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Section IV Emergency Rules

DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NOS.:	RULE TITLES:
12DER09-06	Denials and Late Filed Applications for Transfer of Assessment Limitation Differential (Portability)
12DER09-07	Appeals to the Value Adjustment Board of Denials and of Amount of Transfer of Assessment Limitation Difference (Portability)
12DER09-08	Tax Collector Non-Ad Valorem Assessment Roll Reports
12DER09-09	Scope of Emergency Rules 12DER09-10 Through 12DER09-12: How to Obtain Forms
12DER09-10	Transfer of Assessment Limitation Difference: "Portability": Sworn Statement Required
12DER09-11	Tangible Personal Property Exemption
12DER09-12	Additional Homestead Exemption Pursuant to Section 196.031(1)(b), Florida Statutes
12DER09-13	Reporting of Fiscal Data by Fiscally Constrained Counties to the Department of Revenue For Local Fiscal Year 2009-2010
12DER09-14	Forms for Use in the Truth in Millage and Maximum Millage Calculations Required by Section

200.065, Florida Statutes, and Chapter 2008-173 (Senate Bill 1588), Laws of Florida

12DER09-15 Disclosure and Certification of Compliance; Filing of Documents Relating to Millage Levy Compliance Commencing 2009

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 forms included here are based on the requirements of Chapter 2008-173 (Senate Bill 1588), Laws of Florida, as passed by the Legislature, and will replace the forms used in previous years. 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 Property Appraisers and the professional associations that represent them, taxing authorities, including counties, municipalities, and independent districts, school districts, their associations, and practitioners 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 drafts 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 drafts of forms.

SUMMARY: 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. The purpose of these emergency rules is to renew previous emergency rules on the same subject matter. These rules renew and replace emergency rules as listed, and these rules will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of these emergency rules. Rule 12DER09-06 (Denials and Late Filed Applications for Transfer of Assessment Limitation Differential (Portability)) will replace Rule 12DER08-25. This rule provides the procedure and forms for applicant taxpayers

and property appraisers regarding denials and late applications of portability. Rule 12DER09-07 (Appeals to the Value Adjustment Board of Denials and of Amount of Transfer of Assessment Limitation Difference (Portability)) will replace Rule 12DER08-26. This rule provides for the applicable forms and the appeal process before the value adjustment board for denials for portability. Rule 12DER09-08 (Tax Collector Non-Ad Valorem Assessment Roll Reports) will replace Rule 12DER08-30. This rule 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. Rule 12DER09-09 (Scope of Emergency Rules 12DER09-10 Through 12DER9-12; How to Obtain Forms) describes in detail the scope and application of emergency rules when implementing the provisions of Chapter 2008-173 (Senate Bill 1588), Laws of Florida. Emergency Rules 12DER09-10 through 12DER09-12 supersede any other existing rules of the Department that deal with the same or similar issues and should be read in conjunction with those source documents that created the laws, and not rely solely on these rules. Rule 12DER09-10 (Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required) will replace Rule 12DER08-33. This rule sets forth the limitations and special rules to be observed and the forms to be used by applicant taxpayers and property appraisers for the transfer of assessment limitation difference, when a homestead is abandoned. Rule 12DER09-11 (Tangible Personal Property Exemption) will replace Rule 12DER08-34. This rule describes the procedure applicant taxpayers can use to apply for and receive this exemption, and the duties of the property appraiser when allocating exemptions and preparing the tax roll. Rule 12DER09-12 (Additional Homestead Exemption Pursuant to Section 196.031(1)(b), F.S.) will replace Rule 12DER08-35. This rule provides that no new application form will be necessary. The additional homestead exemption shall only apply to non-school levies, and the property appraiser shall have additional duties when documenting changes in the assessment roll. Rule 12DER09-13 (Reporting of Fiscal Data by Fiscally Constrained Counties to the Department of Revenue For Fiscal Year 2009-2010) will replace Rule 12DER09-02. This Rule provides assistance regarding certain actions to be taken by local governments and officials. Section 218.12, Florida Statutes, states each fiscally constrained county shall apply to the Department of Revenue to participate in the distribution of funds appropriated by the Legislature in the form and manner

prescribed by the Department by November 15 each year. This rule adopts and incorporates by reference Form DR-420FC, Distribution To Fiscally Constrained Counties Application (R. 09/09), to be used by counties that meet the fiscally constrained definition in Section 218.67(1), Florida Statutes. Rule 12DER09-14, (Forms for Use in the Truth in Millage and Maximum Millage Calculations Required by Section 200.065, Florida Statutes, and Chapter 2008-173 (Senate Bill 1588), Laws of Florida) will replace Rule 12DER09-03. This rule provides assistance regarding certain actions to be taken by local governments and officials. This rule adopts and incorporates by reference certain millage levy calculation forms to be used by each county, municipality, independent special district and their related dependent special districts, municipal service taxing units, and each local taxing authority. These forms are necessary to fully implement the requirements of Section 200.065(5), F.S., as created by Chapter 2008-173 L.O.F (Senate Bill 1588). Emergency Rule 12DER09-14 replaces Emergency Rules 12DER09-03, 12DER09-18 and 12DER08-27. Former Emergency Rule 12DER08-18 included Forms DR-420, DR-420TIF, DR-420VMA and DR-420MM-P. Former Emergency Rule 12DER08-27 included Forms DR-420MM, DR-420S, DR-422, DR-428A, DR-487 and DR-487V. New Forms DR-420DEBT and DR-422DEBT were created based on section 200.065, F.S., and will be used in place of Form DR-420VMA. Form DR-420VMA is replaced by Form DR-420DEBT, adopted in this rule. Form DR-428B replaces Form DR-428A from Emergency Rule 12DER08-27. Rule 12DER09-015 (Disclosure and Certification of Compliance; Filing of Documents Relating to Millage Levy Compliance Commencing 2009) replaces Rule 12DER09-05. This rule provides assistance regarding certain actions to be taken by local governments and officials. This rule explains the certification process as provided in Section 200.065(5), Florida Statutes, to county, municipality, independent special districts and their related dependent special districts, municipal service taxing units, and each local taxing authority for 2009 compliance. These requirements apply to all taxing jurisdictions, other than school districts.

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:

12DER09-06 Denials and Late Filed Applications for Transfer of Assessment Limitation Differential (Portability).

(1) Denials.

(a) If the taxpayer is not qualified for transfer of any assessment limitation differential, the property appraiser in the county in which the new homestead is located shall send Form DR-490PORT, (Notice of Denial of Transfer of Homestead

Assessment Difference; R. 08/09) which the Department of Revenue hereby adopts and incorporates in this rule by reference, by July 1, including the reasons for the denial. Such notice shall be sent on or before July 1. Form DR-490PORT can be obtained from the Department's website at <http://dor.myflorida.com/dor/property/codownloads.html>.

(b) Any property appraiser that has not received, from the previous property appraiser, information sufficient to identify the previous homestead and the amount of the assessment limitation difference which is transferable, and has sent a notice of denial on or before July 1 may, if information is received from the previous property appraiser and the applicant is qualified, grant the transfer of assessment increase differential and, if a petition was filed based on a timely application for transfer of homestead assessment difference, the value adjustment board shall refund the taxpayer the \$15.

(2) Late applications.

Any person who is qualified to have his or her property assessed under Section 193.155(8), Florida Statutes, and who fails to file an application by March 1 may file an application for assessment under that subsection and may, pursuant to Section 194.011(3), Florida Statutes, file a petition with the value adjustment board requesting that an assessment under Section 193.155(8), Florida Statutes, be granted. Such petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in Section 194.011(1), Florida Statutes. Notwithstanding Section 194.013, Florida Statutes, such person must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the assessment under Section 193.155(8), Florida Statutes, and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the assessment, the property appraiser or the value adjustment board may grant an assessment under this subsection.

(3) This rule renews and replaces Rule 12DER08-25, and this rule will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of this emergency rule.

Rulemaking Authority Section 13 of Chapter 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 193.155, 194.011 FS., Section 14 of Chapter 2008-173, L.O.F. (Senate Bill 1588) History-New 12-17-09.

12DER09-07 Appeals to the Value Adjustment Board of Denials and of Amount of Transfer of Assessment Limitation Difference (Portability).

(1) Appeals.

(a) This rule applies to the review of denials of assessment limitation difference transfers or of the amount of an assessment limitation difference transfer. No adjustment to the just, assessed or taxable value of the previous homestead parcel may be made pursuant to an appeal under this rule.

(b) A taxpayer may file a petition with the value adjustment board, in the county where the new homestead is located, to petition either a denial of a transfer or the amount of the transfer, on Form DR-486PORT (Petition to the Value Adjustment Board, Transfer of Homestead Assessment Difference; R. 08/09), which the Department of Revenue hereby adopts and incorporates in this rule by reference. Form DR-486PORT can be obtained from the Department's website at <http://dor.myflorida.com/dor/property/codownloads.html>. Such petition must be filed within 25 days following the mailing of the notice of proposed property taxes as provided in Section 194.011, Florida Statutes. If only a part of a transfer of assessment increase differential is granted, the notice of proposed property taxes shall function as notice of the taxpayer's right to appeal to the value adjustment board.

(2) The applicant may appeal the decision of the property appraiser refusing to allow the transfer of an assessment difference to the value adjustment board, and the board shall review the application and evidence presented to the property appraiser upon which the applicant based the claim and shall hear the applicant in person or by agent on behalf of his or her right to such assessment. Such appeal shall be heard by an attorney special magistrate if the value adjustment board uses special magistrates. The value adjustment board shall reverse the decision of the property appraiser in the cause and grant assessment under this subsection to the applicant if, in its judgment, the applicant is entitled to be granted the assessment or shall affirm the decision of the property appraiser.

(3) This rule will apply to value adjustment board proceedings in a county in which the previous homestead is located. Any petitioner desiring to appeal the action of a property appraiser in a county in which the previous homestead is located must so designate on Form DR-486PORT.

(a) If the taxpayer does not agree with the amount of the assessment limitation difference for which the taxpayer qualifies as stated by the property appraiser in the county where the previous homestead property was located, or if the property appraiser in that county has not stated that the taxpayer qualifies to transfer any assessment limitation difference, upon the taxpayer filing a petition to the value adjustment board in the county where the new homestead property is located, the clerk of the value adjustment board in that county shall, upon receiving the appeal, send a notice using Form DR-486XCO, (Cross-County Notice of Appeal and Petition, Transfer of Homestead Assessment Difference; R. 08/09) which the Department of Revenue hereby adopts and incorporates in this rule by reference, to the clerk of the value adjustment board in the county where the previous homestead was located, which shall reconvene if it has already adjourned. Form DR-486XCO can be obtained from the Department's website at <http://dor.myflorida.com/dor/property/codownloads.html>.

(b) Such notice operates as a timely petition in, and creates an appeal to, the value adjustment board in the county where the previous homestead was located of all issues surrounding the previous assessment differential for the taxpayer involved. However, the taxpayer may not petition to have the just, assessed, or taxable value of the previous homestead changed.

(c) The value adjustment board in the county where the previous homestead was located shall set the petition for hearing and notify the taxpayer, the property appraiser in the county where the previous homestead was located, the property appraiser in the county where the new homestead is located, and the value adjustment board in that county, and shall hear the appeal.

(d) The clerk in the county in which the previous homestead was located must note the petition from the county in which the new homestead is located. No filing fee is required. The clerk shall notify each petitioner of the scheduled time of appearance. The notice shall be in writing and delivered by regular or certified U.S. mail or personal delivery so that the notice shall be received by the taxpayer no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The clerk will have prima facie complied with the requirements of this section if the notice was deposited in the U.S. mail thirty (30) days prior to the day of such scheduled appearance.

(e) Such appeal shall be heard by an attorney special magistrate if the value adjustment board in the county where the previous homestead was located uses special magistrates. The taxpayer may attend such hearing and present evidence, but need not do so. The value adjustment board in the county where the previous homestead was located shall issue a decision and send a copy of the decision to the clerk of the value adjustment board in the county where the new homestead is located.

(f) In hearing the appeal in the county where the new homestead is located, that value adjustment board shall consider the decision of the value adjustment board in the county where the previous homestead was located on the issues pertaining to the previous homestead and on the amount of any assessment reduction for which the taxpayer qualifies. The value adjustment board in the county where the new homestead is located may not hold its hearing until it has received the decision from the value adjustment board in the county where the previous homestead was located.

(4) This rule does not authorize the consideration or adjustment of the just, assessed, or taxable value of the previous homestead property.

(5) This rule renews and replaces Rule 12DER08-26, and this rule will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of this emergency rule.

Rulemaking Authority Section 13 of Chapter 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 193.155, 194.011 FS. History–New 12-17-09.

12DER09-08 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 indicting 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 (R.06/09), which the Department of Revenue hereby adopts and incorporates in this rule by reference. The Form DR-503NA can be obtained from the Department's website at <http://dor.myflorida.com/dor/property/codownloads.html>.

(3) This rule renews and replaces emergency Rule 12DER08-30 and this rule will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of this emergency rule.

Rulemaking Authority Section 13 of Ch. 2008-173, L.O.F. Law Implemented Section 10 of Ch. 2008-173, L.O.F. History–New 12-17-09.

12DER09-09 Scope of Emergency Rules 12DER09-10 Through 12DER09-12; How to Obtain Forms.

(1) These rules shall replace Rules 12DER08-33 through 12DER08-35, which were effective December 31, 2008.

(2) These rules shall supersede existing rules to the contrary, where indicated, to the extent necessary to implement Chapter 2007-339 (Senate Bill 4-D) and Chapter 2008-173 (Senate Bill 1588), Laws of Florida.

(3) These rules are to be read in conjunction with applicable statutes and not as a substitute for them. They are designed to assist with the understanding and deployment of the requirements of Chapter 2007-339 (Senate Bill 4-D) and Chapter 2008-173 (Senate Bill 1588), Laws of Florida. Users should consult those laws as the source documents that created the legal requirements, and not rely solely on these rules.

(4) Copies of the forms incorporated in Emergency Rules 12DER09-10 and 12DER09-12 may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/codownloads.html>.

(5) This rule renews and replaces emergency Rule 12DER08-32 and this rule will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of this emergency rule.

Rulemaking Authority Section 13 of Ch. 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 193.155, 196.031, 196.183 FS. History—New 12-17-09.

12DER09-10 Transfer of Assessment Limitation Difference: "Portability;" Sworn Statement Required.

(1) This rule shall replace Rule 12DER08-33, which was effective December 31, 2008.

(2) Section 193.155(8), Florida Statutes, provides the procedures for the transfer of the assessment limitation difference, within stated limits, when a homestead is abandoned. These rules describe those procedures, which are an alternative to assessment at just value. The transfer of the assessment limitation difference is to the just value of the interest owned by those persons that qualify and receive homestead exemption on a new homestead.

(a) These rules set forth limitations and special rules that must be met consistent with Section 193.155(8), Florida Statutes. A person may apply for the transfer of a homestead assessment difference from a previous homestead property to a new homestead property if:

1. That person received a homestead exemption on the previous property as of January 1 of either of the two (2) immediately preceding years; and,

2. The previous property was abandoned as a homestead after such January 1 and was, or will be, reassessed at just value or assessed under Section 193.155(8), Florida Statutes, as of January 1 of the year after the year in which the abandonment occurred; and,

3. The new homestead property was assessed at just value without the homestead exemption either because it did not receive a homestead exemption, or the homestead exemption was abandoned, as of January 1 of the year for which application is made.

(b) Under Section 193.155(8), Florida Statutes, the transfer of an assessment limitation difference is available to a person only from a prior homestead in which that person received a homestead exemption.

1. For a husband and wife who owned, shared and both resided on a previous homestead, each shall be considered to have received the homestead exemption for purposes of these rules.

2. For joint tenants with right of survivorship, those tenants that applied for, received the homestead exemption, and resided on a previous homestead shall be considered to have received the homestead exemption for purposes of these rules.

3. For tenants in common, those tenants that applied for and received the homestead exemption and resided on a previous homestead shall be considered to have received the homestead exemption for purposes of these rules.

(3) To apply for portability, the applicant taxpayer shall file Form DR-501T (Transfer of Homestead Assessment Difference-Attachment to Original Application for Ad Valorem Tax Exemption R. 12/08), which the Department of Revenue hereby adopts and incorporates in this rule by reference, by March 1, as an attachment to the homestead exemption application, Form DR-501, Original Application for Tax Exemption, (incorporated by reference in Rule 12D-16.002, Florida Administrative Code). Completing Form DR-501T, including a sworn statement, and Form DR-501 shall be considered sufficient documentation for applying for the transfer. Note: Section 192.047(2), Florida Statutes provides "When the deadline for filing an ad valorem tax application or return falls on a Saturday, Sunday, or legal holiday, the filing period shall extend through the next working day immediately following such Saturday, Sunday, or legal holiday."

(4)(a) Upsizing – When the just value of the new homestead is equal to or greater than the just value of the previous homestead, the maximum assessment limitation difference that can be transferred is \$500,000. Within that limit, the differential between assessed value and just value can be transferred to the new property, subject also to provisions for multiple owners described below.

(b) Downsizing – When the just value of the new homestead is less than the just value of the previous homestead, the maximum assessment difference that can be transferred is \$500,000. However, within that limit, the transferred assessment difference must be the same proportion of the new homestead's just value as the proportion of the

assessment difference of the previous homestead was of the just value of the previous homestead, subject also to provisions for multiple owners described below.

(5)(a) Transferring without splitting or joining – When one or more people who previously owned a single homestead and each received the homestead exemption as described in these rules together qualify for a new homestead, where all persons who qualify for homestead exemption in the new homestead also qualified for homestead exemption in the previous homestead without an additional person qualifying for homestead exemption in the new homestead, the maximum assessment difference that can be transferred is \$500,000. Within that limit, the assessment limitation difference from the previous homestead may be transferred, and it is not considered to be a splitting or joining as discussed in paragraphs (b) and (c) below. Further, the rules for “upsizing” and “downsizing” as set forth above apply.

(b) Splitting – When two or more people who previously shared a homestead abandon that homestead and establish separate homesteads, the maximum total limitation that can be transferred from the previous homestead is \$500,000. However, within that limit, each person that received a homestead exemption and who is eligible to transfer an assessment limitation difference is also limited to a share of the previous homestead’s difference between assessed value and just value. For tenants in common, this share is equal to the difference between just value and assessed value for the tenant’s proportionate interest in the property, in other words, the just value of the person’s interest minus the assessed value of the person’s interest. For tenancy with right of survivorship, the share is equal to the assessed value of the homestead portion of the property divided by the number of owners that received the exemption, unless another interest share is stated on the title in which case the portion of the assessment limitation difference that may be transferred is equal to the difference between just value and assessed value for the stated share. Within this limit, the rules for “upsizing” and “downsizing” as set forth above would apply. For purposes of the transfer of the assessment limitation difference, the shares of the assessment limitation difference cannot be sold, transferred, or pledged to any person. For example, a husband and wife divorcing and both abandoning the homestead would each take their share of the assessment limitation difference and the property appraiser could not accept a stipulation otherwise. In no case shall the shares of the persons that received the homestead exemption add up to more than 100 percent.

(c) Joining – When two or more people, some of whom previously owned separate homesteads on which they received homestead exemption, join together in qualifying for a new homestead, the maximum assessment limitation difference that can be transferred is \$500,000. However, within that limit, the assessment difference that can be transferred is further limited

to the highest difference between assessed value and just value from any of the applicants’ former homesteads. Within that limit, the rules for “upsizing” and “downsizing” as set forth above apply.

(6) For the applicant taxpayer to be eligible for any transfer, the prior homestead must be “reassessed” at just value in the year after the year in which the abandonment occurred, or subject to such reassessment, either under the “change in ownership” rules of Section 193.155(3), Florida Statutes, or because the property is no longer used as a homestead. After it is assessed at just value, the prior homestead could have some assessment limitation difference transferred to it and be assessed under Section 193.155(8), Florida Statutes. Generally, if all joint owners of the prior homestead “abandon” it, then the prior homestead is reassessed at just value. However, under the referenced “change in ownership” rules of Section 193.155(3), Florida Statutes, some transfers do not subject property to re-assessment, such as transfers between husband and wife, equitable and legal title, and addition of persons to a title. Unless the property is reassessed at just value, or assessed under Section 193.155(8), Florida Statutes, if only one of the previous owners of the homestead property moved to another parcel and other previous owners of the homestead property stayed in the original homestead, the homestead would not be abandoned and the one who moved could not transfer any assessment limitation difference. For purposes of transferring an assessment limitation difference, a homestead owner may abandon his or her homestead, as of or before January 1 of the year for which application is made, even though it remains his or her primary residence. To do so, the person must notify the property appraiser in writing before or at the same time as filing the timely new application for homestead exemption on the property. Such an abandonment will result in reassessment at just value as provided in subparagraph (2)(a)2, of this rule above.

(7) Classified use assessment and living quarters for parents and grandparents – The assessment limitation difference that is eligible for transfer under these rules is the amount of difference between assessed value and just value of the portion of the property used as a homestead. This difference is equal to the reduction in value due to Section 193.155, Florida Statutes. For property with both a classified use assessment, such as agricultural, and assessed pursuant to Section 193.155, Florida Statutes, the difference eligible for transfer is equal to the difference between just and assessed value on the homestead portion of the property. No portion of property classified and used for agricultural or other non-homestead purpose may be included in the calculation of the eligible assessment limitation difference under Section 193.155(8), Florida Statutes. In calculating the assessment reduction to be transferred from a prior homestead that has an assessment reduction for living quarters of parents or grandparents pursuant to Section 193.703, Florida Statutes, the

value calculated pursuant to Section 193.703(6), Florida Statutes, must first be added back to the assessed value of the prior homestead.

(8) Procedures for property appraiser:

(a) If the previous homestead was located in a different county than the new homestead, the property appraiser in the new county must transmit a copy of the completed Form DR-50IT together with a completed Form DR-501 to the property appraiser in the previous county. If the previous homesteads of applicants for transfer were in more than one county, each applicant from a different county must fill out a separate Form DR-50IT.

1. The property appraiser in the previous county must complete Form DR-501RVSH (Certificate for Transfer of Homestead Assessment Difference) R. 12/08, which the Department of Revenue hereby adopts and incorporates in this rule by reference, within two weeks of receipt of Form DR-50IT, and forward this form to the new property appraiser. As part of the information returned on Form DR-501RVSH, the previous property appraiser shall certify that the homestead assessment difference to be transferred is part of a previous homestead that has been or will be reassessed at just value as of January 1 of the year after the year in which the abandonment occurred.

2. Based on the information provided on Form DR-501RVSH from the previous property appraiser, the new property appraiser shall calculate the amount of the assessment limitation difference that may be transferred and apply such difference to the January 1 assessment of the new homestead for the year for which application is made.

(b) If the transfer is requested from the same county in which the new homestead is located, the property appraiser shall retain the Form DR-50IT and Form DR-501RVSH is not required. Upon request of a taxpayer that had timely applied for the transfer of assessment limitation difference, the property appraiser shall update the ownership share information using the share methodology in this rule.

(c) The property appraiser in the county in which the new homestead is located shall record in the assessment roll submitted to the Department pursuant to Section 193.1142, Florida Statutes, the following information for the year in which the transfer is made to the homestead parcel:

1. Flag for current year assessment difference transfer;
2. Number of owners among whom previous assessment difference split. Enter 1 if previous difference was not split;
3. Assessment difference value transferred;
4. County number of previous homestead;
5. Parcel ID of previous homestead;
6. Year from which assessment difference value transferred;

(d) All information sharing agreements in effect in 2007 that were extended by previous emergency rule, and such agreements in effect in 2008, covering confidential tax

information are hereby perpetuated and extended during the period these emergency rules are in effect, and property appraisers having information sharing agreements with the Department are authorized to share confidential tax information with each other pursuant to Section 195.084, Florida Statutes, including social security numbers and linked information on Forms DR-501, DR-50IT, and DR-501RVSH.

(9) Documenting changes in the assessment roll due to this provision will necessitate changes to the record layout and the information provided on the Rule 12D-8.013, Florida Administrative Code, NAL file submitted to the Department. See Section 193.114, Florida Statutes.

(10) The transfer of any limitation is not final until any values on the assessment roll on which the transfer is based are final. If such values are final after the procedures in these rules are exercised, the property appraiser(s) shall make appropriate corrections and a corrected tax notice bill shall be sent. Any values that are in administrative or judicial review shall be noticed to the tribunal or court for accelerated hearing and resolution so that the intent of Section 193.155(8), Florida Statutes may be carried out and fulfilled.

(11) Additional provisions.

(a) If the information from the property appraiser in the county where the previous homestead was located is provided after the procedures in this section are exercised, the property appraiser in the county where the new homestead is located shall make appropriate corrections and a corrected tax notice and tax bill shall be sent.

(b) The property appraiser in the county where the new homestead is located shall promptly notify a taxpayer if the information received or available is insufficient to identify the previous homestead and the amount of the assessment limitation difference which is transferable. Such notification shall be sent on or before July 1.

(c) If the property appraiser in the county where the previous homestead was located supplies sufficient information to the property appraiser in the county where the new homestead is located, such information shall be considered timely if provided in time for inclusion on the notice of proposed property taxes sent pursuant to Sections 194.011 and 200.065(1), Florida Statutes.

(d) If the property appraiser has not received information sufficient to identify the previous homestead and the amount of the assessment limitation difference which is transferable before mailing the notice of proposed property taxes, and such amount is not included on such notice, the taxpayer may file a petition with the value adjustment board in the county where the new homestead is located.

(12) Copies of the forms incorporated in Emergency Rule 12DER09-10 may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/codownloads.html>.

(13) This rule renews and replaces emergency Rule 12DER08-33 and this rule will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of this emergency rule.

Rulemaking Authority Section 13 of Ch. 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 192.047, 193.114, 193.155, 193.461, 193.703 FS. History–New 12-17-09.

12DER09-11 Tangible Personal Property Exemption.

(1) This rule shall replace Rule 12DER08-34, which was effective December 31, 2008.

(2)(a) To apply for the exemption, no new form will be necessary; Form DR-405, DR-470, or Form DR-471 (incorporated by reference in Rule 12D-16.002, Florida Administrative Code), if required, will be considered the application for exemption. Form DR-405EZ (Tangible Personal Property Exemption Application and Return (R. 12/08)) formerly incorporated in Rule 12DER08-34, was retired by the Department effective April 2, 2009. Nothing in this rule shall preclude a property appraiser from requiring that Form DR-405 be filed.

(3) For taxpayers who fail to make a complete return and file a return by April 1 or within any applicable extension period, or who late file, the \$25,000 exemption shall not apply; however, at the option of the property appraiser, owners of property previously assessed without a return being filed may qualify for the exemption without filing an initial return. For returns not timely filed and for which the property appraiser does not grant the exemption, the penalties enumerated in Section 193.072, Florida Statutes, are applicable. Note: Section 192.047(2), Florida Statutes, provides “When the deadline for filing an ad valorem tax application or return falls on a Saturday, Sunday, or legal holiday, the filing period shall extend through the next working day immediately following such Saturday, Sunday, or legal holiday.”

(4) Section 196.183(1), Florida Statutes, specifically states that a single return must be filed, and therefore a single exemption granted, for all freestanding equipment not located at the place where the owner transacts business.

(5) “Site where the owner of tangible personal property transacts business”.

(a) The “site where the owner of tangible personal property transacts business” includes facilities where the business ships or receives goods, employees of the business are located, goods or equipment of the business are stored, or goods or services of the business are produced, manufactured, or developed, or similar facilities located in offices, stores, warehouses, plants, or other locations of the business. Sites where only the freestanding property of the owner is located shall not be considered sites where the owner of tangible personal property transacts business.

(b) Example: For a business leasing copying machines or other freestanding equipment, the location where the leased equipment is located does not constitute a site where the owner transacts business. If it is not a site where one or more of the activities stated in paragraph (a) occur, for purposes of the tangible personal property exemption, it is not considered a site where the owner transacts business.

(6) Property Appraiser actions – maintaining assessment roll entry.

(a) For all freestanding equipment not located at a site where the owner transacts business, and for which a single return is required, and for property assessed pursuant to Section 193.085, Florida Statutes, the property appraiser is responsible for allocating the exemption to taxing jurisdictions in which freestanding equipment or property assessed pursuant to Section 193.085, Florida Statutes is located. Allocation should be based on the proportionate share of the just value of such property in each jurisdiction. However, the amount of the exemption allocated to each taxing authority may not change following the extension of the tax roll pursuant to Section 193.122, Florida Statutes. All accounts shall be listed on the assessment roll submitted to the Department pursuant to Section 193.1142, Florida Statutes, whether fully exempt or not.

(b) Documenting changes in the assessment roll due to this provision will necessitate changes to the record layout and the information provided on the Rule 12D-8.013, Florida Administrative Code, NAP file submitted to the Department. See Section 193.114, Florida Statutes.

(7) By February 1 of each year, the property appraiser shall notify by mail all taxpayers whose requirement for filing an annual tangible personal property tax return was waived in the previous year. The notification shall state that a return must be filed if the value of the taxpayer’s tangible personal property exceeds the exemption and include the penalties for failure to file such a return. Form DR-405W (Notice to Taxpayer Whose Tangible Personal Property Return Was Waived in the Previous Year, N. 12/08) which the Department of Revenue hereby adopts and incorporates in this rule by reference, may be used by property appraisers at their option.

(8) Copies of the forms incorporated in Emergency Rule 12DER09-11 can be obtained from the Department’s website at <http://dor.myflorida.com/dor/property/codownloads.html>.

(9) This rule renews and replaces emergency Rule 12DER08-34 and this rule will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of this emergency rule.

Rulemaking Authority Section 13 of Ch. 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 192.047, 193.063, 193.072, 193.114, 196.183 FS. History–New 12-17-09.

12DER09-12 Additional Homestead Exemption Pursuant to Section 196.031(1)(b), Florida Statutes.

(1) This rule shall replace Rule 12DER08-35, which was effective December 31, 2008.

(2) To apply for the additional homestead exemption, no new application form will be necessary. Form DR-501, "Original Application for Ad Valorem Tax Exemption" (incorporated by reference in Rule 12D-16.002, Florida Administrative Code), will be considered the application for exemption.

(3) The additional homestead exemption shall only apply to non-school levies.

(4) Property appraiser actions – Documenting changes in the assessment roll due to this provision will necessitate changes to the record layout and the information provided on the assessment roll submitted to the Department pursuant to Section 193.1142, Florida Statutes. The property appraiser's programming may use a different approach than that set forth in this rule for exemption ordering as long as such programming achieves the same result as this rule requires.

(5) Copies of the forms incorporated in Emergency Rule 12DER09-12 may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/codownloads.html>.

(6) This rule renews and replaces emergency Rule 12DER08-35 and this rule will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of this emergency rule.

Rulemaking Authority Section 13 of Ch. 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 193.114, 196.031, 196.075, 196.082, 196.202 196.24 FS. History–New 12-17-09.

12DER09-13 Reporting of Fiscal Data by Fiscally Constrained Counties to the Department of Revenue Commencing Local Fiscal Year 2010-2011.

(1) This rule applies to counties that meet the fiscally constrained definition in Section 218.67(1), Florida Statutes. Pursuant to Section 218.12, Florida Statutes, such counties are required to apply for a distribution of funds appropriated by the Legislature for the purpose of offsetting reductions in property tax revenues occurring as a direct result of the implementation of revisions to Article VII, Florida Constitution approved in the special election held on January 29, 2008 (Amendment 1). Application must be in a form and manner prescribed by the Department of Revenue. Commencing local fiscal year 2010-11, these reductions include the additional \$25,000 homestead exemption, the \$25,000 tangible personal property exemption, homestead assessment difference transferability, and the 10% assessment increase limitation on nonhomestead property.

(2) An application is to be filed with the Department of Revenue on Form DR-420FC, Distribution To Fiscally Constrained Counties Application (R. 12/09), which is hereby incorporated by reference.

(3) Each fiscally constrained county must provide the completed form to the Department of Revenue by November 15. The form must be prepared by the county property appraiser. The following is a summary of the information required on the form:

(a) An estimate of the reduction in taxable value for all county government taxing jurisdictions directly attributable to the constitutional amendment. This estimate must be based on values comparable to those certified on Form DR-420, Certification of Taxable Value. Form DR-420 is adopted and incorporated by reference in Rule 12DER09-14.;

(b) Millage rates for all county government taxing jurisdictions as included on the tax roll extended pursuant to Section 193.122, Florida Statutes, for all such jurisdictions for both the current and prior year;

(c) Rolled-back rates, if available, for each jurisdiction determined as provided in Section 200.065, Florida Statutes, and included on Form DR-420 by each taxing jurisdiction;

(d) Maximum millage rates, if available, for each jurisdiction that could have been levied by a majority vote pursuant to Section 200.185, Florida Statutes, as included on Form DR-420MM, Maximum Millage Levy Calculation – Final Disclosure, by each taxing jurisdiction. Form DR-420MM is adopted and incorporated by reference in Rule 12DER09-14.

(4) The calculation must include both operating and debt service levies, including millages levied for two years or less under Section 9(b), Article VII, Florida Constitution.

(5) Copies of Form DR-420FC, Distribution To Fiscally Constrained Counties Application, Form DR-420, Certification of Taxable Value, and Form DR-420MM, Maximum Millage Levy Calculation – Final Disclosure, are available, without cost, by downloading the selected forms from the Department's Internet site at <http://dor.myflorida.com/dor/property/>.

(6) This rule renews and replaces Rule 12DER09-02, and this rule will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of this emergency rule.

Rulemaking Authority Section 13 of Ch. 2008-173, L.O.F. Law Implemented 200.065, 218.12, 218.67 FS. History–New 12-17-09.

12DER09-14 Forms for Use in the Truth in Millage and Maximum Millage Calculations Required by Section 200.065, Florida Statutes, and Chapter 2008-173 (Senate Bill 1588), Laws of Florida.

(1) Emergency Rule 12DER09-14 applies to the property tax administered under Chapters 192 through 197, 200, and 218, Florida Statutes, and Chapter 2008-173 (Senate Bill 1588), Laws of Florida, relating to certain actions required to be taken by local governments and officials under those provisions of law.

(2) This rule shall replace emergency Rule 12DER09-03 and shall supersede any existing rule in Chapter 12D-17, F.A.C., including Rules 12D-17.001, 12D-17.002, 12D-17.003, 12D-17.0035, 12D-17.004, 12D-17.005, 12D-17.006, 12D-17.007, 12D-17.008, 12D-17.009, and 12D-17.010, F.A.C., to the contrary to the extent necessary to implement Chapter 2008-173, Laws of Florida.

(3) This rule subsection adopts and incorporates by reference the following millage levy calculation forms:

(a) Form DR-420, Certification of Taxable Value (R. 06/09), hereby incorporated by reference, is the form to be used by each Property Appraiser to certify taxable value and to be used by each local taxing authority to certify property tax millage rates.

(b) Form DR-420DEBT, Certification of Voted Debt Millage (N. 06/09), hereby incorporated by reference, is the form to be completed by each Property Appraiser and taxing authority to report voted debt millage levies and voted millages in excess of the millage cap for a period of not more than 2 years.

(c) Form DR-420MM, Maximum Millage Levy Calculation-Final Disclosure (R. 06/09), hereby incorporated by reference, is the form to be completed by each county, municipality, and independent special district and their related dependent special districts and municipal service taxing units and submitted to the Department of Revenue. This form is used to calculate each government's and related governmental unit's maximum millages based on the vote of the governing body.

(d) Form DR-420MM-P, Maximum Millage Levy Calculation-Preliminary Disclosure (R. 06/09), hereby incorporated by reference, is the form to be completed by each county, municipality, and independent special district and their related dependent special districts and municipal service taxing units and submitted to the Property Appraiser. This form is used to calculate each government's and related governmental unit's maximum millages based on the anticipated vote of the governing body.

(e) Form DR-420S, Certification of School Taxable Value (R. 06/09), hereby incorporated by reference, is to be used by each Property Appraiser to certify school taxable value and to be used by each district school board to certify property tax millage rates.

(f) Form DR-420TIF, Tax Increment Adjustment Worksheet (R. 06/09), hereby incorporated by reference, is the form to be used by each Property Appraiser and taxing authority to determine and certify tax increment values for the applicable local taxing authorities in the county.

(g) Form DR-420VMA, Voted Millage Addendum (N. 06/08), is replaced by Form DR-420DEBT, adopted previously in this rule and has the same effective date as this rule.

(h) Form DR-422, Certification of Final Taxable Value (R. 06/09), hereby incorporated by reference, is the form to be used by each Property Appraiser to certify final taxable value

to taxing authorities and for taxing authorities to report adopted millage rates and administrative adjustments pursuant to Section 200.065(6), Florida Statutes, if made.

(i) Form DR-422DEBT, Certification of Final Voted Debt Millage (N. 06/09), hereby incorporated by reference, is the form to be used by each Property Appraiser to certify final taxable value to taxing authorities and for taxing authorities to report adopted voted debt service millage rates, voted millages in excess of the millage cap for a period of not more than 2 years, and administrative adjustments within limits provided by law, pursuant to Section 200.065(6), Florida Statutes, if made.

(j) Form DR-428B, Maximum Millage Calculation, General Information for Fiscal Year 2009-10 and Thereafter (N. 06/09), hereby incorporated by reference, contains information offered by the Department to help affected governing bodies calculate and report their maximum millage and total maximum taxes under the requirements imposed by Chapter 2008-173, Laws of Florida. Form DR-428B replaces Form DR-428A.

(k) Form DR-487, Certification of Compliance (R. 06/09), hereby incorporated by reference, is the form to be used by taxing authorities to certify to the Department of Revenue compliance with the Truth in Millage and maximum millage requirements of Chapter 200, Florida Statutes.

(l) Form DR-487V, Vote Record for Final Adoption of Millage Levy (R. 06/09), hereby incorporated by reference, is to be used by each taxing authority as proof of the vote by which the millage levy was adopted at their final hearing.

(4) Copies of these forms are available, without cost, by downloading selected forms from the Department's Internet site at <http://dor.myflorida.com/dor/property/>. Form DR-428B can be found on the Internet address: <http://dor.myflorida.com/dor/forms/2009/dr428b.pdf>. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

(5) This rule renews and replaces Rule 12DER09-03, and this rule will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of this emergency rule.

Rulemaking Authority Section 13 of Ch. 2008-173 (Senate Bill 1588), L.O.F. Law Implemented Section 11 of Ch. 2008-173 (Senate Bill 1588), L.O.F. History—New 12-17-09.

12DER09-15 Disclosure and Certification of Compliance; Filing of Documents Relating to Millage Levy Compliance Commencing 2009.

(1) Each taxing authority other than a school district shall submit copies of the resolutions or ordinances to the Department of Revenue when the certification of the adopted millage is made to the property appraiser and the tax collector, pursuant to paragraph 12D-17.003(3)(f), Florida

Administrative Code. These submissions shall be made within 3 days from the date of the final budget hearing and within 101 days of the certification date.

(2) Each taxing authority other than a school district must certify to the Department within 30 days of adopting an ordinance or resolution levying a millage, as described in Section 200.068, Florida Statutes, that the taxing authority has complied with Chapter 200, Florida Statutes.

(3) The certification must include maximum millage rates calculated pursuant to Section 200.065(5), Florida Statutes, together with values and calculations upon which the maximum millage rates are based.

(4) Certification of compliance for each taxing authority other than a school district shall be made by filing with the Department of Revenue, Form DR-487, Certification of Compliance (R.06/09), as required in Rule Section 12D-17.004, Florida Administrative Code, together with the following forms: Form DR-420, Certification of Taxable Value (R. 06/09), Form DR-420TIF, Tax Increment Adjustment Worksheet (R. 06/09), Form DR-420DEBT, Certification of Voted Debt Millage (N. 06/09) if used, Form DR-420MM, Maximum Millage Levy Calculation – Final Disclosure (R. 06/09), Form DR-487V, Vote Record for Final Adoption of Millage Levy (R. 06/09), Form DR-422, Certification of Final Taxable Value (R. 06/09), and Form DR-422DEBT, Certification of Final Voted Debt Millage (N. 06/09) if used. These forms are adopted and incorporated by reference in Rule 12DER09-03, which was effective October 13, 2009.

(5) If any county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county is in violation of Section 200.065(5), Florida Statutes, because total county or municipal ad valorem taxes exceeded the maximum total county or municipal ad valorem taxes, respectively, that county or municipality, and any municipal service taxing unit and/or dependent district, shall be subject to notification.

(6)(a) As provided in Section 200.065(5), Florida Statutes, as an alternative to the county or municipality forfeiting the half-cent sales tax revenues, if any county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county is in violation of Section 200.065(5), Florida Statutes, because total county or municipal ad valorem taxes exceeded the maximum total county or municipal ad valorem taxes, one or more taxing authorities whose taxes are included in the maximum total taxes levied must reduce their millage sufficiently so that the maximum total taxes levied is not exceeded.

(b) If a taxing authority does not reduce its millage so that the maximum total taxes levied is not exceeded, or if any such county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county has not remedied the noncompliance or recertified compliance with Chapter 200, Florida Statutes, as provided in

Section 200.065(13)(e), Florida Statutes, the county or municipality shall forfeit the distribution of local government half-cent sales tax revenues during the 12 months following a determination of noncompliance, as described in Sections 218.63(2) and (3), 200.065(13), Florida Statutes.

(7) This emergency rule shall replace emergency rule 12DER09-05, Disclosure and Certification of Compliance; Filing of Documents Relating to Millage Levy Compliance Commencing 2009, and shall supersede any existing rule in Chapter 12D-17, F.A.C., including Rules 12D-17.001, 12D-17.002, 12D-17.003, 12D-17.0035, 12D-17.004, 12D-17.005, 12D-17.006, 12D-17.007, 12D-17.008, 12D-17.009 and 12D-17.010, F.A.C., to the contrary to the extent necessary to implement Chapter 2008-173 (Senate Bill 1588), Laws of Florida.

(8) Copies of these forms are available, without cost, by downloading selected forms from the Department's internet site at <http://dor.myflorida.com/dor/property/codownloads.html>.

(9) This rule renews and replaces Rule 12DER09-05, and this rule will remain in effect during the pendency of procedures to adopt rules addressing the subject matter of this emergency rule.

Rulemaking Authority Section 13 of Ch. 2008-173, L.O.F. Law Implemented Section 11 of Ch. 2008-173, L.O.F. History–New 12-17-09.

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 17, 2009

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."