through a study funded by the Florida Sea Grant Program. These waterways will include various pre-identified channels and canals within the creeks, bayous, harbors, basins, lagoons and other waterways primarily associated with Sarasota Bay. This rulemaking is in response to a Petition to Initiate Rulemaking received on October 20, 2000, from the West Coast Inland Navigation District (WCIND). It is expected that this NGP will be modified through future rulemaking to incorporate additional "traffichsheds" in other counties that fall under the jurisdiction of the WCIND.

SPECIFIC AUTHORITY: 373.026, 373.043, 373.118(1), 373.414(9) FS.

LAW IMPLEMENTED: 373.118(1), 373.413, 373.414(9), 373.416 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN A FUTURE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE RULE UNDER DEVELOPMENT IS: Geoff Rabinowitz, Florida Department of Environmental Protection, 2600 Blair Stone Road, Bureau of Submerged Lands and Environmental Resources, MS 2500, Tallahassee, Florida 32399-2400, telephone (850)921-9896, or e-mail: geoffrey.rabinowitz@dep.state.fl.us.

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)487-1855 or 1(800)955-8771 (TDD), at least seven days before the meeting.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT MAY BE AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: RULE NO.:

Standard of Practice for Licensed Optometrists 64B13-3.010

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to clarify non-performance of a dilated fundus examination.

SUBJECT AREA TO BE ADDRESSED: Dilated fundus examination.

SPECIFIC AUTHORITY: 463.005(1) FS.

LAW IMPLEMENTED: 463.005(1), 463.0135(1), 463.016(1) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-1753

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B13-3.010 Standard of Practice for Licensed Optometrists.

(1) through (6) No change.

(7)(a) To be in compliance with rule 64B13-3.007(2)(f), certified optometrists shall perform a dilated fundus examination during the patient's initial presentation, and thereafter, whenever medically indicated. If, in the certified optometrist's sound professional judgment, dilation is not should not or cannot be performed because of the patient's age, ~~or~~ physical limitations, or conditions, the reason(s) shall be noted in the patient's medical record.

(b) through (8) No change.

Specific Authority 463.005(1) FS. Law Implemented 463.005(1), 463.0135(1), 463.016(1) FS. History—New 9-16-80, Amended 12-20-82, Formerly 21Q-3.10, Amended 7-11-88, 6-18-92, 1-28-93, Formerly 21Q-3.010, Amended 3-16-94, Formerly 61F8-3.010, Amended 8-24-94, 9-21-94, 2-13-95, 12-31-95, Formerly 59V-3.010, Amended 6-15-00, _____.

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: RULE NO.:

Criteria for Selection of Examiners 64B13-4.005

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address the qualifications for examiners.

SUBJECT AREA TO BE ADDRESSED: Criteria for examiners.

SPECIFIC AUTHORITY: 456.017(1)(b) FS.

LAW IMPLEMENTED: 456.017(1)(b) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-1753

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B13-4.005 Criteria for Selection of Examiners.

The following criteria are hereby established for the selection of examiners:

(1) No change.

(2) In order to receive approval of the Board, a prospective examiner must comply with the following minimum requirements:

(a) Licensure as a licensed practitioner in this State for at least three years one year preceding the date of the examination at which they will serve as an examiner, and

(b) The absence of any finding by the Board that the prospective examiner has violated Chapter 456 455, Part II, Chapter 463, Florida Statutes, or the rules promulgated thereunder.

(3) No change.

Specific Authority 456.017(1)(b) 455.574(1)(b) FS. Law Implemented 456.017(1)(b) 455.574(1)(b) FS. History—New 10-6-81, Formerly 21Q-4.05, Amended 7-21-86, 11-20-86, Formerly 21Q-4.005, 61F8-4.005, 59V-4.005, Amended _____.

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: RULE NO.:

Certified Optometrist Examination 64B13-10.0015

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to clarify the passing score for the certification examination.

SUBJECT AREA TO BE ADDRESSED: The passing score for the certification examination.

SPECIFIC AUTHORITY: 463.005(1), 456.017(1),(2) FS.

LAW IMPLEMENTED: 463.0055, 456.017(1),(2) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WILL BE NOTICED IN THE NEXT AVAILALBE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-1753

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B13-10.0015 Certified Optometrist Examination.

The Certified Optometrist Examination shall be the Board approved examination developed and administered by the Department of Health Office of Examination Services.

(1) The examination shall consist of 80 questions which test the applicant's knowledge of general and ocular pharmacology with particular emphasis on the topical application and side effects of pharmaceutical agents. Each question on the examination shall be given equal weight. A raw score of 70 percent correct answers shall be required to pass the certification examination.

(2) through (4) No change.

Specific Authority 463.005(1), 456.017(1),(2) ~~455.574(1),(2)~~ FS. Law Implemented 463.0055, 456.017(1),(2) ~~455.574(1),(2)~~ FS. History--New 3-16-89, Amended 5-29-90, 7-10-91, Formerly 21Q-10.0015, 61F8-10.0015, Amended 10-4-94, Formerly 59V-10.0015, Amended 3-21-00, 7-12-00, _____.

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE: Range of Penalties for Administrative Violations

RULE NO.: 64B13-15.003

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address multiple counts or offenses.

SUBJECT AREA TO BE ADDRESSED: Penalties for violations.

SPECIFIC AUTHORITY: 456.079 FS.

LAW IMPLEMENTED: 456.079 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-1753

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B13-15.003 Range of Penalties for Administrative Violations.

(1) No change.

(2) For Major Administrative Violations the range of penalties are as follows:

(a) First violation – administrative fine of not less than \$1,000.00 nor more than \$2,000.00 per count or offense and, if appropriate, a period of probation or suspension of not less than 6 months nor longer than 12 months.

(b) through (c) No change.

Specific Authority 456.079 ~~455.627~~ FS. Law Implemented 456.079 ~~455.627~~ FS. History--New 2-24-87, Formerly 21Q-15.003, 61F8-15.003, 59V-15.003, Amended _____.

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: Continuing Education

RULE NO.: 64B17-9.001

PURPOSE AND EFFECT: The Board proposes to amend the rule text to update the continuing education requirements.

SUBJECT AREA TO BE ADDRESSED: Continuing education.

SPECIFIC AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 486.109(2) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program Office

RULE TITLE: Food Stamp Program Case Processing

RULE NO.: 65A-1.602

PURPOSE AND EFFECT: This proposed rule implements the requirements of s. 414.32, F.S., which requires custodial and noncustodial parents to cooperate with child support enforcement (CSE) as a condition of eligibility for the receipt of food stamps.

SUBJECT AREA TO BE ADDRESSED: The proposed rule will provide for custodial and noncustodial parents to cooperate with CSE as a condition of food stamp eligibility. Custodial parents will be required to cooperate in the establishment of paternity for a child born out-of-wedlock and

to obtain child support. Noncustodial parents must show they are current with court-ordered child support payments. It also provides for good cause for non-cooperation by custodial parents when cooperation is not in the best interest of the child, custodial parent, or caretaker relative. Additionally, it provides for the development and revision of forms related to statutory and policy requirements to be incorporated by reference.

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.32 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., December 4, 2000

PLACE: 1317 Winewood Blvd., Bldg. 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Audrey Mitchell, Program Administrator, Economic Self-Sufficiency Program Support Unit, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700, Telephone (850)488-3090

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE TITLE: Citrus Canker Eradication

RULE NO.: 5B-58.001

PURPOSE AND EFFECT: The purpose of this rule amendment is to establish procedures for conducting risk assessments in commercial groves which are infested or exposed to citrus canker, modify the delivery of Immediate Final Orders and what must be attached to those orders, and provide for the confiscation of citrus plants in containers in violation of the provisions of the quarantine. This clarifies the variables used in determining the distance within which exposed citrus trees must be removed, simplifies the Immediate Final Order and helps prevent the spread of the disease within or outside of the quarantine area which can occur when containerized citrus plants are moved.

SUMMARY: Defines Citrus Canker Risk Assessment Group and landscape maintenance operators; established guidelines for conducting risk assessments in commercial groves; deletes the Immediate Final Order attachments; permits Immediate Final Orders to be delivered by regular mail, common courier or posted on the property; deletes the language about maintaining property files although the program will maintain such files; states that non-production people entering citrus

groves must decontaminate personnel and equipment; and provides for the immediate confiscation of citrus plants maintained in containers when in violation of the quarantine.

SPECIFIC AUTHORITY: 570.07(21),(23), 581.091(1), 581.101(1), 581.031(1),(4),(5), 581.184 FS.

LAW IMPLEMENTED: 580.07(2),(13),(21), 581.031(6),(7),(9),(15),(17),(19),(30), 581.083, 581.101, 581.131, 581.141, 581.184, 581.211 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., December 4, 2000

PLACE: Division of Plant Industry, Cowperthwaite Building, Auditorium, 3027 Lake Alfred Road, Winter Haven, Florida 33881

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32614-7100, Phone (352)372-3505

THE FULL TEXT OF THE PROPOSED RULE IS:

5B-58.001 Citrus Canker Eradication.

(1) Definitions. For the purpose of this rule, the definitions in Section 581.011, Florida Statutes, and the following definitions shall apply:

(a) through (d) No change.

(e) Citrus Canker Risk Assessment Group. A group of scientists and regulatory officials with knowledge of citrus canker disease and its eradication appointed by the director to make biologically sound recommendations for the control and eradication of citrus canker from the state. Risk assessments are science-based evaluations. The risk assessment group provides scientific opinion and recommendations on control and eradication strategies and other issues upon request for assistance from the Citrus Canker Eradication Program.

~~(f)~~(e) Commercial citrus grove. A solid set planting of 40 or more citrus trees.

~~(g)~~(f) Commercial citrus-producing area. American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, Northern Mariana Islands, Puerto Rico, Texas, and the Virgin Islands of the United States.

~~(h)~~(g) Exposed. Determined by the department to likely harbor citrus canker bacteria because of proximity to infected plants, or probable contact with personnel, or regulated articles, or other articles that may have been contaminated with bacteria that cause citrus canker, but not expressing visible symptoms.

~~(i)~~(h) Infected. Harboring citrus canker bacteria and expressing visible symptoms.