

Section IV Emergency Rules

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NO: RULE TITLE:
12CER08-31 2008 Federal Stimulus Package
 Additions

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 120, Florida Statutes, permits agencies to promulgate emergency rules when there is an immediate danger to the public health, safety, or welfare of Florida citizens. Chapter 2008-206, Laws of Florida, sought to stabilize Florida's Corporate Income Tax revenue after passage of the Economic Stimulus Act of 2008, Pub. L. No. 110-185. The legislative intent behind Chapter 2008-206, Laws of Florida, apparently was to permit corporate taxpayers to retain the same depreciation and expensing deductions in 2008 that taxpayers had under the Internal Revenue Code in effect on January 1, 2007, and for any remaining business expenses, including depreciation deductions, to be recognized in future years. Legislative leaders have made clear their intent to address technical deficiencies in the language of Chapter 2008-206, Laws of Florida, by the close of the 2009 regular legislative session. Florida corporate taxpayers are likely to suffer significant economic impacts resulting from the uncertainty in current Florida law created by Chapter 2008-206, Laws of Florida, which may result in the loss of Florida jobs, decisions not to make investments in capital assets located in Florida, and negative impacts on market capitalization of Florida businesses. Given the recent developments in the national and state economic environments, Florida's corporate taxpayers require certainty in the tax effects of Chapter 2008-206, Laws of Florida, in order to not further harm the welfare of Florida's economic environment.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Emergency rulemaking is fair under the circumstances because, without the certainty required by Florida corporate taxpayers, immediate and unintended financial impacts will be felt by these taxpayers before the technical deficiencies in the language of Chapter 2008-206, Laws of Florida, can be addressed as indicated by Legislative leaders. Such impacts will present further harm to the welfare of Florida's economic environment.

SUMMARY: Emergency Rule 12CER08-31, F.A.C., (Economic Stimulus Act of 2008 Additions): (1) provides that taxpayers subject to the add-back provisions in Sections 220.13(1)(a)14. and 15., F.S., are required to add-back 2008 federal deductions under Sections 168(k) and 179 of the Internal Revenue Code caused by changes passed in the Economic Stimulus Act of 2008, Pub. L. No. 110-185, adjusted

by the difference between depreciation deductions taken and depreciation deduction that could have been taken if deductions under Sections 168(k) and 179 permitted by the Economic Stimulus Act of 2008, Pub. L. No. 110-185, had not been taken; (2) provides that taxpayers are allowed to make an adjustment in tax years following 2008 for the difference between depreciation deductions taken and depreciation deduction that could have been taken if deductions under Sections 168(k) and 179 permitted by the Economic Stimulus Act of 2008, Pub. L. No. 110-185, had not been taken; and (3) requires that additions and adjustments shall be reported on a schedule included with returns filed.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Robert Babin, Deputy Director, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4842

THE FULL TEXT OF THE EMERGENCY RULE IS:

12CER08-31 2008 Federal Stimulus Package Additions.

(1) Scope. This rule only applies to taxpayers subject to additions under Section 220.13(1)(a)14. or Section 220.13(1)(a)15., F.S.

(2) For purposes of the addition required by Sections 220.03(3) and 220.13(1)(a)14., F.S., taxpayers are required to add-back the amount of the federal deduction claimed under Section 179 of the Internal Revenue Code, that exceeds \$125,000, as adjusted pursuant to Section 179(b)(5), I.R.C.

(3) For purposes of the addition required by Section 220.03(3), 220.13(1)(a)14., or 220.13(1)(a)15., F.S., taxpayers are required to add-back an amount equal to:

(a) The total depreciation claimed under Sections 167 and 168 of the Internal Revenue Code on the related federal return, minus.

(b) The amount of depreciation deduction that would have been allowable under Sections 167 and 168 of the Internal Revenue Code as in effect on January 1, 2007, if the taxpayer had not expensed any amounts in excess of \$125,000 under Section 179 of the Internal Revenue Code (as adjusted pursuant to Section 179(b)(5), I.R.C.), or taken bonus depreciation pursuant to the Economic Stimulus Act of 2008 under Section 168(k) of the Internal Revenue Code.

(4) In tax years beginning after December 31, 2008, taxpayers shall make an adjustment to their Florida taxable income by an amount equal to:

(a) The amount of depreciation deduction that would have been allowable under Sections 167 and 168 of the Internal Revenue Code as in effect on January 1, 2007, if the taxpayer had not expensed any amounts in excess of \$125,000 under Section 179 of the Internal Revenue Code (as adjusted pursuant to Section 179(b)(5), I.R.C.), or taken bonus depreciation pursuant to the Economic Stimulus Act of 2008 under Section 168(k) of the Internal Revenue Code, minus.

(b) The amount of depreciation deduction taken under Sections 167 and 168 of the Internal Revenue Code on the related federal return.

(5) Upon the sale or disposition of property for which an addition was required under subsections (2) or (3), the gain for Florida purposes is the same as the gain for federal purposes. However, the taxpayer shall adjust its Florida taxable income by an amount equal to:

(a) The Florida depreciation taken on the asset, taking into account subsections (2), (3), and (4), minus.

(b) The total federal depreciation taken on the asset under Sections 167 and 168.

(6) The total amount of adjustments claimed for property for all years may not exceed the respective additions under Sections 220.13(1)(a)14. and 220.13(1)(a)15., F.S., for the same property. A schedule reflecting the additions and all subsequent adjustments must be attached to the return.

Specific Authority Sections 1, 2, and 5, Chapter 2008-206, L.O.F. Law Implemented Sections 1, 2, and 5, Chapter 2008-206, L.O.F. History—New 12-9-08.

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

EFFECTIVE DATE: December 9, 2008

DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NO.:	RULE TITLE:
12DER08-30	Tax Collector Non-Ad Valorem Assessment Roll Reports

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2008-173 (Senate Bill 1588), Laws of Florida, authorized the Department of Revenue to adopt emergency rules that could remain in effect for 18 months and that could be renewed. These acts further provided that all conditions imposed by Chapter 120, Florida Statutes, were deemed to be met.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the Department of Revenue to adopt emergency rules that implement the provisions of and Chapter 2008-173 (Senate Bill 1588), Laws of Florida. The law provides that these emergency rules remain in effect for a period of 18 months and that they may be renewed. The form included here is based on the requirements of Chapter 2008-173 (Senate Bill 1588), Laws of Florida. The Department of Revenue has taken several actions to inform interested parties about the forms, procedures, and emergency rules that are being developed to implement this new law, and to give such parties an opportunity to review and comment. These interested parties include Tax Collectors and interested parties

who have told the Department that they want to receive all information associated with property tax rulemaking. The actions that the Department has taken include: making the proposed draft form available via the Internet for public review and comments, establishing a new Department email address to make it easier for interested parties to submit comments and questions to the agency; emailing copies of the draft forms to interested parties, as well as receiving and incorporating public comments on the draft form DR-503NA.

SUMMARY: Emergency Rule 12DER08-30 (Tax Collector Non-Ad Valorem Assessment Roll Reports), provides assistance regarding certain actions to be taken by local governments and officials. Section 10 of Senate Bill 1588 (Chapter 2008-173, L.O.F.) states that Tax Collectors are required to report information concerning non-ad valorem assessments collected on the property tax bill to the Department of Revenue. This summary information on each non-ad valorem assessment must be provided by December 15th each year starting in 2008. This rule adopts and incorporates by reference Form DR-503NA, Tax Collector's Report on Non-Ad Valorem Assessments Collected on the Notice of Taxes (N. 12/08), to be used by tax collector for this report.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Janice Forrester, Department of Revenue, Property Tax Technical Unit, 725 S. Calhoun Street, Tallahassee, Florida 32399-0100; telephone (850)922-7945; Fax (850)488-9482; email address: forrestj@dor.state.fl.us

THE FULL TEXT OF THE EMERGENCY RULE IS:

12DER08-30 Tax Collector Non-Ad Valorem Assessment Roll Reports.

(1) Each county tax collector shall provide to the Department of Revenue a report including information concerning each non-ad valorem assessment collected using the notice of taxes and referenced in Section 197.3632(5)(b), Florida Statutes. The following information shall be included in the report:

(a) The name of the local government levying the non-ad valorem assessment and a code indicating whether the local government is a county, municipality or independent special district.

(b) The name of the non-ad valorem levy as included on the tax notice.

(c) A short description of the function of the non-ad valorem levy and a code indicating the nature of the function.

(d) The basis, or unit of measurement against which the rate is applied to determine the non-ad valorem assessment, of the levy and a code indicating type of basis.

(e) The rate per each unit of basis of the non-ad valorem levy.

(f) The number of parcels on which the non-ad valorem assessment is levied.

(g) The total dollar amount of the non-ad valorem assessment levied.

(h) An indication of whether or not the local government levying the non-ad valorem assessment also levies an ad valorem tax.

(2) The report shall be filed with the Department of Revenue by December 15 each year beginning in 2008, by mailing the report to the Florida Department of Revenue, Property Tax Oversight: Non-Ad Valorem Assessments, Post Office Box 3000, Tallahassee, Florida 32315-3000. The report shall be filed on Form DR-503NA, Tax Collector's Report on Non-Ad Valorem Assessments Collected on the Notice of Taxes (N.12/08), which the Department of Revenue hereby adopts and incorporates in this rule by reference.

(3) This rule shall supersede any existing rule to the contrary to the extent necessary to implement Chapter 2008-173 (Senate Bill 1588) Laws of Florida.

Specific Authority Section 13 of Ch. 2008-173, L.O.F. Law Implemented Section 10 of Ch. 2008-173, L.O.F. History-New 12-4-08.

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

EFFECTIVE DATE: December 4, 2008

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

Section V

Petitions and Dispositions Regarding Rule Variance or Waiver

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on December 5, 2008, the South Florida Water Management District (District), received a petition for waiver from Paul Venturelli, Application No. 08-1205-1M, Permit (MOD) Number 8134, for utilization of Works or Lands of the District known as the C-51 Canal to allow existing landscaping consisting of palm trees, low lying planters and a paver walkway located within the northerly right of way of C-51 to remain; Section 15, Township 44 South, Range 43 East, Palm Beach County. The petition seeks relief from subsections 40E-6.011(4) and (6), Florida Administrative Code, which governs the placement of permanent and/or semi-permanent above-ground structures within 40 feet of the top of the canal bank within Works or Lands of the District.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Kathie Ruff at (561)682-6320 or e-mail at kruff@sfwmd.gov. The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn.: Kathie Ruff, Office of Counsel.

AGENCY FOR HEALTH CARE ADMINISTRATION

NOTICE IS HEREBY GIVEN THAT on November 24, 2008, the Agency for Health Care Administration, received a petition for Waiver from subsection 59A-7.020(15), Florida Administrative Code, from Calloway Laboratory, Inc.

The Petition seeks a waiver which would allow Petitioner to distribute and utilize a collection cup and preliminary information system without same constituting a violation of the Florida Anti-Kickback Rule.