

~~seeking to renew approved provider status shall pay a renewal fee of \$150, which shall run concurrent with the pharmacist licensure renewal period. Approved providers will be subject to the audit provided for in Rule 64B16-26.600, F.A.C.~~

~~(6) Entities or individuals applying for approval of an individual program shall submit a fee of \$50, and provide information to demonstrate compliance with this rule.~~

Rulemaking Specific Authority 465.005, 465.009 FS. Law Implemented 456.025(7), 465.009 FS. History—New 10-17-79, Amended 7-29-81, Formerly 21S-13.02, 21S-13.002, Amended 1-10-93, Formerly 21S-26.601, 61F10-26.601, 59X-26.601, Amended 1-29-03, _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mark Whitten, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254.

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

RULE NO.: 73B-21.003
 RULE TITLE: Filing an Appeal

NOTICE OF PUBLIC HEARING

The Reemployment Assistance Appeals Commission announces a corrected hearing regarding the above rule, as noticed in Vol. 38, No. 29, July 20, 2012 Florida Administrative Weekly.

DATE AND TIME: A hearing will be held July 31, 2012 at 10:00 a.m. as noticed in Vol. 38, No. 29, July 20, 2012, FAW. An additional hearing will be held on this proposed rule, if requested within 21 days of the date of the Notice of Proposed Rule for Rule 73B-21.003, F.A.C., published in Vol. 38, No. 29, July 20, 2012.

PLACE: For July 31, 2012 hearing: Office of the Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151

GENERAL SUBJECT MATTER TO BE CONSIDERED: Proposed rule amendments to Rule 73B-21.003, F.A.C., published in Vol. 38, No. 29, July 20, 2012 Florida Administrative Weekly.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 24 hours before the workshop/meeting by contacting: Dorothy Johnson, Deputy General Counsel, Office of the Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Community Development

RULE NO.: 73C-49.002
 RULE TITLE: Schedule

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 22, June 1, 2012 issue of the Florida Administrative Weekly.

73C-49.002 Schedule.

Local governing bodies shall submit their evaluation and appraisal notification letter to the Department of Economic Opportunity, Bureau of Community Planning, Caldwell Building, 107 East Madison Street, MSC #160, Tallahassee, FL 32399-6545, Attention Plan Processing Unit, in accordance with the schedule set forth below, and on the same day and month every seven years thereafter (for those local governments with a due date prior to the effective date of this rule, the evaluation and appraisal notification letter shall be due no later than October 1, 2012):

LOCAL	NOTIFICATION
GOVERNMENT	DUE DATE

No change.

Rulemaking Authority 163.3191(1), 163.3191(5) FS. Law Implemented 163.3191 FS. History—New _____.

**Section IV
 Emergency Rules**

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12AER12-04
 RULE TITLE: Sales of Clothing and School Supplies During the Period August 3 through August 5, 2012

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 25, Chapter 2012-32, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement the provisions of the law specifying a period during which the sale of certain clothing, and school supplies are exempt from sales and use tax. The law provides that conditions necessary for an emergency rule have been met. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate means regarding the exemption during the period from 12:01 a.m., August 3, 2012, through 11:59 p.m., August 5, 2012, for sales of clothing, wallets, or bags having a selling price of \$75 or less per item and for sales of school supplies having a selling price of \$15 per item or less. The exemption does not apply to sales within a theme park or entertainment complex as defined

in Section 509.013(9), F.S., or within a public lodging establishment as defined in Section 509.013(4), F.S., or within an airport as defined in Section 330.27(2), F.S. The rule defines "clothing," "school supplies," "theme park or entertainment complex," "public lodging establishment," "airport" and "mail order sales." The rule describes the items that are included in the exemption and explains how various transactions are to be handled for purposes of the exemption, including sales of sets of both exempt and taxable items, items normally sold as a unit, mail order sales, shipping and handling charges, layaway sales, rain checks, exchanges, refunds, coupons, rebates, and discounts, repairs and alterations, gift certificates, rentals of clothing, reporting requirements, documentation to be maintained, and merchant's license fees. The rule provides a list of items and their taxable status during the exemption period for clothing and school supplies.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of an emergency rule to administer the provisions of Section 25, Chapter 2012-32, Laws of Florida, which specify a period during which the sale of certain clothing and school supplies are exempt from sales and use tax. Additionally, an emergency rule is the most expedient and appropriate means of notifying dealers and taxpayers of the provisions of Section 25, Chapter 2012-32, Laws of Florida.

SUMMARY: Emergency Rule 12AER12-04 notifies the general public and retailers of the exemption during the period from 12:01 a.m., August 3, 2012 through 11:59 p.m., August 5, 2012, for sales of clothing, wallets, or bags having a selling price of \$75 or less per item and for sales of school supplies having a selling price of \$15 per item or less.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Gary Gray, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6777

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER12-04 Sales of Clothing and School Supplies During the Period August 3 through August 5, 2012.

(1) Clothing Sales.

(a) Beginning at 12:01 a.m. on August 3, 2012, and ending at 11:59 p.m. on August 5, 2012 (the exemption period), no tax is due on the sale or purchase of any article of clothing, wallet, or bag, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, with a selling price of \$75.00 or less per item. This exemption does not apply to sales of clothing, wallets, or bags within a theme park, entertainment complex, public lodging establishment, or airport.

(b)1. The sales tax exemption applies to each eligible item of clothing, wallet, or bag, selling for \$75.00 or less per item. The exemption applies regardless of how many items are sold on the same invoice to a customer.

2. Example: A customer purchases two shirts for \$40.00 each. Both items will qualify for the exemption, even though the customer's total purchase price (\$80.00) exceeds \$75.00.

(c)1. The exemption does not apply to the first \$75.00 of price of an eligible item of clothing, wallet, or bag, selling for more than \$75.00.

2. Example: A customer purchases a pair of pants costing \$79.95. Tax is due on the entire \$79.95.

(2) Exempt Sales of School Supplies.

(a) Beginning at 12:01 a.m. on August 3, 2012, and ending at 11:59 p.m. on August 5, 2012 (the exemption period), no tax is due on the sale or purchase of any item of school supplies with a selling price of \$15.00 or less per item. This exemption does not apply to sales of school supplies within a theme park, entertainment complex, public lodging establishment, or airport.

(b)1. The sales tax exemption applies to each eligible item of school supplies selling for \$15.00 or less per item. The exemption applies regardless of how many items are sold on the same invoice to a customer.

2. Example: A customer purchases ten composition books for \$2.50 each. All ten items will qualify for the exemption, even though the customer's total purchase price (\$25.00) exceeds \$15.00.

(c)1. The exemption does not apply to the first \$15.00 of price of an eligible item of school supplies selling for more than \$15.00.

2. Example: A customer purchases a calculator costing \$18.00. Tax is due on the entire \$18.00.

(3) Definitions.

(a) "Clothing" means any article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body. "Clothing" does not include watches, watchbands, jewelry, umbrellas, or handkerchiefs.

(b) "School supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue, paste, rulers, computer disks, protractors, compasses, and calculators.

(c) "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of one million visitors annually.

(d)1. "Public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is rented to guests more

than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. License classifications of public lodging establishments, and the definitions therefor, are set out in Section 509.242, F.S. For the purpose of licensure, the term does not include condominium common elements as defined in Section 718.103, F.S.

2. The following are excluded from the definition in subparagraph 1.:

a. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;

b. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Family Services or other similar place regulated under Section 381.0072, F.S.;

c. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;

d. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

e. Any migrant labor camp or residential migrant housing permitted by the Department of Health, under Sections 381.008-.00895, F.S.; and

f. Any establishment inspected by the Department of Health and regulated by Chapter 513, F.S.

(e) "Airport" means an area of land or water used for, or intended to be used for, landing and takeoff of aircraft, including accessory or relative areas, buildings, facilities, or rights-of-way necessary to facilitate such use or intended use.

(f) "Mail order sale" is a sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported, whether or not by mail, from any jurisdiction of the United States, including this state, to a person in this state, including the person who ordered the property.

(4) Sales of Sets Containing Both Exempt and Taxable Items.

(a) When exempt items are normally sold together with taxable merchandise as a set or single unit, the full price is subject to sales tax.

(b) Example: A gift set consisting of a wallet and key chain is sold for a single price of \$35.00. Although the wallet would otherwise be exempt during the exemption period, the full price of the gift set is taxable because the key chain is taxable.

(c) Example: A desk set consisting of a stapler and a pair of scissors is sold for a single price of \$9.95. Although the scissors would otherwise be exempt during the exemption period, the full price of the desk set is taxable because the stapler is taxable.

(5) Articles Normally Sold as a Unit.

(a) Articles that are normally sold as a unit must continue to be sold in that manner; they cannot be separately stated and sold as individual items in order to obtain the exemption.

(b) Example: A pair of shoes normally sells for \$80.00. The pair of shoes cannot be split in order to sell each shoe for \$40.00 to qualify for the exemption.

(c) Example: A suit is normally priced at \$125.00 on a single price tag. The suit cannot be split into separate articles so that any of the components may be sold for \$75.00 or less in order to qualify for the exemption. However, components that are normally priced as separate articles may continue to be sold as separate articles and qualify for the exemption if the price of an article is \$75.00 or less.

(d) Example: A pen and pencil set is normally priced at \$18.00 on a single price tag. The set cannot be split into separate articles so that either of the components may be sold for \$15.00 or less in order to qualify for the exemption.

(6) Buy One, Get One Free or for a Reduced Price.

(a) The total price of items advertised as "buy one, get one free," or "buy one, get one for a reduced price," cannot be averaged in order for both items to qualify for the exemption.

(b) Example: A retailer advertises pants as "buy one, get one free." The first pair of pants is priced at \$80.00; the second pair of pants is free. Tax is due on \$80.00. The store cannot sell each pair of pants for \$40.00 in order for the items to qualify for the exemption. However, the retailer may advertise and sell the items for 50% off, selling each pair of \$80.00 pants for \$40.00, making each pair eligible for the exemption.

(c) Example: A retailer advertises shoes as "buy one pair at the regular price, get a second pair for half price." The first pair of shoes is sold for \$80.00; the second pair is sold for \$40.00 (half price). Tax is due on the \$80.00 shoes, but not on the \$40.00 shoes. The store cannot sell each pair of shoes for \$60.00 in order for the items to qualify for the exemption. However, a retailer may advertise the pairs for 25% off, thereby selling each pair of \$80.00 shoes for \$60.00, making each pair eligible for the exemption.

(7) Mail Order Sales.

(a) For purposes of this exemption, eligible items purchased by mail order, including sales transactions over the Internet, will receive the exemption if the order is accepted by the mail order company during the exemption period for

immediate shipment. When the acceptance of the order by the mail order company occurs during the exemption period, the exemption will apply even if delivery is made after the exemption period.

(b) An order is accepted by the mail order company when it has taken an action to fill the order for immediate shipment. Actions to fill an order include, but are not limited to, placing an "in date" stamp on a mail order, assigning an "order number" to a telephone order, or confirming an Internet order by e-mail message.

(c) An order is for immediate shipment when delayed shipment is not requested by the customer. An order is for immediate shipment notwithstanding that the shipment may be delayed because of a backlog of orders or because stock is currently unavailable to, or on back order by, the company.

(8) Shipping and Handling Charges.

(a) Shipping and handling charges are included as part of the sales price of the eligible item, whether or not separately stated. If multiple items are shipped on a single invoice, to determine if any items qualify for the exemption, the shipping and handling charge must be proportionately allocated to each item ordered, and separately identified on the invoice.

(b) Example 1: A customer orders a jacket for \$75.00. The shipping charge to deliver the jacket to the customer is \$5.00. The selling price of the jacket is \$80.00. Tax is due on the full selling price.

(c) Example 2. A customer orders a suit for \$300.00 and a shirt for \$40.00. The transportation charge to deliver the items is \$15.00. The \$15.00 transportation charge must be proportionately and separately allocated between the items: $\$300 / \$340 = 88\%$; therefore, 88% of the \$15.00 shipping charge, or \$13.20, must be allocated to the suit, and separately identified on the invoice as such. The remaining 12% of the \$15.00 shipping charge, or \$1.80, must be allocated to the shirt, and separately identified on the invoice as such. The selling price of the shirt is \$40.00 plus \$1.80, totaling \$41.80, and therefore qualifying for the exemption.

Suit	\$300.00
Shipping for suit	13.20
Shirt	40.00
Shipping for shirt	1.80

(d) Example 3. A customer orders a suit for \$300.00 and a shirt for \$70.00. The transportation charge to deliver the items is \$50.00. The \$50.00 transportation charge must be proportionately and separately allocated between the items: $\$300 / \$370 = 81\%$. Therefore, 81% of the \$50.00 shipping charge, or \$40.50, must be allocated to the suit, and separately identified on the invoice as such. The remaining 19% of the \$50.00 shipping charge, or \$9.50, must be allocated to the shirt, and separately identified on the invoice as such. The selling price of the shirt is \$70.00 plus \$9.50, totaling \$79.50. Since the selling price of the shirt exceeds \$75.00, the purchase of the shirt is taxable.

Suit	\$300.00
Shipping for suit	40.50
Shirt	70.00
Shipping for shirt	9.50

(9) Layaway sales. A layaway sale is a transaction in which merchandise is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and receives the merchandise at the end of the payment period.

(a) For purposes of this exemption, eligible items will qualify for the exemption if:

1. A retailer and a customer enter into a contract for a layaway sale for an exempt item during the exemption period;
2. The customer makes the usual deposit in accordance with the retailer's layaway policy;
3. The merchandise [exempt item(s)] is segregated from the retailer's inventory; and
4. The final payment is made during or after the exemption period.

(b) If final payment on a layaway order is made by and the merchandise is given to the customer during the exemption period, that sale of eligible items will qualify for the exemption, even when the qualified items were placed on layaway before the exemption period.

(10) Rain checks. Eligible items purchased during the exemption period using a rain check will qualify for the exemption regardless of when the rain check was issued. However, issuance of a rain check during the exemption period will not qualify eligible items for the exemption if the item is actually purchased after the exemption period.

(11) Exchanges.

(a) If a customer purchases an eligible item during the exemption period, then later exchanges the item for the same item (different size, different color, etc.), no additional tax will be due even if the exchange is made after the exemption period.

(b) If a customer purchases an eligible item during the exemption period, then later returns the item and receives credit on the purchase of a different item, the appropriate sales tax will apply to the sale of the newly purchased item.

(c) Examples:

1. During the exemption period, a customer purchases a \$75.00 dress that qualifies for the exemption. Later, during the exemption period, the customer exchanges the \$75.00 dress for a \$100.00 dress. Tax is due on the \$100.00 dress. The \$75.00 credit from the returned item cannot be used to reduce the sales price of the \$100.00 item to \$25.00 for exemption purposes.

2. A customer purchases a \$35.00 shirt during the exemption period. After the exemption period, the customer exchanges the shirt for a \$35.00 jacket. Since the jacket was not purchased during the exemption period, tax is due on the \$35.00 price of the jacket.

3. A customer purchases notebook filler paper for \$3.95 during the exemption period. Later during the exemption period, the customer exchanges the notebook filler paper for note pads costing the same amount. Tax is due on the note pads, because they are not eligible for the exemption.

(12) Refunds.

(a) A customer who pays tax to a dealer on an eligible item when no tax is due must secure a refund of the tax from the dealer and not from the Department of Revenue.

(b) For the period August 3, 2012 through October 31, 2012, when a customer returns an item that would qualify for the exemption, no refund of tax shall be given unless the customer provides a receipt or invoice showing tax was paid, or the retailer has sufficient documentation to show that tax was paid on the specific item.

(13) Coupons, Rebates, and Discounts.

(a)1. Manufacturer's coupons. Manufacturer's coupons do not reduce the sales price of an item. Therefore, a manufacturer's coupon cannot be used to reduce the selling price of an item of clothing to \$75.00 or less, or a school supply item to \$15.00 or less, in order to qualify for the exemption.

2. Example: A jacket sells for \$85.00. The customer has a \$10.00 manufacturer's coupon good for the purchase of the jacket. The manufacturer's coupon does not reduce the sales price of the jacket. Tax is due on \$85.00, even though the customer only pays the retailer \$75.00 for the jacket.

(b)1. Store coupons and discounts. Store coupons and discounts reduce the sales price of an item. Therefore, a store coupon or discount can be used to reduce the sales price of an item to \$75.00 or less, or of a school supply item to \$15.00 or less, in order to qualify for the exemption.

2. Example: A customer buys a \$400.00 suit and a \$80.00 shirt. The retailer is offering a 10 percent discount. After applying the 10 percent discount, the final sales price of the suit is \$360.00, and the sales price of the shirt is \$72.00. The suit is taxable (its price is over \$75.00), and the shirt is exempt (its price is less than \$75.00).

(c)1. Rebates. Rebates occur after the sale and do not affect the sales price of an item purchased.

2. Example: A jacket sells for \$85.00. The customer receives a \$10.00 rebate from the manufacturer. The rebate occurs after the sale, so it does not reduce the sales price of the jacket. Tax is due on \$85.00.

(14) Repairs and Alterations to Eligible Items.

(a) Repairs to eligible items do not qualify for the exemption.

(b)1. Alterations to clothing or footwear do not qualify for the exemption, even though alterations may be sold, invoiced, and paid for at the same time as the item to be altered.

2. Example: A customer purchases a pair of pants for \$75.00 and pays \$5.00 to the retailer to have the pants cuffed. The \$75.00 charge for the pants is exempt; however, tax is due on the \$5.00 alterations charge.

(15) Gift Certificates.

(a) Eligible items purchased during the exemption period using a gift certificate will qualify for the exemption, regardless of when the gift certificate was purchased. Eligible items purchased after the exemption period using a gift certificate are taxable, even if the gift certificate was purchased during the exemption period. A gift certificate cannot be used to reduce the selling price of an item of clothing to \$75.00 or less, or of a school supply item to \$15.00 or less, in order for the item to qualify for the exemption.

(b) Example: A customer purchases a dress priced at \$90.00 and uses a \$50.00 gift certificate. Tax is due on \$90.00. The gift certificate does not reduce the selling price to \$40.00 for purposes of the exemption.

(16) Rentals. Rentals of clothing, or footwear do not qualify for the exemption.

(17) Reporting. No special reporting procedures are necessary to report exempt sales made during the exemption period. Sales should be reported as currently required by law.

(18) Record Retention and Documentation. No special record keeping requirements are necessary. Records should be maintained as currently required by law.

(19) License Fees or Other Fees imposed by Panama City and Panama City Beach.

(a) The cities of Panama City and Panama City Beach impose upon retailers a Merchant's License Tax or similar gross receipts tax or fee, which may be passed on to the customer. The Merchant's License Tax is included in the sales price of each item, whether or not the tax is separately stated on the invoice.

(b) Example: A jacket sells for \$74.95. The separately stated 1% gross receipts fee for this item is \$0.75. Since the gross receipts fee is part of the sales price of the item (\$75.70), the jacket will not qualify for the exemption.

(20) List of Items of Clothing and Their Taxable Status During the Exemption Period. The following is a list of items of clothing and their taxable status during the exemption period, if they are sold for \$75.00 or less per item. This is not an inclusive list. T = Taxable, E = Exempt.

- A
- T Accessories (generally)
- E Barrettes and bobby pins
- E Belt buckles
- E Bow ties
- E Hair nets, bows, clips, and bands
- E Handbags
- T Handkerchiefs

T	<u>Jewelry</u>	E	<u>Costumes</u>
T	<u>Key cases</u>	E	<u>Coveralls</u>
E	<u>Neckwear</u>	T	<u>Crib blankets</u>
E	<u>Ponytail holders</u>		
E	<u>Scarves</u>	D	
E	<u>Ties</u>	E	<u>Diaper bags</u>
E	<u>Wallets</u>	E	<u>Diapers, diaper inserts (adult and baby, cloth or disposable)</u>
T	<u>Watch bands</u>	T	<u>Diving suits (wet and dry)</u>
T	<u>Watches</u>	E	<u>Dresses</u>
E	<u>Aerobic/Fitness clothing</u>	T	<u>Duffel bags</u>
E	<u>Aprons/Clothing shields</u>		
T	<u>Athletic gloves</u>	E	
T	<u>Athletic pads</u>	T	<u>Elbow pads</u>
E	<u>Athletic supporters</u>	E	<u>Employee uniforms</u>
B		F	
E	<u>Baby clothes</u>	E	<u>Fanny packs</u>
E	<u>Backpacks</u>	T	<u>Fins</u>
E	<u>Bandanas</u>	T	<u>Fishing boots (waders)</u>
E	<u>Baseball cleats</u>	E	<u>Fishing vests (nonflotation)</u>
E	<u>Bathing suits, caps, and cover-ups</u>	T	<u>Football pads</u>
E	<u>Belt buckles</u>	E	<u>Formal clothing (purchased)</u>
E	<u>Belts</u>	T	<u>Formal clothing (rented)</u>
T	<u>Belts for weightlifting</u>		
E	<u>Bibs</u>		
E	<u>Blouses</u>	G	
E	<u>Book bags</u>	T	<u>Garment bags</u>
E	<u>Boots (except ski boots)</u>	E	<u>Gloves (generally)</u>
E	<u>Bowling shoes (purchased)</u>	T	<u>Baseball</u>
T	<u>Bowling shoes (rented)</u>	T	<u>Batting</u>
E	<u>Bow ties</u>	T	<u>Bicycle</u>
E	<u>*Braces and supports worn to correct or alleviate a physical incapacity or injury</u>	E	<u>Dress (purchased)</u>
E	<u>Bras</u>	E	<u>Garden</u>
T	<u>Briefcases</u>	T	<u>Golf</u>
		T	<u>Hockey</u>
		E	<u>Leather</u>
		T	<u>Rubber</u>
C		T	<u>Surgical</u>
E	<u>Caps and hats</u>	T	<u>Tennis</u>
T	<u>Checkbook covers (separate from wallets)</u>	E	<u>Work</u>
T	<u>Chest protectors</u>	T	<u>Goggles (except *prescription)</u>
E	<u>*Choir and altar clothing</u>	E	<u>Graduation caps and gowns</u>
E	<u>Cleated and spiked shoes</u>	E	<u>Gym suits and uniforms</u>
E	<u>*Clerical vestments</u>		
T	<u>Cloth and lace, knitting yarns, and other fabrics</u>		
T	<u>Clothing repair items, such as thread, buttons, tapes, iron-on patches, zippers</u>	H	
E	<u>Coats and wraps</u>	E	<u>Hair nets, bows, clips, and bands</u>
E	<u>Coin purses</u>	E	<u>Handbags and purses</u>
T	<u>Corsages and boutonnières</u>	T	<u>Handkerchiefs</u>
T	<u>Cosmetic bags</u>	T	<u>Hard hats</u>
		E	<u>Hats</u>

T	<u>Helmets (bike, baseball, football, hockey, motorcycle, sports)</u>	T	<u>Roller skates</u>
E	<u>Hosiery, including support hosiery</u>	S	
E	<u>Hunting vests</u>	E	<u>Safety clothing</u>
I - J		T	<u>Safety glasses (except *prescription)</u>
T	<u>Ice skates</u>	E	<u>Safety shoes</u>
T	<u>In-line skates</u>	E	<u>Scarves</u>
E	<u>Insoles</u>	E	<u>Scout uniforms</u>
E	<u>Jackets</u>	T	<u>Shaving kits/bags</u>
E	<u>Jeans</u>	E	<u>Shawls and wraps</u>
T	<u>Jewelry</u>	T	<u>Shin guards and padding</u>
K		E	<u>Shirts</u>
T	<u>Key chains</u>	E	<u>Shoe inserts</u>
T	<u>Knee pads</u>	E	<u>Shoes (including athletic)</u>
L		E	<u>Shoulder pads (for dresses, jackets, etc.)</u>
E	<u>Lab coats</u>	T	<u>Shoulder pads (football, hockey, sports)</u>
E	<u>Leg warmers</u>	E	<u>Shorts</u>
E	<u>Leotards and tights</u>	T	<u>Skates (ice, in-line, roller)</u>
T	<u>Life jackets and vests</u>	T	<u>Ski boots (snow)</u>
E	<u>Lingerie</u>	T	<u>Ski vests (water)</u>
T	<u>Luggage</u>	E	<u>Ski suits (snow)</u>
M - N		T	<u>Skin diving suits</u>
T	<u>Make-up bags</u>	E	<u>Skirts</u>
E	<u>Martial arts attire</u>	E	<u>Sleepwear, nightgowns, pajamas</u>
E	<u>Neckwear and ties</u>	E	<u>Slippers</u>
O - P		E	<u>Slips</u>
E	<u>Overshoes and rubber shoes</u>	E	<u>Socks</u>
T	<u>Pads (football, hockey, soccer, elbow, knee, shoulder)</u>	T	<u>Sports helmets</u>
T	<u>Paint or dust masks</u>	T	<u>Sports pads (football, hockey, soccer, knee, elbow, shoulder)</u>
E	<u>Pants</u>	E	<u>Sports uniforms (except pads, helmets)</u>
E	<u>Panty hose</u>	T	<u>Suitcases</u>
T	<u>Patterns</u>	E	<u>Suits, slacks, and jackets</u>
T	<u>Protective masks (athletic)</u>	T	<u>Sunglasses (except *prescription)</u>
E	<u>Purses</u>	E	<u>Suspenders</u>
R		E	<u>Sweatbands</u>
E	<u>Raincoats, rain hats, and ponchos</u>	E	<u>Sweaters</u>
E	<u>Receiving blankets</u>	T	<u>Swimming masks</u>
E	<u>*Religious clothing</u>	E	<u>Swim suits and trunks</u>
T	<u>Rented clothing (including uniforms, formal wear, and costumes)</u>	T	
T	<u>Repair of wearing apparel</u>	E	<u>Ties (neckties - all)</u>
E	<u>Robes</u>	E	<u>Tights</u>
T	<u>Roller blades</u>	E	<u>Tuxedos (excluding rentals)</u>
		U	
		T	<u>Umbrellas</u>
		E	<u>Underclothes</u>
		E	<u>Uniforms (work, school, and athletic – excluding pads)</u>

V - W

- E Vests
- E Vintage clothing
- E Wallets
- T Watchbands
- T Water ski vests
- T Weight lifting belts
- T Wet and dry diving suits
- T Wigs, toupees, and chignons
- E Work clothes and uniforms

* These items are always exempt as religious, prescription, prosthetic, or orthopedic items.

(21) List of School Supplies and Their Taxable Status During the Exemption Period. The following is a list of school supplies and their taxable status during the exemption period if they are sold for \$15.00 or less per item. This is not an inclusive list. T = Taxable, E = Exempt.

- E Binders
- E Calculators
- E Cellophane (transparent) tape
- E Colored pencils
- E Compasses
- E Composition books
- E Computer disks (blank CDs only)
- T Computer paper
- E Construction paper
- T Correction tape, fluid, or pens
- E Crayons
- E Erasers
- E Folders
- E Glue (stick & liquid)
- E Highlighters
- T Jump drives and flash drives
- E Legal pads
- E Lunch boxes
- E Markers
- T Masking tape
- E Notebook filler paper
- E Notebooks
- E Paste
- E Pencils, including mechanical and refills
- E Pens, including felt, ballpoint, fountain, highlighters, and refills
- E Poster board
- E Poster paper
- T Printer paper
- E Protractors

- E Rulers
- E Scissors
- T Staplers
- T Staples
- T Toner and ink cartridges

This rule shall take effect on August 2, 2012.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1), (2) FS., Section 25, Chapter 2012-32, L.O.F. Law Implemented 95.091, 212.02(16), 212.05, 212.0596, 212.06, 212.13, 213.35, 215.26(1), 330.27(2), 509.013(4), (9) FS., Chapter 2012-32, L.O.F. History—New 8-2-12.

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

EFFECTIVE DATE: August 2, 2012

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NO.:	RULE TITLE:
12CER12-05	Adjustments for Excess Section 179 Expense and Special Bonus Depreciation

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2011-229, Laws of Florida, authorizes the Department of Revenue to promulgate an emergency rule, and to renew such rule, to implement the provisions of the law. The law provides that conditions necessary for an emergency rule and its renewal have been met. Chapter 2011-229, Laws of Florida, retroactively makes changes related to bonus depreciation and section 179 expense of the Internal Revenue Code (I.R.C.). As a result of these changes, contained in Section 220.13(1)(e), F.S., taxpayers may need to file amended returns. This emergency rule establishes procedures for reporting the additions and claiming the subtractions required by Section 220.13(1)(e), F.S., and provides procedures for filing amended Florida corporate income tax return(s).

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of an emergency rule, and the renewal of such rule, to implement Chapter 2011-229, Laws of Florida, and determined that all conditions necessary for this emergency rule have been met. The law is retroactive, and as a result, some taxpayers need to amend their Florida corporate income tax return(s) if a return(s) affected by these changes was previously filed. This emergency rule establishes procedures for reporting additions and claiming the subtractions required by Section 220.13(1)(e), F.S., so that taxpayers may timely file the required amended returns.

SUMMARY: Emergency Rule 12CER12-05, F.A.C. (Adjustments for Excess Section 179 Expense and Special Bonus Depreciation), provides procedures for taxpayers

subject to the adjustments contained in Section 220.13(1)(e), F.S., for I.R.C. section 179 expense in excess of: \$250,000 (for tax years beginning in 2010) and \$128,000 (for tax years beginning in 2011) and bonus depreciation under I.R.C. sections 167 and 168(k). This emergency rule: (1) provides the additions that taxpayers are required to add back to the amount of the federal deduction claimed under I.R.C. sections 167 and 168(k) for bonus depreciation and under I.R.C. section 179 that exceeds: \$250,000 (for tax years beginning in 2010) and \$128,000 (for tax years beginning in 2011); (2) provides the subtractions that are available in each of seven tax years beginning with the year an addition is made under Section 220.13(1)(e), F.S.; (3) requires taxpayers to maintain a schedule reflecting all adjustments made under Section 220.13(1)(e), F.S.; (4) provides that these adjustments do not affect the basis of the property; and (5) provides when the subtractions under Section 220.13(1)(e), F.S., and when the deductions allowed under I.R.C. section 179 are not required to be included in a taxpayer's Florida corporate income tax return.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)717-6476

THE FULL TEXT OF THE EMERGENCY RULE IS:

12CER12-05 Adjustments for Excess Section 179 Expense and Special Bonus Depreciation.

(1) Scope. This rule only applies to taxpayers subject to the adjustments contained in Section 220.13(1)(e), F.S., for IRC section 179 expense in excess of \$250,000 (for tax years beginning in 2010) and \$128,000 (for tax years beginning in 2011) and bonus depreciation under IRC sections 167 and 168(k).

(2) Additions Required:

(a)1. For tax years that begin in 2010, taxpayers are required to add back the amount of the federal deduction claimed under section 179 of the Internal Revenue Code ("IRC") that exceeds \$250,000. All amounts in excess of \$250,000 are required to be added back, including amounts carried over from previous tax years under IRC section 179(b)(3)(B). The increased overall investment limitation contained in IRC section 179(b)(2) is the same for Florida as it is for federal income tax purposes.

2. For tax years that begin in 2011 and 2012, taxpayers are required to add back the amount of the federal deduction claimed under section 179 of the Internal Revenue Code ("IRC") that exceeds \$128,000. All amounts in excess of \$128,000 are required to be added back, including amounts carried over from previous tax years under IRC section

179(b)(3)(B). The increased overall investment limitation contained in IRC section 179(b)(2) is the same for Florida as it is for federal income tax purposes.

(b) Taxpayers are required to add back the amount of the federal deduction claimed as bonus depreciation under IRC sections 167 and 168(k) for assets placed in service after December 31, 2009, and before January 1, 2013.

(3) Subtractions Allowed:

(a) In each of the seven tax years commencing with the year the addition is made under Section 220.13(1)(e), F.S., taxpayers may subtract one-seventh of the amount of excess IRC section 179 expense and one-seventh of the amount of bonus depreciation that is added back under Section 220.13(1)(e), F.S.

(b) The total amount that may be subtracted over the seven-year period should equal, but may not exceed, the amounts of IRC section 179 expense and bonus depreciation that have been added back to Florida taxable income under Section 220.13(1)(e), F.S.

(c) Subtractions may be transferred to the surviving company in a merger or acquisition. Otherwise, if a taxpayer ceases to do business during the seven-year period, it may not accelerate, transfer or otherwise utilize a subtraction.

(4) A schedule reflecting all of the adjustments made under Section 220.13(1)(e), F.S., must be created and maintained. Taxpayers must also report any additions on Schedule I, Additions and/or Adjustments to Federal Taxable Income, of the Florida Corporate Income/Franchise and Emergency Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) and any subtractions on Schedule II, Subtractions from Federal Taxable Income, of the return for the applicable tax year. Partnerships filing a Florida Partnership Information Return (Form F-1065, incorporated by reference in Rule 12C-1.051, F.A.C.) are required to make the adjustments required by Section 220.13(1)(e), F.S., on Part I of Form F-1065.

(5) Basis of Property: The adjustments required by Section 220.13(1)(e)1. and 2., F.S., (relating to excess IRC section 179 expense and bonus depreciation), do not affect the basis of the underlying property. The basis of the property for Florida corporate income tax purposes is the same as the basis of the property for federal income tax purposes. If the property is sold or otherwise disposed of, the gain or loss for Florida corporate income tax purposes is the same as the gain or loss for federal income tax purposes and is included in federal taxable income apportioned to Florida. Differences in the apportionment fraction from one year to the next are disregarded. The applicable depreciation conventions, methods, and recovery periods are computed in the same manner as they are computed in determining federal taxable income.

(6) Amended Returns and Section 220.13(1)(e), F.S. Taxpayers that filed their Florida corporate income tax returns in a manner inconsistent with these changes in law are required

to amend their Florida corporate income tax return(s) to conform to the new law. To the extent that any tax is due and paid on an amended return(s) as a result of these changes in law for the differences between the additions and subtractions required by Section 220.13(1)(e), F.S., and the adjustments required by Section 220.13(1)(e), F.S., reasonable cause exists under Rule 12-13.007, F.A.C., for a waiver of the resulting penalty. The provisions of this rule do not relieve a taxpayer of its obligation to file a Florida corporate income tax return and report the adjustments required by Section 220.13(1)(e), F.S.

(7) The subtractions allowed by Section 220.13(1)(e), F.S., are the means by which the additions required by Section 220.13(1)(e), F.S., are reconciled and recovered. If a taxpayer does not claim a deduction for bonus depreciation or a deduction for IRC section 179 expense in excess of \$250,000 (for tax years beginning in 2010) and \$128,000 (for tax years beginning in 2011), no add-back is required or subtraction allowed for Florida corporate income tax purposes. Similarly, if a taxpayer did not add back bonus depreciation or excess section 179 expense because, for example, it was not subject to the Florida corporate income tax in that year, no subtraction is allowed for Florida corporate income tax purposes.

(8) Bonus depreciation claimed for assets placed in service after December 31, 2012, is not required to be added back under Section 220.13(1)(e), F.S. IRC section 179 expense claimed in tax years beginning after December 31, 2012, is not required to be added back. No subtraction is allowed for bonus depreciation or IRC section 179 expense unless it has been added back in computing Florida taxable income under Section 220.13(1)(e), F.S.

Rulemaking Authority s. 4, Ch. 2011-229, L.O.F. Law Implemented Ch. 2011-229, L.O.F. History—New 7-18-12.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.
EFFECTIVE DATE: July 18, 2012

DEPARTMENT OF THE LOTTERY

RULE NO.: RULE TITLE:
53ER12-54: Replacement of Obsolete Emergency Rules

SUMMARY: This emergency rule is replacing other emergency rules that have been determined to be obsolete or unnecessary by the Department of the Lottery.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER12-54 Replacement of Obsolete Emergency Rules.

The following Department of the Lottery emergency rules relating to Lottery games, promotions or retailer programs are being replaced because the games, promotions or programs have concluded, or the provisions of the rule are obsolete. This rule shall replace the following rules: 53ER09-31, 53ER09-33, 53ER09-42, 53ER09-43, 53ER10-10, 53ER10-26, 53ER10-65, 53ER11-4, 53ER11-6, 53ER11-9, 53ER11-22, 53ER12-28 F.A.C.

Rulemaking Authority 24.109(1) FS. Law Implemented 24.109(1), 120.74(1)(c) FS. History—New 7-13-12. Replaces 53ER09-31, 53ER09-33, 53ER09-42, 53ER09-43, 53ER10-10, 53ER10-26, 53ER10-65, 53ER11-4, 53ER11-6, 53ER11-9, 53ER11-22, 53ER12-28 F.A.C.

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

EFFECTIVE DATE: July 13, 2012

**Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver**

WATER MANAGEMENT DISTRICTS

The South Florida Water Management District (District) hereby gives notice on July 12, 2012, the District’s Governing Board issued SFWMD Order No.: 2012-074-DAO-ROW to Florida Department of Transportation (Application No. 12-0503-1M). The petition for waiver was received by the District on May 3, 2012. Notice of receipt of the petition requesting the waiver was published in the Florida Administrative Weekly, Vol. 38, No. 21, on May 25, 2012. No public comment was received. This Order provides a waiver of the District’s criteria to allow for the installation of two single arm signal poles within the north right of way of C-51 Canal at the northwest quadrant of the Jog Road bridge; Section 3, Township 44 South, Range 42 East, Palm Beach County. Specifically, the Order grants a waiver from subsections 40E-6.011(4) and (6), Florida Administrative Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District, incorporated by reference in subsection 40E-6.091(1), Florida Administrative Code, which governs the placement of permanent and/or semi-permanent above-ground structures within 40 feet of the top of canal bank within works or lands of the District. Generally, the Order sets forth the basis of the Governing Board decision to grant the waiver as follows: 1) the facilities will not significantly interfere with the District’s current ability to perform necessary construction, alteration, operation, and routine maintenance activities; and 2) the Order granting a waiver from the subject rule is based upon a substantial hardship.