

be notified if a child remains in the CSU/ARF beyond seven days. The CSU/ARF shall coordinate with the aftercare service provider and shall document the after care planning.

(b) Prescriptions for psychotropic medications shall be provided to a discharged child’s legal guardian to cover the intervening days until the first scheduled aftercare appointment. Discharge planning shall address the availability of and access to prescription medication in the community.

(7) Provider Universal Infection Control.

(a) A written Universal Infection Control plan shall be developed which shall apply to all staff, volunteers, and children receiving services and shall be reviewed and approved by the Medical Director and medical staff.

(b) The CSU/ARF shall conduct a risk assessment and screening for each child who is determined to be substance abuse impaired, as required by Rule 65D-30.004, F.A.C.

(c) All infection control activities shall be documented.

Specific Authority 394.499 FS. Law Implemented 394.499 FS. History—New

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Manatees**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Scope	68C-22.001
Definitions	68C-22.002
Management Provisions	68C-22.004

**PURPOSE AND EFFECT:** The purpose of this rule development is to make revisions in response, in part, to enactment of Chapter 2002-264, Laws of Florida, which amended portions of Section 370.12(2), F.S. We also are considering changes to reflect revised definitions adopted in Chapter 68D-23, F.A.C.; and to otherwise improve the rules and remove unnecessary language. The effect of the amendments would be to delete unnecessary rules and ensure consistency between the rules and other authority. Options being considered include amending only those portions of the rules that are in direct conflict with the revised statute, and repealing one or more of the rules in their entirety based on the premise that the rules are not needed because the statute provides sufficient guidance.

**SUBJECT AREA TO BE ADDRESSED:** Manatee protection procedural rules and definitions.

**SPECIFIC AUTHORITY:** 370.12(2)(g)-(j),(l)-(o) FS.

**LAW IMPLEMENTED:** 370.12(2)(d),(g)-(j),(l)-(o) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Mr. Scott Calleson, Fish and Wildlife Conservation Commission, Bureau of Protected Species Management (OES-BPS), 620 South Meridian Street, Tallahassee, Florida 32399, (850)922-4330

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

**Section II  
Proposed Rules**

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Sales for Export; Sales to Nonresident Dealers and Foreign Diplomats	12A-1.0015
Consumer’s Certificates of Exemption; Exemption Certificates	12A-1.038
Sales for Resale	12A-1.039
Fuels	12A-1.059
Registration	12A-1.060
Sales to Licensed Common Carriers Operating Motor Vehicles or Railroad Rolling Stock in Interstate or Foreign Commerce	12A-1.064
Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes	12A-1.0641
Rentals, Leases, or Licenses to Use Tangible Personal Property	12A-1.071
Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors	12A-1.0911
Public Use Forms	12A-1.097

**PURPOSE AND EFFECT:** The purpose of the proposed creation of Rule 12A-1.0015, F.A.C. (Sales for Export; Sales to Nonresident Dealers and Foreign Diplomats), is to provide a single administrative rule containing tax guidelines on sales of tangible personal property exported from Florida, sales to nonresident dealers, and sales to foreign diplomats and consular employees.

The purpose of the proposed amendments to Rule 12A-1.038, F.A.C. (Consumer’s Certificates of Exemption; Exemption Certificates), is to provide technical changes made necessary with the creation of Rule 12A-1.0015, F.A.C., as proposed.

The purpose of the proposed amendments to Rule 12A-1.039, F.A.C. (Sales for Resale), is to provide technical changes made necessary with the creation of Rule 12A-1.0015, F.A.C., as proposed, and the substantial rewording of Rule 12A-1.064, F.A.C., as proposed.

The purpose of the proposed amendments to Rule 12A-1.059, F.A.C. (Fuels), is to: (1) provide guidelines for the imposition of sales and use tax imposed on fuels; (2) provide guidelines regarding the registration requirements to remit use tax directly to the Department; and (3) provide technical changes made necessary by the substantial rewording of Rule 12A-1.064, F.A.C., as proposed, and the creation of Rule 12A-1.0641, F.A.C., as proposed.

The purpose of the proposed amendments to Rule 12A-1.060, F.A.C. (Registration), is to provide that persons desiring to obtain self-accrual authority from the Department, persons seeking authorization to remit sales tax on behalf of their independent dealers, air carriers electing to remit tax under s. 212.0598, F.S., and persons who desire to pay tax based on the partial exemptions in s. 212.08(8) and (9), F.S., directly to the Department are required to register with the Department.

The purpose of the proposed substantial rewording of Rule 12A-1.064, F.A.C. (Sales to Licensed Common Carriers Operating Motor Vehicles or Railroad Rolling Stock in Interstate or Foreign Commerce), is to provide guidelines for the partial exemption provided in s. 212.08(9), F.S., for railroad rolling stock and parts and motor vehicles and parts in a single administrative rule.

The proposed creation of Rule 12A-1.0641, F.A.C. (Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes), is to provide guidelines for the partial exemption provided in s. 212.08(8), F.S., for vessels, and parts thereof, used in interstate or foreign commerce or for commercial fishing purposes into a single administrative rule.

The purpose of the proposed amendments to Rule 12A-1.071, F.A.C. (Rentals, Leases, or Licenses to Use Tangible Personal Property), is to remove requirements for railroad leases and demurrage charges that will be provided in Rule 12A-1.064, F.A.C., as amended, and Rule 12A-1.0641, F.A.C., as created.

The purpose of the proposed amendments to Rule 12A-1.0911, F.A.C. (Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors), is to provide guidelines for the self-accrual of sales and use tax, as provided in s. 212.183, F.S., and guidelines to dealers who use independent distributors or independent sellers on how to obtain approval to remit tax on the retail sales of their property by the distributors or sellers directly to the Department.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt, by reference, new forms used by the Department in the administration of the self-accrual authority and the distributor level collection program for sales and use tax.

**SUMMARY:** The proposed creation of Rule 12A-1.0015, F.A.C.: (1) provides that sales of tangible personal property delivered to the purchaser or the purchaser's representative in Florida are presumed to be delivered in Florida and to be subject to Florida's sales tax; (2) provides guidelines on how dealers who sell tangible personal property for exportation

tax-exempt must commit the property to an exportation process that remains continuous and unbroken; (3) provides examples of methods to commit property to the exportation process; (4) provides definitions for the terms "licensed customs broker" and "forwarding agent"; (5) establishes guidelines for documenting tax-exempt sales for export from Florida; (6) provides that sales to nonresident dealers must be documented by obtaining a declaration from the nonresident dealer that the tangible personal property will be transported outside Florida for resale; (7) provides a definition of the term "nonresident dealer," for purposes of the rule; (8) provides the required elements of a nonresident declaration and a suggested format of the declaration; (9) provides guidelines and documentation requirements for tax-exempt sales to foreign diplomats, consular employees, and members of their families, as determined by the United States Department of State; and (10) provides guidelines for documents required to be maintained by selling dealers for purposes of tax-exempt sales for exportation, for resale outside Florida by nonresident dealers, or for sales to foreign diplomats, consular employees, and members of their families.

The proposed amendments to Rule 12A-1.038, F.A.C.: (1) remove the exemption for the export of tangible personal property from the suggested format of an exemption certificate; and (2) provide that documentation requirements for the export of tangible personal property from Florida are provided in Rule 12A-1.0015, F.A.C., as created.

The proposed amendments to Rule 12A-1.039, F.A.C.: (1) provide that documentation requirements for the export of tangible personal property from Florida are provided in Rule 12A-1.0015, F.A.C., as created; (2) provide that guidelines for tax-exempt sales to nonresident dealers of aircraft, boats, mobile homes, motor vehicles, and other vehicles are provided in Rule 12A-1.007(6), F.A.C.; and (3) remove reference to Rule 12A-1.064, F.A.C., for purchases of vessels and parts from the provisions applicable to persons who claim the resale exemption.

The proposed amendments to Rule 12A-1.059, F.A.C.: (1) provide that diesel fuel used in a trade or business is subject to use tax; (2) provide that persons who use diesel fuel in a trade or business are required to register and pay use tax directly to the Department, unless the dealer selling the fuel is registered and collecting sales tax on such fuel; (3) provide when the diesel fuel is exempt from sales and use tax; (4) provide that guidelines are provided in Rule 12A-1.064, F.A.C., as amended, and Rule 12A-1.0641, F.A.C., as created, for diesel fuel used to operate railroad locomotives or vessels in interstate or foreign commerce or for commercial fishing purposes that is subject to the partial exemption under s. 212.08(4)(a)2., F.S.; (5) provide that the sale of alternative fuel is subject to sales tax; and (6) provide examples of alternative fuels.

The proposed amendments to Rule 12A-1.060, F.A.C., provide that the following persons are required to register as dealers with the Department: (1) persons desiring to obtain self-accrual authority, as provided in s. 212.183, F.S., or authorization to remit sales tax on behalf of their independent dealers or independent sellers; (2) air carriers electing to remit tax under s. 212.0598, F.S.; and (3) persons who desire to pay tax based on the partial exemptions in s. 212.08(8) and (9), F.S., directly to the Department.

The proposed substantial rewording of Rule 12A-1.064, F.A.C.: (1) changes the title of the rule section to "Sales to Licensed Common Carriers Operating Motor Vehicles or Railroad Rolling Stock in Interstate or Foreign Commerce"; (2) provides guidelines on how the partial exemption applies to motor vehicles, and parts thereof, operated in interstate or foreign commerce; (3) provides that qualifying motor vehicles must be operated by common carriers licensed by the United States Department of Transportation; (4) provides when a motor vehicle is used in interstate or foreign commerce; (5) provides guidelines for those items that do not qualify for the partial exemption; (6) provides guidelines on how the partial exemption applies to railroad rolling stock, and parts thereof, operated in interstate or foreign commerce; (7) provides that qualifying railroad rolling stock must be operated by railroads licensed as common carriers by the federal Surface Transportation Board; (8) provides the requirements to hold a Sales and Use Tax Direct Pay Permit and to issue a certificate to the selling dealer to receive the partial exemption for qualifying motor vehicles and parts and for qualifying railroad rolling stock and parts at the time of purchase; (9) provides a suggested format of the required certificates; (10) provides guidelines for carriers on how to compute the mileage apportionment factor and tax due under the partial exemption directly to the Department; (11) provides guidelines for the partial exemption in s. 212.08(4)(a)2., F.S., for fuel used in motor vehicles or railroad locomotives operated in interstate or foreign commerce; (12) provides guidelines on how to obtain a refund of tax paid to a selling dealer in excess of the tax due based on the partial exemption directly from the Department, the certificates required to be submitted with an Application for Refund-Sales and Use Tax, and suggested formats of the certificates; (13) provides guidelines for the taxability of damage claims and demurrage charges by carriers; and (14) provides guidelines for recordkeeping requirements to document sales and purchases of items subject to the partial exemption.

The proposed creation of Rule 12A-1.0641, F.A.C.: (1) provides guidelines on how the partial exemption applies to vessels, and parts thereof, operated in interstate or foreign commerce or for commercial fishing purposes; (2) defines the term "commercial fishing vessels" for purposes of the partial exemption; (3) provides guidelines for vessels and other items that do not qualify for the partial exemption; (4) provides the requirements to hold a Sales and Use Tax Direct Pay Permit

and to issue an affidavit to the selling dealer to receive the partial exemption at the time of purchase of qualifying vessels, vessel parts, and other qualifying items; (5) provides a suggested format of the required affidavits; (6) provides guidelines for carriers on how to compute the mileage apportionment factor and tax due under the partial exemption directly to the Department; (7) provides guidelines for the partial exemption in s. 212.08(4)(a)2., F.S., for fuel used in vessels operated in interstate or foreign commerce or for commercial fishing purposes; (8) provides guidelines on how to obtain a refund of tax paid to a selling dealer in excess of the tax due based on the partial exemption directly from the Department, the affidavits and certificates required to be submitted with an Application for Refund-Sales and Use Tax, and suggested formats of the affidavits and certificates; (9) provides guidelines for the taxability of damage claims and demurrage charges by vessel owners and operators; and (10) provides guidelines for recordkeeping requirements to document sales and purchases of items subject to the partial exemption.

The proposed amendments to Rule 12A-1.071, F.A.C., remove requirements for railroad leases and demurrage charges that will be provided in Rule 12A-1.064, F.A.C., as amended, and Rule 12A-1.0641, F.A.C., as created.

The proposed amendments to Rule 12A-1.0911, F.A.C.: (1) change the title to "Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors"; (2) provide guidelines for the self-accrual of sales and use tax, as provided in s. 212.183, F.S.; (3) require persons desiring to self-accrue tax, as provided in s. 212.183, F.S., to be registered with the Department and to hold a valid Sales and Use Tax Direct Pay Permit; (4) provide guidelines on how to obtain a Sales and Use Tax Direct Pay Permit, the effective date of the permit, and how to use the permit to make qualified purchases; (5) require holders of direct pay permits to file with the Department an annual report of the tax accrued on purchases by county; (6) require a permit holder to notify the Department when the holder no longer qualifies for the permit; (7) require selling dealers to collect sales tax from purchasers whose permit has expired; (8) provide guidelines to dealers who use independent distributors or independent sellers on how to obtain approval to remit tax on the retail sales of their property by the distributors or sellers directly to the Department; (9) provide that permit holders may not use their permit to make tax-exempt purchases of items for the purposes of resale; (10) provide that tax is due on retail sales of tangible personal property based on the rate imposed in the county where the property is delivered to the independent distributor or independent seller; and (11) require dealers to notify their independent distributors or independent sellers when they are no longer remitting sales tax on their behalf.

The proposed amendments to Rule 12A-1.097, F.A.C., adopt, by reference, new forms used by the Department in the administration of the self-accrual authority and the distributor level collection program for sales and use tax.

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

Any person who wishes to provide information regarding regulatory costs or to provide a proposal for a lower-cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 212.07(1)(b), 212.17(6), 212.18(2), 212.183, 213.06(1) FS.

LAW IMPLEMENTED: 95.091, 120.57(1),(2), 120.60(3), 120.80(14), 206.86(4), 212.02(1),(4),(10)(g), (12),(14),(15)(a), (16),(19),(20), 212.03(1),(2), 212.04, 212.05, 212.0596(1),(2), 212.0598, 212.06(1),(2),(3),(5)(a)1.,(b),(8),(11), 212.07(1), 212.08(4),(5)(f),(g),(h),(n),(o), (6),(7),(8),(9),(15), 212.085, 212.096, 212.11(2),(3), 212.12, 212.13(1),(2),(3),(4),(5)(c),(d), 212.16(1),(2), 212.17(6), 212.18(2),(3), 212.183, 212.21(2),(3), 213.053(10), 288.1258, 402.61 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

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

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.0015 Sales for Export; Sales to Nonresident Dealers and Foreign Diplomats.

(1) SCOPE.

(a) Tangible personal property imported, produced, or manufactured in this state for export, as provided in s. 212.06(5)(a)1., F.S., is not subject to Florida sales tax when the importer, producer, or manufacturer delivers the property to a

licensed exporter for export outside Florida or to a common carrier for shipment outside Florida, or mails the property by United States mail to a destination outside Florida. This rule is intended to provide tax guidelines for the sale of tangible personal property for the purposes of export from Florida.

(b) The provisions of this rule do not apply to sales of aircraft, boats, mobile homes, motor vehicles, or other vehicles. For guidelines on the export of these items from Florida, see Rule 12A-1.007, F.A.C.

(2) SALES OF PROPERTY IRREVOCABLY COMMITTED TO EXPORTATION.

(a) A dealer is required to collect tax on sales of tangible personal property when the property is delivered to the purchaser or the purchaser's representative in Florida, whether the disclosed or undisclosed intention of the purchaser is to transport the property to a location outside Florida, or whether the property is actually so transported. Every sale of tangible personal property to a person physically present at the time of sale is presumed to have been delivered in Florida.

(b) When a dealer sells tangible personal property, commits the property to the exportation process at the time of sale, and the exportation process remains continuous and unbroken until the property is exported from Florida, the dealer is not required to collect tax. The intent of the seller and the purchaser to export the property is not sufficient to establish that the property is not subject to tax in Florida. The delivery of the property to a location in Florida for subsequent export from Florida is insufficient to establish documentary evidence that the property sold was irrevocably committed to the exportation process. The following are examples of methods to commit the property to the exportation process at the time of sale:

1. The dealer is required by the terms of the sale contract to deliver the property outside Florida using the dealer's own mode of transportation;

2. The dealer is required by the terms of the sale contract to mail the property by United States mail to a destination located outside Florida; or

3. The dealer is required by the terms of the sale contract to deliver the property to a carrier, licensed customs broker, or forwarding agent for final and certain movement of the property to a destination located outside Florida.

a. The term "carrier" means a person regularly engaged in the business of transporting tangible personal property owned by other persons for compensation. The term "carrier" includes common carriers and contract carriers.

b. The term "licensed customs broker" means a person licensed by the United States customs service to act as a custom house broker.

c. The term "forwarding agent" means a person regularly engaged in the business of preparing property for shipment or arranging for its shipment for compensation.

d. Any person not engaged in the business of receiving tangible personal property owned by other persons and shipping or arranging for shipping for compensation does not become a carrier or forwarding agent by being designated by the purchaser to receive and ship goods to a point outside Florida.

(c) Any dealer who makes tax-exempt sales of tangible personal property for export outside Florida is required to maintain records to document that the property is committed to the exportation process at the time of sale and that the exportation process is continuous and unbroken until the property is exported from Florida. The dealer is required to maintain records that identify the tangible personal property sold and the delivery destination of the property. The documentation must clearly establish that the property was not commingled with the mass of property within Florida. If the purchaser exercises any act of dominion or control that would constitute "use" of the property by the purchaser in Florida within the meaning of that term set forth in s. 212.02(20), F.S., the property was not irrevocably committed to the exportation process. Examples of records to document sales for export to points outside Florida are:

- 1. Internal delivery orders identifying the property sold and the destination and date of delivery that are supported by receipts of expenses incurred in delivering the property, such as trip tickets or truck logs signed by the person who delivers the property;
- 2. United States Postal Service parcel post receipts with supporting documentation identifying the property and the destination;
- 3. Common carriers' receipts, bills of lading, or similar documentation that evidences the delivery destination;
- 4. Export declaration;
- 5. Receipts from a licensed customs broker; or
- 6. Proof of export signed by a customs officer.

(d) A dealer who imports taxable tangible personal property into Florida for exportation from Florida is required to maintain documentation that the imported property was irrevocably committed to the exportation process at the time of importation and that the exportation process was continuous and unbroken while such property was within Florida.

(e) Regardless of the evidence maintained by the dealer to document delivery of the property to a common carrier or a licensed customs broker for shipment to a location outside Florida, or the mailing of the property by the United States mail to a location outside Florida, tax is due when the property is diverted in transit to the purchaser or the purchaser's agent or representative in Florida and such person takes possession in Florida, or when for any other reason the property is not delivered outside Florida.

(3) SALES TO NONRESIDENT DEALERS.

(a) The sale of taxable tangible personal property to a nonresident dealer is exempt when the selling dealer obtains a statement from the nonresident dealer declaring that the tangible personal property will be transported outside Florida by the nonresident dealer for resale and for no other purpose. The statement executed by the nonresident dealer must include the declaration and all of the following information:

- 1. The nonresident dealer's name and address;
- 2. Evidence of authority to do business in the dealer's home state or country, such as the nonresident's business name and address, sales tax registration number, occupational license number, or any other evidence of transacting business in that state or country;
- 3. For nonresident dealers who are not residents of the United States, the dealer's passport or visa number and arrival-departure card number;
- 4. The following provision: "Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief"; and
- 5. The signature of the purchaser executing the statement.

(b) For purposes of this rule, a "nonresident dealer" is any person who does not hold a valid Florida sales tax certificate of registration and who is authorized in another state or country to make sales of tangible personal property in that state or country.

(c) A selling dealer who makes a sale of taxable tangible personal property to a nonresident dealer is required to obtain the required statement or collect the applicable tax on the sale.

(d) The following is a suggested format of the statement to be completed by the purchaser and presented to the selling dealer:

TANGIBLE PERSONAL PROPERTY  
FOR RESALE BY A NONRESIDENT DEALER

This is to certify that the tangible personal property described below will be transported outside Florida for resale and for no other purpose.

NAME OF SELLING DEALER: \_\_\_\_\_

DEALER'S ADDRESS: \_\_\_\_\_

DEALER'S SALES TAX NO.: \_\_\_\_\_

NAME OF NONRESIDENT DEALER: \_\_\_\_\_

ADDRESS OF NONRESIDENT DEALER: \_\_\_\_\_

HOME STATE'S SALES TAX NO.: \_\_\_\_\_

PASSPORT OR VISA NO.: \_\_\_\_\_

ARRIVAL-DEPARTURE CARD NO.: \_\_\_\_\_

PURCHASER'S EVIDENCE OF AUTHORITY TO DO BUSINESS IN HOME STATE: \_\_\_\_\_

The tangible personal property purchased in Florida on INVOICE NUMBER(S) \_\_\_\_\_, or described as follows, is solely for resale outside Florida.

Description of Property: \_\_\_\_\_

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of Purchasing Nonresident Dealer Date

**(4) SALES TO FOREIGN DIPLOMATS, CONSULAR EMPLOYEES, AND MEMBERS OF THEIR FAMILIES.**

(a) Sales to foreign diplomats, consular officers, consular employees, and members of their families are entitled to certain sales tax exemptions or limitations determined by the United States Department of State when the United States Department of State has determined that the foreign nation represented has a treaty with the United States that exempts United States diplomats, consular officers, consular employees, and members of their families from the foreign country's similar state and local sales taxes. Foreign diplomats and consular personnel seeking an exemption from Florida sales tax must personally present to the vendor at the time of purchase a tax exemption card issued to the individual by the United States Department of State. The tax exemption card will set forth the terms of the sales tax exemption to which the individual is entitled and will serve as the seller's authority to allow the specific sales tax exemption as provided on the card to the named person whose photograph appears on the card.

(b) To document qualified tax-exempt sales to foreign diplomats and consular personnel, the selling dealer must maintain:

1. A copy of both sides of the tax exemption card; or
2. The following information as shown on the tax exemption card issued to the purchaser: mission name, name of purchaser, date of sale, amount of sale, stripe color code or other indication of the level of exemption, expiration date, the tax exemption number, and the United States Department of State card number.

(c) Questions regarding the diplomatic exemption should be directed in writing to the Florida Department of Revenue, Tax Information Services, Bonham Building, 1379 Blountstown Highway, Tallahassee, Florida 32304 or by telephone to Taxpayer Services at (800)352-3671.

**(5) RECORDKEEPING REQUIREMENTS.**

(a) Selling dealers must maintain copies of internal delivery orders and supporting documentation, trip tickets, truck log records, United States Postal Service parcel post receipts, bills of lading, receipts from common carriers, export declarations, customs documents, receipts from licensed customs brokers, statements signed by a customs officer, declarations by nonresident dealers, copies of tax-exemption cards issued by the United States Department of State, exemption certificates, and other documentation required

under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

(b) Electronic storage by the selling dealer of the required certificates and other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(20), 212.05(1), 212.06(1),(2),(5)(a)1.(b), 212.12(8), 212.13(1),(2),(3),(4), 212.21(3) FS. History—New

12A-1.038 Consumer's Certificates of Exemption; Exemption Certificates.

(1) through (4) No change.

**(5) SALES EXEMPT BASED ON THE USE OF THE PROPERTY OR SERVICES.**

(a) through (c) No change.

(d)1. The following is a suggested format of an exemption certificate to be issued by a purchaser who does not hold a Consumer's Certificate of Exemption, but who claims that the purchase, rental, lease, or license of the property, or the purchase of the services is for an exempt purpose. Exemption purposes listed on the suggested format that are not relevant to the purchaser may be eliminated from the certificate.

**EXEMPTION CERTIFICATE**

**FOR EXEMPTIONS BASED ON THE PROPERTY'S USE**  
This is to certify that the tangible personal property purchased, leased, licensed, or rented, or services purchased, on or after \_\_\_\_\_ (date) from \_\_\_\_\_ (Selling Dealer's Business Name) is purchased, leased, licensed, or rented for the following purpose as checked in the space provided. This is not intended to be an exhaustive list:

Materials, containers, labels, sacks, bags, or similar items intended to accompany a product for sale at other than retail, as provided in s. 212.02(14)(c), F.S., by persons who are not required to be registered under s. 212.18(3), F.S.

Export of tangible personal property for use outside this state, as provided in Rule 12A-1.064(1), F.A.C.

Incorporation into items of tangible personal property manufactured, produced, compounded, processed, or fabricated for one's own use, as provided in Rule 12A-1.043, F.A.C.

Printing of a publication exempt under the provisions of s. 212.08(7)(w), F.S.

Items, such as paper and ink, that will be incorporated into and become a component part of a publication exempt under the provisions of s. 212.08(7)(w), F.S.

Educational materials that are used in the classroom and not used for its administration by child care facilities outlined in s. 402.305, F.S., that hold a current license under s. 402.308, F.S., hold a current Gold Seal Qualify Care designation as

provided in s. 402.281, F.S., and provide all employees with basic health insurance as defined in s. 627.6699(12), F.S., as provided in s. 212.08(5)(m), F.S.

( ) Motor vehicle rented or leased by a dealer who will provide the motor vehicle at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the dealer, as provided in s. 212.0601(4), F.S.

( ) Other (include description and statutory citation): \_\_\_\_\_  
I understand that if I use the property or service for any nonexempt purpose, I must pay tax on the purchase or lease price of the taxable property or service directly to the Department of Revenue.

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

The exemption specified by the purchaser may be verified by calling (800)352-3671 ~~4-(800)352-3671~~.

Purchaser's Name \_\_\_\_\_

Purchaser's Address \_\_\_\_\_

Name and Title of Purchaser's Authorized Representative \_\_\_\_\_

Sales and Use Tax Certificate of Registration No. (if applicable) \_\_\_\_\_

By \_\_\_\_\_

(Signature of Purchaser or Authorized Representative)

Title \_\_\_\_\_

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

Date \_\_\_\_\_

2. As provided in subparagraph (a)2. of this subsection, there are other suggested formats for exemption certificates based on the use of the property or services that are provided in other sections of Rule Chapter 12A-1, F.A.C., and in Taxpayer Information Publications (TIPs) issued by the Department. The following is a list of these suggested formats of exemption and the applicable rule section or TIP number that suggests the exemption certificate format. This list is not intended to be an exhaustive list:

a. through d. No change.

e. Export of Tangible Personal Property Irrevocably Committed to the Exportation Process Outside of Florida. Rule 12A-1.0015, F.A.C. Paragraph 12A-1.064(1)(b), F.A.C., provides the documentation required to establish that when tangible personal property has been is deemed to be committed to the exportation process.

f. through n. No change.

(6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 120.57(1),(2), 120.60(3), 120.80(14), 212.02(14)(c), 212.05(1)(j), 212.06(1)(c), 212.07(1), 212.08(6),(7), 212.085, 212.18(2),(3), 212.21(2) F.S. History-Revised 10-7-68, 6-16-72, Amended 9-28-78, 7-20-82, 4-29-85, Formerly 12A-1.38, Amended 8-10-92, 3-17-93, 9-14-93, 12-13-94, 10-2-01, \_\_\_\_\_.

12A-1.039 Sales for Resale.

(1) through (3) No change.

(4) SALES OF ALCOHOLIC BEVERAGES AND CERTAIN MOTOR VEHICLES; SALES TO OUT-OF-STATE DEALERS.

(a) through (b) No change.

(c) Guidelines for sales of tangible personal property, except aircraft, boats, mobile homes, motor vehicles, and other vehicles A sale to a nonresident dealers dealer who are is not required to be registered in this state for resale outside Florida are provided in Rule 12A-1.0015 this state is governed by Rule 12A-1.064(2)(b), F.A.C., or Rule 12A-1.007(6), F.A.C. However, blanket resale affidavits from out of state motor vehicle dealers are acceptable in lieu of individual affidavits in Rule 12A-1.007(6), F.A.C., for each sale of each motor vehicle to such out of state motor vehicle dealers.

(d) For sales of aircraft, boats, mobile homes, motor vehicles, and other vehicles, blanket resale affidavits from out-of-state motor vehicle dealers are acceptable in lieu of individual affidavits required under subsection 12A-1.007(6), F.A.C., for each sale of each motor vehicle to such out-of-state motor vehicle dealers.

(5) through (6) No change.

(7) PROVISIONS APPLICABLE TO PERSONS WHO CLAIM CLAIMING THE RESALE EXEMPTION.

(a) through (f) No change.

(g) Purchasers of vessels and parts thereof used to transport persons or property in interstate or foreign commerce must complete the affidavit as required in subsection 12A-1.064(5), F.A.C.

(h) through (j) renumbered (g) through (i) No change.

(8) No change.

Specific Authority 212.07(1)(b), 212.17(6), 212.18(2), 213.06 (1) FS. Law Implemented 95.091(3), 212.02(14), 212.05(1)(b),(j), 212.07(1), 212.085, 212.13(5)(c),(d), 212.17(6), 212.18(2),(3), 212.21(2), 213.053(10) FS. ~~ss. 21, 22, 23, 24, Ch. 99-208, L.O.F. History-Revised 10-7-68, 1-7-70, 6-16-72, 9-26-77, Amended 7-20-82, 4-12-84, Formerly 12A-1.39, Amended 1-2-89, 9-14-93, 12-13-94, 10-2-01, \_\_\_\_\_.~~

12A-1.059 Fuels.

(1) through (2) No change.

(3)(a) Dyed diesel fuel used in a trade or business is subject to use tax. Every person who uses dyed diesel fuel in a trade or business is required to register as a dealer to remit use tax due on the total cost price of the fuel consumed, unless:

1. The diesel fuel is specifically exempt from sales tax; or

2. The dealer selling diesel fuel has elected to collect sales tax on sales to persons who use or consume the diesel fuel in a trade or business.

(b) The following sales or purchases of diesel fuel are exempt from sales and use tax:

1. Fuel upon which the fuel taxes imposed under Chapter 206, F.S., has been paid;

2. Fuel used for agricultural purposes, as provided in Rule 12A-1.087, F.A.C.; and

3. Fuel purchased or stored for purposes of resale.

(4) Diesel fuel used by a licensed common carrier to operate railroad locomotives or vessels used to transport persons or property for hire in interstate or foreign commerce, or used to operate a commercial fishing vessel, is subject to the partial exemption provided in s. 212.08(4)(a)2., F.S. Tax is based on the mileage apportionment factor of the licensed carrier or vessel owner or operators. See Rules 12A-1.064 and 12A-1.0641, F.A.C.

(5) The sale of alternative fuel, as defined in s. 206.86(4), F.S., is subject to sales tax. Alternative fuels include liquefied petroleum gas, compressed natural gas, natural gasoline, butane gas, and propane gas. See Rule 12A-1.087, F.A.C., for alternative fuel used for agricultural purposes.

Specific Authority 212.17(6), 212.18(2), 213.06(1), FS. Law Implemented 206.86(4), 212.05, 212.06(3), 212.08(4),(7)(b),(j) FS. History—Revised 10-7-68, 6-16-72, Amended 7-19-72, 12-11-74, 10-18-78, 7-3-79, 6-3-80, 12-23-80, 8-26-81, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.59, Amended 12-13-88, 5-19-93, 9-14-93, 3-20-96, 10-2-01, \_\_\_\_\_.

12A-1.060 Registration.

(1) **PERSONS REQUIRED TO REGISTER AS DEALERS.**

(a) Every person desiring to engage in or conduct any one of the following businesses in this state as a “dealer” must register with the Department of Revenue and obtain a separate certificate of registration for each place of business:

1. through 13. No change.

14. Soliciting, offering, providing, entering into, issuing, or delivering any service warranty subject to tax under s. 212.0506, F.S.; or

15. No change.

16. Engaging in any business for which a person desires to obtain self-accrual authorization, as provided in s. 212.183, F.S., or authority to remit sales tax on behalf of its independent distributors or independent sellers, as provided in s. 212.18(3), F.S. See Rule 12A-1.0911, F.A.C.:

17. An air carrier electing to remit tax under the provisions of s. 212.0598, F.S.; or

18. Any person electing to obtain self-accrual authorization in order to pay tax based on the partial exemptions provided in s. 212.08(8) and (9), F.S.

(b) through (5) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1),(2), 212.04(4), 212.0596(1),(2), 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, 6-19-01, 10-2-01(1), 10-2-01(1), 8-1-02, \_\_\_\_\_.

(Substantial rewording of Rule 12A-1.064 follows. See Florida Administrative Code for present text.)

12A-1.064 Sales to Licensed Common Carriers Operating Motor Vehicles or Railroad Rolling Stock in Interstate and Foreign Commerce; ~~Sales to Nonresident Dealers; Sales to Diplomats.~~

(1) SCOPE. This rule is intended to provide guidelines for the partial exemption for railroad rolling stock and parts and motor vehicles and parts provided in s. 212.08(9), F.S., to carriers who transport persons or property for hire in interstate or foreign commerce.

(2) MOTOR VEHICLES.

(a) Motor vehicles used to transport persons or property for hire in interstate or foreign commerce that are operated by any common carrier licensed by the United States Department of Transportation, and parts for such motor vehicles, are subject to the partial exemption provided in s. 212.08(9)(b), F.S. Tax imposed is based on the ratio of Florida highway mileage to total highway mileage traveled by the carrier’s motor vehicles that were used in interstate or foreign commerce and that had at least some Florida mileage during the previous fiscal year of the carrier.

(b) A motor vehicle is used by a common carrier in interstate and foreign commerce if it carries persons or property that are moving in interstate or foreign commerce, whether the vehicle travels outside Florida or only within Florida.

(c) Motor vehicles that are purchased by common carriers outside Florida, and put into service in interstate commerce outside Florida prior to entering Florida, as evidenced by the registration of the motor vehicles in another state, are not subject to Florida sales or use tax.

(d) Charges for the installation of parts that are installed in Florida on motor vehicles used by a licensed common carrier in interstate or foreign commerce are subject to the partial exemption. Repairs and installation of parts on such vehicles performed outside Florida are not subject to tax.

(e) Motor vehicles, and parts thereof, used exclusively in intrastate commerce do not qualify for the partial exemption.

(f)1. Trucking companies or other companies that transport products between Florida and other states that do not operate as licensed common carriers are not entitled to the partial exemption.

2. Vehicles, and parts thereof, used by contract carriers or private carriers that are not licensed by the United States Department of Transportation as common carriers do not qualify for the partial exemption.

(g) Tools and materials and supplies, such as sandpaper, blasting sand, sanding discs, masking tape, rags, and mineral spirits, used in the repair and maintenance of motor vehicles while they are in Florida are subject to tax at the rate imposed by s. 212.05(1), F.S.



(h) Tangible personal property used in the construction, improvement, and repair of a common carrier's real property is subject to tax at the rate imposed by s. 212.05(1), F.S.

(3) RAILROADS.

(a) Railroads that are licensed as common carriers by the United States Surface Transportation Board are subject to tax on rolling stock, and parts thereof, used to transport persons or property for hire in interstate or foreign commerce, as provided in s. 212.08(9)(a), F.S. The tax is based on the ratio of Florida mileage to total mileage traveled by the carrier during the previous fiscal year of the carrier.

(b) The lease or rental of railroad cars by a railroad company for use on its tracks is exempt if the charges are subject to the jurisdiction of the United States Surface Transportation Board and based on hourly, daily, or mileage charges for the presence of a railroad car on the tracks of the railroad company paying the rental charge.

(c) Charges made pursuant to railroad car service agreements are exempt from tax.

(d) Railroad rolling stock, and parts thereof, used by persons are not licensed by the United States Surface Transportation Board as common carriers do not qualify for the partial exemption.

(e) Tools and materials and supplies, such as sandpaper, blasting sand, sanding discs, masking tape, rags, and mineral spirits, used in the repair and maintenance of railroad rolling stock while the rolling stock is in Florida are subject to tax at the rate imposed by s. 212.05(1), F.S.

(f) Tangible personal property used in the construction, improvement, and repair of a railroad company's real property is subject to tax at the rate imposed by s. 212.05(1), F.S.

(4) PARTIAL EXEMPTION AT THE TIME OF PURCHASE.

(a) To obtain the partial exemption provided in s. 212.08(9)(a) or (b), F.S., at the time of purchase, the licensed common carrier purchasing a motor vehicle, or parts thereof, or the licensed railroad carrier purchasing rolling stock, or parts thereof, for use to transport persons or property for hire in interstate or foreign commerce, is required to:

1. Hold a valid sales and use tax certificate of registration; and

2. Hold a valid Sales and Use Tax Direct Pay Permit issued by the Department. To obtain a direct pay permit, the carrier is required to file an Application for Self-Accrual Authority/Direct Pay Permit-Sales and Use Tax (form DR-16A, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as provided in Rule 12A-1.0911, F.A.C.

(b) Any licensed common carrier or licensed railroad carrier that holds a valid direct pay permit may extend a copy of its direct pay permit to the selling dealer at the time of purchase or lease in lieu of paying tax to the selling dealer. Licensed common carriers and licensed railroad carriers are not authorized to extend a copy of an Annual Resale Certificate

to make such purchases tax-exempt. Any licensed common carrier or licensed railroad carrier that extends a copy of its direct pay permit to a selling dealer in lieu of paying tax on property subject to the partial exemption under s. 212.08(9)(a) or (b), F.S., is required to accrue and remit the tax due based on the carrier's mileage apportionment factor directly to the Department.

(5) COMPUTATION OF MILEAGE APPORTIONMENT FACTOR AND TAX DUE.

(a)1. Licensed common carriers are required, at the end of each fiscal year of operation, to determine the ratio of Florida highway mileage to total highway mileage traveled by the carrier's motor vehicles used in interstate or foreign commerce that had at least some Florida highway mileage during the fiscal year. The ratio computed is the carrier's mileage apportionment factor to be applied to purchases during the following fiscal year.

2. Licensed railroad carriers are required, at the end of each fiscal year of operation, to determine the ratio of Florida mileage to total mileage traveled by the carrier's rolling stock during the fiscal year. The ratio computed is the carrier's mileage apportionment factor to be applied to purchases during the following fiscal year.

(b)1. Licensed common carriers operating motor vehicles to transport persons or property for hire in interstate or foreign commerce are required to apply their mileage apportionment factor calculated at the end of the prior fiscal year to the total monthly purchases and leases in Florida of qualified motor vehicles, and parts thereof, during the current fiscal year. Carriers are required to calculate and report tax to the Department on a monthly basis.

2. Licensed railroad carriers operating rolling stock to transport persons or property for hire in interstate or foreign commerce are required to apply their mileage apportionment factor calculated at the end of the prior fiscal year to the total monthly purchases in Florida of qualified rolling stock, and parts thereof, during the current fiscal year. Carriers are required to calculate and report tax to the Department on a monthly basis.

(c) During a licensed common carrier's or a licensed railroad carrier's initial year of operation in Florida, the carrier may estimate the mileage apportionment factor on the basis of the ratio of anticipated Florida mileage to anticipated total miles for that year for motor vehicles or railroad rolling stock that are anticipated to have at least some Florida mileage. At the end of the initial year of operation, the carrier is required to determine the mileage apportionment factor based on the actual Florida mileage and the actual total mileage for the initial year of operation. The carrier is required to pay any additional tax due based on the actual mileage apportionment factor. The tax is due with the carrier's return due for the first month of the carrier's second year of operation in this state. The carrier may take a credit or apply to the Department for a

refund of tax paid, as provided in Rule 12A-1.014, F.A.C., when the tax paid based on the estimated mileage apportionment factor exceeds the tax due based on the actual factor for the initial year of operation.

(6) FUEL USED IN INTERSTATE OR FOREIGN COMMERCE.

(a) Diesel fuel used in vehicles for off-road purposes is subject to the partial exemption provided in s. 212.08(4)(1)2., F.S. Tax is based on the licensed carrier's mileage apportionment factor when:

1. The fuel is placed into a separate tank that is not connected to the fuel supply system of a motor vehicle operated by a licensed common carrier to transport persons or property for hire in interstate or foreign commerce, and the fuel is used to operate a refrigeration unit or other equipment located on the motor vehicle; or

2. Used during idle time for the purpose of running climate control systems and maintaining electrical systems in motor coaches that meet the criteria specified in s. 206.8745(8), F.S., and that are operated by licensed common carriers to transport persons or property for hire in interstate or foreign commerce.

(b) Diesel fuel used in locomotives operated by licensed railroad carriers to transport persons or property for hire in interstate or foreign commerce is subject to the partial exemption provided in s. 212.08(4)(a)2., F.S. Tax is based on the carrier's mileage apportionment factor.

(c) Licensed common carriers or licensed railroad carriers who purchase dyed diesel fuel subject to sales tax at the time of purchase may extend a copy of the carrier's Sales and Use Tax Direct Pay Permit to the selling dealer to claim the partial exemption at the time of purchase. Any carrier that extends a permit to purchase the fuel exempt from sales tax is required to remit the sales tax due on the diesel fuel based on the carrier's mileage apportionment factor directly to the Department.

2. Licensed railroad carriers that hold a valid Sales and Use Tax Direct Pay Permit may extend a copy of the permit to the selling dealer to claim the partial exemption at the time of purchase. The carrier is required to remit the tax due on the diesel fuel based on the carrier's mileage apportionment factor directly to the Department.

(7) REFUNDS TO CLAIM THE PARTIAL EXEMPTION.

(a) Licensed common carriers and licensed railroad carriers who do not hold a valid Sales and Use Tax Direct Pay Permit are required to pay tax to the selling dealer at the time of purchase or lease. Carriers entitled to the partial exemption provided in s. 212.08(9), F.S., may obtain a refund of tax paid at the time of purchase or lease, less the amount of tax due under the partial exemption, directly from the Department.

(b) Any licensed common carrier or licensed railroad carrier seeking a refund of tax paid in excess of the tax due under the partial exemption must:

1. Obtain a certified statement from the selling dealer that the tax paid to the dealer has been remitted to the Department. The certified statement is to be submitted to the Department with an Application for Refund-Sales and Use Tax-Sales and Use Tax. A suggested format of a certificate is provided in paragraph (c);

2. File with the Department an Application for Refund-Sales and Use Tax (form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.), including the required statement, that meets the requirements of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

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

b. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.

(c) The following is a suggested format for a certified statement to be executed by the selling dealer to evidence that tax paid to the selling dealer has been remitted to the Department of Revenue:

CERTIFICATE

TAX PAID TO THE DEPARTMENT OF REVENUE

The undersigned officer who is duly authorized by \_\_\_\_\_, SELLING DEALER, hereby certifies to \_\_\_\_\_, PURCHASER, it has paid sales tax to the Florida Department of Revenue, totaling the sum of \$ \_\_\_\_\_.

The company further certifies the sales tax for the attached invoice(s) was paid to the State of Florida in the month(s) of \_\_\_\_\_ under sales tax number \_\_\_\_\_.

SIGNATURE OF AUTHORIZED OFFICER

TITLE

(8) DAMAGE CLAIMS AND DEMURRAGE CHARGES BY CARRIERS.

(a) The payment of a damage claim by a carrier to any person for damage suffered by merchandise in transit is not a sale of tangible personal property and is not subject to tax, even when the carrier retains the damaged property under settlement of the claim.

(b) The charge for repairs of the damaged property to the carrier is subject to tax.

(c) Any carrier who maintains and operates a salvage depot to sell merchandise damaged in transit and acquired by the carrier in settlement of a damage claim is required to collect sales tax on sales of the damaged property.

(d) Demurrage charges for delays due to loading or unloading cargo beyond the stipulated time are not for the rental or lease of property and are not subject to tax. Example:

The charge made to a shipper by a carrier for the retention of a railroad car, trailer, or semi-trailer beyond the scheduled time allowed, due to the delay of loading or unloading goods, is not taxable, irrespective of how the charge is designated.

(9) RECORDKEEPING REQUIREMENTS.

(a) Dealers must maintain copies of direct pay permits, certificates, and any other documentation required under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

(b) Electronic storage by the selling dealer of the required certificates and other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

Specific Authority 212.17(6), 212.18(2), 213.06 (1) FS. Law Implemented 212.02(10)(g), 212.05(1), ~~212.0598~~, 212.06(1), ~~(2), (5)~~, 212.08(4)(a), ~~(8), (9)~~, 212.085, ~~212.12(8)~~, 212.13(1), ~~212.16~~, 212.21(3) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 5-23-77, 9-26-77, 10-18-78, 3-30-79, 4-10-79, 3-27-80, 7-20-82, 10-13-83, 8-28-84, Formerly 12A-1.64, Amended 1-2-89, 10-16-89, 7-30-91, 3-20-96, 11-30-97, 7-1-99, 6-19-01, 10-2-01, \_\_\_\_\_.

12A-1.0641 Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes.

(1) SCOPE. This rule is intended to provide guidelines for the partial exemption for vessels and vessel parts provided in s. 212.08(8), F.S., to persons who transport persons or property for hire in interstate or foreign commerce or who operate commercial fishing vessels.

(2) VESSELS.

(a) Vessels that are used to transport persons or property for hire in interstate or foreign commerce and commercial fishing vessels are subject to the partial exemption provided in s. 212.08(8), F.S. Tax imposed is based on the ratio of Florida mileage to total mileage traveled by the carrier's vessels that were used in interstate or foreign commerce or for commercial fishing purposes and that had at least some Florida mileage during the previous fiscal year of the carrier.

(b) The mileage of vessels from the territorial limit to port dockside and return into international waters, foreign or coastwise, in the continuous movement of persons or property in interstate or foreign commerce is not considered to be mileage in Florida.

(c) "Commercial fishing vessels" include vessels designed, constructed, and used exclusively for the taking of fish, crayfish, oysters, shrimp, and sponges from the salt and fresh waters for sale. Vessels used for sports or pleasure fishing, such as pleasure fishing boats, charter boats, or party boats, are not commercial fishing vessels.

(d) Vessels used in intrastate commerce exclusively within the territorial waters of Florida do not qualify for the partial exemption.

(e) Vessels that are not operated to transport persons or property for hire in interstate or foreign commerce, even though such vessels may move persons or property across the

Florida state line, do not qualify for the partial exemption. For example, a dredge is operated by a company to transport its workmen and equipment between two states. The dredge is not operated to transport persons or property for hire in interstate or foreign commerce, because the company is not receiving compensation for transporting its own workmen. The purchase of the dredge does not qualify for the partial exemption.

(f) Vessels that are not engaged in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes are subject to tax, as provided in s. 212.05, F.S.

(3) COMPUTATION OF MILEAGE APPORTIONMENT FACTOR AND TAX DUE.

(a) Vessel owners are required, at the end of each fiscal year of operation, to determine the ratio of Florida mileage to total mileage traveled by the owner's vessels operated to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes that had at least some Florida mileage during the fiscal year. The ratio computed is the owner's mileage apportionment factor to be applied to purchases, leases, and rentals of vessels, and parts thereof, subject to the partial exemption under s. 212.08(8), F.S., during the following fiscal year.

(b) Vessel owners are required to apply their mileage apportionment factor calculated at the end of the prior fiscal year to purchases and leases of vessels, and parts thereof, that will be operated exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes during the current fiscal year. Vessel owners are required to calculate and report tax to the Department on a monthly basis.

(c) During the owner's initial year of operation in Florida, the owner's mileage apportionment factor may be determined on the basis of the ratio of anticipated Florida mileage to anticipated total mileage for that year for the owner's vessels used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes that are anticipated to have at least some Florida mileage. At the end of the initial year of operation, the owner is required to determine the mileage apportionment factor based on the actual Florida mileage and the actual total mileage for the initial year of operation. The owner is required to pay any additional tax due based on the actual mileage ratio. The tax is due with the owner's return due for the first month of the owner's second year of operation in this state. The owner may take a credit or apply to the Department for a refund of tax paid, as provided in Rule 12A-1.014, F.A.C., when the tax paid based on the estimated mileage ratio exceeds the tax due based on the actual mileage ratio for the initial year of operation.

(4) CLAIMING THE EXEMPTION AT THE TIME OF PURCHASE OF A VESSEL.

(a) To claim the exemption at the time of purchase of a vessel that will be used exclusively in non-Florida waters to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes, the vessel owner, or the owner's agent or representative purchasing the vessel, is required to issue an affidavit to the selling dealer. The purchaser executing the affidavit must affirm that the vessel is for the exclusive use designated in s. 212.08(8), F.S., the vessel will be used exclusively in non-Florida waters, and the vessel will not be used for sport or pleasure fishing purposes. Purchasers who purchase vessels solely for this purpose require no registration with the Department. A suggested format of an affidavit is provided in paragraph (d).

(b)1. To claim the partial exemption at the time of purchase, the person purchasing a vessel used in interstate or foreign commerce in both Florida and non-Florida waters or purchasing a commercial fishing vessel is required to:

a. Hold a valid sales and use tax certificate of registration;

b. Hold a valid Sales and Use Tax Direct Pay Permit issued by the Department. To obtain a direct pay permit, the purchaser of the vessel is required to file an Application for Self-Accrual Authority/Direct Pay Permit (form DR-16A) with the Department, as provided in Rule 12A-1.0911, F.A.C.; and

c. Execute an affidavit to the selling dealer affirming that the vessel is for the exclusive use designated in s. 212.08(8), F.S., the vessel will not be used for sport or pleasure fishing purposes, and the basis of the tax due on the purchase of the vessel. A suggested affidavit is provided in paragraph (d).

(c) Any owner who executes an affidavit to purchase a vessel used in both Florida and non-Florida waters for use in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes is required to remit the tax based on the owner's mileage apportionment factor to the Department. The owner is required to remit such tax when the owner's agent or representative has executed an affidavit.

(d) The following is a suggested format of an affidavit to be executed at the time of purchase by the owner or the owner's agent or representative to the dealer selling or leasing the vessel:

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

AFFIDAVIT

VESSELS USED TO TRANSPORT PERSONS OR PROPERTY FOR HIRE IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, hereby swear or affirm that I am the Purchaser or the purchaser's agent or representative authorized to act for the Purchaser in the purchase of the vessel described below. The option checked below applies to this purchase:

( ) The vessel will be used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel will not operate in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax.

( ) The vessel will be used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters and in Florida territorial waters. The Purchaser holds a valid Sales and Use Tax Direct Pay Permit issued by the Florida Department of Revenue and must pay tax imposed under s. 212.08(8), F.S., at the rate of % of the sales price of the vessel directly to the Florida Department of Revenue. The tax is due on the 1st day of the month following the date of purchase of the designated vessel and is delinquent on the 21st day of that month.

DESCRIPTION OF VESSEL: \_\_\_\_\_

NAME OF VESSEL: \_\_\_\_\_

STATE REGISTRATION NUMBER: \_\_\_\_\_

COAST GUARD DOCUMENTATION NUMBER: \_\_\_\_\_

MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

YEAR: \_\_\_\_\_ SERIAL NUMBER: \_\_\_\_\_

SALES PRICE OF DESIGNATED VESSEL: \_\_\_\_\_

NAME OF SELLING DEALER: \_\_\_\_\_

SELLING DEALER'S ADDRESS: \_\_\_\_\_

SELLING DEALER'S SALES TAX NO.: \_\_\_\_\_

NAME OF VESSEL OWNER: \_\_\_\_\_

NAME OF PURCHASER: \_\_\_\_\_

PURCHASER'S TITLE OR DESIGNATION: \_\_\_\_\_

VESSEL OWNER'S SALES TAX NO.: \_\_\_\_\_

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

Under the penalties of perjury, I swear or affirm that I have read the foregoing Affidavit and that the facts stated herein are true to the best of my knowledge and belief.

\_\_\_\_\_  
SIGNATURE OF PURCHASER OR PURCHASER'S AGENT OR REPRESENTATIVE

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 BY \_\_\_\_\_ (name of person making statement).

Personally Known: \_\_\_\_\_  
 Or Produced Identification: \_\_\_\_\_ Signature of Notary  
 Type of Identification Produced: \_\_\_\_\_  
 \_\_\_\_\_  
 (Print, Type, or Stamp  
 Commissioned Name  
 of Notary)

(5) PARTS AND OTHER ITEMS USED ON VESSELS.

(a) Vessel parts and other items purchased or leased in Florida that are appropriate to perform the purposes for which a vessel operated to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes is designed or equipped are subject to the partial exemption provided in s. 212.08(8), F.S. Tax is based on the owner's mileage apportionment factor. Examples of these items are: ice, bait, charts, foul weather gear, ropes, fishing tackle, logs, cooking utensils, and paper supplies.

(b) Charges for repairs or the maintenance of vessels to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes that are performed in Florida are subject to the partial exemption. The tax is based on the owner's mileage apportionment factor.

(c)1. Items purchased or leased in Florida that are not appropriate to perform the purposes for which a vessel is operated, designed, or equipped are subject to tax at the rate imposed by s. 212.05(1), F.S.

2. Tools and materials and supplies, such as sandpaper, blasting sand, sanding discs, masking tape, rags, and mineral spirits, used in the repair and maintenance of a vessel while the vessel is within Florida are subject to tax at the rate imposed by s. 212.05(1), F.S.

(d) Nets, and parts used in the repair of nets, are exempt when used exclusively by commercial fisheries. To claim the exemption, the fishery is required to issue an exemption certificate to the seller. A suggested format of an exemption certificate is provided in Rule 12A-1.087, F.A.C.

(e) The vessel owner, operator, or the owner's agent or representative is required to execute an affidavit to the selling dealer to purchase, lease, or rent vessel parts and other items subject to the partial exemption tax-exempt at the time of purchase. The owner is required to pay tax on vessels parts and other qualified items based on the owner's mileage apportionment factor directly to the Department. The following is a suggested format of the affidavit:

STATE OF FLORIDA  
 COUNTY OF \_\_\_\_\_

AFFIDAVIT

VESSEL PARTS AND ITEMS APPROPRIATE TO CARRY OUT THE PURPOSE FOR WHICH A VESSEL IS DESIGNED, EQUIPPED, AND USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, hereby swear or affirm that I am the Owner, the operator, or the owner's agent or representative authorized to act for the Owner in the purchase of the items used on the vessel, \_\_\_\_\_, Home Port of \_\_\_\_\_.

I hereby swear or affirm that the named vessel is used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes and the items purchased from the Seller listed on INVOICE NO(S), will be used exclusively on the named vessel and are appropriate to carry out the purpose for which the vessel is designed, equipped, and used.

I hereby swear or affirm that: (The option checked below applies to this purchase.)

( ) The items purchased will be used exclusively on the named vessel in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel will not be operated in or on the canals or waterways, or within the territorial waters, of Florida. The items purchased are not subject to Florida sales tax.

( ) The items purchased will be used exclusively on the named vessel in both non-Florida waters and in Florida territorial waters. The Owner holds a valid Sales and Use Tax Direct Pay Permit issued by the Florida Department of Revenue and must pay tax imposed under s. 212.08(8), F.S., at the rate of \_\_\_\_\_ % of the sales price of the vessel parts and items directly to the Florida Department of Revenue. The tax is due on the 1st day of the month following the date of purchase of the designated vessel parts and items and is delinquent on the 21st day of that month.

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

Under the penalties of perjury, I swear or affirm that I have read the foregoing Affidavit and that the facts stated herein are true to the best of my knowledge and belief.

\_\_\_\_\_  
SIGNATURE OF VESSEL OWNER, OPERATOR, OR  
OWNER'S AGENT OR REPRESENTATIVE

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20 BY \_\_\_\_\_ (name of person making statement).

Personally Known: \_\_\_\_\_

Or Produced Identification: \_\_\_\_\_ Signature of Notary

Type of Identification Produced: \_\_\_\_\_  
(Print, Type, or Stamp  
Commissioned Name  
of Notary)

(6) FUEL USED IN INTERSTATE OR FOREIGN  
COMMERCE OR FOR COMMERCIAL FISHING  
PURPOSES.

(a) The sale of dyed diesel fuel to the owner, operator, or the owner's agent or representative of vessels operated to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes is subject to the partial exemption provided in s. 212.08(4)(a)2., F.S. Tax imposed is based on the vessel owner's mileage apportionment factor.

(b) To purchase dyed diesel fuel exempt from sales tax at the time of purchase, the owner, operator, or the owner's agent or representative is required to execute a statement to the selling dealer declaring that the fuel will be used in a vessel operated to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes. The following is a suggested format of a certificate:

CERTIFICATE

FUEL FOR USE IN A VESSEL OPERATED IN  
INTERSTATE OR FOREIGN COMMERCE OR FOR  
COMMERCIAL FISHING PURPOSES

I, the undersigned individual, as the Owner, Operator, or the Owner's agent or representative of the vessel, \_\_\_\_\_, Home Port of \_\_\_\_\_, certify the following. The option checked below applies to this purchase:

( ) The named vessel is used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The fuel will not be used to operate the vessel in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax.

( ) The named vessel is used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters and in Florida territorial waters. The fuel will be used to operate

vessels in interstate or foreign commerce or for commercial fishing purposes and is subject to the partial exemption provided in s. 212.08(4)(a)2., F.S. The Owner holds a valid sales and use tax certificate of registration issued by the Florida Department of Revenue and must pay tax due on the fuel directly to the Florida Department of Revenue. The tax is due on the 1st day of the month following the date of purchase of the fuel and is delinquent on the 21st day of that month.

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

Under the penalties of perjury, I declare that I have read the foregoing Certificate and the facts stated herein are true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
SIGNATURE OF OWNER, OPERATOR, AGENT,  
OR REPRESENTATIVE

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

(7) REFUNDS TO CLAIM THE PARTIAL  
EXEMPTION.

(a) Persons who are entitled to the partial exemption provided in s. 212.08(4)(a)2., F.S., or s. 212.08(8), F.S., may obtain a refund of tax paid at the time of purchase or lease, less the amount of tax due under the partial exemption, directly from the Department.

(b) Persons seeking a refund of tax paid in excess of the tax due under the partial exemption must:

1. Obtain a certified statement from the selling dealer that the tax paid to the dealer has been remitted to the Department. The certified statement is to be submitted to the Department with an Application for Refund-Sales and Use Tax. A suggested format of a certificate is provided in paragraph (c).

2. When seeking a refund of tax paid in excess of the tax due on vessels in excess of the tax due under the partial exemption, execute an affidavit affirming that the designated vessel or designated vessel parts are subject to the partial exemption and the extent of that partial exemption. The affidavit is to be submitted to the Department with an Application for Refund-Sales and Use Tax. Suggested formats of the affidavits are provided in paragraphs (d) and (e).

3. When seeking a refund of sales tax paid on diesel fuel purchased in excess of the tax due under the partial exemption, execute a statement that the fuel purchased qualified for the exemption. The statement is to be submitted to the Department with an Application for Refund-Sales and Use Tax. A suggested format of a certificate is provided in paragraph (f).

4. File with the Department an Application for Refund-Sales and Use Tax (form DR-26S, incorporated by reference in Rule 12-26.008, F.A.C.), including any required statement or affidavit, that meets the requirements of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

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

b. Form DR-26S, Application for Refund-Sales and Use Tax, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid.

(c) The following is a suggested format for a certified statement to be executed by the selling dealer to evidence that tax paid to the selling dealer has been remitted to the Department of Revenue:

CERTIFICATE

TAX PAID TO THE DEPARTMENT OF REVENUE

The undersigned officer who is duly authorized by \_\_\_\_\_, SELLING DEALER, hereby certifies to \_\_\_\_\_, PURCHASER, it has paid sales tax to the Florida Department of Revenue, totaling the sum of \$ \_\_\_\_\_. The company further certifies the sales tax for the attached invoice(s) was paid to the State of Florida in the month(s) of \_\_\_\_\_ under sales tax number \_\_\_\_\_.

SIGNATURE OF AUTHORIZED OFFICER

TITLE

(d) The following is a suggested format of an affidavit to be provided to the Department to obtain a refund of tax paid to the selling dealer in excess of the tax due on vessels operated in interstate or foreign commerce or for commercial fishing purposes:

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

AFFIDAVIT

SALES TAX PAID TO THE SELLING DEALER FOR A VESSEL USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, hereby swear or affirm that I am the Owner, or the Owner's agent or representative authorized to act for the Owner or Operator in the purchase of the vessel described below. The option checked below applies to this purchase:

( ) The vessel is used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel is not operated in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax. I have paid

Florida sales tax to the Seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in the amount of \$ \_\_\_\_\_ directly from the Florida Department of Revenue.

( ) The vessel is used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters and in Florida territorial waters. I have paid Florida sales tax to the Seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in excess of the tax due pursuant to s. 212.08(8), F.S. I understand that, as the Purchaser, I must pay tax imposed under s. 212.08(8), F.S., at the rate of \_\_\_\_\_ % of the sales price of the vessel and am requesting a refund of tax paid in the amount of \$ \_\_\_\_\_ directly from the Florida Department of Revenue.

DESCRIPTION OF VESSEL USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES:

NAME OF VESSEL: \_\_\_\_\_
STATE REGISTRATION NUMBER: \_\_\_\_\_
COAST GUARD DOCUMENTATION NUMBER: \_\_\_\_\_
MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_
YEAR: \_\_\_\_\_ SERIAL NUMBER: \_\_\_\_\_
SALES PRICE OF DESIGNATED VESSEL: \_\_\_\_\_
NAME OF SELLING DEALER: \_\_\_\_\_
SELLING DEALER'S ADDRESS: \_\_\_\_\_
SELLING DEALER'S SALES TAX NO.: \_\_\_\_\_
VESSEL OWNER OR OWNER'S AGENT OR REPRESENTATIVE: \_\_\_\_\_
TITLE OR DESIGNATION: \_\_\_\_\_

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

Under the penalties of perjury, I swear or affirm that I have read the foregoing Affidavit and that the facts stated herein are true to the best of my knowledge and belief.

SIGNATURE OF OWNER OR OWNER'S AGENT OR REPRESENTATIVE

TITLE OR DESIGNATION

DATE

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 BY \_\_\_\_\_ (name of person making statement).

Personally Known: \_\_\_\_\_

Or Produced Identification: \_\_\_\_\_ Signature of Notary

Type of Identification Produced: \_\_\_\_\_

(Print, Type, or Stamp Commissioned Name of Notary)

(e) The following is a suggested format of an affidavit to be provided to the Department to obtain a refund of tax paid to the selling dealer on items appropriate to carry out the purpose for which a vessel is designed, equipped, and used in interstate or foreign commerce or for commercial fishing purposes:

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

AFFIDAVIT

ITEMS APPROPRIATE TO CARRY OUT THE PURPOSE FOR WHICH A VESSEL IS DESIGNED, EQUIPPED, AND USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, as the Owner, the Operator, or the Owner's agent or representative of the vessel, \_\_\_\_\_, Home Port of \_\_\_\_\_, hereby swear or affirm that the items purchased from the Seller listed on INVOICE NO(S) \_\_\_\_\_ are used exclusively on the named vessel and are appropriate to carry out the purpose for which the vessel is designed, equipped, and used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes. The option checked below applies to the items purchased:

( ) The items purchased are used on the named vessel that is used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The vessel is not operated in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax. I have paid Florida sales tax to the Seller and am applying directly to the Florida Department of Revenue to obtain a refund of sales tax paid to the Seller.

( ) The items purchased are used on the named vessel that is used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters and in Florida territorial waters. I have paid Florida sales tax to the Seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in excess of the tax due under to s. 212.08(8), F.S. I understand, that as the Owner or Operator of the vessel, that I must pay tax imposed under s. 212.08(8), F.S., at the rate of \_\_\_\_\_ % of the sales price of the vessel parts and items and am requesting a refund of tax paid in the amount of \$ \_\_\_\_\_ directly from the Florida Department of Revenue.

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

Under the penalties of perjury, I swear or affirm that I have read the foregoing Affidavit and that the facts stated herein are true to the best of my knowledge and belief.

\_\_\_\_\_  
SIGNATURE OF THE VESSEL OWNER OR THE OWNER'S AGENT OR REPRESENTATIVE

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 BY \_\_\_\_\_ (name of person making statement).

Personally Known: \_\_\_\_\_

Or Produced Identification: \_\_\_\_\_ Signature of Notary

Type of Identification Produced: \_\_\_\_\_

\_\_\_\_\_  
(Print, Type, or Stamp  
Commissioned Name  
of Notary)

(f) The following is a suggested format of a certificate to be provided to the Department to obtain a refund of tax paid to the selling dealer on fuel in excess of the partial exemption provided in s. 212.08(4)(a)2., F.S.:

CERTIFICATE

TAX PAID ON FUEL USED IN A VESSEL OPERATED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES

I, the undersigned individual, as the Owner, the Operator, or the Owner's agent or representative of the vessel, \_\_\_\_\_, Home Port of \_\_\_\_\_, hereby certify that the fuel purchased from the Seller listed on INVOICE NO(S) \_\_\_\_\_ is used on the named vessel engaged in transporting persons or property for hire in interstate or foreign commerce or engaged in commercial fishing. The option checked below applies to this purchase of fuel.

( ) The fuel was used in the named vessel used exclusively to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The fuel was not used to operate the named vessel in or on the canals or waterways, or within territorial waters, of Florida and is not subject to Florida sales tax. I am requesting a refund of tax paid in the amount of \$ \_\_\_\_\_ directly from the Florida Department of Revenue.

( ) The fuel was used in the named vessel used in transporting persons or property for hire in interstate or foreign commerce or for commercial fishing purposes in both non-Florida waters in Florida territorial waters. I have paid Florida sales tax to the Seller and am applying directly to the Florida Department of Revenue to obtain a refund of tax paid in excess of the tax due pursuant to s. 212.08(4)(a)2., F.S. I understand that, as the Purchaser, I must pay tax imposed under s. 212.08(4)(a)2., F.S., at the rate of \_\_\_\_\_ % of the sales price of the fuel and am requesting a refund of tax paid in the amount of \$ \_\_\_\_\_ directly from the Florida Department of Revenue.



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

Under the penalties of perjury, I declare that I have read the foregoing Certificate and that the facts stated herein are true to the best of my knowledge and belief.

\_\_\_\_\_  
SIGNATURE OF OWNER OR OWNER'S AGENT  
OR REPRESENTATIVE

\_\_\_\_\_  
TITLE OR DESIGNATION

\_\_\_\_\_  
DATE

(8) DAMAGE CLAIMS AND DEMURRAGE CHARGES BY CARRIERS.

(a) The payment of a damage claim by a vessel owner or operator to any person for damage suffered by merchandise in transit is not a sale of tangible personal property and is not subject to tax, even when the carrier retains the damaged property under settlement of the claim.

(b) The charge for repairs of the damaged property to the vessel owner or operator is subject to tax.

(c) Any person who maintains and operates a salvage depot to sell merchandise damaged in transit and acquired in settlement of a damage claim is required to collect sales tax on sales of the damaged property.

(d) Demurrage charges for delays due to loading or unloading cargo beyond the stipulated time are not for the rental or lease of property and are not subject to tax. Example: The charge made to a shipper for the retention of a marine-cargo container beyond the scheduled time allowed, due to the delay of loading or unloading goods, is not taxable, irrespective of how the charge is designated.

(9) RECORDKEEPING REQUIREMENTS.

(a) Dealers must maintain copies of affidavits, direct pay permits, certificates, and any other documentation required under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S.

(b) Electronic storage by the selling dealer of the required affidavits, certificates, and other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g), 212.05(1), 212.06(1), 212.08(4)(a),(8), 212.085, 212.13(1), 212.21(3) FS. History--New \_\_\_\_\_.

12A-1.071 Rentals, Leases, or License to Use Tangible Personal Property.

(1) through (3) No change.

~~(4)(a)~~ No change.

~~(b) The lease of railroad cars to a railroad company for use on its tracks is exempt, provided the rental charges are subject to the jurisdiction of the United States Interstate Commerce Commission and are based on hourly, daily, or mileage charges, and they are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer. Charges made pursuant to railroad car service agreements are also exempt.~~

~~(5) The rental of railroad cars to any lessee, other than a railroad company, is taxable, subject to paragraph (a) of subsection (4) and subsection (7) of this section.~~

(6) through (14) renumbered (5) through (13) No change.

~~(14)(15)(a)~~ No change.

~~(b) Demurrage charges are not subject to tax, because such charges are for delays due to loading or unloading cargo, and not for the lease of tangible personal property.~~

~~1. Example: The charge made to a shipper by a carrier for the retention of a railroad car, trailer, semi-trailer, vessel, or marine cargo container beyond the scheduled time allowed, due to the delay of loading or unloading goods, is not taxable, irrespective of how that charge is designated, because such charge is not for the lease of tangible personal property.~~

~~2. Example: The charge for keeping gas cylinders beyond a stipulated time due to loading and unloading of the gas from the cylinders is not taxable. However, the charge made by a lessor to a lessee for the rental of a gas cylinder, whether it is empty or contains gas, is subject to tax. See subsection (38), below.~~

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

(16) through (48) renumbered (15) through (47) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1),(4),(10)(g),(12), (14)(a),(15)(a), (16),(19), 212.04, 212.05(1)(c),(d),(f),(h),(j), 212.06(1)(a),(2)(e),(8), 212.08(7)(e),(f),(v),(y), 212.11(2),(3), 212.12(9), 212.18(2), 402.61 FS. History--Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 12-31-81, 7-20-82, Formerly 12A-1.71, Amended 1-2-89, 10-5-92, 11-16-93, 8-15-94, 10-17-94, 3-20-96, 8-1-02, \_\_\_\_\_.

(Substantial rewording of Rule 12A-1.0911 follows. See Florida Administrative Code for present text.)

12A-1.0911 Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors.

(1) SCOPE OF RULE. This rule is intended to provide guidelines regarding the authority to self-accrue sales and use tax, as provided in s. 212.183, F.S. This rule is also intended to provide guidelines regarding the authority granted by s. 212.18(3)(a), F.S., to dealers that use independent sellers or

distributors regarding procedures for remitting tax directly to the Department on the retail sales price charged to the ultimate consumer.

(2) SELF-ACCRUAL AUTHORIZATION.

(a) The Department will authorize dealers to assume the obligation of self-accruing and remitting tax directly to the Department for the following purposes:

1. The apportionment of sales tax by eligible air carriers provided in s. 212.0598, F.S.

2. The partial exemption provided in s. 212.08(9)(a), F.S., for railroad rolling stock, and parts thereof, used to transport persons or property for hire in interstate or foreign commerce and the partial exemption provided in s. 212.08(4)(a)2., F.S., for fuel used in railroad locomotives. See Rule 12A-1.064, F.A.C.

3. The partial exemption provided in s. 212.08(9)(b), F.S., for motor vehicles, and parts thereof, used to transport persons or property for hire in interstate or foreign commerce. See Rule 12A-1.064, F.A.C.

4. The partial exemption provided in s. 212.08(8), F.S., for vessels, and parts thereof, used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes and the partial exemption provided in s. 212.08(4)(a)2., F.S., for fuel used in such vessels. See Rule 12A-1.0641, F.A.C.

5. The purchase of tangible personal property by dealers who annually purchase in excess of \$10 million of taxable tangible personal property in any county for the dealer's own use.

6. The purchase of tangible personal property by dealers who annually purchase at least \$100,000 of taxable tangible personal property, including maintenance and repairs for the dealer's own use, and the taxable status of the property will be known only when the dealer uses the property. For example, dealers whose normal trade or business characteristics require them to purchase property, maintenance, or repairs that will either become a component part of a product manufactured for sale or will be used and consumed by the dealer will know the taxable status of the property only when the property is used.

7. The purchase of promotional materials, as defined in s. 212.06(11)(b), F.S., by dealers who are unable to determine at the time of purchase whether the promotional materials used to promote subscriptions to publications will be used in Florida or exported from Florida. The seller of subscriptions to publications promoted by the promotional materials must be a registered dealer who is remitting sales tax to the Department on publications sold in Florida. The dealer purchasing and distributing the promotional materials and the seller of the promoted subscriptions to publications sold in Florida are not required to be the same entity.

8. The lease or license to use real property subject to the tax imposed by s. 212.031, F.S., from independent owners or lessors of real property by dealers who are required to remit sales tax electronically under s. 213.755, F.S.

9. The lease of or license to use real property subject to the tax imposed by s. 212.031, F.S., by a dealer who leases or obtains licenses to use real property from a number of independent property owners who, except for the lease or license to the dealer, would not be required to register as dealers engaged in the business of leasing real property.

10. The lease or license to use real property subject to the tax imposed by s. 212.031, F.S., by operators of amusement machines or vending machines who lease or obtain licenses to use real property from property owners or lessors for the purpose of placing and operating an amusement or vending machine.

(b) Any person requesting authority from the Department to self-accrue and remit tax directly to the Department must:

1. File an Application for Self-Accrual Authority/Direct Pay Permit-Sales and Use Tax (form DR-16A, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, in the manner provided on the application; and

2. Hold a valid certificate of registration for purposes of reporting sales and use tax. See Rule 12A-1.060, F.A.C.

(c) The Department will issue a Sales and Use Tax Direct Pay Permit to qualified applicants. The effective date of the permit is the postmark date of the application or, when the application is delivered by means other than the United States Postal Service, the date the application is received by the Department.

(d) The Department will specify on each permit the circumstances for which the dealer is authorized to self-accrue and remit sales and use tax directly to the Department. The authorized dealer is required to remit the tax directly to the Department.

(e) Any dealer that holds a valid Sales and Use Tax Direct Pay Permit may extend a copy of its permit to the selling dealer in lieu of paying tax for authorized purchases to the selling dealer.

(f) The expiration date of Sales and Use Tax Direct Pay Permit shall be the end of the month preceding five years from the effective date, if the effective date is on or before the 15th of the month. The expiration date shall be the end of the month that is five years from the effective date, if the effective date is after the 15th of the month. The Department will provide a renewal notice to a permit holder 60 days prior to the expiration date of a permit. Persons that fail to receive a renewal notice or that need more information regarding the notice may contact the Department at:

Central Registration

Florida Department of Revenue

P. O. Box 6480

Tallahassee, Florida 32314-6480.

(g) All dealers who hold a valid Sales and Use Tax Direct Pay Permit are required to file with the Department, by September 30 of each year, a report showing the amount of total purchases by county for the period from September 1 through August 31 and the amount of use tax self-accrued on such purchases by county. This report should be mailed to:

Florida Department of Revenue  
Central Registration  
P. O. Box 6480  
Tallahassee, Florida 32314-6480.

(h) Holders of Sales and Use Tax Direct Pay Permits must notify the Department within 30 days of any change of circumstances that may affect the dealer's qualification to hold the permit. The permit will be revoked if the Department determines that the holder of a direct pay permit no longer meets the requirements set forth in this rule.

(i) Selling dealers are required to collect tax from customers whose Sales and Use Tax Direct Pay Permit has expired.

**(3) DEALERS USING INDEPENDENT SELLERS OR DISTRIBUTORS.**

(a) The Department will authorize a dealer that uses independent sellers or independent distributors to sell its merchandise to remit tax on the retail sales price charged to the ultimate consumer in lieu of having the independent seller or independent distributor register as a dealer and remit the tax. To request authorization from the Department, the dealer is required to:

1. Provide documentation of the dealer's financial resources, including certified financial statements;
2. Provide a detailed description of the dealer's information processing system to be used for the tax liabilities assumed and the allocation of discretionary sales surtaxes;
3. Provide a description of the property being sold by the independent sellers or independent distributors; and
4. Agree to report and pay directly to the Department all sales tax liabilities that are transferred from the independent sellers or independent distributors to the dealer and to comply with the provisions of Chapter 212, F.S., and this rule.

(b) A dealer who is authorized by the Department to remit tax for its independent sellers or independent distributors must report and remit the amount of sales tax and surtax due at the rate imposed by the county where delivery of the property to the independent seller or independent distributor occurs.

(c) A dealer authorized to remit tax on behalf of its independent sellers or independent distributors will not be authorized to make tax-exempt purchases under the permit. Such a dealer may use its Annual Resale Certificate to make tax-exempt purchases for the purposes of resale, as provided in Rule 12A-1.039, F.A.C.

(d) When a dealer's authorization to remit tax on behalf of its independent sellers or independent distributors is canceled by the Department or voluntarily terminated by the dealer, that dealer is required to immediately provide written notification to each independent seller or distributor that it is no longer authorized to remit tax on behalf of its independent sellers or independent distributors.

Specific Authority 212.17(6), 212.18(2),(3), 212.183, 213.06(1) FS. Law Implemented 212.05(1)(e)3.,4., 212.0598, 212.06(11), 212.08(4)(a)2.,(8),(9), 212.12(13), 212.18(3), 212.183 FS. History--New 4-7-92, Amended 5-19-93, 9-14-93, 11-16-93, 9-30-99, 10-2-01,\_\_\_\_\_.

**12A-1.097 Public Use Forms.**

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
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(2) through (6) No change.

(7)(a) DR-16A	<u>Application for Self-Accrual Authority/Direct Pay Permit (N. 01/03)</u>	_____
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(b) DR-16P	<u>Sales and Use Tax Direct Pay Permit (N. 01/03)</u>	_____
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(c) DR-16R	<u>Renewal Notice and Application for Sales and Use Tax Direct Pay Permit (N. 01/03)</u>	_____
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(8) DR-17	<u>Application for Distributor Level Collection Agreement (N. 02/03)</u>	_____
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(7) through (20) renumbered (9) through (22) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0598, 212.08(5)(f),(g),(h),(n),(o)(8),(9),(15), 212.096, 212.12, 212.17(6), 212.18(2),(3), 212.183, 288.1258 FS. History--New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02,\_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:**  
Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-9407

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Linda Bridges, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)488-7157

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C., Sales and Use Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5092-5110). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. The Department has made the following changes: (1) technical changes to proposed sub-paragraphs (2)(b)3.a., c., and d. of Rule 12A-1.0015, F.A.C. (Sales for Export; Sales to Nonresident Dealers and Foreign Diplomats), to replace the phrases "person or firms" and "any individual or firm" with "any person"; (2) substantive changes to proposed paragraph (2)(c) of Rule 12A-1.064, F.A.C., to provide that registration of a motor vehicle in another state evidences that a motor vehicle has been put into service in interstate or foreign commerce outside Florida prior to entering Florida; and (3) substantive changes to Rule 12A-1.097, F.A.C. (Public Use Forms), to add forms that will be used by the Department in the administration of the self-accrual authority pursuant to s. 212.183, F.S.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLES:	RULE NOS.:
Public Use Forms	12A-1.097
Enterprise Zone and Florida Neighborhood Revitalization Programs	12A-1.107

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), and to Rule 12A-1.107, F.A.C. (Enterprise Zone and Florida Neighborhood Revitalization Programs), is to: (1) implement s. 23, Chapter 2002-218, L.O.F., which requires an application for an enterprise zone job credit against sales tax due to be submitted to the Department within 7 months after an employee is leased; (2) implement s. 25, Chapter 2002-218, L.O.F., which permits the Department to verify credits allowable under the sales and use tax law; and (3) adopt, by reference, changes to forms used by the Department in the administration of the Florida enterprise zone jobs credit program.

SUMMARY: The proposed amendments to Rule 12A-1.097, F.A.C., adopt, by reference, changes to forms DR-15ZC and DR-15ZCN, which are used by the Department in the administration of the Florida enterprise zone jobs credit program and implement the provisions of ss. 23 and 25, Chapter 2002-218, L.O.F.

The proposed amendments to Rule 12A-1.107, F.A.C., require that an application to receive an enterprise zone jobs credit against sales tax due must be submitted to the Department within 7 months after an employee is leased.

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

Any person who wishes to provide information regarding regulatory costs or to provide a proposal for a lower-cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 212.08(5)(g)6.,(h),(n)4.,(o),(15)(e), 212.11(5)(b), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.08(5)(f),(g),(h),(n),(o),(q),(15), 212.096, 212.11(5), 212.15(2), 212.17(6), 212.18(2),(3), 288.1258 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4733

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
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(2) through (6)(j) No change.

(k) DR-15ZC	Application for Florida Enterprise Zone Jobs Credit for Sales Tax Effective January 1, <u>2003 2002</u> (R. 01/03 N. 01/02)	<u>08/02</u>
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- (l) DR-15ZCN Instructions for Completing the Sales and Use Tax Return, Form DR-15, when taking the Enterprise Zone Jobs Tax Credit under the New Law (R. 01/03 N. 01/02) \_\_\_\_\_ ~~08/02~~
- (m) through (n) No change.
- (7) through (20) No change.

Specific Authority 212.11(5)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(f),(g),(h),(n),(o),(q),(15), 212.096, 212.11(5), 212.17(6), 212.18(2),(3), 288.1258 FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, \_\_\_\_\_.

12A-1.107 Enterprise Zone and Florida Neighborhood Revitalization Programs.

(1) ENTERPRISE ZONE JOBS CREDIT.

(a) How to Claim the Credit. For employees hired after October 1, 2001, an application that includes the information required by s. 212.096(3)(a)-(f), F.S., effective July 1, 2001, must be filed with the Enterprise Zone Development Agency for the enterprise zone where the business is located to claim the enterprise zone jobs credit. The Department of Revenue prescribes form DR-15ZC, Application for Florida Enterprise Zone Jobs Credit for Sales Tax Effective January 1, 2002 (incorporated by reference in Rule 12A-1.097, F.A.C.), for this purpose.

(b) Forms Required. Taxpayers claiming the enterprise zone jobs credit against sales and use tax for employees hired after October 1, 2001, must use form DR-15ZC to apply for, calculate, and claim the credit with the Department of Revenue. Form DR-15ZC must be certified by the Enterprise Zone Development Agency, attached to a sales and use tax return, and delivered directly to the Department, or postmarked, within six months after the new employee is hired. Beginning May 1, 2002, employers have seven months from the date a qualified leased employee is hired to file the certified DR-15ZC with the Department.

- (2) through (9) No change.

Specific Authority 212.08(5)(g)6.,(h)6.,(n)4.,(o)4.,(15)(e), 212.11(5)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(5)(g),(h), (n),(o),(q),(15), 212.096, 212.11(5), 212.15(2), 212.17(6), 212.18(2) FS. History—New 1-3-96, Amended 6-19-01, 8-1-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Suzanne Paul, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4733

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C., Sales and Use Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5110-5111). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes to the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), were made by the Department

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Documentary Stamp Tax	12B-4
RULE TITLES:	RULE NOS:
Payment of Tax	12B-4.001
Public Use Forms	12B-4.003
Refunds	12B-4.004
Conveyances Subject to Tax	12B-4.013
Imposition of Tax	12B-4.031
Issues Subject to Tax	12B-4.032
Issues Not Subject to Tax	12B-4.033
Imposition of Tax	12B-4.051
Computation of Tax; Definitions	12B-4.052
Taxable Documents	12B-4.053
Exempt Transactions	12B-4.054

**PURPOSE AND EFFECT: PART I – ADMINISTRATION**

The purpose of the proposed amendments to Part I (Administration), Chapter 12B-4, F.A.C., is to: (1) provide current guidelines regarding the payment and the reporting of the documentary stamp tax and discretionary surtax; (2) provide current guidelines on how to obtain a refund of documentary stamp tax or discretionary surtax; and (3) adopt, by reference, the forms used by the Department in the administration of the documentary stamp tax and discretionary surtax.

The purpose of the proposed amendments to Rule 12B-4.001, F.A.C. (Payment of Tax), is to: (1) implement s. 2, Chapter 2002-8, L.O.F., which provides that the required notation on a recorded document may be signed, initialed, or stamped with the name or initials of the Clerk of the Court, Comptroller, or designated agent; (2) provide current guidelines to persons who are required to register with the Department to report and remit the documentary stamp tax due directly to the Department; (3) provide current procedures for Clerks of the Court to utilize when closing out alternate procedure

documentary stamp tax accounts; and (4) remove provisions regarding shortages and overages that are not supported by statutory authority.

The purpose of the proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms), are necessary to: (1) remove the unnecessary and obsolete provisions, obsolete forms, and forms that do not meet the definition of a "rule," as defined in s. 120.52(15), F.S.; and (2) adopt, by reference, changes to forms used by the Department in the administration of the documentary stamp tax.

The purpose of the proposed amendments to Rule 12B-4.004, F.A.C. (Refunds), is to provide current guidelines on how to obtain a refund of documentary stamp tax and surtax from the Department.

#### PART II – DEEDS – DOCUMENTARY STAMP TAX AND SURTAX

The purpose of the proposed amendments to Rule 12B-4.013, F.A.C. (Conveyances Subject to Tax), is to implement the provisions of s. 1, Chapter 2002-8, L.O.F., regarding the computation of documentary stamp tax under s. 201.02, F.S. This law provides that in cases where real property is sold by judicial sale based on an order or final judgment issued in a foreclosure proceeding the tax is to be based solely on the final bid price received for the property at the foreclosure sale.

#### PART IV – ORIGINAL ISSUES OF STOCK

The purpose of the proposed repeal of Part IV (Original Issues of Stock) of Rule Chapter 12B-4, F.A.C., is to implement s. 60, Chapter 2002-218, L.O.F., which repeals the imposition of the documentary stamp tax on the original issuance of stock.

#### PART VI – NOTES AND WRITTEN OBLIGATIONS TO PAY MONEY

The purpose of the proposed amendments to Part VI (Notes and Written Obligations to Pay Money) of Rule Chapter 12B-4, F.A.C., is to implement s. 9, Chapter 2002-218, L.O.F., which limits the documentary stamp tax to \$2450 on notes and other written obligations to pay money.

#### SUMMARY: PART I – ADMINISTRATION

The proposed amendments to Rule 12B-4.001, F.A.C. (Payment of Tax): (1) provide current guidelines for Clerks of the Court who are required to collect, remit, and properly annotate the documentary stamp tax due on the recording of documents; (2) implement s. 2, Chapter 2002-8, L.O.F., which provides that the required notation on a recorded document may be signed, initialed, or stamped with the name or initials of the Clerk of the Court, Comptroller, or designated agent; (3) provide current guidelines to persons who are required to register with the Department to report and remit the documentary stamp tax due directly to the Department; (4) provide current guidelines to persons not required to register as dealers on how to pay the tax directly to the Department; and (5) provide current procedures for Clerks of the Court to utilize when closing out alternate procedure documentary stamp tax accounts and remove provisions regarding shortages and overages that are not supported by statutory authority.

The proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms): (1) change the title to "Public Use Forms"; (2) remove the unnecessary and obsolete provisions regarding the applicability of revenue laws relating to the assessment and collection of tax and the issuance of tax warrants; (3) remove obsolete forms and forms that do not meet the definition of a "rule," as defined in s. 120.52(15), F.S.; and (4) adopt changes to forms used by the Department in the administration of the documentary stamp tax.

The proposed amendments to Rule 12B-4.004, F.A.C. (Refunds): (1) remove obsolete guidelines regarding applications for refunds; (2) provide that an Application for Refund (form DR-26) must be filed with the Department to obtain a refund of documentary stamp tax or discretionary surtax and provide the requirements for filing such applications; (3) provide that an applicant for a refund of tax must supply documentation that the applicant paid the tax.

#### PART II – DEEDS – DOCUMENTARY STAMP TAX AND SURTAX

The proposed amendments to Rule 12B-4.013, F.A.C. (Conveyances Subject to Tax), implement the provisions of s. 1, Chapter 2002-8, L.O.F., and provide that the documentary stamp tax is to be based solely on the final bid price received for the property at the foreclosure sale based on an order or final judgment issued in a foreclosure proceeding.

#### PART IV – ORIGINAL ISSUES OF STOCK

The proposed repeal of Rule 12B-4.031, F.A.C. (Imposition of Tax), Rule 12B-4.032, F.A.C. (Issues Subject to Tax), and Rule 12B-4.033, F.A.C. (Issues Not Subject to Tax), removes obsolete provisions regarding the taxability of original issues of stock.

#### PART VI – NOTES AND WRITTEN OBLIGATIONS TO PAY MONEY

The proposed amendments to Rule 12B-4.051, F.A.C. (Imposition of Tax), provide guidelines and examples of how the tax limitation does not apply to a mortgage, security agreement, or other lien filed or recorded in Florida.

The proposed amendments to Rule 12B-4.052, F.A.C. (Computation of Tax; Definitions), provide guidelines and examples of how the tax limitation applies to tax due on original obligations and all renewals that meet the requirements of s. 201.09(1), F.S.

The proposed amendments to Rule 12B-4.053, F.A.C. (Taxable Documents): (1) provide that the tax limitation applies to demand loans, wrap-around notes, and all other notes or written obligations to pay money executed, delivered, or approved and accepted in Florida; (2) remove obsolete provisions requiring tax on the full amount of the indebtedness of out-of-state notes secured by Florida property; (3) provide guidelines on how the tax limitation applies to in-state notes secured by Florida property; and (4) provide other necessary technical changes.

The proposed amendments to Rule 12B-4.054, F.A.C. (Exempt Transactions), provide that the tax limitation applies to a banker's or trade acceptance.

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

Any person who wishes to provide information regarding regulatory costs or to provide a proposal for a lower-cost regulatory alternative must do so in writing within 21 days of this notice.

**SPECIFIC AUTHORITY:** 201.11, 213.06(1) FS.

**LAW IMPLEMENTED:** 95.091, 116.01, 201.01, 201.02, 201.022, 201.05, 201.08, 201.09, 201.10, 201.11, 201.12, 201.13, 201.132, 201.133, 201.14, 201.21, 201.22, 201.23, 201.24, 213.255, 213.756, 215.26, 219.07, 517.32 FS.

**A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 10:00 a.m., February 26, 2003

**PLACE:** Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

**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 Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Tim Phillips, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4724

**THE FULL TEXT OF THE PROPOSED RULES IS:**

12B-4.001 Payment of Tax.

(1) County Comptroller or Clerk of the Circuit Court. Payment of Tax:

(a) County Comptroller or Clerk of the Circuit Court-Each County Comptroller, or if there is be none, then the Clerk of the Circuit Court of each county, hereinafter referred to as Clerk of the Court, shall collect the tax imposed by Chapter 201, F.S., this chapter on recorded documents, and may collect the tax on unrecorded documents, keeping a journal indicating the amount of tax paid adhering to the requirements outlined in subparagraph 12B-4.001(1)(b)5. Clerks of the Court that elect to collect the tax on unrecorded documents shall meet the requirements of paragraph (b). All taxes collected on behalf of

the state and associated information shall be electronically submitted to the Department, as provided in Section 213.13, F.S., and Rule Chapter 12-28, F.A.C.

1. There shall be no collection allowance allowed to the Clerk of the Court when the tax is collected and not remitted in accordance with these rules. Each Clerk shall file a report with the Department certifying the amount of tax due and remit to the Department all tax collected under this procedure as required by Section 201.132, F.S. A report shall be considered timely filed if postmarked on or before such due date. If the due date is a federal or state legal holiday, reports shall be accepted if postmarked on the next succeeding workday. The taxes shall be transmitted to the Department with a report on forms specified by the Department. The taxes imposed by Chapter 201, F.S., shall become state funds at the moment of collection by the Clerk. No Clerk shall be allowed to receive a collection allowance for collecting the tax when the said Clerk fails or refuses to remit the tax collected in accordance with these rules;

(b)2- A notation is required shall be placed on each the document to be recorded or unrecorded by the Clerk of the Court that indicates showing the amount of tax paid and the county where payment is being made; The notation may be signed, initialed, or stamped with the name or initials of the Clerk of the Court, or designated agent thereof.

3- This procedure shall only be used for documents to be recorded by the Clerk.

(c)4. The Clerk of the Court shall not accept for recording any document which contains the notation required under authorized by paragraph (2)(f), (b) of this subsection;

(2)(b) Registered Persons-Unrecorded Documents. Procedure for Paying Tax By Persons, Firms, Corporations, etc. The tax shall be collected and remitted to the Department, except for a document to be recorded.

(a)4- Any person who has averaged or will average with at least 5 taxable transactions per month is required shall register with the Department and remit the taxes due directly to the Department for all documents not to be recorded. A separate registration application is required for each location where taxable documents are maintained. Any person with less than 5 transactions per month has the option, but is not required, to register with the Department. Such person shall remit and report the tax to the Department as described in Rule 12B-4.001(1)(b)(3).

(b)2- Registration with the Department for the purposes of the documentary stamp tax is available by using one of the following methods: Any person with 5 or more taxable transactions per month must file an application for a certificate of registration on Form DR-1DS for each location and the Department shall issue a certificate of registration to such application for the location. "Location" means the place where the taxable documents are kept.

1. Registering through the Department's Internet site at the address shown in the parentheses ([www.myflorida.com/dor](http://www.myflorida.com/dor)) using the Department's "e-Services."

2. Filing an Application to Collect and/or Report Tax in Florida (form DR-1, incorporated by reference in Rule 12A-1.097, F.A.C.) with the Department, as indicated on the registration application.

3. Any person with 5 or more taxable transactions per month shall file a return with the Department by the 20th of the month following the period for which the tax is due. The tax shall be remitted with the return on a monthly basis when the tax remitted for the four preceding calendar quarters exceeds \$1000, on a quarterly basis when the tax remitted for the four preceding calendar quarters does not exceed \$1000, on a semi-annual basis when the tax remitted for the four preceding calendar quarters does not exceed \$500, and on an annual basis when the tax remitted for the four preceding calendar quarters does not exceed \$100, or as required by the Department. Any person with less than 5 taxable transactions per month shall remit and report the tax not later than the 20th day of each month certifying the amount of tax due for the preceding month, and shall remit the tax due with the return for the preceding month, and shall remit the tax due with the return for the preceding month. Any return and remittance mailed after the 20th day of the month for the tax payable for the period shall subject the person to the penalties imposed by this chapter. A return is timely filed if postmarked on or before the 20th day of the month. If the 20th day of the month falls on a Saturday, Sunday, or a federal or state legal holiday, returns shall be accepted if postmarked on the next succeeding workday. Returns and report forms shall be furnished by the Department.

(c)4. Each application submitted to the Department must contain sufficient information to facilitate the processing of the application. All persons required to remit the tax shall be subject to audit, shall make their records available for ready inspection by the Department, and shall post at their own expense a bond as may be required by the Department.

(d) Any person registered with the Department for documentary stamp tax purposes is required to file a Documentary Stamp Tax Return for Registered Taxpayers (form DR-225, incorporated by reference in Rule 12B-4.003, F.A.C.) and remit the tax due.

(e)5. Any person registered shall keep a journal, or other account book or record of original entry, maintaining showing a listing of all documents executed and delivered. The journal shall show a daily listing of each document, indicating every document transaction, or a listing as required by the Department, and shall show the amount, and of each document, whether the document is taxable or not. When If the document is taxable, the amount of tax due shall be indicated

for each document. When If the document is not taxable, the journal must indicate shall disclose the reason for the exemption.

(f)6. The following notation or similar language, along with the amount of tax and the certificate of registration number, is required to be made shall be made on each document requiring tax under this procedure: "Florida documentary stamp tax required by law in the amount of \$\_\_\_\_ has been paid or will be paid directly to the Department of Revenue. Certificate of Registration No. \_\_\_\_." For persons filing returns who have less than five taxable transactions per month and have opted not to register, no registration number is required on such documents.

(3) Unregistered Persons.

(a) Any person engaged in an average of less than 5 taxable transactions per month is not required to register with the Department, but may elect to register to report documentary stamp tax due.

(b) Any person who is not required to register and has not elected to register is required to file a Documentary Stamp Tax Return For Nonregistered Taxpayers' Unrecorded Documents (form DR-228, incorporated by reference in Rule 12B-4.003, F.A.C.) and remit tax due.

(4) Payment and Return Due Dates.

(a) For monthly filers, payments for documentary stamp tax and the associated return certifying the amount of tax due for the preceding month must either reach the Department or be postmarked on or before the 20th day of the month following the transaction to avoid penalty and interest for late filing. When the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied with returns will be accepted as timely if postmarked on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this rule, a "legal holiday" means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and Section 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to Section 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) When quarterly, semiannual, or annual reporting is authorized by the Department pursuant to Section 201.133(8), F.S., the tax and associated return is due no later than the 20th day of the month following the authorized reporting period and becomes delinquent on the 21st day of that month.

(5)(2) Procedures to Follow in Closing Out Alternate Procedure Stamp Accounts of Clerks:

(a) Closing Account—The following procedure will be used to close an alternate procedures account:

(a)4. The Clerk's receipts will be reconciled with remittances of tax to the Department.



(b)2- The Clerk’s receipts will be reconciled with tax affixed to recorded documents.

(c)3- The amount of tax due, less the collection allowance, will be collected from the Clerk by the Department.

~~(b) Shortage or Overage If for any reason there is a shortage in the documentary stamp account, the outgoing Clerk is liable for the difference. If there is an overage in the documentary stamp account, the overage belongs to the county.~~

Specific Authority 201.11, 213.06(1) FS. Law Implemented 116.01, 201.01, 201.08, 201.09, 201.11, 201.12, 201.13, 201.132, 201.133, 201.14, 213.756, 219.07 FS. History—Revised 8-18-73, Formerly 12A-4.01, Amended 2-21-77, 12-3-81, Formerly 12B-4.01, Amended 12-5-89, 2-16-93, 12-30-97, \_\_\_\_\_.

12B-4.003 ~~Public Use Assessment, Collection and Forms.~~

(1) ~~Other Tax Laws Applicable: All revenue laws relating to the assessment and collection of taxes are extended to and made a part of Chapter 201, F.S., so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, or writing named therein.~~

(2) ~~Issuance of Tax Warrant: If any taxes or penalties imposed by Chapter 201, F.S., shall remain due and unpaid, the Department shall issue a warrant for the full amount of the tax due or estimated to be due, with the interest, penalties, and cost of collection, directed to all and singular the sheriffs of the state, and mail the warrant to the Clerk of Circuit Court of the county where any property of the taxpayer is located. Upon receipt of the warrant, the Clerk of Circuit Court, shall record it, and thereupon the amount of the warrant shall become a lien on any real or personal property of the taxpayer in the same manner as a recorded judgment. The Department may issue a tax execution to enforce the collection of taxes imposed and deliver it to any sheriff. The sheriff shall thereupon proceed in the same manner as prescribed by law for executions and shall be entitled to the same fees for his services in executing the warrant to be collected. Upon payment of the execution, warrant, or judgment, the Department shall satisfy the lien of record within thirty days.~~

(1)(3) The following public-use forms and instructions are employed by the Department of Revenue in its administration of the documentary stamp tax dealings with the public, and are hereby incorporated in this rule by reference. Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, ~~Forms~~ Distribution Center, 168A 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://www.myflorida.com/dor/~~). Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331.

Form Number	Title	Effective Date
(a) DR-1DS	Application for Certificate of Registration to Collect Documentary Stamp Tax (r. 3/97)	3/97
(b) DR-11DS	Documentary Stamp Tax Certificate of Registration (r. 2/97)	3/97
(c) DR-208	Notice to Creditor of Delinquent Tax (r. 5/79)	5/79
(d) DR-214	Notice of Intent to Make Documentary Stamp Tax Audit Changes (r. 7/93)	10/93
(2)(e) DR-219	Return for Transfers of Interest in Florida Real Property (R. 7/98 r. 6/94)	6/94
(f) DR-220	Request for Information on Instruments in Official Record (r. 6/93)	6/93
(3)(g) DR-225	Documentary Stamp Tax Return For Registered Taxpayers’ Unrecorded Documents (R. 03/01 r. 7/97)	3/97
(h) DR-225B	Documentary Stamp Tax Return For Registered Taxpayers’ Unrecorded Documents (r. 10/97)	3/97
(i) DR-226	Documentary Stamp Tax Return For Clerk of the Court (r. 10/97)	3/97
(j) DR-226D	Documentary Stamp Tax and Discretionary Surtax Return For Clerk of the Court (r. 10/97)	3/97
(4)(k) DR-228	Documentary Stamp Tax Return For Nonregistered Taxpayers’ Unrecorded Documents (R. 10/02 n. 10/97)	3/97
(l) DR-234	Documentary Stamp Tax — Statement of Payment (r. 08/92)	2/93

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.022, 201.133, 201.53, 201.16 FS. History—Revised 8-18-73, Formerly 12A-4.03, Amended 9-26-77, 12-11-78, Formerly 12B-4.03, Amended 12-5-89, 2-16-93, 10-20-93, 12-30-97, \_\_\_\_\_.

## 12B-4.004 Refunds.

(1) Any person who has overpaid documentary stamp tax or discretionary surtax may seek a refund by filing an Application for Refund (form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26 must meet the requirements of Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C. The State Comptroller may refund to the person who paid same, or his heirs, personal representatives or assigns, any monies paid into the state treasury which constitute:

(a) Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid. An overpayment of any tax, license or account due;

(b) Form DR-26, Application for Refund, must be filed with the Department for tax paid on or after July 1, 1999, within 3 years after the date the tax was paid. A payment where no tax, license, or account is due; and

(c) Any payment made into the state treasury in error.

(2) Application for refunds as provided by this section shall be filed with the Comptroller within three years after the right to such refund shall have accrued else such a right shall be barred. An application for refund for tax paid after September 30, 1994, must be filed with the Comptroller within five years after the date the tax is paid. Applications shall be on a form to be prescribed by the Comptroller and shall be sworn to and supplemented with such additional proof as is necessary to establish such claim. One (1) photocopy of all documents on which the tax has been paid must be filed with the application. In the case of duplicate payment, photocopies of both documents must be submitted.

(3) Applications for refund should be filed in duplicate.

(4) All photocopies of documents must show the tax paid.

(5) Documentary stamp tax and documentary surtax refunds are paid from separate funds, therefore, separate refund claims must be submitted for documentary stamp tax and documentary surtax.

(2)(6) When an There seems to be a legal presumption that taxes paid under Chapter 201, F.S., were paid by the maker; therefore, when the application for refund of taxes paid is made by a person other than the maker of the document or instrument, the burden is on such applicant must provide documentation that the tax was paid by the applicant to prove as a fact that he actually paid the tax. (Attorney General Opinion 065-76, July 22, 1965, 1965-66 Biennial Report, Page 105)

Specific Authority 201.11, 213.06(1) FS. Law Implemented 95.091, 213.255, 201, 215.26, Chapter 94-353, L.O.F. FS. History-Revised 8-18-73, Formerly 12A-4.04, Amended 12-26-77, Formerly 12B-4.04, Amended 12-30-97, \_\_\_\_\_.

## 12B-4.013 Conveyances Subject to Tax.

(1) through (2) No change.

(3)(a) Clerk of ~~the Circuit~~ Court, Master, Sheriff, A Conveyance by a master in chancery, a sheriff, or a clerk of ~~the circuit~~ court, for realty sold under foreclosure or execution is subject to tax. The tax is computed on the amount of the highest and best bid received for the property at the foreclosure sale. The Clerk of the Court is required to collect the tax from the highest bidder when the Certificate of Title is recorded consideration paid, which includes any mortgages or liens that are not removed from the foreclosed property.

(b) The ~~However,~~ such documentary stamp taxes cannot reduce the claim of the mortgagee when the mortgagee is an agent of the federal government. The ~~tax being the obligation of the mortgagor,~~ he is liable for the payment of the tax from any funds paid to the mortgagor owed and payable to him, if there are any funds payable to him after the payment of prior claims of, or in connection with, the foreclosure. (1960 Op. Att'y Gen. Fla. 060-125 (July 29, 1960) Cross Reference – subsection (13) of Rule 12B-4.014(13), F.A.C.

(4) through (32) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02 FS. History-Revised 8-18-73, Formerly 12A-4.13, Amended 12-11-74, 2-21-77, 5-23-77, 12-26-77, 7-3-79, 9-16-79, 11-29-79, 3-27-80, 12-23-80, 12-30-82, Formerly 12B-4.13, Amended 12-5-89, 6-4-90, 2-13-91, 2-16-93, 10-18-94, 12-30-97, 7-28-98, 1-4-01, \_\_\_\_\_.

## 12B-4.031 Imposition of Tax.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.05 FS. History-Revised 8-18-73, Formerly 12A-4.31, 12B-4.31, Amended 12-5-89, 2-13-91, 2-16-93, Repealed \_\_\_\_\_.

## 12B-4.032 Issues Subject to Tax.

Specific Authority 201.11 FS. Law Implemented 201.05 FS. History-Revised 8-18-73, Formerly 12A-4.32, Formerly 12B-4.32, Amended 12-5-89, Repealed \_\_\_\_\_.

## 12B-4.033 Issues Not Subject to Tax.

Specific Authority 201.11 FS. Law Implemented 201.05 FS. History-Revised 8-18-73, Formerly 12A-4.33, 12B-4.33, Amended 12-5-89, Repealed \_\_\_\_\_.

## 12B-4.051 Imposition of Tax.

(1) A tax is imposed on promissory notes, non-negotiable notes, written obligations to pay money, assignments of salaries, wages, or other compensation, which are made, executed, delivered, sold, transferred, or assigned in the state. A renewal note, as defined in s. 201.08(5), F.S., is also taxable unless it qualifies for the exemption provided for under s. 201.09(1), F.S. The rate of tax is 35 cents on each \$100 or fraction thereof of the indebtedness or obligation evidenced by the document. The tax on any document described in this paragraph shall not exceed \$2450. Cross Reference – Paragraph (12)(e) of Rule 12B-4.052, F.A.C.

(2) Mortgages ~~that which~~ incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are taxable. Furthermore, a mortgage, trust deed, security agreement, or other evidence of indebtedness filed or recorded in this state which secures a promissory note or written obligation to pay money at the time of recordation is also taxable. A notation shall be made on the promissory note or written obligation to pay money, at the time of recordation, that the proper tax, and the amount thereof, ~~has have~~ been paid on the mortgage, trust deed, security agreement, or other evidence of indebtedness. A renewal mortgage, trust deed, security agreement, or other evidence of indebtedness, as defined in s. 201.08(5), F.S., is also taxable unless it qualifies for the exemption provided under ss. 201.09(2) and 201.091, F.S. The rate of tax is 35 cents on each \$100 or fraction thereof of the indebtedness or obligation evidenced thereby. The \$2450 tax limit placed on a note or other written obligation to pay money, executed in Florida or approved and accepted in Florida, does not apply to a mortgage, security agreement, or other lien filed or recorded in Florida. A mortgage, security agreement, or other lien filed or recorded in Florida is subject to documentary stamp tax on the full amount of the obligation secured thereby. Example: A term obligation of \$1,000,000 was executed in Florida on July 1, 2002. A mortgage securing the full amount of the obligation was recorded in Florida on that same date. Documentary stamp tax in the amount of \$3500 was due on the mortgage at the time of recordation.

Cross Reference – Paragraph (12)(e) of Rule 12B-4.052, F.A.C.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.08 FS. History—Revised 8-18-73, Formerly 12A-4.51, Amended 8-8-78, 11-29-79, Formerly 12B-4.51, Amended 12-5-89, 2-13-91, 2-16-93, 12-30-97, 7-28-98.

#### 12B-4.052 Computation of Tax; Definitions.

(1) through (11) No change.

(12) Renewals: Each renewal, as defined in s. 201.08(5), F.S., of a written obligation to pay money, or of a mortgage or other security agreement, is taxable, unless it satisfies the requirements of s. 201.09(1), F.S.

(a) Except as provided in paragraph ~~(f)(e)~~, a written agreement, such as a loan agreement, that alters or modifies the contract or obligation of an original promissory note, mortgage, trust deed, security agreement, or other evidence of indebtedness, by adding one or more obligors, increasing the principal balance, changing the interest rate, changing the maturity date, changing the payment terms, or assuming the terms of the original contract or obligation, is a renewal of the original note, mortgage, trust deed, security agreement, or other evidence of indebtedness. A renewal that does not add obligor(s) and merely changes the interest rate, the maturity date, or the payment terms is not subject to tax, provided tax was paid on the original document and the original document is attached to the renewal.

(b) A renewal of a term obligation is subject to tax on the amount of the increase of the unpaid principal balance, with a maximum tax due of \$2450 on the aggregate of the original obligation and all renewals thereof that satisfy the requirements of Section 201.09(1), F.S. A term loan with periodic disbursements, such as a construction loan, may be renewed for the undisbursed amount, together with the unpaid balance of the amount that was previously disbursed, without payment of additional tax.

Cross Reference – Paragraph (e) of this subsection.

(c) A renewal of a revolving obligation is subject to tax on the amount of the increase over the original face amount of the original obligation with a maximum tax due of \$2450 on the aggregate of the original obligation and all renewals thereof that satisfy the requirements of Section 201.09(1), F.S.

Cross Reference – Paragraph (e) of this subsection.

(d) Under paragraphs (b) and (c), a separate side note is not required. The principal balance or original face amount can be indicated by a notation on the renewal document, by reference to the document being renewed, or by other proof retained by the borrower(s) or lender.

(e) The maximum tax due on an original obligation and all renewals thereof that satisfy the requirements of Section 201.09(1), F.S., is \$2450. An obligation upon which the maximum tax due of \$2450 was paid may be renewed, so long as the requirements of s. 201.09(1), F.S., are met, without additional tax assessed. The \$2450 tax limitation does not apply to a mortgage, security agreement, or other lien filed or recorded in Florida.

1. Example: The proper amount of tax of \$2450 was paid on a term obligation of \$1,000,000 that was executed in Florida on July 1, 2002, and was not secured by a mortgage, security agreement, or other lien filed or recorded in Florida. On August 1, 2002, the obligation was renewed, meeting the requirements of Section 201.09(1), F.S., and providing for a \$500,000 increase of the unpaid principal balance. No additional tax was due on the renewal, since the maximum aggregate tax of \$2450 was paid on the original obligation. Each renewal thereafter is not subject to additional tax, so long as each renewal meets the requirements of Section 201.09(1), F.S.

2. Example: The proper amount of tax of \$1750 was paid on a revolving obligation of \$500,000, that was executed in Florida on July 1, 2002, and was not secured by a mortgage, security agreement, or other lien filed or recorded in Florida. On August 1, 2002, the obligation was renewed, meeting the requirements of Section 201.09(1), F.S., and providing for a \$500,000 increase above the original face amount of the original obligation. Additional tax of \$700 was due on the renewal, bringing the total tax paid on the original obligation and all renewals thereof to the maximum aggregate amount of

\$2450. Each renewal thereafter is not subject to additional tax, so long as each renewal meets the requirements of Section 201.09(1), F.S.

3. Example: The proper amount of tax of \$1750 was paid on a revolving obligation of \$500,000, that was executed in Florida on July 1, 2002, and was not secured by a mortgage or other lien filed or recorded in Florida. On August 1, 2002, the obligation was renewed, meeting the requirements of Section 201.09(1), F.S., and providing for a \$100,000 increase above the original face amount of the original obligation. Additional tax of \$350 was due on the renewal, bringing the aggregate tax paid on the original obligation and this renewal to \$2100. Additional tax of \$350 will be due on any renewal or renewals thereafter, where the amount of the increase or increases equals or exceeds \$100,000 (the amount of the increase or increases required to bring the aggregate tax to \$2450).

4. Example: The proper amount of tax of \$2450 was paid on a term obligation of \$700,000 that was executed in Florida on July 1, 2002, and was secured by a mortgage recorded in Florida. On August 1, 2002, the obligation was renewed, meeting the requirements of Section 201.09(1), F.S., and providing for a \$500,000 increase of the unpaid principal balance. The mortgage was spread to secure the renewal. Additional tax of \$1750 was due on the mortgage spreader, since there is no limit on the amount of tax due on a mortgage.

(f)(e) Notwithstanding paragraphs (a) and (b) and (c) above:

1. A renewal note that adds one or more obligors is subject to tax on the full amount of the obligation. The maximum tax due on a renewal that adds one or more obligors is \$2450.

2. An assumption of an existing obligation is subject to tax on the full amount of the note assumed. The maximum tax due on an assumption of an existing obligation is \$2450.

3. A renewal note is subject to tax on the full amount of the obligation, with a maximum tax due of \$2450, if the proper tax was not paid on the instrument being renewed.

a. A renewal of a promissory note is subject to tax on the full amount of the obligation, with a maximum tax due of \$2450, if the note being renewed is not attached with cancelled stamps or an appropriate notation showing full payment of tax imposed by law.

b. A renewal mortgage or other security document shall state the official book and page number of the original mortgage or other security document being renewed which evidences prior payment in full of stamp tax due, or shall have attached to it for recording the original note or a copy thereof with evidence of proper stamp tax paid. Unless this evidence is present, the renewal mortgage is subject to tax on the full amount of the obligation.

4. If the original note and mortgage is satisfied, an instrument that might otherwise appear to be a renewal of the original note and mortgage is taxable on the full amount of the obligation. (In this case, the instrument represents a new obligation.)

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

(13) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.08, 201.09 FS. History—Revised 8-18-73, Formerly 12A-4.52, Amended 8-8-78, 3-12-79, 2-3-80, 3-30-81, 8-29-84, Formerly 12B-4.52, Amended 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98, 1-4-01,\_\_\_\_\_.

12B-4.053 Taxable Documents.

(1) through (10) No change.

(11) Demand Loans: Forms used by banks in making so-called “demand loans” which contain a written obligation to pay money are subject to the documentary stamp tax based upon the full amount of the demand loan, with a maximum tax due of \$2450. (1941 Op. Att’y. Gen. Fla. 041-677 (Dec. 5, 1941))

(12) through (19) No change.

(20) Revolving Charge Account Agreements: Purchases made under a revolving charge account agreement where sales slips made in connection with the agreement contain a written obligation to pay money are taxable under s. 201.08(2), F.S., except those activated with the use of a credit card, charge card, or debit card. (1971 Op. Att’y. Gen. Fla. 071-116 (May 24, 1971)) Cross Reference-subsection (11) of Rule 12B-4.054(11), F.A.C.

(21) through (24) No change.

(25) “Wrap-Around” Notes: Documentary stamp tax is due upon the face amount of a note (with a maximum tax due of \$2450), under which a maker obligates himself to pay a sum certain, even though the payee obligates himself to use such payments to pay off a prior note, (Department of Revenue v. McCoy Motel, Inc., 302 So. 2d 440 (Fla. 1st DCA 1974))

(26) Acceptances: Acceptances are obligations to pay according to the tenor of the document and are taxable under s. 201.08(1)(a), F.S. (1931 Op. Att’y. Gen. Fla. 1931-32 Biennial Report, Page 831 (Sept. 24, 1931); 1931 Op. Att’y. Gen. Fla. 1931-32 Biennial Report, Page 845 (Oct. 15, 1931)) Cross Reference-Subsections (7) and (16) 12B-4.053(7) and 12B-4.053(16), F.A.C.

(27) No change.

(28) Note Executed and Delivered: All notes or written obligations to pay money delivered to the lender, such as including, but not limited to, master notes, and notes drawn in connection with a line of credit, letter of credit, bail bond, or otherwise, executed in Florida or approved and accepted in Florida, are subject to Florida documentary stamp tax. Tax is due based on the face amount of the note, with a maximum tax due of \$2450, whether or not funds are advanced at time of delivery. If the note is secured by a recorded mortgage, tax shall be paid on the mortgage at time of recording and a

notation made on the note that tax has been paid on the mortgage. There \$2450 tax limit placed on a note or other written obligation to pay money, executed in Florida or approved and accepted in Florida, does not apply to a mortgage, security agreement, or other lien filed or recorded in Florida. Renewals are also taxable unless exempted under s. 201.09, F.S.

Cross Reference – Subsection (2) of Rule 12B-4.051 and Paragraph (12)(e) of Rule 12B-4.052, F.A.C.

(29) through (30) No change.

(31) Out-of-State Notes-Secured by Florida Mortgage: A mortgage recorded in this state encumbering Florida real or personal property, which is security for an out-of-state note is subject to tax as follows:

(a) Indebtedness Secured: The tax is based upon the full amount of the indebtedness secured, whether the indebtedness is contingent or not, unless paragraphs (b) and (c) of this rule apply. See also s. 201.08(5) and ~~s. 201.08(7)~~, F.S.

(b) Secured by Multi-State Mortgage: When a note is made in another state and is secured by a multi-state mortgage recorded in Florida which describes and pledges the Florida property and the out-of-state property, tax ~~is will be~~ due on the mortgage when filed or recorded in Florida based upon the percentage of indebtedness which the value of the mortgaged property located in Florida bears to the total value of all the mortgaged property. However, ~~when where~~ the mortgage limits recovery to less than the amount of the indebtedness secured, the tax is due on the amount to which recovery is limited. The mortgage is required to shall state the value of the property in Florida and the other state(s); and also the percentage of the Florida property in relation to the total property. When the documentary stamp tax due is based upon the amount to which recovery is limited on a mortgage, then the mortgage is not required to state the value of the property in Florida and the other state(s); nor is the mortgage required to state the percentage of the Florida property in relation to the total property. When a note is made in Florida and is secured by a multi-state mortgage recorded in Florida, the mortgage will be subject to tax based upon the full amount of the indebtedness stated in the mortgage, since a note executed in Florida is fully taxable.

COMPUTATION OF TAX:

Value of Florida property/Total value of all property × Indebtedness = Amount

Example:

Value of Florida property	\$ 100,000(1)
Value of out-of-state property	900,000
Total Value of all property	\$ 1,000,000(2)
Amount of Indebtedness:	\$ 1,000,000(3)
(1) \$100,000/(2) \$1,000,000 × (3) \$1,000,000*	= \$100,000*

\*Tax would be calculated on \$100,000.

(c) Secured by Florida Mortgage only: ~~When Where~~ a mortgage describing and pledging only the Florida property is recorded in Florida, which only partially secures an out-of-state loan, and the loan is also secured by a mortgage(s) on out-of-state property, only a pro-rata ~~prorata~~ portion of the indebtedness secured by the Florida mortgage is taxable. The tax will be based upon the percentage of indebtedness which the value of the mortgaged property located in Florida bears to the total value of all mortgaged property, unless the value of the Florida property exceeds this amount. Then the tax will be based upon the value of the Florida property. However, in no event will the tax be due on more than the indebtedness secured by the Florida mortgage or any other amount to which the mortgagee limits its recovery to. The mortgage is required to shall state the value of the property in Florida and the other state(s); and also the percentage of the Florida property in relation to the total property. When the documentary stamp tax due is based upon the amount to which recovery is limited on a mortgage, then the mortgage is not required to state the value of the property in Florida and the other state(s); nor is the mortgage required to state the percentage of the Florida property in relation to the total property. When a note is made in Florida and is secured by a mortgage on Florida property and is also secured by an out-of-state mortgage, tax will be due on the Florida mortgage based upon the full amount of indebtedness, since the note is fully taxable.

COMPUTATION OF TAX:

Example 1:

Value of Florida property/Total value of all property × Loan = Amount *	
Value of Florida property	\$ 400,000(1)
Value of out-of-state property	\$ 100,000
Total value of all property	\$ 500,000(2)
Amount of loan	\$ 550,000(3)
(1) \$400,000/(2) \$500,000 × (3) \$550,000 =	\$440,000*

\*Tax is calculated upon the pro-rata ~~prorata~~ amount of the loan in the amount of \$440,000, rather than the value of the Florida property, since the value of the Florida property is less than the pro-rata ~~prorata~~ amount of the indebtedness.

Example 2:

Value of Florida property/Total value of all property × Loan = Amount	
Value of Florida property	\$ 600,000(1)
Value of out-of-state property	\$ 900,000
Total value of all property	\$ 1,500,000(2)
Amount of Loan	\$ 1,200,000(3)
(1) \$600,000*/(2) \$1,500,000 × (3) \$1,200,000 =	\$480,000

\*Tax is calculated on value of Florida property in the amount of \$600,000, rather than the pro-rata ~~prorata~~ amount of the loan, since the value of the Florida property is more than the pro-rata ~~prorata~~ amount of the indebtedness.

Example 3:

Value of Florida property/Total value of all property × Loan = Amount

Value of Florida property	\$ 800,000(1)
Value of out-of-state property	\$ 200,000
Total value of all property	\$1,000,000(2)
Amount of Loan	\$ 600,000(3)

(1) \$800,000/(2) \$1,000,000 × (3) \$600,000\* = \$480,000

\*Tax is calculated on \$600,000, since the amount of indebtedness is less than the value of the Florida property but more than the ~~pro-rata~~ ~~pro-rata~~ amount of the loan.

(32) In-State Notes-Secured by Florida Mortgage: A mortgage recorded in this state encumbering Florida real or personal property, which is security for an in-state note, is subject to tax as follows:

(a) Secured by Multi-State Mortgage: When a note is made in Florida and is secured by a multi-state mortgage recorded in Florida, tax is due on the full amount of the note (with a maximum tax due of \$2450) or the percentage of the indebtedness which the value of the mortgaged property located in Florida bears to the total value of all the mortgaged property, whichever is greater. However, where the mortgage limits recovery to less than the amount of the indebtedness secured, the tax is due on the full amount of the note (with a maximum tax due of \$2450) or the amount to which the mortgage limits recovery, whichever is greater. The mortgage is required to state the value of the property in Florida and the other state(s); and also the percentage of the Florida property in relation to the total property. When the documentary stamp tax due is based upon the amount to which recovery is limited on a mortgage, then the mortgage is not required to state the value of the property in Florida and the other state(s); nor is the mortgage required to state the percentage of the Florida property in relation to the total property.

(b) Secured by Florida Mortgage only: When a note is made in Florida and is secured by a mortgage on Florida property and is also secured by an out-of-state mortgage, tax is due on the full amount of the note (with a maximum tax due of \$2450), the percentage of the indebtedness which the value of the mortgaged property located in Florida bears to the total value of all the mortgaged property, or the value of the property located in Florida, whichever is greater. However, where the mortgage limits recovery to less than the amount of the indebtedness secured, the tax is due on the full amount of the note (with a maximum tax due of \$2450) or the amount to which the mortgage limits recovery, whichever is greater. The mortgage is required to state the value of the property in Florida and the other state(s); and also the percentage of the Florida property in relation to the total property. When the documentary stamp tax due is based upon the amount to which recovery is limited on a mortgage, then the mortgage is not required to state the value of the property in Florida and the

other state(s); nor is the mortgage required to state the percentage of the Florida property in relation to the total property.

~~(33)~~(32) Recorded Evidences of Obligations: Tax is required on a mortgage, trust deed, security agreement, or other evidence of indebtedness filed or recorded in this state. The tax shall be due on the full amount of the primary obligation secured by said mortgage, trust deed, security agreement, or other evidence of indebtedness. The tax is due only on the full amount of ~~one time on~~ the primary obligation, whether the primary obligation is secured by one or more mortgages from the same obligor, or by an additional or supplemental mortgage from another party. All such mortgages are deemed to secure the primary obligation. For example, a mortgage given as additional collateral, to secure a cross-collateralization agreement or guaranty agreement, or given as substitution of collateral, will not require additional tax if proper tax is paid on the full amount of the primary obligation. However, where proper tax is not paid on the full amount of the primary obligation, the tax shall be paid on any additional or supplemental mortgage. A document recorded which renews or extends an existing obligation is subject to tax, unless it meets the requirements of s. 201.09, F.S. Some examples ~~Examples~~ of documents on which tax may be required, within the limitations stated in this rule, when recorded in this state are include, but are not limited to:

- (a) Mortgage
- (b) Trust Deed
- (c) Indenture
- (d) Supplemental Mortgage or Indenture
- (e) Amendment to Mortgage or Indenture
- (f) Mortgage Modification or Extension Agreement
- (g) Assumption Agreement
- (h) Mortgage Securing Guaranty
- (i) Mortgage Securing Indemnification Agreement
- (j) Mortgage Securing Bail Bond
- (k) Mortgage Securing Letter of Credit
- (l) Mortgage Securing Line of Credit
- ~~(34)~~(33) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.08 FS. History—Revised 8-18-73, Formerly 12A-4.53, Amended 2-21-77, 11-29-79, 4-11-80, 7-27-80, 12-23-80, 3-30-81, 12-30-82, 8-29-84, Formerly 12B-4.53, Amended 12-29-86, 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98, 1-4-01.

12B-4.054 Exempt Transactions.

(1) through (2) No change.

(3) Wholesale Warehouse Mortgage Agreements: All promissory notes, non-negotiable notes and other written obligations to pay money given pursuant to a wholesale warehouse mortgage agreement as provided under Section 201.21, F.S., shall be exempt from the tax only when the amount of tax due on or in respect to the collateral obligation(s) given as security has been paid. The exemption

does not apply to the amount of the indebtedness evidenced by a note or other written obligation to pay money that is in excess of the amount of the indebtedness evidenced by such collateral obligation(s) given as security. The maximum of tax due on any excess of the indebtedness is \$2450.

(4) through (8) No change.

(9) Agreement for Deed: No Personal Liability: Contracts for sale of land, which contain no "written obligation to pay money" of the same nature of promissory notes and non-negotiable notes, are not to be deemed written obligations to pay money within the purview of s. 201.08(1)(a), F.S. (State v. Green, 132 So. 2d 761 (Fla. 1961)) Attorney General Opinion 059-244 is construed as extending to contracts for the sale of land which contain express obligations to pay money, of the same genus as promissory notes and non-negotiable notes. With this limitation, Opinion 059-244 is adhered to and confirmed. (1961 Op. Att’y. Gen. Fla. 061-176 (Oct. 27, 1961)) If the following provision is incorporated in agreement for deed: “. . . as against the buyer or any subsequent purchaser from the buyer or any beneficiary for whom they may be acting, it being the understanding of the parties that the seller will look only to the land itself for payment of the balance of the purchase price,”, there is no obligation to pay money in the contract and no documentary stamps are due. However, if such agreement for deed is filed or recorded in Florida, it would be subject to the documentary stamp tax under s. 201.08(1)(b), F.S.

(10) through (19) No change.

(20) Banker’s or Trade Acceptances: Banker’s or trade acceptances, when payable on a date subsequent to acceptance, are written obligations for the payment of money from the date of such acceptance and are taxable. The maximum tax due on a banker’s or trade acceptance is \$2450. However, when payable on demand or presentation, and presentation is made after acceptance, they are not written obligations to pay money and are not taxable. (1961 Op. Att’y. Gen. Fla. 066-18 (Mar. 11, 1966)) Cross Reference – Subsection (16) of Rule 12B-4.053(16), F.A.C.

(21) through (30) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.08, 201.09, 201.10, 201.11, 201.21, 201.22, 201.23, 201.24, 517.32 FS. History– Revised 8-18-73, Formerly 12A-4.54, Amended 2-21-77, 11-29-79, 3-5-80, 4-11-80, 7-27-80, 12-23-80, 2-12-81, 3-30-81, 12-3-81, Formerly 12B-4.54, Amended 12-29-86, 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98, 1-4-01,

NAME OF PERSON ORIGINATING PROPOSED RULE: Tim Phillips, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4724

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4709

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12B-4, F.A.C., Documentary Stamp Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5111-5120). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. Persons appearing requested that written comments submitted to the Department be made a part of the proceeding. In response to those comments, the Department has made changes to proposed paragraphs (31)(b) and (c) and paragraphs (32)(a) and (b) of Rule 12B-4.053, F.A.C. (Taxable Documents). The Department has added proposed amendments to subsection (3) of Rule 12B-4.054, F.A.C. (Exempt Transactions). Technical changes have been made by the Department. These changes are included in the Notice of Proposed Rulemaking.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Tax on Production of Oil and Gas	12B-7
RULE TITLES:	RULE NOS.:
Public Use Forms	12B-7.008
Public Use Forms	12B-7.026

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-7.008, F.A.C. (Public Use Forms), of Part I (Tax on Production of Oil and Gas) and Rule 12B-7.026, F.A.C. (Public Use Forms), of Part II (Severance Tax on Solid Minerals), of Chapter 12B-7, F.A.C., is to adopt, by reference, new forms and revisions to forms used by the Department in the administration of the tax on the production of oil and gas and the severance tax.

SUMMARY: The proposed amendments to Rule 12B-7.008, F.A.C., adopt, by reference, form DR-144ES and changes to forms DR-144, DR-145, and DR-145X, used by the Department in the administration of the tax on the production of oil and gas.

The proposed amendments to Rule 12B-7.026, F.A.C., adopt, by reference, form DR-142ES and changes to form DR-142, used by the Department in the administration of the severance tax.

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

Any person who wishes to provide information regarding regulatory costs or to provide a proposal for a lower-cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 211.125(1), 211.33(6), 213.06(1), 373.41492(4)(b) FS.

LAW IMPLEMENTED: 211.125, 211.30, 211.31, 211.3103, 211.3106, 211.33, 373.41492 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Baldan Sulker, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4696

THE FULL TEXT OF THE PROPOSED RULES IS:

**PART I – TAX ON PRODUCTION OF OIL AND GAS**

**12B-7.008 Public Use Forms.**

(1)(a) The following public-use forms and instructions are used by the Department in its dealings with the public. These forms are hereby incorporated and made a part of this rule by reference.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, ~~Forms~~ Distribution Center, 168A 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://www.myflorida.com/dor/~~). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
<del>(2)(4)</del> DR-144	Gas and Sulfur Production Quarterly Tax Return (R. 01/00 <del>r. 2/94</del> )	___ 12/94
(3) DR-144ES	<u>Declaration of Estimated Gas and Sulfur Production Tax</u> (R. 02/00)	___
<del>(4)(2)</del> DR-145	Oil Production Monthly Tax Return (R. 01/03 <del>r. 5/93</del> )	___ 12/94
<del>(5)(3)</del> DR-145X	<del>Amended Florida</del> Oil Production Monthly <u>Amended Tax Return</u> (R. 02/00 <del>r. 2/94</del> )	___ 12/94

Specific Authority 211.125(1), 213.06(1) FS. Law Implemented 211.125 FS. History–New 12-28-78, Formerly 12B-7.08, Amended 12-18-94, \_\_\_\_\_.

**PART II – SEVERANCE TAX ON SOLID MINERALS**

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

(1)(a) The following public-use forms and instructions are used by the Department in its dealings with the public. These forms are hereby incorporated and made a part of this rule by reference.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, ~~Forms~~ Distribution Center, 168A 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://www.myflorida.com/dor/~~). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
<del>(2)(4)</del> DR-142	<u>Solid Mineral Producers</u> Severance Tax Return (R. 12/99 <del>r. 12/98</del> )	___ 10/01
(3) DR-142ES	<u>Declaration/Installment Payment of Estimated Solid Mineral Severance Tax</u> (R. 02/00)	___

(4)(2) No change.

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. History–New 12-18-94, Amended 10-4-01, \_\_\_\_\_.



NAME OF PERSON ORIGINATING PROPOSED RULE: Baldan Sulker, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4696

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4709

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12B-7, F.A.C., Tax on Production of Oil and Gas, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5120-5121). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes have been made by the Department.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE CHAPTER TITLE: Insurance Premium Taxes, Fees, and Surcharges

RULE CHAPTER NO.: 12B-8

RULE TITLE: Tax Statement; Overpayments

RULE NO.: 12B-8.003

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), is to adopt changes to forms used by the Department in the administration of the insurance premium tax.

SUMMARY: The proposed amendments to Rule 12B-8.003, F.A.C., adopt changes to forms DR-907, DR-907N, DR-908, DR-908N, and DR-350900, used by the Department in the administration of the insurance premium tax.

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

Any person who wishes to provide information regarding regulatory costs or to provide a proposal for a lower-cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 213.05, 213.37, 624.5092, 624.511, 624.518 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis at (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: www.myflorida.com/dor/rules.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-8.003 Tax Statement; Overpayments.

(1) Tax returns and reports shall be made by insurers on forms prescribed by the Department. These forms are hereby incorporated by reference in this rule.

(2) through (4) No change.

Form Number	Title	Effective Date
(5)(a) DR-907	Florida <del>Department of Revenue</del> Insurance Premium Installment Payment (R. <del>01/03 01/02</del> )	___ 08/02
(b) DR-907N	Information for Filing Insurance Premium Installment Payment (Form DR-907) (R. <del>01/03 01/02</del> )	___ 08/02
(6)(a) DR-908	Insurance Premium Taxes and Fees Return For Calendar Year <del>2002 - 2001 - Due March 1, 2002</del> (R. <del>01/03 01/02</del> )	___ 08/02
(b) DR-908N	Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. <del>01/03 01/02</del> )	___ 08/02
(7) DR-350900	<del>2002 2001</del> Insurance Premium Tax Information for Schedules XII and XIII, DR-908 (R. <del>01/03 01/02</del> )	___ 08/02

Specific Authority 213.06(1) FS. Law Implemented 213.05, 213.37, 624.5092, 624.511, 624.518 FS. History—New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98, 7-1-99, 10-15-01, 8-1-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5121-5122). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes have been made by the Department.

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE CHAPTER TITLE: Corporate Income Tax  
 RULE CHAPTER NO.: 12C-1

RULE TITLES: Returns; Filing Requirement Forms  
 RULE NOS.: 12C-1.022 12C-1.051

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.022, F.A.C. (Returns; Filing Requirement), is to implement s. 43, Chapter 2002-218, L.O.F., which eliminates the requirement to file information returns for Subchapter S corporations, tax-exempt entities, or certain other entities that do not usually owe federal income tax. The provisions that require these entities to report taxable income are not affected by these proposed amendments.

The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, changes to forms used by the Department in the administration of the Florida corporate income tax.

SUMMARY: The proposed amendments to Rule 12C-1.022, F.A.C.: (1) provide that a Subchapter S corporation must file Form F-1120 (Florida Corporate Income/Franchise and Emergency Excise Tax Return) for taxable income when it is subject to federal income tax; (2) provide that homeowners that elect to be taxed under s. 528, I.R.C., are not required to file form F-1120; (3) provide that organizations that hold a "determination letter" from the Internal Revenue Service as a nonprofit organization are required to file Form F-1120 when the organization has unrelated trade or business income or is filing Form 990-C or Form 990-T with the Internal Revenue Service; (4) remove the requirement for credit unions exempt under s. 501(c)(14), I.R.C., to file Form F-1120 for the first year of operation; (5) provide that qualified pension, health, or dental plans that remain exempt from federal income tax are not required to file Form F-1120; and (6) provide that entities

treated as a U.S. real estate mortgage investment for federal purposes must file Form F-1120 for taxable years when they are subject to federal income tax.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, changes to forms used by the Department in the administration of the Florida corporate income tax and remove form F-1120P, Payment Coupon, which is no longer used by the Department.

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

Any person who wishes to provide information regarding regulatory costs or to provide a proposal for a lower-cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 213.06(1), 220.21, 220.51 FS.

LAW IMPLEMENTED: 120.55(1)(a)4., 220.11, 220.12, 220.13(1),(2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gary Moreland, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4831

THE FULL TEXT OF THE PROPOSED RULES IS:

12C-1.022 Returns; Filing Requirement.

(1) In general, every corporation as defined in s. 220.03(1)(e), F.S., subject to tax under Part II of Chapter 220, F.S., and every bank and savings association subject to tax

under Part VII of Chapter 220, F.S., shall make a return of income for each taxable year in which such entity is either liable for tax under the Florida Income Tax Code, or is required to make a federal income tax return, regardless of whether such taxpayer is liable for tax under the Florida Income Tax Code.

(a) No change.

(b) ~~1. "S" corporations are not subject to the tax, except for taxable years when they are liable for the federal tax under the Internal Revenue Code. An "S" corporation must file a Florida Corporate Income/Franchise and Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on the regular Form F-1120, answering questions that are appropriate, for the first year under the Florida Income Tax Code that it elects or has elected to be taxed under Subchapter S of the Internal Revenue Code. Returns for subsequent years are not required so long as the Subchapter S election continues; however, returns are required for taxable years when it is they are liable for federal tax under the Internal Revenue Code.~~

2. A single member limited liability company or qualified subchapter S corporation that is disregarded for Florida and federal tax purposes is not required to file a separate Florida corporate income tax return. However, the income of the company is not exempt from tax. If it is owned by a corporation, whether directly or indirectly, the corporation is required to file Form F-1120 reporting its own income, together with the income of the single member limited liability company.

(c)1. Homeowners associations, including corporations or associations organized to operate condominiums pursuant to the Condominium Act, that are required to file federal returns on Form 1120, or that elect to file federal returns on Form 1120, must file a Florida Form F-1120 annually, regardless of whether any tax may be due.

2. Homeowners associations that elect to be taxed under s. 528, I.R.C., and file federal Form 1120-H, ~~are not required to must file Form F-1120 with the Department the Florida Corporate Income/Franchise and Emergency Excise Tax Return, answering questions that are appropriate, for the first year under the Florida Income Tax Code that Form 1120-H is filed. Returns for subsequent years are not required so long as the homeowners association does not file federal Form 1120. However, returns are required for taxable years when federal Form 1120 is filed, and for the first year federal Form 1120-H is filed subsequent to the filing of Form 1120.~~

(d) No change.

(e) ~~4. Any nonprofit non-profit or other organization, including a private foundation, which is fully exempt from the federal income tax and which has a "determination letter" from the Internal Revenue Service to that effect, is required to file Form F-1120 annually when such organization has "unrelated trade or business income," as defined in s. 512, I.R.C., or is filing with the Internal Revenue Service on Form 990-C or~~

~~Form 990-T (as opposed to other 990 forms) a copy of the determination letter attached to Form F-1120 in order to establish with the Department that it qualifies as an exempt organization under the Florida Income Tax Code. Additional Florida returns will not be required as long as the organization continues to qualify for exemption from federal income tax.~~

~~2. However, such organizations having "unrelated trade or business income" as defined in I.R.C. Section 512 or filing with the Internal Revenue Service on Forms 990-C or 990-T (as opposed to other 990 forms) must file Form F-1120 annually.~~

~~3. For federal tax purposes if an organization is claiming exempt status, but has not yet received a determination letter verifying its exempt status, Treas. Reg. 1.6033-2(c) requires it to file the information return for exempt organizations. The information return must indicate that the return is being filed in belief that the organization is exempt under s. 501(a), I.R.C., but that the Internal Revenue Service has not yet recognized such status. For Florida purposes, the organization must file an F-1120 with the attached federal information return. If the organization is considered to be fully exempt and does not have unrelated trade or business income, only the information questions on the Florida corporate income/franchise tax return need be completed. If the determination letter is received verifying the exempt status, the organization will be required to file an F-1120, with the attached determination letter, for its next taxable year. If the exempt organization has no unrelated trade or business income, it will not have any further filing requirements. If the Internal Revenue Service determines that an organization is not fully exempt after it has filed a form 990 in anticipation of being granted 501(a) status under the Internal Revenue Code, the organization will be required to file an amended return for Florida purposes, pursuant to s. 220.23, F.S.~~

(f) No change.

~~(g) Credit unions without capital stock organized and operated for mutual purposes and without profit that are exempt under s. 501(c)(14), I.R.C., are not subject to the Florida tax, except for taxable years when they are liable for federal tax under the Internal Revenue Code. A credit union must file a Florida corporate income/franchise tax return, answering questions that are appropriate, for the first year under the Florida Income Tax Code. Returns for subsequent years are not required so long as the credit union remains completely exempt from tax under the Internal Revenue Code. Returns are required for taxable years they are liable for federal tax under the Internal Revenue Code.~~

~~(h) Benefit plans qualifying under s. 401(a), I.R.C., and health and dental plans qualifying under s. 125, I.R.C., are only required for federal tax purposes to file information returns. A qualified pension, health, or dental plan that which is totally exempt from federal income tax will not be required to must only file Form F-1120 with the Department, the initial Florida~~

income/franchise tax return claiming its exemption under the appropriate section of the Internal Revenue Code. Subsequent returns will not be required as long as the plan remains totally exempt for federal purposes.

(i) No change.

(j) Entities that have elected to be treated as a U.S. real estate mortgage investment conduit (REMIC) for federal purposes are not subject to the tax, except for taxable years when they are liable for the federal tax on income from foreclosure property pursuant to s. 860G(c), I.R.C. ~~A REMIC must file a Florida Corporate Income/Franchise and Emergency Excise Tax Return on the regular Form F-1120, answering questions that are appropriate, for the first year under the Florida Income Tax Code that it elects or has elected under s. 860D, I.R.C., to be taxed as a REMIC. Such entities Returns for subsequent years are not required so long as the election continues; however, returns are required to file Form F-1120~~ for taxable years when they are liable for federal tax on income from foreclosure property pursuant to s. 860G(c), I.R.C.

(k) No change.

(2) through (6) No change.

Specific Authority 213.06(1), 220.21, 220.51 FS. Law Implemented 220.22 FS. History—New 10-20-72, Amended 10-20-73, Revised 10-8-74, Amended 3-5-80, Formerly 12C-1.22, Amended 12-21-88, 4-8-92, 12-7-92, 3-18-96, 10-2-01, \_\_\_\_\_.

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) through (3) No change.		
(4)(a) F-1065	Florida Partnership Information Return (R. <u>01/03 01/01</u> )	____ 08/02
(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. <u>01/03 01/04</u> )	____ 08/02
(5) F-1120A	Florida Corporate Short Form Income Tax Return (R. <u>01/03 01/02</u> )	____ 08/02
(6)(a) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. <u>01/03 01/02</u> )	____ 08/02

(b) F-1120N	F-1120 Instructions – Corporate Income/ Franchise and Emergency Excise Tax Return for taxable years beginning on or after January 1, <u>2002</u> (R. <u>01/03 01/02</u> )	____ 08/02
(7) F-1120ES	Declaration/Installment of Florida Estimated Income/Franchise and/or Emergency Excise Tax for Taxable Year beginning on or after January 1, <u>2003</u> <del>2002</del> (R. <u>01/03 01/02</u> )	____ 08/02
(8) F-1120P	Payment Coupon (R. 01/02)	08/02
<del>(8)(9)</del> (a) F-1120X	Amended Florida Corporate Income/ Franchise and Emergency Excise Tax Return (R. <u>01/03 01/02</u> )	____ 08/02
(b) F-1120XN	<del>General</del> Instructions for <u>Preparing Filing F-1120X Amended Florida Corporate Income/Franchise and Emergency Excise Tax Return</u> (R. <u>01/03 01/02</u> )	____ 08/02
<del>(9)(10)</del> No change.		
<del>(10)(11)</del> (a) No change.		
(b) F-1156ZN	Instructions for Completing Form F-1156Z Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax-Effective January 1, 2002 (R. <u>01/03 N-01/02</u> )	____ 08/02
(12) through (13) renumbered (11) through (12) No change.		
<del>(13)(14)</del> (a) F-1158Z	Enterprise Zone Property Tax Credit – Effective July 1, 1995 (R. <u>01/03 01/00</u> )	____ 08/02

- (b) F-1158ZN Instructions for Form F-1158Z (Effective July 1, 1995) Enterprise Zone Property Tax Credit (R. ~~01/03 01/00~~) \_\_\_\_\_ ~~08/02~~
- ~~(14)(15)~~(a) F-1159 Application for Child Care Tax Credits (R. ~~01/03 10/01~~) \_\_\_\_\_ ~~08/02~~
- (b) F-1159N Instructions for Filing F-1159 (R. ~~01/03 10/01~~) \_\_\_\_\_ ~~08/02~~
- ~~(15)(16)~~ F-1160 Application for Corporate Income Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (R. ~~01/03 N. 01/02~~) \_\_\_\_\_ ~~08/02~~
- ~~(16)(17)~~ No change.
- ~~(17)(18)~~ F-7004 Florida Tentative Income/Franchise and/or Emergency Excise Tax Return and Application for Extension of Time to File Return (R. ~~01/03 01/02~~) \_\_\_\_\_ ~~08/02~~

Specific Authority 213.06(1), 220.51 FS. Law Implemented 120.55(1)(a)4., 220.11, 220.12, 220.13(1),(2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1895, 220.19, 220.191, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS. History—New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gary Moreland, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4831

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-1, F.A.C., Corporate Income Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5122-5125). A rule development workshop was held on

December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes to the proposed amendments to Rule 12C-1.051, F.A.C. (Forms) have been made by the Department.

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Intangible Personal Property Tax	12C-2
RULE TITLES:	RULE NOS.:
Due Date – Payment of Tax –	
Discounts Allowed	12C-2.005
Taxable Situs – Reporting Requirements –	
Who Shall File a Return	12C-2.006
Penalties and Interest	12C-2.007
Information Reports	12C-2.008
Public Use Forms	12C-2.0115
Refunds	12C-2.012

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), is to: (1) implement s. 60, Chapter 2002-218, L.O.F., which repeals the requirement for a corporation to provide written notice to its Florida stockholders reflecting the just value of each class of its stock subject to the annual intangible tax; (2) adopt, by reference, forms used by the Department in the administration of the intangible personal property tax; (3) provide guidelines on how to obtain a refund of intangible personal property tax from the Department; and (4) remove obsolete or unnecessary provisions.

SUMMARY: The proposed amendments to Rule 12C-2.005, F.A.C. (Due Date – Payment of Tax – Discounts Allowed), and Rule 12C-2.006, F.A.C. (Taxable Situs – Reporting Requirements – Who Shall File a Return): (1) provide that forms used by the Department in the administration of the intangible personal property tax are incorporated by reference in Rule 12C-2.0115, F.A.C.; and (2) remove provisions on how to obtain forms from the Department that are redundant of Rule 12C-2.0115, F.A.C.

The proposed amendments to Rule 12C-2.007, F.A.C. (Penalties and Interest), implement the provisions of s. 60, Chapter 2002-218, L.O.F., by removing provisions for penalties imposed for the late filing of a Corporate Information Report, a report that is no longer required to be filed.

The proposed amendments to Rule 12C-2.008, F.A.C. (Information Reports): (1) implement the provisions of s. 60, Chapter 2002-218, L.O.F., which repeals the requirement for a corporation to provide written notice to its Florida stockholders reflecting the just value of each class of its stock subject to the annual intangible tax; (2) provide that forms used by the Department in the administration of the intangible personal property tax are incorporated by reference in Rule 12C-2.0115,

F.A.C.; (3) provide that form DR-301 is incorporated by reference in Rule 12C-3.008, F.A.C.; and (4) remove provisions on how to obtain forms from the Department that are redundant of Rule 12C-2.0115, F.A.C.

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms): (1) remove obsolete forms and forms that do not meet the definition of a "rule," as defined in s. 120.52(15), F.S.; and (2) adopt new forms, and changes to forms, used by the Department in the administration of the intangible personal property tax.

The proposed amendments to Rule 12C-2.012, F.A.C. (Refunds): (1) remove obsolete provisions and examples of claims for refunds of the intangible personal property tax; (2) provide that a request for refund must be submitted to the Department on form DR-26, Application for Refund; (3) provide guidelines on the statute of limitations for a refund of intangible personal property tax; and (4) remove provisions on how to obtain forms from the Department that are redundant of Rule 12C-2.0115, F.A.C.

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

Any person who wishes to provide information regarding regulatory costs or to provide a proposal for a lower-cost regulatory alternative must do so in writing within 21 days of this notice.

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

LAW IMPLEMENTED: 199.023, 199.032, 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055, 199.135, 199.175, 199.185, 199.202, 199.232, 199.252, 199.282, 199.292, 213.235, 215.26, 607.1622, 733.702 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., February 26, 2003

PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis at (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Baldan Sulker, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4696

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE FULL TEXT OF THE PROPOSED RULES IS:

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

(1) through (3)(a)1. No change.

2. All requests for extensions of time, for filing returns or reports and paying the tax, must be made in writing and received by the department prior to the due date. Request for extension of time to file an intangible tax return is to be made on form DR-602 (Intangible Tax Application for Extension of Time to File Return, incorporated by reference in Rule 12C-2.0115, F.A.C.). The Department ~~department~~ will inform taxpayers of respond only to requests that which are denied.

3. No change.

~~(b) Application for Extension of Time to File Florida Intangible Tax Return (DR-602) is incorporated in Rule 12C-2.0115. The form entitled Application for Extension of Time to File Florida Intangible Tax Return (DR-602) is available, without cost, 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 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://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

~~(b)(c) No change.~~

Specific Authority 199.202, 213.06(1) FS. Law Implemented 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, 10-9-01, \_\_\_\_\_.

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, Intangible Personal Property Tax Return (incorporated by reference in Rule 12C-2.0115, F.A.C.). ~~Intangible Tax Return (DR-601) is incorporated in Rule 12C-2.0115, F.A.C., F.A.C. The form entitled Intangible Tax Return (DR-601I) is available, without cost, 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 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://myflorida.com/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-601IC, Intangible Personal Property Tax Return for Corporation, Partnership, and Fiduciary Filers (incorporated by reference in Rule 12C-2.0115, F.A.C.). ~~Intangible Tax Return (DR-601C) is incorporated in Rule 12C-2.0115, F.A.C. The form entitled Intangible Tax Return (DR-601C) is available, without cost, 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 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://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.~~

3. No change.

4. Governmental Leasehold Estates are to be reported on form DR-601G, Governmental Leasehold Intangible Personal Property Tax Return for Individual and Joint Filers (incorporated by reference in Rule 12C-2.0115, F.A.C.). ~~Governmental Leasehold Intangible Tax Return (DR-601G) is incorporated in Rule 12C-2.0115, F.A.C. The form entitled Government Leasehold Intangible Tax Return (DR-601G) is available, without cost, 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 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://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.~~

(2) through (5) No change.

(6) Corporations: Every corporation electing to pay the tax as agent for its Florida stockholders must file a return by June 30 of the tax year, even if no tax is due with the return. If no return is filed or the return is filed after June 30, the election to pay the tax for stockholders will not be valid. Form DR-601C, Intangible Personal Property Tax Return (incorporated by reference in Rule 12C-2.0115, F.A.C.) ~~or DR-601AC or DR-601AC, is the form to be used when filing and paying the tax as agent for shareholders. 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, without cost, 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 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://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.~~

(7) 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, 10-9-01, \_\_\_\_\_.

12C-2.007 Penalties and Interest.

(1) through (5) No change.

(6) Penalty for For Late Filing of a Corporate Information Report or Security Position Statement.

(a) ~~Late filing of an information report by a corporation will subject the corporation to a penalty of \$100. However, if the corporation has been granted an extension of time under Chapter 199, F.S., the penalty shall not be assessed if the report is filed within the extended period.~~

(b)1. through 3. renumbered (a) through (c) No change.

(7) 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, 10-9-01, \_\_\_\_\_.

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 department a written notification where applicable of the following:~~

~~(a)1-~~ The corporation's election to pay the tax as agent for its Florida shareholders. The notice shall be filed on an Intangible Personal Property Tax Return for Corporation, Partnership, and Fiduciary Filers (form DR-601C, incorporated by reference in Rule 12C-2.0115, F.A.C.) 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.

~~(b)2-~~ On or before April 1 of the tax year, corporations electing to pay the tax as agent for shareholders shall notify their Florida shareholders in writing of the election to pay the intangible tax as agent for shareholders. A representative copy of the written notice is to be attached to form DR-601C and filed with the Department.

~~3-~~ On or before April 1 of the tax year each corporation doing business in this state must provide its Florida shareholders with a written notice of the value of its shares of stock which are not regularly traded on an exchange, over the counter, subject to restrictions, or which have a value less than the published or traded value. A copy of the value notice given to Florida shareholders must be attached to the corporation's intangible tax return. No notice of value is required when the corporation pays the tax as agent for its Florida shareholders.

~~(b)~~ The form entitled Intangible Tax Return (DR-601C) is incorporated in Rule 12C-2.0115, F.A.C. The form entitled Intangible Tax Return (DR-601C) is available, without cost, 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 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://myflorida.com/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 Intangible Tax Return (DR-601C).

(2) through (4) No change.

~~(5)(a)1-~~ Personal representatives of estates shall file with the Department a copy of the Preliminary Notice and Report ~~(form DR-301), which is incorporated by reference in Rule 12C-3.008 12C-2.0115, F.A.C.)~~.

~~2-~~ The form entitled Preliminary Notice and Report (DR-301) is available, without cost, 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 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://myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at 1(800)367-8331.

(b) No change.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.057, 199.062, 199.185, 607.1622, 733.702, 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, 11-21-92, 1-5-94, 10-9-01, \_\_\_\_\_.

12C-2.0115 Public Use Forms.

~~(1)(a)~~ 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.

~~(b)~~ Copies of these forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168A 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 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://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
<del>(1)</del> DR-301	<del>Preliminary Notice and Report Estate Tax (r. 05/93)</del>	<del>_____ 1/94</del>
(2) DR-601-C	2003 Florida Intangible Personal Property Tax Return for <del>(Corporation, and Partnership, and Fiduciary Filers as of January 1, 2003)</del> (R. 01/03 r. 01/02)	_____ 10/01



(3) DR-601CN	Instructions for Filing Form DR_601C <u>Intangible Personal Property Tax Return for Corporation, Partnership and Fiduciary Filers</u> (R. 01/03 r. 01/02)	____ 10/01	(11) <u>DR-350112</u> <del>DR-610-B</del>	Taxpayer Affidavit (R. 06/01) <u>Intangible Personal Property Tax Receipt (bookstyle)</u> (r. 04/87)	____ 4/87
(4) DR-601CS	<u>2003 Accompanying Schedules B, C, D, and E for use with Form DR_601C</u> (R. 01/03 r. 01/02)	____ 10/01	(12) <u>DR-350113</u> <del>DR-610-US</del>	Taxpayer Affidavit for Trusts with <u>Intangible Tax Self-Analysis Worksheet for Trusts</u> (R. 01/03) <u>Intangible Personal Property Receipt (unit set snap-out style)</u> (r. 05/86)	____ 5/86
(5) DR-601-G	Government Leasehold Intangible <u>Personal Property Tax Return</u> (R. 01/02 r. 01/01)	____ 10/01	(13) <u>DR-350617</u> <del>DR-618-TPS</del>	<u>Application for Exclusion from Filing Stockbroker Position Statement</u> (R. 01/03) <u>Intangible Tax Input Document (Third Party Source Billing Document)</u> (r. 07/82)	____ 7/82
(6) DR-601-I	<u>2003 Florida Intangible Personal Property Tax Return for (Individual and Joint Filers as of January 1, 2003 Fiduciary)</u> (R. 01/03 r. 01/02)	____ 10/01	(14) <u>DR-350618</u> <del>DR-629-C</del>	<u>Stockbroker Instructions and Specifications for Reporting Information on Magnetic Media for Year Ending 12/31/01</u> (R. 01/03) <u>Florida Intangible Personal Property Tax Letter of Inquiry</u> (r. 11/92)	____ 1/94
(7) DR_601IN	Instructions for Filing Form DR_601I <u>Intangible Personal Property Tax Return for Individual and Joint Filers</u> (R. 01/03 r. 01/02)	____ 10/01	(15) <u>DR-350619</u> <del>DR-629-I</del>	<u>Stockbroker Filing Magnetic Media Transmittal</u> (R. 01/03) <u>Florida Intangible Personal Property Tax Letter of Inquiry</u> (r. 03/93)	____ 1/94
(8) DR_601IS	<u>2003 Accompanying Schedules B, C, D, and E for use with Form DR_601I</u> (R. 01/03 r. 01/02)	____ 10/01	(16) <u>DR-350620</u> <del>DR-629-S</del>	<u>Stockbroker Information Report</u> (R. 01/03) <u>Individual and Fiduciary Intangible Personal Property Tax Letter of Inquiry</u> (r. 9/91)	____ 1/94
(9) DR-602	<u>Intangible Personal Property Tax Application for Extension of Time to File Florida Intangible Tax Return</u> (R. 12/02 r. 02/93)	____ 1/94			
(10) <u>DR-350111</u> <del>DR-609</del>	<u>Intangible Tax Self-Audit Worksheet</u> (R. 01/03) <u>Clerk's Monthly Intangible Tax Transmittal Form</u> (r. 10/87)	____ 10/87			

Specific Authority 199.202(2), 213.06(1) FS. Law Implemented 199.023, 199.032, 199.042, 199.052, 199.062, 199.103, 199.1055, 199.135, 199.232, 199.292 FS., s. 1, Ch. 2001-225, L.O.F. History-New 11-21-91, Amended 1-5-94, 10-9-01, \_\_\_\_\_.

12C-2.012 Refunds.

(1) Any person entitled to a refund of intangible personal property taxes may seek a refund by filing an Application for Refund (form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26 must be in accordance with the timing provisions of s. 215.26, F.S., and must meet the requirements of s. 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C. A claim for refund may be filed within 3 years of the due date (June 30) of a return or 3 years from the date the tax payment was made.

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

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

(2) The postmark date determines the date on which the refund claim was filed.

(3) All requests for refund must be made on form DR-26. Form DR-26, Application for Refund from the State of Florida, is incorporated in Rule 12C-2.0115. Copies of the form are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or 2) faxing the Forms Distribution center at (850)922-2208; or 3) using a fax machine telephone handset to call the Department's automated Fax on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with hearing or speech impairments may call the Department's TDD 154(800)367-8331.

(4)(a) Example 1: Taxpayer filed a return and paid the tax on March 31, of the current tax year. The taxpayer may file a claim for refund 3 years from March 31 or 3 years from June 30, the due date for the return.

(b) Example 2: Assume the same facts as above. The taxpayer files a claim for refund which is postmarked July 15, of the third year following payment of the tax. No refund will be granted as the claim is barred by the statute of limitation.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.252, 215.26. History—New 4-17-72, Formerly 12C-2.12, Amended 11-21-91, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Baldan Sulker, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4696

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-4709

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-2, F.A.C., Intangible Personal Property Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5125-5130). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes have been made to the proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), by the Department.

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Estate Tax	12C-3
RULE TITLES:	RULE NOS.:
Public Use Forms	12C-3.008
Releases	12C-3.012

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12C-3, F.A.C. (Estate Tax), is to: (1) adopt, by reference, changes to forms used by the Department in the administration of the Florida estate tax; and (2) reduce the number of copies of a legal description of property required to be submitted to the Department with form DR-308.

SUMMARY: The proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), adopt, by reference, changes to forms DR-301, DR-308, DR-310, DR-312, and F-706, used by the Department in the administration of the Florida estate tax.

The proposed amendments to Rule 12C-3.012, F.A.C. (Releases), reduce the number of copies of a legal description of property required to be submitted to the Department with form DR-308 from three copies to two copies.

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

Any person who wishes to provide information regarding regulatory costs or to provide a proposal for a lower-cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 198.08, 213.06(1) FS.

LAW IMPLEMENTED: 198.08, 198.22 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., February 26, 2003  
 PLACE: Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida 32399-0100

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 Nancy Purvis, (850)488-0712. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Maryellen Clemens, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4712

THE FULL TEXT OF THE PROPOSED RULES IS:

12C-3.008 Public Use Forms.

(1)(a) The following public-use forms and instructions are employed by the Department in its dealings with the public and are hereby adopted by reference.

(b) Copies of these ~~These~~ forms are available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, ~~Forms~~ Distribution Center, 168A 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://www.myflorida.com/dor/~~). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

Form Number	Title	Effective Date
(2)(4) DR-301	Preliminary Notice and Report (R. 09/01 <del>r. 07/98</del> )	01/22/01
(3)(2) DR-308	Request and Certificate for Waiver and Release of Florida Estate Tax Lien (R. 08/02 <del>r. 01/00</del> )	01/22/01
(4)(3) DR-310	Domicile Statement (R. 09/01 <del>r. 11/96</del> )	01/22/01

(5)(4) DR-312 Affidavit of No Florida Estate Tax Due (for decedents dying on or after January 1, 2000) (R. 08/02 ~~r. 01/00~~) 01/22/01

(6)(5) F-706 Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens (R. 01/03 ~~r. 01/00~~) 01/22/01

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.08 FS. History--New 9-26-77, Formerly 12C-3.08, Amended 1-11-93, 8-25-94, 1-22-01, \_\_\_\_\_.

12C-3.012 Releases.

A decedent's estate being probated in this state may request a release of certain property from the estate tax lien. A release will be issued under the following conditions:

(1) Estate of Resident Decedents –

(a) Filing of a Request and Certificate for Waiver and Release of the Florida Estate Tax Lien (Form DR-308), together with:

1. ~~Two three~~ copies of a description sufficient to identify the property to be released, and

2. Either payment of the full tentative tax or additional tax due Florida, or provision for the tentative tax or additional tax.

(b) No change.

(2) through (3) No change.

Specific Authority 198.08, 213.06(1) FS. Law Implemented 198.22 FS. History--New 8-25-94, Amended 12-13-94, 1-22-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Maryellen Clemens, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4712

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)922-4709

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-3, F.A.C., Estate Tax, were noticed for a rule development workshop in the Florida Administrative Weekly on November 22, 2002 (Vol. 28, No. 47, pp. 5130-5131). A rule development workshop was held on December 11, 2002, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida. No one appeared to provide comment regarding these proposed rule changes. Technical changes to the proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), have been made by the Department.

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

DOCKET NO.: 01-10R

RULE CHAPTER TITLE: SOVEREIGNTY SUBMERGED

RULE CHAPTER NO.: 18-21  
Lands Management

RULE TITLES: DEFINITIONS 18-21.003

MANAGEMENT POLICIES, STANDARDS, AND CRITERIA 18-21.004

DELEGATION OF AUTHORITY 18-21.0051

APPLICATIONS FOR PUBLIC EASEMENT 18-21.009

APPLICATIONS FOR PRIVATE EASEMENT 18-21.010

PAYMENTS AND FEES 18-21.011

**PURPOSE AND EFFECT:** This rulemaking is proposed by the Department of Environmental Protection, as staff to the Board of Trustees, to accomplish two purposes. First, it will establish criteria for the placement of telecommunication lines and conduits on sovereignty submerged lands along the coast of Florida and it will establish application and easement fees for such use. Second, it will clean up and update some other provisions related to all private and public easements on sovereignty submerged lands.

**SUMMARY:** The proposed amendments regarding telecommunication lines and conduits require a showing of proof of need for a landing; require conduits to be directionally drilled under nearshore resources and punch out where impacts to resources are avoided or minimized; prohibits installation in Miami-Dade County, south of Sunny Isles, and in Monroe County; limits the combined number of cables and conduits to six per landing site, but allows more if certain criteria are met; and establishes new application and easement fees for the cables and conduits. The rule also streamlines the processing of telecommunication lines that are located in special consideration areas. Five special consideration areas are identified in Broward and Palm Beach Counties where gaps exist in the third reef; additional special consideration areas can be adopted into rule in the future. For telecommunication lines located in special consideration areas, the authorization for the project will be delegated to DEP; a sketch may be submitted in lieu of a survey, provided an as-built is submitted later; and two spare conduits per cable are allowed instead of one. DEP is also proposing to assess application fees of \$15,000 for private and public telecommunication lines, and a private easement fee of \$5.06 per linear foot (for a ten-foot wide easement and prorated for wider easements), which will be adjusted annually to changes in the consumer price index.

In addition, the rulemaking will update and correct language in sections 18-21.009 and 18-21.010 related to easements: (1) it will change the noticing of public and private easements to owners within 500 feet of the easement boundary to match statutory requirement, and will allow the applicant to notice the project in lieu of the Board; (2) it will change the requirement to submit payment of the private easement fee at the time the

application is submitted to when the easement is approved; and (3) it will clarify language regarding easement application and renewal fees.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** A formal SERC has not been prepared. However, this rule will result in the increased application fee from \$200 to \$15,000 for private and public easements for telecommunication lines, including subsequent applications to install lines in existing conduits. This increased application fee is designed to better recover the actual costs to the Department to evaluate and process offshore telecommunication line applications. The easement fee of \$5.06 is fixed and is based on what DEP currently charges; it represents the appraised easement value and the enhanced upland property value.

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

**SPECIFIC AUTHORITY:** 253.03(7) FS.

**LAW IMPLEMENTED:** 253.002, 253.03, 253.034, 253.04, 253.115, 253.12, 253.77 FS.

**A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.**

**TIME AND DATE:** Thursday, 6:00 p.m., February 13, 2003

**PLACE:** DEP Southeast District Office, 400 North Congress Avenue, 2nd Floor Meeting Room, West Palm Beach, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting the Bureau of Personnel Services, (850)245-2511. If you are hearing or speech impaired, please contact the Florida Relay Service by calling (800)955-8771 (TDD).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Jeanese McCree, Florida Department of Environmental Protection, Bureau of Beaches and Wetland Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400, telephone (850)245-8486, e-mail: jeanese.mccree@dep.state.fl.us, or facsimile (850)245-8499

**THE FULL TEXT OF THE PROPOSED RULES IS:**

18-21.003 Definitions.  
When used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

- (1) through (52) No change.
- (53) “Telecommunication line” means any cable utilized for the purpose of transmitting such things as voice communications, video signals, Internet material, electronic mail, or data.

(53) through (57) renumbered (54) through (58) No change.

Specific Authority 253.03(7) FS. Law Implemented 253.002, 253.02, 253.03, 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, 8-1-01, 12-11-01,\_\_\_\_\_.

18-21.004 Management Policies, Standards, and Criteria.

The following management policies, standards, and criteria shall be used in determining whether to approve, approve with conditions or modifications, or deny all requests for activities on sovereignty submerged lands.

- (1) No change.
- (2) Resource Management.
- (a) through (k) No change.

(l) Applications for telecommunication lines received after [effective date of rule] that originate from or extend to locations outside of the state’s territorial limits through the territorial sea including the area between mean high and mean low water lines and any associated conduits shall be subject to the following:

1. Installations shall be approved only where the applicant provides satisfactory evidence of a need by providing documentation in the form of:

a. A contract to install telecommunication lines and associated conduits to an upland distribution network and stating the projected date of installation; or

b. A letter of commitment from a company in the business of installing or using telecommunication lines for a line that will be installed and connected to an upland distribution network, functional for transmitting data, and on-line within a specified time frame once a conduit is made available.

2. Installations at individual landing sites are limited to no more than six telecommunication lines and conduits except where the applicant can affirmatively demonstrate that the landing site will support a larger number of such lines and that the routing through the territorial sea will cause no more than minimal individual and cumulative impacts.

3. No more than one empty conduit shall be installed per approved telecommunication line except in special consideration areas identified in this paragraph where two empty conduits may be installed per approved telecommunication line.

4. Installations shall be prohibited south of Sunny Isles in Miami-Dade County and in all of Monroe County.

5. Conduits for telecommunication lines shall be directionally drilled under nearshore benthic resources, including the first reef and any other more inshore reefs off Southeast Florida, to the maximum extent practicable and shall punch out in a location that avoids or minimizes impacts to benthic resources such as seagrasses and live bottom communities including corals and sponges.

6. Special consideration areas are designated for telecommunication lines and associated conduits located within the recognized reef-gaps generally described as follows:

a. Lake Worth Gap (northern Palm Beach County), beginning at the easternmost end at N. Lat. 26 37.659/W. Long. 80 01.341 (south side) and N. Lat. 26 38.481/W. Long. 80 01.258 (north side), and extending perpendicular to shore in a 1,672 yard-wide gap to the mean high water line landward of the second reef terrace;

b. Boynton Beach Gap (southern Palm Beach County), beginning at the easternmost end at N. Lat. 26 32.200/W. Long. 80 01.788 to N. Lat. 26 32.245/W. Long. 80 01.791, in a 90-95 yard wide gap to the mean high water line.

c. Delray Gap (southern Palm Beach County), beginning at the easternmost end at N. Lat. 26 27.393/W. Long. 80 02.765 (south side) and at N. Lat. 26 27.641/W. Long. 80 02.726 (north side), and extending perpendicular to shore in a 508 yard-wide gap to the mean high water line;

d. Turtle Gap (southern Palm Beach County), beginning at the easternmost end at N. Lat. 26 22.672/W. Long. 80 03.224 (south side) and at N. Lat. 26 22.748/W. Long. 80 03.224 (north side), and extending perpendicular to shore in a 154 yard-wide gap to the mean high water line; or

e. South Broward Gap (southern Broward County), beginning at the easternmost end at N. Lat. 25 58.438/W. Long. 80 05.278 and N. Lat. 25 58.821/W. Long. 80 05.271 and extending landward on its southerly limits through the following points: N. Lat. 25 58.977/W. Long. 80 05.733, N. Lat. 25 59.132/W. Long. 80 05.997, and ending at N. Lat. 25 59.138/W. Long. 80 06.366, and landward on its northerly limits through the following points: N. Lat. 25 59.039/W. Long. 80 05.725, N. Lat. 25 59.205/W. Long. 80 06.060, and ending at N. Lat. 25 59.192/W. Long. 80 06.371.

- (l) renumbered (m) No change.
- (3) through (5) No change.

Specific Authority 253.03, 253.73 FS. Law Implemented 253.03, 253.034, 253.04, 253.041, 253.141, 253.51, 253.61, 253.68, 253.72, 253.74, 253.75, 253.77 FS. History—New 3-27-82, Amended 8-1-83, Formerly 16Q-21.04, 16Q-21.004, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 10-15-98, 12-11-01,\_\_\_\_\_.

18-21.0051 Delegation of Authority.

- (1) No change.
- (2) The Secretary of the Department of Environmental Protection and the Governing Boards of the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District are delegated the authority to review and take final agency action on applications to use sovereignty submerged lands when the application involves an activity for which that agency has permitting responsibility, as set forth in the respective operating agreements between the Department and the water management districts identified in subsection 62-113.100(3), F.A.C., unless the proposed activity includes any of the following:

- (a) through (b) No change.

(c) Private easements of more than 5 acres, except for the installation of telecommunication lines and associated conduits in special consideration areas designated in paragraph 18-21.004(2)(1), F.A.C., in which case, prior to taking final agency action for such installations, staff will provide the Board with notice and an opportunity to request that the application be placed on the Trustees agenda;

(d) The establishment of a mitigation bank.

(3) through (4) No change.

Specific Authority 253.002 FS. Law Implemented 253.002 FS. History—New 10-12-95, Amended.

18-21.009 Applications for Public Easement.

(1) Applications for easements across sovereignty submerged land for public purposes such as utilities, bridges, and roads, shall include the following:

(a) through (c) No change.

(d) A detailed statement of proposed use and satisfactory evidence of need for installation of telecommunication lines and associated conduits that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C. If the applicant is a local governing body, the request shall be by official resolution or minutes;

(e) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors meeting the following requirements:

1. through 6. No change.

7. Including a legal description and acreage of the parcel sought; However, for applications received after [effective date of rule] for telecommunication lines and associated conduits in special consideration areas designated in paragraph 18-21.004(2)(1), F.A.C., a sketch of the location of the installation shall be submitted provided that an as-built survey and legal description are submitted upon completion of construction. Such sketch shall be on NOAA nautical charts using the smallest scale available for the portion of the route shown;

(f) When noticing is required, the applicant shall provide a list of names and addresses, verified by the County Property Appraiser's Office, of all current property owners within a 500-foot radius of the proposed easement boundary in mailing label format. In lieu of the Board providing notice of application for easement to adjacent property owners in accordance with s. 253.115, F.S., an applicant may elect to send the notice, provided the notice is sent by certified mail, with the return-receipt card addressed to the Department; Written comments from the Department of Environmental Protection, when applicable, in the form of:

1. permit appraisal or biological assessment; and
2. letter of intent, if issued;

(g) A \$200.00 non-refundable processing fee. However, a \$15,000 non-refundable processing fee is required for each application to install telecommunication lines and associated

conduits received after [effective date of rule] that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C., at a landing site, including applications to install telecommunication lines in previously authorized empty conduits. The processing fee for telecommunication lines and associated conduits shall be revised annually on March 1 and increased or decreased based on the average change in the Consumer Price Index, calculated by averaging the Consumer Price Index over the previous five-year period, with a 10 percent cap on any annual increase. The processing fee may be waived for state agencies established pursuant to Chapter 20, F.S. Florida Statutes, and local governments; and

(h) No change.

(2) Easements are renewable, assignable and transferable, subject to approval by the Board under this rule; compliance with applicable statutes and rules of the Board in effect at the time of easement renewal; payment of a \$200.00 non-refundable processing fee; and payment of all fees assessed under Rule 18-21.011, F.A.C.

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

Specific Authority 253.03(7) FS. Law Implemented 253.03(11), 253.12 FS. History—New 9-26-77, Formerly 16C-12.09, 16Q-17.09, Revised 3-27-82, Formerly 16Q-21.09, 16Q-21.009, Amended 12-11-01, \_\_\_\_\_.

18-21.010 Applications for Private Easement.

(1) Applications for easements across sovereignty submerged lands for private purposes shall include the following:

(a) through (c) No change.

(d) A detailed statement of proposed use and satisfactory evidence of need for installation of telecommunication lines and associated conduits that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C.;

(e) No change.

(f) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors meeting the following requirements:

1. through 6. No change.

7. Including a legal description and acreage of the parcel sought; However, for applications received after [effective date of rule] for telecommunication lines and associated conduits in special consideration areas designated in paragraph 18-21.004(2)(1), F.A.C., a sketch of the location of the installation shall be submitted provided that an as-built survey and legal description are submitted upon completion of construction. Such sketch shall be on NOAA nautical charts using the smallest scale available for the portion of the route shown;

~~(g) Written comments from the Department of Environmental Protection, when applicable, in the form of:~~

- ~~1. permit appraisal or biological assessment; and~~
- ~~2. letter of intent, if issued;~~

~~(g)(h) When noticing is required the applicant shall provide a list of names and addresses, verified by the County Property Appraiser's Office, of all current property owners within a 500-foot radius of the proposed easement boundary in mailing label format. In lieu of the Board providing notice of application for easement to adjacent property owners in accordance with s. 253.115, F.S., an applicant may elect to send the notice, provided the notice is sent by certified mail, with the return-receipt card addressed to the Department: A list of names and addresses of all property owners within a 1,000 foot radius of the proposed easement area, verified by the County Property Appraiser's Office that these names came from the latest tax assessment rolls. The names and addresses shall be clearly typed and acceptable to the Department, preferably on labels suitable for mailing;~~

~~(h)(i) A \$200.00, non-refundable processing fee. However, a \$15,000 non-refundable processing fee is required for each application to install telecommunication lines and associated conduits received after [effective date of rule] that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C., at a landing site, including applications to install telecommunication lines in previously authorized empty conduits. The processing fee for telecommunication lines and associated conduits shall be revised annually on March 1 and increased or decreased based on the average change in the Consumer Price Index, calculated by averaging the Consumer Price Index over the previous five-year period, with a 10 percent cap on any annual increase;~~

~~(j) through (k) renumbered (i) through (j) No change.~~

~~(k)(l) Calculation of Payment for the value of the easement pursuant to subsection 18-21.011(2), F.A.C. in the amount stated on an appraisal performed by an independent appraisal firm contracted by the applicant and approved by the department.~~

~~(2) Easements are renewable, assignable and transferable, subject to approval by the Board under this rule; compliance with applicable statutes and rules of the Board in effect at the time of easement renewal; payment of a \$200.00 non-refundable processing fee; and payment of all fees assessed under Rule 18-21.011, F.A.C.~~

~~(2) through (3) renumbered (3) through (4) No change.~~

~~Specific Authority 253.03(7)(a) FS. Law Implemented 253.03(11), 253.12 FS. History--New 12-20-78, Formerly 16C-12.10 and 16Q-17.10, Revised 3-27-82, Formerly 16Q-21.10, 16Q-21.010, Amended 12-11-01,\_\_\_\_\_.~~

~~18-21.011 Payments and Fees.~~

- ~~(1) No change.~~
- ~~(2) Private Easements~~

~~(a) The fee for private easements, except for telecommunication lines and associated conduits that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C., shall be determined by an appraisal obtained by the applicant.~~

The appraiser must be selected from the division's approved list of appraisers and the appraisal must be reviewed and approved by the division.

(b) In addition to standard appraisal requirements and procedures, the following factors shall be considered in determining the easement fee:

- 1. through 2. No change.

~~(b) The fee for private easements for telecommunication lines and associated conduits that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C., shall be a one-time fee of \$5.06 per linear foot of telecommunication line or conduit as measured along sovereignty submerged lands from the limits of the territorial sea to first landfall on the mainland. This fee represents the easement value and the enhanced value for easements up to 10 feet wide, and shall be increased proportionally for easements of greater widths. This fee shall also be applicable to easement modifications to the extent that such modifications increase the easement area and to easement renewals. The fee shall be revised annually on March 1 and increased or decreased based on the average change in the Consumer Price Index, calculated by averaging the Consumer Price Index over the previous five-year period, with a 10 percent cap on any annual increase. This fee shall not be applicable to applications to transfer or assign an easement.~~

- (3) through (5) No change.

~~Specific Authority 253.03(7), 253.73 FS. Law Implemented 253.03, 253.115, 253.71 FS. History--New 3-27-82, Amended 5-18-82, 8-1-83, 9-5-84, 10-20-85, Formerly 16Q-21.11, 16Q-21.011, Amended 1-25-87, 9-6-87, 3-15-90, 10-11-98, 10-15-98,\_\_\_\_\_.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jim Stoutamire, Administrator

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David B. Struhs, Department of Environmental Protection, and the Board of Trustees of the Internal Improvement Trust Fund

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 11, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT AND SUMMARY PUBLISHED, PURSUANT TO SEC. 120.551, F.S., IN THE DEPARTMENT'S OFFICIAL NOTICE INTERNET SITE AT WWW.DEP.STATE.FL.US UNDER THE LINK TITLED "OFFICIAL NOTICES," AND IN THE FAW: February 16, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Electrical Contractors' Licensing Board**

RULE TITLE: Definitions  
PURPOSE AND EFFECT: To amend the rule to include descriptive language to clarify the scope of work a certified electrical contractor is licensed to provide.

RULE NO.:  
61G6-5.001

SUMMARY: This rule is being amended to further define the parameters on the electrical services a certified electrical contractor can provide.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 489.505(2), 489.507(3), 489.511 FS.

LAW IMPLEMENTED: 489.505(10),(12), 489.511(2)(a)3.c. FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Electrical Contractors' Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-5.001 Definitions.

(1) through (4) No change.

(5) "Electrical contractor or unlimited electrical contractor" means a person as defined in Section 489.505(12), Florida Statutes, whose scope of practice is not limited to a specific segment of electrical contracting. An electrical contractor or unlimited electrical contractor shall be either certified or registered. A certified electrical contractor is licensed to design electrical services less than 1000 amps at 600 volts maximum.

(6) through (16) No change.

Specific Authority 489.505(2), 489.507(3), 489.511 FS. Law Implemented 489.505(10), (12), 489.511(2)(a)3.c. FS. History—New 1-2-80, Amended 2-15-82, Formerly 21GG-5.01, Amended 2-23-86, 3-21-88, 11-26-90, 7-8-91, 5-20-92, 11-3-92, Formerly 21GG-5.001, Amended 12-26-93, 3-24-94, 7-13-95, 5-2-96, 5-6-96, 8-27-96, 2-13-97, 8-3-97, 1-4-98, 9-7-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors' Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 6, 2002

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 03-04R

RULE CHAPTER TITLE: Permits  
RULE CHAPTER NO.: 62-4

RULE TITLE: Procedure to Obtain Permits and Other Authorizations, Application  
RULE NO.: 62-4.050

DEP announces proposed amendments increasing NPDES Stormwater fees for construction operations disturbing five (5) or more acres of land and incorporating, within the fee structure, a fee for construction operations disturbing at least one (1) acre of land, but less than five (5) acres, under Phase II of the NPDES stormwater program.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button entitled "Official Notices".

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Fred Noble, P.E., NPDES Stormwater Section, Florida Department of Environmental Protection, Mail Station 2500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: General Requirements  
RULE NO.: 64B8-45.001

PURPOSE AND EFFECT: The Board proposes to change the rule to reflect that fifteen (15) rather than the current ten (10) hours of credit shall be accepted per biennium for approved home study courses.

SUMMARY: This rule sets forth the requirements for continuing education in Dietetics and Nutrition practice.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.013(7),(8), 468.507 FS.

LAW IMPLEMENTED: 456.013(7),(8), 468.514, 468.515 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Medicine, Dietetics and Nutrition Practice Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3253



THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-45.001 General Requirements.

(1) As a condition of biennial licensure renewal, all licensees shall complete a minimum of thirty contact hours of continuing education in dietetics and nutrition practice within the twenty-four (24) month period prior to the expiration date of the license, of which no more than ten hours may be in management, risk management, personal growth, and educational techniques. Up to fifteen (15) ~~ten~~ hours of credit shall be accepted per biennium for approved home study courses. Those persons certified for licensure in the second half of the biennium are exempt from the continuing education requirements for that biennium. One contact hour equals a minimum of fifty minutes.

(2) through (6) No change.

Specific Authority 456.013(7),(8), 468.507 FS. Law Implemented 456.013(7),(8), 468.514, 468.515 FS. History--New 12-5-90, Amended 1-1-92, 9-24-92, 5-6-93, Formerly 21M-51.001, Amended 9-28-93, Formerly 61F6-51.001, Amended 1-2-95, 11-12-95, Formerly 59R-45.001, Amended 9-26-01, 3-4-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Practice Council

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dietetics and Nutrition Practice Council

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 27, 2002

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

Division of Workers Compensation

RULE NO.: 4L-6.022
RULE TITLE: Confidentiality of Records Produced by the Division

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 45, November 8, 2002, of the Florida Administrative Weekly. These changes are being made to address concerns expressed by the Joint Administrative Procedures Committee.

Rule 4L-6.022, F.A.C., is changed to read as follows:

4L-6.022 Confidentiality of Records Produced by the Division.

(1) Section 440.185(11), Florida Statutes, provides that any information in a report of injury or illness filed with the Division pursuant to Section 440.185, Florida Statutes that would identify an ill or injured employee is confidential and exempt from the provisions of Section 119.07(1), Florida Statutes and Section 24(a), Article I of the Constitution of the State of Florida. Section 440.125, Florida Statutes, provides in part that any information identifying an injured employee in medical bills which are provided to the Division pursuant to Section 440.13, Florida Statutes is confidential and exempt from the provisions of Section 119.07(1), Florida Statutes and Section 24(a), Article I of the Constitution of the State of Florida.

(2) For purposes of maintaining the confidentiality of information as required pursuant to Sections 440.125 and 440.185(11), Florida Statutes, the following constitutes information that would identify an ill or injured employee: the ill or injured employee's

- (a) Name or signature;
(b) Social security number;
(c) Business, residence, and mailing addresses; and
(d) Residence and business telephone number.

(3) In the Division's response to a public records request, information that would identify an ill or injured employee will be redacted from any report of injury or illness filed with the Division pursuant to Section 440.185, Florida Statutes, and from any medical bill provided to the Division pursuant to Section 440.13, Florida Statutes.

Specific Authority 440.185(10), 440.591 FS. Law Implemented 440.125, 440.185(11) FS. History--New

DEPARTMENT OF EDUCATION

Commission for Independent Education

Table with 2 columns: RULE NOS. and RULE TITLES. Rows include 6E-2.0041 (Delivery of Programs through Nontraditional Assessments, Modes and Methods), 6E-2.008 (Approval of Modifications), 6E-2.0081 (Change of Ownership or Control), and 6E-2.010 (Agents).

NOTICE OF CHANGE

Notice is hereby given that proposed Rules 6E-2.0041, 6E-2.008, 6E-2.0081, and 6E-2.010, F.A.C., published in Vol. 28, No. 43, October 25, 2002, Florida Administrative Weekly, have been changed to reflect comments received from the Joint Administrative Procedures Committee on November 12, 2002, and during public discussions at several Rules Development Workshops held between July 2002 and January 8, 2003, and a Public Hearing on January 10, 2003. The proposed rules have been changed so that when adopted they will read: