

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF REVENUE

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PURPOSE AND EFFECT: The proposed changes to Rule Chapter 12-13, F.A.C., implement 1999 and 2000 legislative changes. The following briefly discusses the changes: A) the proposed amendments to Rule 12-13.001, F.A.C., clarify that the Department of Revenue (DOR) has been “granted” authority by statute to settle and compromise liabilities for tax, interest, and penalty; B) The proposed revisions to Rule 12-13.002, F.A.C., ensure that DOR’s authority to settle and compromise refund issues is acknowledged in applicable definitions, and add language relating the settlement and compromise provisions of this rule chapter to the revenue sources enumerated in s. 72.001(1), F.S., which conforms these rules to s. 213.21, F.S., C) the proposed changes to Rule 12-13.003, F.A.C., explain when a settlement or compromise request must be written, and eliminate obsolete provisions concerning the taxation of unlawful sales, use, and other transactions involving medicinal drugs, cannabis, or controlled substances; D) the proposed amendments to Rule 12-13.004, F.A.C., ensure that DOR’s authority to settle and compromise refund issues is acknowledged in the provisions of this rule; increase the Executive Director’s authority to settle and compromise from \$100,000 to \$250,000 as required by 1999 legislative change; add settlement on the basis of reliance on a prior written determination from the DOR to circumstances in which the \$250,000 limitation on settlement authority does not apply, as provided in 2000 legislative changes; establish procedures for the temporary delegation of settlement and compromise authority; retain the specific designations by job title and dollar amount, and increase such amounts by 150 percent, based on 1999 legislative changes; increase the settlement and compromise authority of the Deputy Executive Director, the General Counsel, and the Deputy General

Counsel from \$100,000 to \$250,000; E) the proposed revisions to Rule 12-13.005, F.A.C., address the circumstances under which a taxpayer will be considered to have reasonable relied on a prior written determination of the DOR for purposes of establishing doubt as to liability for compromise of tax or interest as provided in 2000 legislative changes; F) the proposed changes to Rule 12-13.006, F.A.C., contain technical changes concerning DOR’s determination of “doubt as to collectibility” regarding a taxpayer’s request for settlement or compromise of tax and interest; G) the proposed revisions to Rule 12-13.007, F.A.C., address when a taxpayer has reasonably relied on written advice of the DOR for purposes of establishing reasonable cause for compromise of penalty; H) the proposed revisions to Rule 12-13.0075, F.A.C., make several technical changes and add reasonable reliance on written determination by DOR to the factors to be considered in determining amount of compromise based on doubt as to liability; I) the proposed changes to Rule 12-13.008, F.A.C., establish procedures for accepting oral and electronic requests from taxpayers for settlements and compromises that do not exceed a certain monetary amount, and make technical changes conforming other provisions of this rule to the acceptance of oral and electronic requests; J) the proposed amendments to Rule 12-13.009, F.A.C., increase from \$15,000 to \$37,500 the minimum amount used to designate DOR employees who are authorized to sign closing agreements with taxpayers, which conforms this dollar amount to the 1999 legislative changes; K) the proposed revisions to Rule 12-13.010, F.A.C., increase the Estate Tax settlement and compromise authority of the General Counsel and the Deputy General Counsel from \$100,000 to \$250,000, and provide for delegation of settlement and compromise authority for the Estate Tax to other DOR employees.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed deals with the Department’s statutory authority to settle and compromise tax, interest, and penalty amounts owed by taxpayers.

SPECIFIC AUTHORITY: 20.05(5), 213.06(1), 213.21(5) FS.

LAW IMPLEMENTED: 120.55(1)(a)4., 213.05, 213.21 FS.

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

TIME AND DATE: 10:00 a.m., February 26, 2001

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: Linda W. Bridges, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9412

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12-13.001 Scope of Rules.

The rules set forth in this chapter shall be used by the Executive Director or the Executive Director's designee, as set forth hereinafter, in the exercise of the authority to settle and compromise liability for tax, interest, and penalty granted by pursuant to s. 213.21, F.S. However, special provisions applicable to settlement and compromise of estate taxes, interest, and penalty imposed pursuant to Chapter 198, F.S., are set forth in Rule 12-13.010, F.A.C.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21 FS. History—New 5-23-89, Amended 8-10-92,_____.

12-13.002 Definitions.

The meanings ascribed to the words and terms listed below shall be applicable, unless a different meaning is clearly indicated by the context in which the word or term is used.

(1) "Compromise" means a reduction of the amount of tax, interest, or penalty imposed to an amount less than the amount of tax, interest, or penalty imposed under a revenue law of this state, or a reduction in the amount of refund requested by a taxpayer. "Compromise" does not include correction of an error through cancellation of an erroneous billing, revision or withdrawal of an erroneous proposed assessment; or billing, or other corrective actions taken by the Department.

(2) No change.

(3) "Reasonable cause" means a basis for compromise of penalty which has been shown to exist based upon the facts and circumstances of the specific case and which reflects that the taxpayer exercised ordinary care and prudence in complying with a revenue law of this state, as provided in s. 213.21(2) and (3), F.S.

(4) "Revenue law of this state" means any a statute listed in s. 72.011(1), F.S., that imposes imposing a tax, penalty or interest, surcharge, permit, license, or fee collected by the Department.

(5) "Settle" means the resolution of a particular taxpayer's liability for tax, interest, or penalty, or the resolution of a taxpayer's refund request, by the Department under the provisions of this rule chapter.

(6) through (7) No change.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented ~~213.05~~, 213.21 FS. History—New 5-23-89, Amended 8-10-92,_____.

12-13.003 Request for Settlement or Compromise Taxes, Interest, and Penalties Which May Be Compromised.

(1) Subsections 213.21(2)(a) and (3), F.S., authorize the Executive Director, or the Executive Director's designee, to enter into closing agreements settling or compromising a liability for tax, interest, or penalty under any of the chapters specified in s. 72.011(1), F.S.

(2)(a) No tax, interest, penalty, or service fee shall be compromised or settled unless the taxpayer first submits a ~~written~~ request to compromise or settle tax, interest, penalty, or service fees, Such request must be in writing if and establishes as follows:

1. The amount requested to be compromised is greater than \$30,000; or,

2. The taxpayer asks to submit the request in writing; or,

3. The complexity of the issue(s) involved requires that the taxpayer submit a written request that explains the issue(s).

(b) The Department will accept a taxpayer's oral or electronic request for compromise or settlement, if:

1. The request for a compromise is for an amount less than or equal to \$30,000; and,

2. The request is not subject to either of the criteria discussed in subparagraphs 2. or 3. of paragraph (a) of this subsection.

(c) The taxpayer must establish in his or her request:

1.(a) In regard to tax or interest, doubt as to the taxpayer's liability for tax or interest, or actual lack of collectibility of the tax or interest as demonstrated to the satisfaction of the Department by audited financial statements or other suitable evidence acceptable to the Department. Grounds for finding doubt as to liability and doubt as to collectibility, respectively, are set forth in further detail in Rules 12-13.005 and 12-13.006, F.A.C.

2.(b) In regard to penalty, that the noncompliance was due to reasonable cause and not to willful negligence, willful neglect, or fraud. The taxpayer shall be required to set forth in a written statement the facts and circumstances which support the taxpayer's basis for compromise and which demonstrate the existence of reasonable cause for compromise of the penalty or service fee and such other information as may be required by the Department.

3.(c) In regard to the service fee, when a financial institution error results in a draft, order, or check being returned to the Department, the taxpayer will be required to submit to the Department a written statement from the financial institution. The written statement must give the detail of the error(s) and explain why the financial institution was at fault. The statement must be on the financial institution's letterhead.

~~4.(d)~~ Grounds for finding reasonable cause are set forth in further detail in Rule 12-13.007, F.A.C.

~~(3) However, with regard to assessment made under s. 212.0505, F.S., Taxation of Unlawful Sales, Use, and Other Transactions Involving Medicinal Drugs, Cannabis, or Controlled Substances, the Executive Director or the Executive Director's designee may settle or compromise tax, penalty or interest only:~~

~~(a) Upon receipt of a written request by the state attorney, the statewide prosecutor, or the Attorney General which requests settlement or compromise and specifies the reason for such a request; and~~

~~(b) If the Executive Director or the Executive Director's designee finds that the requested compromise and settlement is in the best interest of the State.~~

Specific Authority 20.05(5), 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21(2)(a),(3),(5) FS., Section 15, Chapter 94-353, Laws of Florida. History—New 5-23-89, Amended 8-10-92, 11-15-94, _____.

12-13.004 Delegation of Authority to Settle or Compromise.

(1)(a) Authority to settle and compromise tax, interest, and penalty liabilities, and requests for refunds has, in addition to the statutory authorization in s. 213.21, F.S., been delegated to the Executive Director of the Department by the Governor and Cabinet as the head of the Department, pursuant to Rule 12-3.007, F.A.C.

(b) The Executive Director is authorized to settle and compromise tax, interest, and penalty, and refund requests in all matters in litigation, including litigation pursuant to s. 72.011, F.S.

(c) In all other instances, the Executive Director is authorized to settle and compromise tax, interest, and penalty, and refund requests where the amount of tax compromised is \$250,000 \$100,000 or less. Any tax compromise of more than \$250,000 \$100,000, excepting only those cases in litigation or those cases in which a taxpayer has reasonably relied on a written determination issued by the Department, must be approved by the Governor and Cabinet, as the head of the Department. ~~Authority to settle and compromise tax, interest, and penalty is further delegated by the Executive Director under the circumstances described in subsections (2) through (7) herein.~~

Cross Reference: Rule 12-3.007, F.A.C.

(2) Cases in Litigation.

(a) Authority is delegated to the Deputy Executive Director, the General Counsel, and the Deputy General Counsel of the Department to settle and compromise tax, interest, or penalty in cases where a tax matter is in litigation pursuant to s. 72.011, F.S.

(b) Authority is delegated to any Assistant General Counsel to settle and compromise tax or interest of \$62,500 \$25,000 or less and penalty of \$125,000 \$50,000 or less.

(3) Cases in Protest. In cases involving a tax matter in protest in Technical Assistance and Dispute Resolution within the Office of the General Counsel, authority to settle and compromise is delegated as follows:

(a) For compromise of amounts of tax of \$250,000 \$100,000 or less, and compromise of interest and penalty in any amount, to the Deputy Executive Director, the General Counsel, and the Deputy General Counsel.

(b) For compromise of amounts of tax or interest of \$62,500 \$25,000 each or less and of penalty of \$250,000 \$100,000 or less to any Assistant General Counsel.

(c) For compromise of amounts of tax or interest of \$125,000 \$50,000 each or less and of penalty in any amount, to the Director of Technical Assistance and Dispute Resolution within the Office of the General Counsel, and the ~~Senior~~ Program Director and Deputy Program Director ~~Directors~~ within the General Tax Administration Program.

(d) For compromise of amounts of tax or interest of \$62,500 \$25,000 each or less and penalty of \$250,000 \$100,000 or less, to the Revenue Program Administrators I and II within the Office of the General Counsel, and the Process Managers of the Taxpayer Services, Compliance Enforcement, and Compliance Support Processes.

(e) For compromise of amounts of tax or interest of \$12,500 \$5,000 each or less and of penalty of \$125,000 \$50,000 or less, to all Regional Managers of the Compliance Enforcement Process.

(f) For compromise of amounts of tax or interest of \$12,500 \$5,000 each or less and of penalty of \$75,000 \$30,000 or less, to the Senior Attorneys, Attorneys, Tax Law Specialists, and Senior Tax Specialists of Technical Assistance and Dispute Resolution, and the Revenue Program Administrators I and II of the Compliance Support Process.

(g) For compromise of amounts of tax or interest of \$2,500 \$1,000 each or less and of penalty of \$75,000 \$30,000 or less, to the Revenue Program Administrators II and Revenue Administrators III of the Taxpayer Services Process.

(h) For compromise of amounts of tax or interest of \$1,250 \$500 each or less and of penalty of \$75,000 \$30,000 or less, to the Service Center Managers of the Compliance Enforcement Process.

(i) For compromise of amounts of tax or interest of \$1,250 \$500 each or less and of penalty of \$12,500 \$5,000 or less, to the Tax Specialists I and II, the Revenue Specialist Supervisors of the Taxpayer Services Process, and the Revenue Specialist Supervisors of the Compliance Enforcement Process ~~Processes~~.

(j) For compromise of amounts of tax or interest of \$625 \$250 each or less and penalty of \$3,750 \$1,500 or less, to the Revenue Specialists I, II, and III of the Taxpayer Services Process.

(k) For compromise of penalty of ~~\$75,000~~ ~~\$30,000~~ or less, to the Revenue Program Administrators I and II of the Compliance Enforcement Process.

(l) For compromise of penalty of ~~\$37,500~~ ~~\$15,000~~ or less, to the Process Group Managers of the Compliance Enforcement Process.

(m) For compromise of penalty of ~~\$12,500~~ ~~\$5,000~~ or less, to the Tax Specialist Administrators, Tax Audit Support Services Supervisors, and the Senior Tax Specialists (Case Processing and Contract Audits) of the Compliance Support Process.

(n) For compromise of penalty of ~~\$12,500~~ ~~\$5,000~~ or less, to the Tax Specialist II of the Program Director's Office within the General Tax Administration Program.

(o) For compromise of penalty of ~~\$3,750~~ ~~\$1,500~~ or less, to the Revenue Specialists I, II, and III of the Compliance Enforcement Process.

(4) Collection Cases. In cases involving a tax matter related to billings or assessments which have been issued by or referred to the Taxpayer Services Process, authority to settle and compromise is delegated as follows:

(a) For compromise of amounts of tax of ~~\$250,000~~ ~~\$100,000~~ or less, and compromise of interest and penalty in any amount, to the Deputy Executive Director, the General Counsel, and the Deputy General Counsel.

(b) For compromise of amounts of tax or interest of ~~\$25,000~~ ~~\$10,000~~ each or less and penalty of ~~\$62,500~~ ~~\$25,000~~ or less, to any Assistant General Counsel.

(c) For compromise of amounts of tax or interest of ~~\$125,000~~ ~~\$50,000~~ each or less and penalty in any amount, to the ~~Senior~~ Program Director and Deputy Program Director ~~Directors~~ of the General Tax Administration Program.

(d) For compromise of amounts of tax or interest of ~~\$62,500~~ ~~\$25,000~~ each or less and penalty of ~~\$250,000~~ ~~\$100,000~~ or less, to the Process Managers of the Taxpayer Services, Compliance Enforcement, and Compliance Support Processes.

(e) For compromise of amounts of tax or interest of ~~\$12,500~~ ~~\$5,000~~ each or less and penalty of ~~\$125,000~~ ~~\$50,000~~ or less, to the Regional Managers of the Compliance Enforcement Process.

(f) For compromise of amounts of tax or interest of ~~\$12,500~~ ~~\$5,000~~ each or less and penalty of ~~\$75,000~~ ~~\$30,000~~ or less, to the Revenue Program Administrators I and II of the Compliance Support Process.

(g) For compromise of amounts of tax or interest of ~~\$2,500~~ ~~\$1,000~~ each or less and penalty of ~~\$75,000~~ ~~\$30,000~~ or less, to the Revenue Program Administrators II and Revenue Administrators III of the Taxpayer Services Process.

(h) For compromise of amounts of tax or interest of ~~\$1,250~~ ~~\$500~~ each or less and penalty of ~~\$75,000~~ ~~\$30,000~~ or less, to the Service Center Managers of the Compliance Enforcement Process.

(i) For compromise of amounts of tax or interest of ~~\$1,250~~ ~~\$500~~ each or less and penalty of ~~\$12,500~~ ~~\$5,000~~ or less, to the Revenue Specialist Supervisors and; Tax Specialists I and II of the Taxpayer Services Process and Revenue Specialist Supervisors of the Compliance Enforcement Process.

(j) For compromise of amounts of tax or interest of ~~\$625~~ ~~\$250~~ each or less and penalty of ~~\$3,750~~ ~~\$1,500~~ or less, to the Revenue Specialists I, II, and III of the Taxpayer Services Process.

(k) For compromise of penalty in amounts of ~~\$75,000~~ ~~\$30,000~~ or less, to all Revenue Program Administrators I and II of the Compliance Enforcement Process.

(l) For compromise of penalty in amounts of ~~\$37,500~~ ~~\$15,000~~ or less, to all the Process Group Managers of the Compliance Enforcement Process.

(m) For compromise of penalty in amounts of ~~\$12,500~~ ~~\$5,000~~ or less, to all Tax Specialist Administrators, Tax Audit Support Services Supervisors, Senior Tax Specialists (Case Processing and Contract Audits) of the Compliance Support Process.

(n) For compromise of penalty of ~~\$12,500~~ ~~\$5,000~~ or less, to the Tax Specialist II of the Program Director's Office within the General Tax Administration Program.

(o) For compromise of penalty in amounts of ~~\$3,750~~ ~~\$1,500~~ or less, to all Revenue Specialists I, II, and III of the Compliance Enforcement Process.

(p) Once an audit assessment has become final, the authority to compromise pursuant to paragraphs (c) through (o) shall be limited to compromises based on doubt as to collectibility or reasonable cause based upon doubt as to collectibility.

(5) Audit Cases. In cases involving an audit of the taxpayer, or an audit conducted pursuant to a refund request, prior to initiation of litigation pursuant to s. 72.011, F.S., or expiration of the period for initiating same, or upon initial receipt of a protest involving penalty issues only, authority to settle and compromise is delegated as follows:

(a) For compromise of amounts of tax of ~~\$250,000~~ ~~\$100,000~~ or less, and compromise of interest or penalty in any amount, to the Deputy Executive Director, the General Counsel, and the Deputy General Counsel.

(b) For compromise of amounts of tax or interest of ~~\$125,000~~ ~~\$50,000~~ each or less and penalty in any amount, to the ~~Senior~~ Program Director and Deputy Program Director ~~Directors~~ in the General Tax Administration Program.

(c) For compromise of amounts of tax or interest of ~~\$62,500~~ ~~\$25,000~~ each or less and penalty of ~~\$250,000~~ ~~\$100,000~~ or less, to the Process Managers of the Taxpayer Services, Compliance Enforcement, and Compliance Support Processes.

(d) For compromise of amounts of tax or interest of ~~\$12,500~~ ~~\$5,000~~ each or less and penalty of ~~\$125,000~~ ~~\$50,000~~ or less, to the Regional Managers of the Compliance Enforcement Process.

(e) For compromise of amounts of tax or interest of ~~\$12,500~~ ~~\$5,000~~ each or less and penalty of ~~\$75,000~~ ~~\$30,000~~ or less, to the Revenue Program Administrators I and II of the Compliance Support Process.

(f) For compromise of amounts of tax or interest of ~~\$1,250~~ ~~\$500~~ each or less and penalty of ~~\$75,000~~ ~~\$30,000~~ or less, to the Service Center Managers of the Compliance Enforcement Process.

(g) For compromise of amounts of tax or interest of ~~\$1,250~~ ~~\$500~~ each or less and penalty of ~~\$12,500~~ ~~\$5,000~~ or less, to the Revenue Specialist Supervisors of the Compliance Enforcement Process.

(h) For compromise of amounts of tax or interest of ~~\$1,250~~ each or less and penalty of ~~\$37,500~~ or less, to the Tax Law Specialists, Senior Tax Specialists, and Revenue Program Administrator I in the Contract Audit and Certified Audit Subprocess within the Compliance Enforcement Process.

~~(i)(h)~~ For compromise of amounts of penalty ~~in the amount of~~ ~~\$75,000~~ ~~\$30,000~~ or less, to all Revenue Program Administrators I and II of the Compliance Enforcement Process.

~~(j)(i)~~ For compromise of penalty in amounts of ~~\$37,500~~ ~~\$15,000~~ or less, to all Process Group Managers of the Compliance Enforcement Process.

~~(k)(j)~~ For compromise of penalty in amounts of ~~\$12,500~~ ~~\$5,000~~ or less, to all Tax Specialist Administrators, Tax Audit Support Services Supervisors, Senior Tax Specialists (Case Processing and Contract Audits) of the Compliance Support Process and Tax Specialists II within the General Tax Administration Program.

~~(l)(k)~~ For compromise of amounts of penalty ~~in the amount of~~ ~~\$3,750~~ ~~\$1,500~~ or less, to all Revenue Specialists I, II, and III of the Compliance Enforcement Process.

(6) Refund Cases. In cases involving refund requests that have not been referred for audit, prior to initiation of litigation pursuant to s. 72.011, F.S., or prior to expiration of the period for initiating same, authority to settle and compromise is delegated as follows:

(a) For compromise of amounts of penalty of ~~\$100,000~~ or less, to the Process Manager of the Refunds and Revenue Distribution Process.

(b) For compromise of amounts of penalty of ~~\$30,000~~ or less, to the Senior Tax Audit Administrator in the Refunds and Revenue Distribution Process.

(c) For compromise of amounts of penalty of ~~\$15,000~~ or less, to the Tax Audit Supervisors in the Refunds and Revenue Distribution Process.

~~(7)(6)~~ In all other circumstances not previously described in this rule, authority to settle and compromise tax in amounts of ~~\$250,000~~ ~~\$100,000~~ or less and interest and penalty in any amount is delegated to the Deputy Executive Director, the General Counsel, and the Deputy General Counsel.

~~(8)(a)(7)~~ The Executive Director also shall have discretionary authority to delegate authority to settle and compromise to specific employees or positions on a temporary basis pursuant to the following circumstances: not enumerated in this rule.

1. The issue assigned to the employee exceeds the monetary amount the employee is currently authorized to settle or compromise pursuant to this rule chapter; or

2. The employee has assumed the duties of another employee who has authority, or a higher authority, to settle or compromise tax, interest, and penalty, and refund requests.

~~(b)~~ A temporary ~~However,~~ a delegation of authority to any employee or position beyond that described herein shall be in writing, signed by the Executive Director, and shall be for a specified time period of no more than 2 years.

~~(c)~~ Such delegations cannot grant authority to compromise tax in excess of \$250,000 ~~may be renewed in writing.~~

~~(d)~~ Copies of any such written delegations of authority shall be maintained on file with the agency clerk in the Office of General Counsel.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21 FS. History—New 5-23-89, Amended 8-10-92, 10-24-96,_____.

12-13.005 Grounds for Finding Doubt as to Liability.

(1) The Executive Director or the Executive Director's designee, as enumerated in Rule 12-13.004, F.A.C., shall make a determination ~~of~~ whether there is doubt as to liability for tax or interest based on all the facts and circumstances of the specific case. Doubt as to liability is interest based on all the facts and circumstances of the specific case. Doubt as to liability is indicated when there is reasonable doubt ~~as to~~ whether an action is required in view of conflicting rulings, decisions, or ambiguities in the law, and the taxpayer has exercised ordinary care and prudence in attempting to comply with the revenue laws of this state.

(2) Reasonable reliance ~~Reliance~~ upon the express terms of a written determination ~~advice given~~ by the Department establishes ~~may be the basis for~~ doubt as to liability. ~~Consideration will be given to the complexity of the facts and the difficulty of the tax law and the issue involved, and also to the existence or lack of clear rules or instructions covering the taxpayer's situation. The taxpayer must show that the advice was timely sought from a departmental employee and that all material facts were disclosed, and that the express terms of the advice were actually followed. Advice issued by the Department informally, or in response to a hypothetical situation, will not be a basis for doubt as to liability. Advice~~

issued in response to a taxpayer's request containing a misrepresentation of material facts is not a basis for a finding of doubt as to liability.

(a) For purposes of establishing doubt as to liability, a "written determination" shall be deemed issued by the Department under the following circumstances:

1. Audit workpapers from a prior audit of the same taxpayer clearly show that the same issue was considered in the course of the audit and that, after such consideration, the Department's auditor determined that no assessment was appropriate in regard to that issue. If an auditor submits a request for technical advice in accordance with Rule Chapter 12-11, F.A.C., and an internal technical advisement is issued in response to that request, the internal technical advisement will be considered a written determination. A written communication from the auditor to the taxpayer in the course of the audit that discusses an issue upon which no assessment is made will demonstrate that the issue was considered by the auditor. Audit workpapers that fail to assess tax based on a particular issue are not a written determination in regard to that issue unless those workpapers clearly demonstrate that the auditor was aware of the issue and specifically determined that no assessment was appropriate. Failure by an auditor to recognize an issue and assess tax in the audit workpapers is not a basis for doubt as to liability based on a written determination by the Department.

2. A final notice of decision or notice of reconsideration withdrawing an assessment on the same issue during an informal protest of a proposed assessment in a prior audit of the same taxpayer was issued by the Department. Correspondence from the Department in which an issue is discussed prior to issuance of a final notice or any offer to compromise the assessment in lieu of or in conjunction with the issuance of a notice of decision or notice of reconsideration is not a written determination on the issue for purposes of establishing doubt as to liability. This subparagraph applies only to a notice of decision or a notice of reconsideration that resolves the issue in favor of the taxpayer based on a determination that the assessment was not supported by the governing legal authorities.

3. A technical assistance advisement was issued to the same taxpayer pursuant to s. 213.22, F.S., in regard to the same issue. For purposes of this paragraph, a technical assistance advisement issued to an industry association as the representative of its members in accordance with Rule Chapter 12-11, F.A.C., will be considered a written determination as to any taxpayer that was a member of the association at the time the taxpayer reasonably relied upon the advisement.

(b) Only audit workpapers, notices of decision or reconsideration, and technical assistance advisements described in paragraph (a) are written determinations of the Department for purposes of s. 213.21(3), F.S. Audit workpapers, notices of decision or reconsideration, and

technical assistance advisements are written determinations only as to the specific taxpayer or taxpayers to whom they were issued.

(c) A taxpayer must demonstrate that reliance on a written determination was reasonable. This requires that the taxpayer fully disclosed all material facts and did not misrepresent any material facts when the Department was considering the issue for purposes of issuing the written determination. Reliance on a written determination is reasonable only so long as the taxpayer continues to operate in accordance with the material facts upon which the written determination was based. Reliance by an industry association member on a technical assistance advisement issued to the association as the representative of its members is reasonable only when that member's facts and circumstances conform in all material respects with the facts and circumstances upon which the technical assistance advisement to the industry association was based. If specific facts and circumstances change in a material manner, reliance on the written determination is no longer reasonable. Reliance on a written determination is not reasonable if the law applicable to an issue has changed so that the legal analysis on which the written determination was based is no longer valid. This would be the case if governing statutes or regulations have been materially revised or if a court of competent jurisdiction has published a final decision overruling the Department's determination. Reliance is not reasonable if the Department notifies the taxpayer in writing that the previous written determination is no longer correct and should not be relied upon after the date of such notification.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21, 213.22 FS. History—New 5-23-89, Amended 8-10-92, 5-18-94,_____.

12-13.006 Grounds for Finding Doubt as to Collectibility.

Tax or interest ~~or both will may~~ be compromised or settled on the grounds of "doubt as to collectibility" when it is determined that the financial status of the taxpayer is such that it is in the best interests of the State to settle or compromise the matter because full payment of the ~~unpaid tax~~ obligation is highly doubtful and there appears to be an advantage in having the case permanently and conclusively closed. The discretion to make this determination is delegated pursuant to the procedures to those persons enumerated in Rule 12-13.004, F.A.C.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21 FS. History—New 5-23-89, Amended 8-10-92,_____.

12-13.007 Grounds for Reasonable Cause for Compromise of Penalties.

(1) through (4) No change.

(5) Reasonable reliance ~~Reliance~~ upon the express terms of written advice given by the Department establishes is a basis ~~for~~ reasonable cause when the taxpayer shows that the advice was timely sought from a departmental employee and that all material facts were disclosed, and that the express terms of the

advice were actually followed. “Written advice” for purposes of establishing reasonable cause as a basis for compromise of penalties includes a writing issued to the same taxpayer by the Department in response to that taxpayer’s request for advice. The determination whether the taxpayer has reasonably relied on such written advice will be made in accordance with the criteria for determining if a taxpayer has reasonably relied on a written determination for purposes of compromise of tax and interest as set forth in Rule 12-13.005(2), F.A.C.

(6) through (14) No change.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21 FS. History—New 5-23-89, Amended 8-10-92, 5-18-94, _____.

12-13.0075 Guidelines for Determining Amount of Compromise.

(1) Tax and Interest.

(a) Doubt as to Liability. When determining the amount of a compromise of tax or interest based upon doubt as to liability, the following factors shall be considered by the Department:

1. Likelihood of prevailing on the issue in litigation;
2. Ambiguity in the applicable laws or rules, as evidenced by both the laws or rules themselves and the common interpretation and application of same among members of the taxpayer’s industry; and
3. Whether doubt as to liability is based upon reasonable reliance by the taxpayer on a written determination by the Department as provided in Rule 12-13.005(2), F.A.C.; and

~~4.3.~~ Whether tax was collected but not remitted to the state by the taxpayer.

(b) Doubt as to Collectibility. When determining the amount of a compromise of tax or interest based upon doubt as to collectibility, the following factors shall be considered by the Department:

1. Whether the financial problems of the taxpayer can be addressed, in whole or in part, through use of a stipulated payment arrangement, in lieu of reduction of the taxpayer’s liability;
2. Whether a pattern of chronic tax delinquencies by the taxpayer exists to indicate that efforts to assist this taxpayer because of its financial problems will not ultimately serve the public interest but will simply afford this a particular taxpayer a competitive advantage in the market; and,
3. Whether tax was collected but not remitted to the state by the taxpayer.

(2) Penalty. When determining the amount of a compromise of penalty based upon a finding of reasonable cause, the following factors shall be considered by the Department:

(a) Factors that weigh against reduction of penalty include:

1. The tax deficiency assessed as a result of an audit exceeds 5% of the total liability for the same tax for the audit period.

2. Taxpayer has been audited previously and the current tax deficiency resulted from specific issue-related error(s) identified in previous audit(s). It is not the intent ~~that~~ of this subparagraph to apply to infrequent occurrences of human error.

3. Taxpayer has been repeatedly delinquent in remitting the tax.

4. Taxpayer failed to promptly remit tax and interest upon receipt of a billing or notice.

5. Tax was collected but not remitted to the state by the taxpayer.

(b) Factors that weigh in favor of reduction of penalty include:

1. Tax assessed as a result of an audit is less than 5% of the total liability for the same tax for the audit period.

2. Tax deficiency assessed is a result of a first-time audit, or is a result of an audit conducted subsequent to an audit in which the same specific issue-related errors by the taxpayer were not present or not identified by the Department. It is not the intent ~~that~~ of this subparagraph to apply to infrequent occurrences of human error.

3. Taxpayer has not been repeatedly delinquent in remitting the tax to the Department.

4. Taxpayer demonstrated to auditor prior to conclusion of the audit that action had been taken to improve future compliance by correcting or controlling activities which gave rise to the tax deficiency and related penalty.

5. Taxpayer promptly remitted tax and interest upon receipt of a billing or notice.

(3) No change.

(4) Self Audits/Self-Analysis of Books.

(a) When a taxpayer timely responds to and complies with the Department’s request that the taxpayer participate in a self-audit or self-analysis of books and records, the Department will compromise all penalties.

(b) through (7) No change.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21 FS. History—New 8-10-92, Amended _____.

12-13.008 Procedures for Compromise and Settlement of Taxes, Interest, and Penalties.

(1) The Department will consider compromise or settlement of the taxpayer’s liability for tax, interest, or penalty only upon its receipt of the taxpayer’s written request that the same be settled and compromised under s. 213.21(3), F.S. However, a written request is not required for the compromise or settlement of penalty and returned check service fee amounts of \$30,000 or less. The taxpayer’s ~~written~~ request should include:

(a) The taxpayer’s name, address, and taxpayer identifying ~~tax identification~~ number;

(b) The type of tax and, if applicable, the type of penalty, and the taxable period(s) involved;

- (c) The amount of tax, interest, or penalty involved; and
- (d) A statement of the following:

1. In the case of tax or interest, the taxpayer's basis for doubt as to liability or collectibility, and the facts and circumstances which support the existence of such doubt; and

2. In the case of penalty, the taxpayer's basis for reasonable cause, and the facts and circumstances which support the existence of reasonable cause and which indicate the absence of willful negligence, willful neglect, or fraud.

(2) When a Department employee has additional knowledge or information supporting the taxpayer's ~~written~~ request for compromise, the finding in support of a compromise may be based upon such knowledge or information, provided the basis for compromise is documented in writing.

(3) A Department employee is authorized to compromise penalty within the employee's authority when it is determined that sufficient evidence exists to support a finding of reasonable cause despite the fact that no written request has been made by the taxpayer. The person exercising the Department's authority shall prepare full documentation of any request and the compromise, including the basis for finding reasonable cause, for the Department's record.

(4) The taxpayer's ~~written~~ request for compromise shall be filed upon receipt of a billing, notice, proposed assessment, or assessment, and shall be filed with the office issuing such billing, notice, proposed assessment, or assessment. This subsection is intended to expedite requests for compromise and settlement of taxes, interest, and penalties, but ~~it~~ does not alter deadlines specified in Rule Chapter 12-6, F.A.C.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21 FS. History—New 5-23-89, Amended 8-10-92, 5-18-94, 10-24-96,_____.

12-13.009 Closing Agreements.

- (1) through (2)(c) No change.

(d) Any person delegated authority under this rule to compromise amounts of ~~\$37,500~~ \$15,000 or more may sign a closing agreement on behalf of the Department, after determining that the compromise action complies with these rules. The Executive Director shall have discretionary authority to delegate authority to sign closing agreements to specific employees or positions not enumerated in these rules. A delegation of authority to any employee or position which is not enumerated herein shall be in writing, signed by the Executive Director, and shall be for a specified time period of no more than 2 years. Such delegations may be renewed in writing. Copies of any such written delegations of authority shall be maintained on file with the Agency Clerk in the Office of General Counsel.

- (3) through (5) No change.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 120.55(1)(a)4., 213.05, 213.21 FS. History—New 5-23-89, Amended 8-10-92, 5-18-94, 10-24-96,_____.

12-13.010 Special Provisions Applicable to Compromise of Estate Taxes.

(1) Pursuant to s. 213.21(2)(b), F.S., the Executive Director is granted authority to compromise and settle the amount of taxes arising as a result of Chapter 198, F.S. Section 213.21(3), F.S., authorizes the Department to compromise or settle tax, penalty, or interest in any amount. If a case involves a billing or assessment issued by or referred to the Taxpayer Services Process, authority to compromise and settle is delegated as set forth in Rule 12-13.004(4), F.A.C., for collection cases. If a case is protested, authority to compromise and settle is delegated as set forth in Rule 12-13.004(3), F.A.C. If a case is in litigation, authority to compromise and settle is delegated as set for in Rule 12-13.004(2), F.A.C. This is further delegated by this rule to:

~~(a) The General Counsel and Deputy General Counsel to compromise tax of \$100,000 or less and interest and penalty in any amount; and~~

~~(b) Other designees of the Executive Director to compromise penalty of \$10,000 or less.~~

- (2) through (3) No change.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.05, 213.21 FS. History—New 8-10-92, Amended 5-18-94,_____.

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Application for Refund	12-26.003
Refund Approval Process	12-26.004
Public Use Forms	12-26.008

PURPOSE AND EFFECT: A) The proposed amendments to Rule 12-26.003, F.A.C. (Application for Refund) inform taxpayers applying for a refund that they should return the appropriate application to DOR using the address or instructions on the form; remove the reference to the specific DOR address to which taxpayers must send form DR-26; add forms DR-26S and F-1120A to those forms that can be used to apply, respectively, for a sales tax or corporate income tax refund; provide that, beginning January 1, 2002, Form DR-26S must be used for applying for a refund of taxes paid pursuant to Chapter 212, F.S.; and, clarify that an application for an Estate Tax refund does not require the filing of a DR-26, but instead requires the filing of DOR form F-706 with the application. B) The proposed change to Rule 12-26.004, F.A.C. (Refund Approval Process) establishes DOR form DR-370026 (Mutual Agreement to Audit or Verify Refund Claim), as the proper form to use to document that a taxpayer and the Department have jointly agreed to extend the time during which a taxpayer's refund request is pending. C) The proposed revisions to Rule 12-26.008, F.A.C. (Public Use Forms) add forms DR-26S (Application for Refund – Sales and Use Tax), and DR-370026 (Mutual Agreement to Audit or Verify Refund

Claim) to those used by the Department and the public for refund procedures; and, delete two forms that are not rules pursuant to Chapter 120, F.S.

SUBJECT AREA TO BE ADDRESSED: These proposed rule amendments address the procedures a taxpayer must follow to claim a tax refund.

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS., ss. 2, 3, 4, 5, 6, 7, and 40, Ch. 91-112, L.O.F.

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

TIME AND DATE: 9:00 a.m., February 27, 2001

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

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

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, (850)922-4726. 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 WORKSHOP IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12-26.003 Application for Refund.

(1) No change.

(2)(a) Applications for tax refund under those revenue laws enumerated in s. 72.011(1), F.S., shall be deemed complete upon the Department's receipt of a properly executed application for refund form which contains the information required by ss. 213.255(2) and 215.26, F.S., and this rule, except as provided in paragraph (b) of this subsection. Applications for refund shall be filed with the Florida Department of Revenue by submitting the completed application to the Department, using the address or instructions contained on the DR-26 or DR-26S application, or other form described in subsection (4) of this rule.

(b) Refund applications filed under the provisions of section 212.08(5)(g),(h),(n), and (o), Florida Statutes, also require, in addition to the DR-26 or DR-26S required by paragraph (a) of this subsection, the forms specified in Rule

12A-1.107, F.A.C., in order to be deemed completed applications., Refund Subprocess, P. O. Box 6490, Tallahassee, Florida 32314-6490.

(3) For purposes of this rule, Form DR-26, Application for Refund from the State of Florida Department of Revenue, incorporated by reference in Rule 12-26.008, F.A.C., is the approved refund application for all taxes collected by the Department, except as otherwise specified in subsection (4) of this rule. Taxpayers applying for a refund of any taxes paid pursuant to Chapter 212, F.S., can also use Form DR-26S, Application for Refund – Sales and Use Tax, incorporated by reference in Rule 12-26.008, F.A.C. However, beginning January 1, 2002, Form DR-26S must be used to apply for a refund of taxes paid pursuant to Chapter 212, F.S.

(4) Tax refunds requiring a refund application other than Form DR-26 are listed below.

(a) Corporate Income Tax. Except as provided in subsection (5), all refunds claimed under Chapters 220 and 221, F.S., shall be made by the filing of either:

1. Form F-1120, Florida Corporate Income/Franchise and Emergency Excise Tax Return or form F-1120A, Florida Corporate Short Form Income Tax Return (incorporated by reference in Rule 12C-1.051, F.A.C.) or

2. through (e) No change.

(f) Estate Tax. Application for all refunds claimed under Chapter 198, F.S., must be made by filing Form F-706 (incorporated by reference in Rule 12C-3.008, F.A.C.).

(5) through (8) No change.

Specific Authority 213.06(1) FS. Law Implemented 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS. History–New 11-14-91, Amended 4-18-93, 4-18-95, 4-2-00,_____.

12-26.004 Refund Approval Process.

(1) through (2)(b) No change.

(c) The 90 consecutive calendar day period and the requirement to pay interest on refund amounts not timely paid or credited to a taxpayer, as discussed in paragraphs (a) and (b) above, will be tolled if:

1. both the taxpayer and the Department agree that an audit or other verification process is necessary to validate the taxpayer's refund request, and;

2. both parties complete and sign Department Form DR-370026 (Mutual Agreement to Audit or Verify Refund Claim) DR-872 (Consent to Extend the Time to Issue an Assessment or to File a Claim for Refund).

(3)(a) through (4) No change.

Specific Authority 213.06(1) FS. Law Implemented 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS. History–New 11-14-91, Amended 4-2-00,_____.

12-26.008 Public Use Forms.

The following public use forms are used by the Department in the processing of refunds and refund denials and are hereby incorporated by reference. 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 stated in 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, upon written request directed to the Department of Revenue, Refund Section, Building E, 5050 West Tennessee Street, Tallahassee, Florida 32399-0100.

Form Number	Title	Effective Date
(1) DR-26	Application for Refund from the State of Florida Department of Revenue (r. 03/01 04/92)	04/93
(2) DR-370026	Mutual Agreement to Audit or Verify Refund Claim (n. 03/01)	---
DR-832R	Notice of Proposed Refund Denial (r. 01/93)	04/93
(3) DR-26S	Application for Refund - Sales and Use Tax (n. 03/01)	---
DR-1200R	Notice of Intent to Make Refund Claim Changes (r. 07/92)	04/93

Specific Authority 213.06(1) FS. Law Implemented 213.34, 215.26 FS., ss. 2, 3, 4, 5, 6, 7, and 40, Ch. 91-112, L.O.F. History-New 11-14-91, Amended 4-18-93,_____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE: Registration
 RULE NO.: 12A-1.060

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.060, F.A.C., is to: 1) correct the title of form DR-1, Application to Collect and/or Report Tax in Florida; 2) define the term "place of business"; 3) provide guidelines for when the Department will treat a single contiguous location as separate places of business and require a taxpayer to obtain separate registration certificates; 4) provide examples of when a single registration is sufficient and examples of when the Department will require separate registration certificates for multiple activities carried on within a single contiguous location; and 5) provide that only one failure to register penalty would apply to a single, contiguous location, regardless of the type or number of identifiable activities the taxpayer may carry on at that location. The purpose of these proposed amendments is to provide clear

guidance to taxpayers and tax administrators regarding the Department's sales tax registration requirements and guidance for when the \$100 registration fee will apply.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is the guidelines for when separate sales tax registration certificates are required for a single contiguous location and for when the \$100 registration fee will apply.

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) FS.

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

TIME AND DATE: 10:00 a.m., February 26, 2001
 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: Linda W. Bridges, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9412

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.060 Registration.

(1)(a)1. Except as provided in paragraphs (f),(g), or (h), every person must file an Application to Collect and/or Report Tax in Florida for Sales and Use Tax Registration (form Form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department of Revenue for a dealer's certificate of registration before engaging in any one of the following businesses:

- a. through i. No change.
- 2. A separate application must be filed to obtain a separate dealer's certificate of registration for each place of business. Each application must be accompanied by a \$5 registration fee, except as provided in subparagraphs ~~3, or 4~~ or 5.
- 3. For purposes of this rule, a "place of business" is a location where a dealer engages in an activity or activities described in subparagraph 1. A place of business includes the

entire contiguous area in which the dealer carries on an activity or activities that require registration. A dealer that engages in more than one activity requiring registration within a contiguous area generally is required to obtain only one registration certificate for that location. The department may, however, treat areas within a single contiguous location as separate places of business and require a dealer to obtain separate registration certificates if the activities carried on in those areas are subject to taxation under different provisions of Chapter 212, F.S., the activities are not functionally related, and the efficient administration of the taxes imposed by Chapter 212, F.S., is facilitated by multiple registrations. The department will permit a dealer to obtain separate registrations for activities carried on at a single contiguous location at the dealer's request if the dealer keeps separate financial records for the activities and the activities are not functionally related. Under no circumstances will a dealer be subject to more than one penalty for failure or refusal to obtain a registration certificate for a single contiguous location, even if the dealer could be required or permitted to obtain separate registration certificates for multiple activities carried on at the location. The following examples illustrate the application of this rule in determining whether more than one place of business exists at a single contiguous location.

a. A taxpayer operates a shopping mall with 100 retail outlets that are leased to stores and restaurants, parking and common areas, and offices where management and accounting functions are performed. The taxpayer is required to register as a dealer because the rental of real property to the retailers is taxable under s. 212.031, F.S. The entire shopping mall is a single place of business for purposes of registration by the taxpayer.

b. A taxpayer owns a parcel of land with a building and a parking area. The building is divided into three areas. In one area, the taxpayer operates a retail building supply store. In the second area, which has a separate customer entrance, the taxpayer operates a retail store where custom furniture is made and sold. The third area in the building is used as warehouse and office space serving both stores. When ordering inventory, Taxpayer combines orders of lumber, hardware, paints, and stains from suppliers for the building supply store and for the furniture store. All inventory is purchased for resale and no records are maintained of whether materials are sold in the building supply store or incorporated into furniture for sale in the furniture store. The taxpayer records sales for both activities in the same accounting records. The parcel of land and the building are a single place of business for registration purposes. Separate registration cannot be required because both the sale of the building supplies and the sale of furniture are taxable under section 212.05(1), F.S. In addition, because of shared inventory and sales records, the two activities are functionally related. Because the activities are functionally

related and separate records are not kept, the taxpayer would not be permitted to treat them as separate places of business for registration purposes.

c. A taxpayer owns a parcel of land with a building and a parking area. The building is divided into three areas. In one area, the taxpayer operates a retail building supply store. In the second area, which has a separate customer entrance, the taxpayer operates a retail store where custom clothing is made and sold. The third area in the building is used as warehouse and office space serving both stores. Separate sales and other accounting records are maintained for the two stores. Unless the taxpayer applies for separate registration certificates, the parcel of land and the buildings are a single place of business for registration purposes. Separate registration cannot be required because both the sale of the building supplies and the sale of clothing are taxable under s. 212.05(1), F.S. If the taxpayer applies for separate certificates of registration for the two activities, the Department then would treat the building supply store and the clothing store as separate places of business because they are not functionally related and separate accounting is done for each.

d. A taxpayer owns a large tract of land. The taxpayer operates an amusement park on part of the land. The taxpayer charges admission for entrance to the park. In addition to amusement rides, the park facilities include restaurants and a gift shop operated by the taxpayer and concession stands throughout the park where concessionaires sell snacks and beverages. The taxpayer also operates a resort hotel adjacent to the amusement park on the same tract of land. Because of its proximity to the park, the hotel caters primarily to park visitors. The hotel contains several restaurants and a gift shop operated by the taxpayer as well retail stores that taxpayer leases to other merchants. The hotel also contains offices from which the taxpayer manages the entire amusement park and hotel complex and centralized storage areas serving the entire complex. The taxpayer orders food for all its restaurants and other materials and supplies on combined purchase orders, regardless of where in the park and hotel complex the food, materials, or supplies will be used. Employees may be assigned to work anywhere throughout the entire park and hotel complex as needed. The taxpayer treats the entire complex as a single business for purposes of financial accounting. The taxpayer would be entitled to treat the entire tract of land with amusement park and hotel facility as a single place of business for registration purposes. Even though the taxpayer's activities are taxable pursuant to several different sections of Chapter 212, F.S., all of the activities are functionally related parts of a single tourism/resort business under the taxpayer's operational methods and accounting practices.

e. A taxpayer owns a large tract of land. The taxpayer operates an amusement park on part of the land. The taxpayer charges admission for entrance to the park. In addition to amusement rides, the park facilities include restaurants and a

gift shop operated by the taxpayer and concession stands throughout the park where concessionaires sell snacks and beverages. The taxpayer also operates a resort hotel adjacent to the amusement park on the same tract of land. Because of its proximity to the park, the hotel caters primarily to park visitors. The hotel contains several restaurants and a gift shop operated by the taxpayer as well retail stores that taxpayer leases to other merchants. The hotel also contains offices from which the taxpayer manages the entire amusement park and hotel complex and centralized storage areas serving the entire complex. The taxpayer orders food for amusement park restaurants and other materials and supplies for the amusement park separately from food, materials, and supplies for the hotel complex. Employees may be assigned to work anywhere in the entire amusement park or anywhere in the hotel complex but no employee is assigned to work in both areas. The taxpayer treats the amusement park as one business and the hotel complex as a separate business for purposes of financial accounting. The taxpayer would be entitled to treat the entire tract of land with amusement park and hotel facility as a single place of business for registration purposes. Even though the taxpayer's activities are taxable pursuant to several different sections of Chapter 212, F.S., and the amusement park and hotel are not operated as functionally related activities, requiring two registration certificates would not facilitate efficient administration of Chapter 212, F.S. If the taxpayer applied for two registration certificates, the Department then would treat the amusement park and the hotel complex as separate places of business because they are not functionally related and separate accounting is done for each.

f. A taxpayer owns a large tract of land. The taxpayer operates an amusement park on part of the land. The taxpayer charges admission for entrance to the park. In addition to amusement rides, the park facilities include restaurants and a gift shop operated by the taxpayer, concession stands throughout the park where concessionaires sell snacks and beverages, and maintenance and storage buildings. The taxpayer manages the amusement park activities, including purchasing and payroll functions from taxpayer's corporate headquarters in another city. The taxpayer also owns a resort hotel adjacent to the amusement park on the same tract of land. The hotel contains several restaurants and retail stores that are leased to other merchants. Because of its proximity to the park, the hotel caters primarily to park visitors. The taxpayer has entered into a management agreement with a third party management company. The management company is responsible, under its contract with the taxpayer, for all aspects of operating the hotel, including purchasing, paying suppliers, personnel, leasing retail stores to merchants, financial record keeping, and tax matters. The management company collects sales taxes in regard to the hotel operations and remits those taxes on taxpayer's behalf to the state. All records in regard to the hotel operations are maintained by the management company at the hotel premises. The taxpayer will be required

to treat the amusement park and the hotel as separate places of businesses. The two activities are not functionally related in terms of operations or accounting. In addition, because a separate return will be prepared and filed for the hotel operations, it will facilitate administration of Chapter 212, F.S., if a separate registration and reporting number is assigned.

g. A taxpayer operates a manufacturing facility and a retail outlet on the same tract of land. Statutes have been enacted to provide sales and use tax exemptions to businesses manufacturing the type of product the taxpayer manufactures. Those statutes require the department to make annual reports to the legislature and the office of the governor on the volume of sales made by manufacturers claiming the exemption. The department will require separate registration of the manufacturing business to facilitate compiling the required annual report.

4.3. The Department is authorized to impose a \$100 registration fee for each place of business in lieu of the \$5 registration fee for the failure or refusal of any person to file an Application to Collect and/or Report Tax in Florida for Sales and Use Tax Registration (form ~~Form~~ DR-1) prior to engaging in or conducting business in this state as hereinbefore provided in subparagraph 1. Persons who have failed or refused to register are those that the Department seeks to register as a result of information supplied by an informant under s. 213.30, F.S., or as a result of enforcement programs administered by the Department. In making the determination as to whether the \$100 registration fee shall be required in lieu of the \$5 registration fee, the Executive Director or the Executive Director's designee in the responsible ~~process~~ ~~division~~ shall consider and be guided by:

a. The prior history, if any, of the applicant's compliance or noncompliance with the revenue laws administered by the Department of Revenue pursuant to s. 213.05, F.S.;

b. The applicant's ability to demonstrate the exercise of ordinary care and prudence through facts and circumstances presented to the Department indicating that a diligent attempt to meet the registration requirements of the law was made. An applicant with limited business knowledge, limited education, or limited experience with Florida tax matters may establish a basis for the existence of reasonable cause when there is reasonable doubt as to whether or not the applicant is required to register;

c. Reliance upon the erroneous advice of a competent advisor that the applicant did not meet the State's registration requirements. To establish a reasonable cause for noncompliance with the registration requirements, the applicant must demonstrate that advice was sought in a timely manner from the competent advisor, all necessary information was provided to the competent advisor, and that the applicant acted in good faith on the information received from the competent advisor;

d. The applicant's ability to demonstrate that he relied upon another person to comply with the State's registration requirements on his behalf; or

e. Whether the applicant, his agent, or employee can demonstrate that he exercised ordinary care and prudence in meeting the registration requirements once he had actual or constructive knowledge of such requirements.

~~5.4.~~ No registration fee is required to accompany any application to engage in or conduct business or to make mail order sales. Additionally, no registration fee is required to accompany any application for out-of-state dealers who have no business location in Florida.

(b)1. Owners of transient accommodations, as defined in Rule 12A-1.061, F.A.C., including owners of time-shares whose time-shares are not registered under the provisions of subparagraph 2. must file an Application to Collect and/or Report Tax in Florida for Sales and Use Tax Registration (form Form DR-1) with the Department of Revenue for a separate dealer's certificate of registration for each property or time-share period rented, leased, let, or in which a license to use has been granted to others, except as provided in paragraph (c).

- 2. No change.
- (c) through (3) No change.

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) FS. 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.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLE: Public Use Forms

RULE NO.: 12B-7.026

PURPOSE AND EFFECT: The proposed amendments to Rule 12B-7.026, F.A.C. (Public Use Forms) implements the statute requirement in s. 373.41492(4)(b), F.S., that the Department publish forms necessary to implement the Miami-Dade County Lake Belt mitigation fee. The suggested changes add form DR-146 (Miami-Dade County Lake Belt Mitigation Fee Monthly Return) to the list of forms used by the Department and the public for remitting taxes and fees imposed by statute.

SUBJECT AREA TO BE ADDRESSED: These proposed rule amendments address the form a taxpayer must use when submitting the Miami-Dade County Lake Belt Mitigation Fee to the Department.

SPECIFIC AUTHORITY: 211.33(6), 213.06(1), 373.41492(4)(b) FS.

LAW IMPLEMENTED: 211.30, 211.31, 211.3103, 211.3106, 211.33, 373.41492 FS.

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

TIME AND DATE: 9:00 a.m., February 27, 2001
 PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

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

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, (850)922-4726. 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 WORKSHOP IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12B-7.026 Public Use ~~Forms~~ **Form**.

The following public-use ~~forms~~ **form** and instructions are used by the Department in its dealings with the public. These forms are ~~This form is~~ hereby incorporated and made a part of this rule by reference. Copies of these forms ~~this form~~ are available by 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 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-142	Producers Severance Tax Return (r. 12/98 <u>2/93</u>)	<u>12/94</u>
(2) DR-146	<u>Miami-Dade County Lake Belt Mitigation Fee Monthly Return (n. 7/99)</u>	<u> </u>

Specific Authority 211.33(6), 213.06(1), 373.41492(4)(b) FS. Law Implemented 211.30, 211.31, 211.3103, 211.3106, 211.33, ~~213.06~~ 373.41492 FS. History—New 12-18-94, Amended.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE TITLES:	RULE NOS.:
Property Subject to Tax – Annual and Nonrecurring	12C-2.002
Exemptions	12C-2.003
Levy of Tax – Annual and Nonrecurring	12C-2.004

Due Date – Payment of Tax – Discounts Allowed	12C-2.005
Taxable Situs – Reporting Requirements – Who Shall File a Return	12C-2.006
Intangible Personal Property Held in Trusts	12C-2.0063
Penalties and Interest	12C-2.007
Information Reports	12C-2.008
Valuations	12C-2.010
Tax Credits	12C-2.0105
Public Use Forms	12C-2.0115

PURPOSE AND EFFECT: These amendments are being made to conform the rules in Chapter 12C-2, F.A.C., to the current statutory provisions of Chapter 199, F.S. The statutory revisions were made to Chapter 199 during the 1998, 1999 and 2000 legislative sessions. The following is a brief discussion of the specific changes: A) The proposed amendments to Rule 12C-2.002, F.A.C., clarify for which tax year specific intangible property is subject to tax. B) The suggested changes to Rule 12C-2.003, F.A.C., explain the applicable exemption for accounts receivable; C) The recommended revisions to Rule 12C-2.004, F.A.C., clarify the current tax rate and provide guidance on how to correctly calculate the tax; D) The proposed changes to Rule 12C-2.005, F.A.C., remove and update information on the threshold for required payment of tax, remove obsolete provisions on international banking, and provide guidance on when tax is due on a line of credit secured lien on Florida real property; E) The proposed revisions to Rule 12C-2.006, F.A.C., update information on forms to be used when reporting tax on intangible property, clarify what entities may be included as a member of an affiliated group, explain for which tax periods trustees were required to file intangible tax returns, and remove obsolete information regarding the requirement for banks to file intangible tax returns; F) The suggested amendments to Rule 12C-2.0063, F.A.C., remove references to trustees or their agents being required to file intangible tax returns for property held in trusts; G) The recommended changes to Rule 12C-2.007, F.A.C., conform the penalty provisions in the Administrative Code with the statutory provisions; H) The proposed revisions to Rule 12C-2.008, F.A.C., remove and update information on the requirement that corporations must provide information concerning the value of their stock held by Florida shareholders and remove an obsolete provision regarding banks claiming an international banking exemption; I) The suggested changes to Rule 12C-2.010, F.A.C., add a cross reference to give guidance to taxpayers on the appropriate periods for which accounts receivable were subject to intangible tax; J) The recommended revisions to Rule 12C-2.0105, F.A.C., give guidance to taxpayers on the period for which tax credits for banks and savings associations apply; and K) The proposed amendments to Rule 12C-2.0115, F.A.C., remove obsolete forms no longer used by the public to report tax information to the Department of Revenue.

SUBJECT AREA TO BE ADDRESSED: These proposed rule amendments address changes to the Department’s Intangible Personal Property Tax rules.

SPECIFIC AUTHORITY: 199.202, 213.06(1), 213.21 FS.

LAW IMPLEMENTED: 196.199, 199.023, 199.032, 199.042, 199.052, 199.057, 199.062, 199.103, 199.104, 199.106, 199.133, 199.135, 199.143, 199.145, 199.155, 199.175, 199.183, 199.185, 199.202, 199.222, 199.232, 199.282, 199.292, 213.12(2), 213.235, 607.1622, 731.111, 733.604 FS.

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

TIME AND DATE: 9:00 a.m., February 27, 2001

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

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

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 Mary Herring, (850)922-4704. 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 WORKSHOP IS: Joe Parramore, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12C-2.002 Property Subject to Tax – Annual and Nonrecurring.

(1) The following are examples of property subject to annual taxation:

(a) Accounts Receivable – a debt which is owed by another which is not supported by a negotiable paper. For tax years beginning on or after January 1, 2001, accounts receivable arising out of normal trade or business are exempt from tax.

(b) through (c) No change.

(d) Charitable Unitrust – such trusts are taxable while trust corpus is held by a nonexempt trustee. For tax years beginning on or after January 1, 2001, charitable unitrusts are exempt from tax.

(e) through (h) No change.

(i) Custody Account – custody account is taxable only if the custodian is exercising discretionary powers over the assets held in the custody account. For tax years beginning on or after January 1, 2001, custody accounts are exempt.

(j) through (l) No change.

(m) Insurance Premiums

1. Insurance premiums for the year ~~that which~~ are financed; are accounts receivable.

2. Due, but uncollected, premiums (those premiums ~~that which~~ are in a grace period) are not taxed.

3. For tax years beginning on or after January 1, 2000, insurance companies are exempt from tax.

(n) through (o) No change.

(p) Line of Credit – based on the outstanding balance on January 1 of each tax year when not evidenced by a note secured by a mortgage or other lien on Florida real property. When secured by a lien on real property in Florida, the maximum amount allowed under the line each advancee is subject to the nonrecurring tax.

(q) No change.

(r) Margin Accounts

1. Receivables arising from margin accounts are taxable to the broker. For tax years beginning on or after January 1, 2001, margin account receivables are exempt from tax.

2. Stocks bought on margin are the property of the purchaser and are to be reported for taxation by the purchaser.

(s) through (z) No change.

(aa) Stock – shares or units of incorporated or unincorporated companies, limited liability companies, business trusts, mutual funds, and money market funds.

(bb) through (dd) No change.

(ee) Trust – a trust having a taxable situs in Florida is primarily taxable to the trustee. For tax years beginning on or after January 1, 2001, trustees are no longer required to file returns or pay the tax. A beneficiary, having a taxable beneficial interest, ~~where there is no Florida trustee~~, is responsible for filing a return for the taxable trust assets.

(2) The following are examples of property subject to the nonrecurring tax:

(a) No change.

(b) Agreements not to encumber real property if the agreement attaches as a lien on the real property.

(c) through (d) No change.

(e) ~~Guarantee~~

1. ~~An unconditional guarantee when secured by a lien on Florida real property.~~

2. ~~A conditional guarantee is also subject to the tax, but not taxed until the condition is met or removed.~~

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.023, 199.032, 199.042, 199.052, 199.057, 199.062, 199.103, 199.133, 199.135, 199.143, 199.145, 199.155, 199.175, 199.183, 199.185, 199.202 FS. History–New 4-17-72, Revised 12-20-73, Amended 11-17-74, Formerly 12C-2.02, Amended 11-21-91,_____.

12C-2.003 Exemptions.

The following intangible property shall be exempt from the tax:

(1) through (8) No change.

(9) Accounts Receivable:

(a) For tax years beginning January 1, 2001, and thereafter, all accounts receivable arising from normal trade or business are exempt from tax.

(b) For the tax year beginning January 1, 2000, two-thirds of the taxable accounts receivable arising from normal trade or business are exempt from tax.

(c) For the tax year beginning January 1, 1999, one-third of the taxable accounts receivable arising from normal trade or business are exempt from tax.

(d) For the tax year beginning January 1, 1998, and all prior years, all accounts receivable are subject to tax.

(10) A charitable trust is exempt from tax. For the purpose of this exemption, a charitable trust is a trust that is paying 95 percent or more of its income to one or more organizations exempt from federal income tax under s. 501(c)(3), IRC.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.183, 199.185, 213.12(2) FS. History–New 4-17-72, Revised 12-20-73, Amended 11-17-74, 4-21-75, Formerly 12C-2.03, Amended 11-21-91,_____.

12C-2.004 Levy of Tax – Annual and Nonrecurring.

(1) Annual Tax – An annual tax on the just value of intangible property having a taxable situs in Florida is levied as follows:

(a)1. All firms, partnerships, joint ventures, associations, corporations, estates, trusts, trustees, personal representatives, receivers, guardians, custodians, and other fiduciaries are subject to the full tax rate of ~~\$12.00~~ per thousand dollars (1 mill 2 mills) of just value of intangible property having a taxable situs in Florida.

2. Example: Artificial entities and fiduciaries.

Accounts Receivable	\$75,000.00
Stocks	50,000.00
Bonds	25,000.00
Loans to Stockholders (outstanding balances)	50,000.00
Total	<u>\$125,000.00</u> 200,000.00
Tax Rate	x .0012
Tax Due	\$ <u>125.00</u> 400.00

(b) ~~Charitable trusts are those trusts paying 95 percent of their income to organizations exempt from federal income tax under s. 501(e)(3), IRC, and are subject to a tax rate of \$1.00 per thousand dollars (1 mill) of just value of intangible personal property.~~

~~Example: Charitable trusts-~~

Stocks	\$100,000.00
Mutual Funds	150,000.00
Futures Contracts	75,000.00
Bonds	125,000.00
Total	\$450,000.00
Tax Rate	x .001
Tax Due	\$ 450.00

(b)(e) Natural persons filing an individual or joint return are subject to the tax rate of \$1.00 ~~2.00~~ per thousand dollars (1 mill) of just value of intangible property ~~in the following manner: The first \$1.00 (1 mill) of tax per thousand dollars of the just value of intangible personal property applies to the property value of individuals in excess of \$20,000 (\$40,000 for a married couple filing a joint return). The additional \$1.00 (1 mill) of tax per thousand dollars of the just value of intangible personal property applies to the property value of individuals in excess of \$100,000 (\$200,000 for a married couple filing a joint return).~~

Examples:

1. Individual having taxable assets valued at \$75,000 ~~100,000 or less.~~

	(first mill tax)	(second mill tax)
Taxable Assets	\$75,000.00 50,000.00 \$50,000.00	
Exemption	- 20,000.00	--
Net Taxable Assets	\$55,000.00 30,000.00 0	100,000.00
Tax Rate	x .001	x .001
Tax Due	\$55.00 30.00	No tax is due
Total Tax Due	\$0 30.00	(tax due is less than \$60.00)

2. Individual having taxable assets valued at greater than \$200,000 ~~100,000.~~

	(first mill tax)	(second mill tax)
Taxable Assets	\$200,000.00	\$200,000.00
Exemption	- 20,000.00	--
Net Taxable Assets	\$180,000.00	\$100,000.00
Tax Rate	x .001	x .001
Tax Due	\$180.00	\$100.00
Total Tax Due	\$180.00 + \$100.00 = \$280.00	

3. Married couple filing jointly having taxable assets valued at \$95,000 ~~200,000 or less.~~

	(first mill tax)	(second mill tax)
Taxable Assets	\$95,000.00 50,000.00 \$50,000.00	
Exemption	- 40,000.00	--
Net Taxable Assets	\$55,000.00 10,000.00 \$0	200,000.00
Tax Rate	x .001	x .001
Tax Due	\$55.00 10.00	No tax is due
Total Tax Due	\$0 10.00	(tax due is less than \$60.00)

4. Married couple filing jointly having taxable assets valued at \$300,000.00 ~~greater than \$200,000.00.~~

	(first mill tax)	(second mill tax)
Taxable Assets	\$300,000.00	\$300,000.00
Exemption	- 40,000.00	--
		200,000.00

Net Taxable Assets	\$260,000.00	\$100,000.00
Tax Rate	x .001	x .001
Tax Due	\$ 260.00	\$ 100.00
Total Tax Due	\$260.00 + \$100.00 = \$360.00	

(2) Nonrecurring tax:

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

2.a. A line of credit secured by a mortgage on Florida real property ~~the equity in a borrower's home~~ is subject to nonrecurring tax on the maximum amount of the line. Subsequent borrowings under the line are not subject to nonrecurring tax.

b. Example: A borrower establishes a \$50,000 line of credit with a bank and secures the line with a Florida real property mortgage ~~on the equity in his home~~. The borrower initially draws the full line of \$50,000 and pays nonrecurring tax on this maximum amount. The borrower later repays \$30,000 of the initial amount borrowed and then draws another \$15,000. The \$15,000 draw of funds under the line is not subject to nonrecurring tax, since the nonrecurring tax was already paid on \$50,000, the maximum credit limit under the line.

(d) No change.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.032, 199.133, 199.143, 199.185 FS. History--New 4-17-72, Revised 12-20-73, Amended 5-8-79, Formerly 12C-2.04, Amended 11-21-91, 5-18-93,

12C-2.005 Due Date – Payment of Tax – Discounts Allowed.

(1)(a) No change.

(b) ~~No person subject to the annual tax shall be required to file a return or pay a tax if the tax due, before discount, is less than sixty five dollars (\$60.00 5.00).~~

~~2. An annual return is required to be filed by agents or fiduciaries. International banking organizations claiming the international banking exemption must also file a completed tax return.~~

~~2.3. No change.~~

(2) Nonrecurring Tax –

(a) through (b) No change.

(c) If a mortgage, deed of trust, or other instrument evidencing a lien subject to the nonrecurring tax secures a revolving line of credit, a line of credit, or future advances, the tax shall be paid as provided in paragraphs (a) and (b) of this subsection on the initial debt or obligation, excluding future advances. Thereafter, each time a future advance shall be taxed when it is made under a future advance mortgage additional nonrecurring tax shall be paid.

(3) Extension of time for filing annual tax –

(a) through (b) No change.

(c) Examples:

1. A taxpayer requested and was granted an extension of time to file an intangible tax return and paid the tax. On September 30 of the tax year, intangible tax in the amount of \$100 is paid. No penalties are due because of the approved extension of time to file. However, interest in the amount of \$3.00 is due. (See Rule 12C-2.007 F.A.C.)

Tax Due With Return	\$100
Penalties	0
Interest	3
Total Due With Return	\$103

2. A taxpayer is granted an extension of time to file an intangible tax return and ~~pay~~ paid the tax. The extension was granted through September 30 of the tax year. On October 1 of the tax year a return is filed and the intangible tax is paid. On this date the extension of time to file is void. The taxpayer is liable for all penalties and interest from the due date until the date paid. (See Rule 12C-2.007, F.A.C.)

Tax Due With Return	\$100
Penalties: Delinquency (40%)	20
Late Filing (40%)	15
<u>[Maximum delinquency and late filing Penalty (40%)]</u>	40
Interest	3
Total Due With Return	\$143 \$138

Specific Authority 199.202, 213.06(1) FS. Law Implemented ~~199.202~~, 199.042, 199.052, 199.135, 199.202, 607.1622 FS. History—New 4-17-72, Revised 12-20-73, Amended 11-17-74, Formerly 12C-2.05, Amended 11-21-91, _____.

12C-2.006 Taxable Situs – Reporting Requirements – Who Shall File a Return.

(1)(a) No change.

(b)1. Individuals, married couples filing jointly, and guardians filing on behalf of their ward shall file on form DR-601I ~~or DR-601A~~. Intangible Tax Return (~~DR-601A~~ ~~or~~ DR-601I); is incorporated in Rule 12C-2.0115, F.A.C. The form entitled Intangible Tax Return (~~DR-601A~~ ~~or~~ DR-601I); is available by 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 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.

2. Corporations, partnerships, affiliated groups, and fiduciaries shall file on form DR-601C ~~or DR-601A~~. Intangible Tax Return (~~DR-601A~~ ~~or~~ DR-601C); is

incorporated in Rule 12C-2.0115, F.A.C. The form entitled Intangible Tax Return (~~DR-601A~~ ~~or~~ DR-601C); is available by 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 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.

3. A group of corporations, Subchapter S corporations, or limited liability companies may choose to file as an affiliated group ~~of corporations~~ if they meet the following criteria:

a. An affiliated group has a common parent ~~corporation~~ that directly owns at least 80% of all classes of stock or membership interest in a limited liability company and at least 80% of each class of nonvoting stock or membership interest in a limited liability company of one or more of the corporations or limited liability companies in the group. As used here, the term nonvoting stock or membership interest does not include stock or membership interests in a limited liability company that which is limited and preferred as to dividends.

b. No change.

c. The election to file as an affiliated group must be made each year. A notice of the election must be filed with the Department on or before June 30 of the tax year. The election and notice is made by selecting the affiliated group filing status on form ~~DR-601A~~ ~~or~~ DR-601C. Failure to file the notice of the election shall bar the filing of a consolidated return except as provided in this rule. An affiliated group ~~of corporations~~ which ~~does~~ ~~do~~ not intend to file a consolidated return shall indicate its their intent by filing separate returns for each entity corporation subject to the intangible tax.

d. An affiliated group ~~of corporations~~ which has failed to file any returns for one year may choose to file a consolidated intangible tax return for one delinquent year provided the group has filed consolidated returns for the three immediate prior years. If timely returns were filed by members of the group, the group may not file a consolidated return after the due date for filing a consolidated return.

e. The parent entity corporation files a consolidated return. This parent entity corporation does not have to have a taxable situs in Florida. All subsidiaries that which meet the stock ownership rule must be included in the consolidated group. Subsidiary entities that corporations which are foreign to the United States must be included in the consolidated group if the ~~stock~~ ownership test is met. When a consolidated return is

filed, all accounts receivable between the entities that corporations which are part of the consolidated group return are to be eliminated. Also, the parent entity's corporation's investments in subsidiaries that which are included as part of the consolidated group are to be eliminated. Accounts receivable and the parent entity's corporation's investments in subsidiaries that which are not part of the consolidated group remain as items subject to the intangible tax. The capital investment stock of the parent entity corporation, owned by a member of the consolidated group, is not eliminated from taxation.

f. An affiliated group ~~of corporations~~ filing a consolidated return must include the following with the intangible tax return:

(I) A consolidated balance sheet for the group identifying the taxable items and the eliminated items.

(II) A separate balance sheet for each entity corporation included in the consolidated group.

(III) A list identifying the parent entity's corporation's name, Employer Identification Number, state of charter and charter number, and mailing address (including city, state and zip code) and the name, Employer Identification Number, state of charter and charter number, and mailing address (including city, state and zip code) for each entity corporation included in the consolidated return.

4. No change.

(2) A person will be required ~~subject~~ to file completed returns even though that person may owe less than sixty five dollars (\$~~60.00~~ 5.00) tax, if providing that person is under audit, examination, or investigation by the Department ~~department~~.

(3) Trustees –

(a) For tax years beginning after December 31, 2000, trustees are no longer required to file intangible tax returns or pay a tax.

(b) For tax year 2000 and previous tax years, the The taxable situs of a trust shall be in Florida if the trustee's usual place of business where the books and records pertaining to the trust are kept is in Florida; or, if the trustee has no principal place of business, then taxable situs shall be determined as follows:

1.(a) If a Florida resident is sole trustee of a foreign trust, the trust is deemed to have a taxable situs in Florida and the corpus is subject to tax.

2.(b) If there is more than one trustee, and all are Florida residents, only one return is to be filed.

3.(e) When trustees are both residents and nonresidents and management and control of the trust is with the Florida trustee, then a return for the trust is to be filed by the Florida trustee.

4.(d) When trustees are both residents and nonresidents, and management or control is with an out of state trustee, then no return is necessary by the Florida trustee.

5.(e) When there are two trustees, one is a resident and one a nonresident and they share equally in management and control of the trust, the assessment of property shall be apportioned between them.

6.(f) When there are three or more trustees, and they are residents and nonresidents and they share equally in the management and control, the trust has a taxable situs in this state if the majority of the trustees are residents of this state. In such a case, only one return is to be filed for the trust. If the majority of the trustees are nonresidents, the trust does not have a taxable situs in this state and no return is to be filed.

(4) through (6) No change.

~~(7) Banking Organizations: Banking organizations claiming an exemption for international banking transactions as provided in s. 199.185(1)(h), F.S., shall file a return and list all intangibles arising out of international banking activities whether or not any tax is due. The form to be used is the intangible tax return (DR 601AC or DR 601C). The form entitled Intangible Tax Return (DR 601C or DR 601AC) is incorporated in Rule 12C-2.0115, F.A.C. The form entitled Intangible Tax Return (DR 601AC or DR 601C), is 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.~~

(7)(8) Taxpayer Identification Number Required.

(a) through (b) No change.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.057, 199.062, 199.175, 199.202 FS. History—New 4-17-72, Revised 12-20-73, Amended 11-17-74, 9-27-76, 9-6-77, Formerly 12C-2.06, Amended 11-21-91, 1-5-94, 6-2-98, _____.

12C-2.0063 Intangible Personal Property Held in Trusts.

(1) through (2) No change.

~~(3) All trustees must be domiciled and located outside of Florida.~~

(4) through (6) renumbered (3) through (5) No change.

(6)(7) If the trust includes any of the following powers, an item of intangible personal property constituting trust principal is not within the guidelines of this rule that describe certain, but not all, circumstances in which items of intangible personal property would not have taxable situs in Florida:

(a) through (b) No change.

~~(e) The trust has an employee or agent in the state managing or controlling trust assets.~~

~~(7)(8) No change.~~

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.175 FS. History—New 6-2-98, Amended.

12C-2.007 Penalties and Interest.

(1) through (2) No change.

(3) Beginning with tax year 1999 and thereafter, when a tax payment is delinquent and the tax return is filed after June 30 of the tax year, the maximum for the combined penalties shall be 10 percent per month, not to exceed a maximum of 50 percent of the tax due with the return.

(3) through (7) renumbered (4) through (8) No change.

Specific Authority 199.202, 213.06(1), 213.21 FS. Law Implemented 199.052, 199.282, 213.235 FS. History—New 4-17-72, Revised 12-20-73, Amended 9-27-76, 4-2-78, Formerly 12C-2.07, Amended 11-21-91, 5-18-93, 4-2-00, Amended.

12C-2.008 Information Reports.

(1)(a) Each tax year every corporation qualified or doing business in this state shall provide its Florida shareholders and the department a written notification where applicable of the following:

1. The corporation's election to pay the tax as agent for its Florida shareholders. The notice shall be filed on an Intangible Tax Return (~~DR-601AC~~ or DR-601C) by completing Schedule E and checking the notification box. A copy of the notice given to Florida shareholders is to be attached to the return.

2. through 3. No change.

~~4. Corporations claiming the international banking exemption must notify the department and file an information return listing all intangible property for which the exemption is claimed.~~

(b) The form entitled Intangible Tax Return (~~DR-601AC~~ or DR-601C); is incorporated in Rule 12C-2.0115, F.A.C. The form entitled Intangible Tax Return (~~DR-601AC~~ or DR-601C); is available by 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 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.

(c) A representative copy of the notices required to be given to shareholders by subparagraphs 2. and 3. of paragraph (a) above shall be attached to the corporation's intangible tax return. The notices required to be given to the department by paragraph (a) above shall be given by marking the appropriate box or boxes on the ~~face of the~~ Intangible Tax Return (DR-601C ~~or DR-601AC~~).

(2) through (5) No change.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.057, 199.062, 199.185, 607.1622, 731.111, 733.604 FS. History—New 4-17-72, Revised 12-20-73, Amended 4-21-75, Formerly 12C-2.08, Amended 7-31-90, 11-21-91, 1-5-94, Amended.

12C-2.010 Valuations.

(1) Annual Tax.

(a) through (g) No change.

(h) Accounts receivable shall be valued at their outstanding balance as of the close of business on the last day of the previous calendar year, less a deduction of a reasonable amount for uncollectible accounts. Such deduction shall be established by actual amounts or shown by the history of uncollectible accounts. This provision shall apply even if the business is on a cash basis accounting system. Cross Reference – Rule 12C-2.003(9), F.A.C.

(i) through (3) No change.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 196.199, 199.023, 199.052, 199.103, 199.155 FS. History—New 4-17-72, Revised 12-20-73, Amended 9-27-76, 8-8-78, 12-31-80, Formerly 12C-2.10, Amended 11-21-91, 5-18-93, Amended.

12C-2.0105 Tax Credits.

(1) through (2)(b) No change.

(c) The credit provided by this subsection applies only to tax year 1999 and previous tax years.

Specific Authority 199.202(2), 213.06(1) FS. Law Implemented 199.104, 199.106 FS. History—New 5-18-93, Amended.

12C-2.0115 Public Use Forms.

The following public use forms and instructions are employed by the Department in its dealings with the public related to administration of the intangible tax. These forms are hereby incorporated and made a part of this rule by reference. Copies of these forms are available by 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 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.

Form Number	Title	Effective Date
(1) DR-301	Preliminary Notice and Report-Estate Tax (r. 05/93)	1/94
(2) DR-601-AI	Intangible Tax Return (Flat sheet) (Individual and Fiduciary) (r. 12/92)	1/94
(3) DR-601-AC	Intangible Tax Return (Flat Sheet) (Corporation and Partnership) (r. 12/92)	1/94
(2)(4) DR-601-C	Intangible Personal Property Tax Return (Corporation and Partnership) (r. 12/00 12/92)	1/94
(3) DR-601CN	Instructions for Filing Form DR 601C (r. 01/01)	_____
(4) DR-601CS	Accompanying Schedules for Form DR 601C (r. 01/01)	_____
(5) DR-601-G	Government Leasehold Intangible Tax Return (r. 12/00 01/93)	1/94
(6) DR-601-I	Intangible Personal Property Tax Return (Individual and Fiduciary) (r. 01/01 12/92)	1/94
(7) DR 601IN	Instructions for Filing Form DR 601I (r.01/01)	_____
(8) DR 601CS	Accompanying Schedules for Form DR 601I (r. 01/01)	_____
(9)(7) DR-602	Application for Extension of Time to File Florida Intangible Tax Return (r. 02/93)	1/94
(10)(8) DR-609	Clerk's Monthly Intangible Tax Transmittal Form (r. 10/87)	10/87
(11)(9) DR-610-B	Intangible Personal Property Tax Receipt (bookstyle) (r. 04/87)	4/87
(12)(10) DR-610-US	Intangible Personal Property Receipt (unit set snap-out style) (r. 05/86)	5/86
(11) DR-615	Application for Exemption (r. 7/90)	7/90
(13)(12) DR-618-TPS	Intangible Tax Input Document (Third Party Source Billing Document) (r. 07/82)	7/82
(14)(13) DR-629-C	Florida Intangible Personal Property Tax Letter of Inquiry (r. 11/92)	1/94

(15)(14) DR-629-I	Florida Intangible Personal Property Tax Letter of Inquiry (r. 03/93)	1/94
(16)(15) DR-629-S	Individual and Fiduciary Intangible Personal Property Tax Letter of Inquiry (r. 9/91)	1/94

Specific Authority 199.202(2), 213.06(1) FS. Law Implemented 199.023, 199.032, 199.042, 199.052, 199.062, 199.103, 199.135, 199.222, 199.232, 199.292 FS. History—New 11-21-91, Amended 1-5-94, _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

DOCKET NO.: 00-31R

RULE CHAPTER TITLE: Sovereignty Submerged Lands Management
 RULE CHAPTER NO.: 18-21
 RULE TITLE: Definitions
 RULE NO.: 18-21.003

PURPOSE AND EFFECT: The proposed rulemaking is required to conform the rule to Chapter 2000-197, Laws of Florida, effective June 5, 2000. This law repealed section 258.3989, F.S., which removed Lake Weir from designation as an aquatic preserve. Therefore, reference to Lake Weir as an aquatic preserve must be deleted from 18-21.003(13), F.A.C. Additionally, repeal of section 18-20.018 containing the standards and criteria to conduct activities or construct structures in Lake Weir will be repealed under separate notice. SUBJECT AREA TO BE ADDRESSED: Deletion of rule reference to Lake Weir as an aquatic preserve.

SPECIFIC AUTHORITY: 253.03(7), 253.0345 FS.

LAW IMPLEMENTED: 253.002, 253.02, 253.03, 253.0345, 253.1221, 253.67, 253.77 FS., Chapter 2000-197, Laws of Florida.

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 IS: Alice Heathcock, Department of Environmental Protection, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400, or e-mail at Alice.Heathcock@dep.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

18-21.003 Definitions.

When used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

(1) through (12) No change.

(13) "Coastal island" means a coastline geological feature lying above mean high water that is completely separated from the coastal mainland by marine or estuarine waters, including those parcels of land which become insular due to natural causes, and is composed of any substrate material, including spoil material. This specifically includes, in addition to exposed coastal islands:

- (a) all islands within aquatic preserves except for Lake Jackson, Rainbow River, ~~Lake Weir~~ and Wekiva River Aquatic Preserves; and
 - (b) No change.
- (14) through (57) No change.

Specific Authority 253.03(7), 253.0345 FS. Law Implemented 253.002, 253.02, 253.03, 253.0345, 253.1221, 253.67, 253.77 FS. History—New 9-26-77, Formerly 16C-12.01, 16Q-17.01, Amended 3-27-82, 8-1-83, 2-25-85, Formerly 16Q-21.03, 16Q-21.003, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 3-20-94, 10-15-98.

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Managed Care and Health Quality Assurance

RULE TITLE: Nursing Services
 RULE NO.: 59A-4.108

PURPOSE AND EFFECT: The Agency proposes to amend rule 59A-4.108 consistent with provisions of s. 400.23(3)(a), Florida Statutes, and s. 400.23(3)(b), Florida Statutes that became effective July 1, 1999. The legislation provides for minimum staffing requirements for nursing homes and also provides for properly trained staff of a nursing facility to assist residents with eating.

SUBJECT AREA TO BE ADDRESSED: Provide minimum staffing standards for nursing homes and establish training requirements in order for staff to assist residents with eating.

SPECIFIC AUTHORITY: 400.23 FS.

LAW IMPLEMENTED: 400.11, 400.022, 400.141, 400.23 FS.
 IF REQUESTED 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: 10:00 a.m., March 5, 2001
 PLACE: River Garden Hebrew Home/Wolfson Health and Aging Center, 11401 Old St. Augustine Road, Jacksonville, FL 32258, Phone (904)260-1818

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Richard Kelly, Long-Term Care Unit, 2727 Mahan Drive, Tallahassee, Florida, (850)488-5861

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE TITLE: Procedures for Sampling of Racing Animals
 RULE NO.: 61D-6.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to interpret Florida Statutes which authorize the Division to adopt rules for the sampling of racing animals.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed in this rule is the interpretation of Florida Statutes necessary to establish procedures for sampling of racing animals.

SPECIFIC AUTHORITY: 120.80(4)(a), 550.0251(3),(11), 550.2415(13) FS.

LAW IMPLEMENTED 120.80(4)(a), 550.0251, 550.2415 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: 10:00 a.m. – 4:00 p.m., February 27, 2001
 PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Room 312, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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 Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling (800)955-8770 (Voice) or (800)955-8771 (TDD).

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE TITLE: Permitted Medications for Horses
 RULE NO.: 61D-6.008

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to interpret Florida Statutes giving the Division authority to adopt rules for permitted medications.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed in this rule is the interpretation of Florida Statutes necessary to establish permitted medications in racing animals.

SPECIFIC AUTHORITY: 120.80(4)(a), 550.0251(3),(11), 550.2415(13),(16) FS.

LAW IMPLEMENTED 120.80(4)(a), 550.0251, 550.2415 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: 10:00 a.m. – 4:00 p.m., February 27, 2001

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Room 312, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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 Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling (800)955-8770 (Voice) or (800)955-8771 (TDD).

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Funeral Directors and Embalmers

RULE TITLES: PROBABLE CAUSE DETERMINATION AND DISCIPLINE FORMS AND INSTRUCTIONS

RULE NOS.: 61G8-14.006 61G8-14.007

PURPOSE AND EFFECT: The Board proposes to review these rules to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Probable Cause Determination and Discipline; Forms and Instructions.

SPECIFIC AUTHORITY: 120.53, 470.005, 455.225 FS.

LAW IMPLEMENTED: 120.53, 455.225, 470.019, 470.006, 470.007, 470.008, 470.009, 470.010, 470.0101, 470.011, 470.012, 470.013, 470.014, 470.015, 470.016, 470.018, 470.0123, 470.0129 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 Funeral Directors and Embalmers, 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 Funeral Directors and Embalmers

RULE TITLES:	RULE NOS.:
Continuing Education for License Renewal	61G8-17.0034
Education Required for Operational Personnel and Non-Licensed Individuals	61G8-17.0035
Course Required for Initial Licensure and Registration	61G8-17.0036

PURPOSE AND EFFECT: The Board proposes to review these rules to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Continuing Education for License Renewal; Education Required for Operational Personnel and non-Licensed individuals; Course Required for Initial Licensure and Registration.

SPECIFIC AUTHORITY: 470.005(1), 470.015(1), 470.018, 470.0201 FS.

LAW IMPLEMENTED: 455.273, 470.006(1),(9)(e), 470.015, 470.009(1)(e), 470.011(1)(c), 470.017(2)(e) 470.018, 470.0201, 470.077(1)(c) 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 Funeral Directors and Embalmers, 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 Funeral Directors and Embalmers

RULE TITLES:	RULE NOS.:
Continuing Education for Reactivation	61G8-17.004
Continuing Education Provider Requirements	61G8-17.0041
Approval of Continuing Education Courses	61G8-17.0042
Advertising of Continuing Education Courses	61G8-17.0044

PURPOSE AND EFFECT: The Board proposes to review these rules to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Continuing Education for Reactivation; Continuing Education Provider Requirements; Approval of Continuing Education Courses; Advertising of Continuing Education Courses.
 SPECIFIC AUTHORITY: 455.02, 455.213(7),(8), 470.005, 470.005(1), 470.016 FS.
 LAW IMPLEMENTED: 470.016, 455.02, 455.213(7),(8) 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 Funeral Directors and Embalmers, 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 Landscape Architecture

RULE CHAPTER TITLE: Inactive Status RULE CHAPTER NO.: 61G10-13
 PURPOSE AND EFFECT: The Board proposes the development to address amendments in chapter 13.
 SUBJECT AREA TO BE ADDRESSED: Inactive Status.
 SPECIFIC AUTHORITY: 455.271, 481.306, 481.315(2) FS.
 LAW IMPLEMENTED: 455.271(2),(5), 481.315(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: Sherry Landrum, Executive Director, Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, Florida 32399-0750
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLE: Requirements for License Renewal of an Active License RULE NO.: 64B11-5.001
 PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUBJECT AREA TO BE ADDRESSED: Requirements for License Renewal of an Active License.
 SPECIFIC AUTHORITY: 455.711, 468.219 FS.
 LAW IMPLEMENTED: 455.604, 455.711, 468.219 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: Kaye Howerton, Executive Director, Board of Occupational Therapy, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B11-5.001 Requirements for License Renewal of an Active License.

- (1) through (7) No change.
- (8) Active status licensees may apply to the Board for an inactive license status at any time.
- (a) Active status licensees applying for inactive license status at the time of license renewal must pay the inactive status renewal fee and, if applicable, the delinquency fee and the fee to change licensure status set forth in Rule 64B11-5.006, F.A.C.
- (b) Active status licensees applying for inactive license status at a time other than at the time of license renewal must pay the fee to change licensure status set forth in Rule 64B11-5.006, F.A.C.

Specific Authority 456.036 ~~455.711~~, ~~468.204~~, 468.219, ~~468.221~~ FS. Law Implemented 456.036(4) ~~455.711(4)~~, ~~456.033~~ ~~455.604~~, 468.219, ~~468.221~~ FS. History—New 4-17-95, Amended 10-30-95, 3-11-96, Formerly 59R-64.060, Amended 9-23-99, _____.

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLE: Requirements for Reactivation of an Inactive License RULE NO.: 64B11-5.003
 PURPOSE AND EFFECT: The Board proposes to update the existing rule text.
 SUBJECT AREA TO BE ADDRESSED: Requirements for Reactivation of an Inactive License.
 SPECIFIC AUTHORITY: 455.711 FS.
 LAW IMPLEMENTED: 468.219(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 IS: Kaye Howerton, Executive Director, Board of Occupational Therapy, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B11-5.003 Requirements for Reactivation of an Inactive License.

(1) through(3) No change.

(4) Inactive status licensees applying for active status at the time of license renewal must pay the license renewal fee, any applicable reactivation fees and, if applicable, the delinquency fee and the fee to change licensure status as set forth in Rule 64B11-5.006, F.A.C.

(5) Inactive status licensees applying for active status at any time other than at the time of licensure renewal must pay the difference between the inactive status renewal fee and the active status renewal fee as set forth in Rule 64B11-5.006, F.A.C.

Specific Authority ~~456.036(4)~~ ~~455.711~~, ~~468.204~~ FS. Law Implemented ~~456.036(4)~~, ~~468.219(2)~~, ~~468.221~~ FS. History–New 4-17-95, Formerly 59R-64.020, Amended.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Library and Information Services

RULE TITLE:

Library Grant Programs

RULE NO.:

1B-2.011

PURPOSE AND EFFECT: The proposed amendment revises the guidelines and forms for the Library Services and Technology Act Grant and the State Aid to Libraries Grant.

SUMMARY: Library Services and Technology Grant (LSTA): The proposed amendment revises the forms and guidelines to streamline and clarify the requirement for grant application and reporting.

State Aid to Libraries Grant: The proposed amendment revises the Annual Statistical Report Form for Public Libraries (Form # DLIS/SA07) and removes the requirement for submission of a financial audit as part of the application documents.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 257.14, 257.191, 257.24, 257.41(2), 240.5186 FS.

LAW IMPLEMENTED: 257.12, 257.15, 257.16, 257.17, 257.171, 257.172, 257.18, 257.19, 257.191, 257.192, 257.195, 257.21, 257.22, 257.23, 257.24, 257.25, 257.40-42 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: 9:00 a.m., February 19, 2001

PLACE: Board Room, State Library of Florida, R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barratt Wilkins, Director, Division of Library and Information Services, R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250, (850)487-2651, Suncom 277-2651

THE FULL TEXT OF THE PROPOSED RULE IS:

1B-2.011 Library Grant Programs.

(1) through (2) No change.

(a) The State Aid to Libraries Grant Guidelines and Application, (Form DLIS/SA01), effective 4-1-98, Amended _____ which contain guidelines and application forms, State Aid to Libraries Grant Application – Single County Library (Form DLIS/SA02), effective 4-1-98; State Aid to Libraries Grant Application – Single County or Participating Library (New) (Form DLIS/SA02a), effective 4-1-98; State Aid to Libraries Grant Application – Multicounty County Library (Form DLIS/SA03), effective 4-1-98; State Aid to Libraries Grant Application – Multicounty Library (New) (Form DLIS/SA03a), effective 4-1-98; State Aid to Libraries Grant Application – County Participating in a Multicounty County Library (Form DLIS/SA04), effective 4-1-98; and State Aid to Libraries Grant Application – County Participating in a Multicounty Library (New) (Form DLIS/SA04a), effective 4-1-98; State Aid to Libraries Grant Application – Certification of Credentials – Single Library Administrative Head (Form DLIS/SA05), effective 4-1-98; State Aid to Libraries Grant Application – Summary Financial Report (Form DLIS/SA06), effective 4-1-98; Annual Statistical Report Form for Public Libraries (Form DLIS/SA07), effective 4-1-98, Amended _____.

(b) through (c) No change.

(d) The Library Services and Technology Act Grant Guidelines and Application, effective 4-1-98, Amended 2-14-99 which contain instructions and applications (Form # DLIS/LSTA01), effective 4-1-98, Amended 2-14-99, Amended 4-4-00, Amended 12-18-00, Amended _____; Mid Year Report (Form #DLIS/LSTA02), effective 2-14-99,