

AGENDA
FLORIDA DEPARTMENT OF REVENUE

Meeting Material Available on the web at:
<http://dor.myflorida.com/dor/opengovt/meetings.html>

MEMBERS

Governor Charlie Crist
Attorney General Bill McCollum
Chief Financial Officer Alex Sink
Commissioner Charles Bronson

March 23, 2010

Contact: Robert Babin
(850- 487-1453)

2:00 P.M.
LL-03, The Capitol
Tallahassee, Florida

ITEM	SUBJECT	RECOMMENDATION
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1.	Respectfully request approval of the minutes of February 24, 2010.	
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(ATTACHMENT 1)

RECOMMEND APPROVAL

2.	Respectfully request approval and authority to publish Notices of Proposed Rule in the Florida Administrative Weekly (F.A.W.)	
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Tax Administration Issues

Large Currency Transactions: proposed rule amendments to clarify that the information contained on federal form 8300 (Report of Cash Payments Over \$10,000 Received in a Trade or Business) is confidential. [*Rule 12-19.005, Florida Administrative Code/F.A.C.*]

Consent Agreements: proposed rule amendments to eliminate potential taxpayer confusion about the procedures for signing consent agreements with the Department that extend the period in which the Department can issue an assessment or in which a taxpayer can claim a refund. [*Rule 12-16.005, F.A.C.*]

Electronic Reporting—Unemployment Compensation Tax: proposed amendments to clarify the electronic reporting requirements for unemployment tax agents who prepare and report unemployment tax for 100 or more employers. [*Rule 12-24.003, F.A.C.*]

Use of Social Security Numbers for Tax Administration Purposes: proposed amendments to update information regarding the collection of social security numbers as unique identifiers in limited tax administration purposes, after review of each specific use of an SSN to determine if an alternate “unique identifier” could be used. [*Rules in Rule Chapters 12-6, 12-18, 12-24, 12A-1, 12A-19, 12B-4, 12B-5, 12C-1, and 12C-3, F.A.C.*]

Address/Jurisdiction Databases

Communications Services Tax (CST) and Insurance Premium Tax (IPT): proposed amendments to adopt, by reference, updates to Form DR-7000012 and to the Guide for Address Change Requests necessary to update codes used to determine the physical location of customers (CST) or policy holders (IPT). [CST: Rules 12A-19.071 & 12A-19.100, F.A.C.; IPT: Rule 12B-8.0016, F.A.C.]

Sales and Use Tax

Security to Get or Hold a Registration Certificate: proposed rule amendments to comply with a stipulation from an administrative challenge regarding the requirement for certain taxpayers to provide security to the state before being issued a sales tax registration certificate. [Rule 12A-1.060, F.A.C.]

Drugs and Medical Issues: proposed new and amended/consolidated rules to consolidate, update, and simplify provisions administratively implementing current statutory provisions regarding medical products, items, and services. [Rules 12A-1.002, 12A-1.015, 12A-1.020, 12A-1.021, 12A-1.0215, and 12A-1.097, F.A.C.]

Corporate Income Tax—Bonus Depreciation

Proposed amendments to: a) update the provisions for adjustments to federal income for Florida income tax purposes; b) to establish procedures for reporting the additions and claiming the subtractions required by Section 220.13(1)(e), F.S.; and, c) provide procedures for filing amended Florida corporate income tax returns for the 2007 and 2008 tax years. [Rule 12C-1.013, F.A.C.]

(ATTACHMENT 2)

RECOMMEND APPROVAL

3. Respectfully request adoption and approval to file and certify with the Secretary of State under Chapter 120, Florida Statutes, the following new and amended rules:

Delegation of Authority—Rulemaking

Proposed amendments to provide that, in accordance with recent changes to the Administrative Procedure Act, the Governor and Cabinet acting as the agency head of the Department must consider, during a public meeting, the following rule actions: a) publication of a notice of proposed rule; and, b) filing and certification of approved rules with the Department of State. [Rule 12-3.007, Florida Administrative Code/F.A.C.]

Delegation of Authority—Collection of Taxes

Proposed rules to require written agreements when the amount of an assessment of tax, penalty, or interest that is compromised exceeds \$30,000. [Rule 12-13.009, F.A.C.]

Sales and Use Tax

Proposed rules to: a) remove provisions concerning an exemption for admissions to certain events based on expiration of the statutory provision for the exemption; and, b) conform to a streamlined, on-line application process established by the Office of Film and Entertainment for production film companies to qualify for sales and use tax exemptions. [Rules 12A-1.005, 12A-1.085, and 12A-1.097, F.A.C.]

Insurance Premium Tax and Corporate Income Tax—Credits
For Contributions to Nonprofit Scholarship Funding Organizations

Proposed rules to administratively implement recent statute changes regarding the tax credits for: a) Florida Alternative Minimum Tax; and, b) Contributions to Nonprofit Scholarship Funding Organizations. [*Rules 12B-8.001, 12C-1.0186, 12C-1.0187, and 12C-1.051, F.A.C.*]

Corporate Income Tax—Renewable Energy

Proposed rules to provide taxpayers information on how to apply for and receive the following tax credits, and to administratively implement procedures for transferring these credits to another taxpayer: a) Capital Investment tax credit; b) Renewable Energy Technologies tax credit; and, c) Renewable Energy Production tax credit. [*Rules 12C-1.0191, 12C-1.0192, 12C-1.0193, and 12C-1.051, F.A.C.*]

Corporate Income Tax—Signing and Verification

Proposed rule amendments to establish how a tax return preparer will make the required statutory declaration that they have prepared the return using all information of which they have knowledge, in cases where the return is submitted electronically. [*Rule 12C-1.0221, F.A.C.*]

(ATTACHMENT 3)

RECOMMEND APPROVAL

**MEETING OF THE GOVERNOR AND CABINET
AS HEAD OF THE DEPARTMENT OF REVENUE**

February 24, 2010

MINUTES

With Governor Crist presiding and all members present, the Department of Revenue was convened in LL-03, The Capitol.

The following official actions were taken.

- ITEM 1.** Approved the minutes of December 8, 2009.
- ITEM 2.** Approved and granted authority to publish a Notice of Proposed Rule in the Florida Administrative Weekly to administratively implement a state statute that requires the Department to establish procedures a person can use to file a written challenge to a notice the Department issued the person concerning the failure to register a business for sales and use tax purposes.
[*Rule 12A-1.060, Florida Administrative Code/F.A.C.*]
- ITEM 3.** Approved and granted authority to adopt, file and certify with the Secretary of State under Chapter 120, Florida Statutes, proposed rule provisions concerning the statutory requirement that the Department provide statewide uniform rules and procedures that apply to all participants in value adjustment board proceedings.
[*New Rule Chapter 12D-9, Partial Repeal of Rules in Rule Chapter 12D-10, and Amendments to Rule 12D-16.002, F.A.C.*]

ATTACHMENT # 1

March 11, 2010

MEMORANDUM

TO: The Honorable Charlie Crist, Governor
Attention: Pat Gleason, Director of Cabinet Affairs

The Honorable Bill McCollum, Attorney General
Attention: Rob Johnson, Cabinet Affairs

The Honorable Alex Sink, Chief Financial Officer
Attention: Robert Tornillo, Chief Cabinet Aide
Amber Hughes, Cabinet Aide

The Honorable Charles Bronson, Agriculture Commissioner
Attention: Jim Boxold, Chief Cabinet Aide
Cathy Giordano, Cabinet Aide

FROM: Robert Babin, Director of Legislative and Cabinet Services

SUBJECT: Rulemaking—Proposed State and Local Tax Issues

What is the Department Requesting? Approval to publish Notices of Proposed Rule to schedule public hearings for the next stage of rulemaking for proposed state and local tax issues.

Why are These Proposed Rules Necessary?

Tax Administration

Large Currency Transactions: To respond to an inquiry from the Joint Administrative Procedures Committee (Committee) regarding the Department's existing rule on the confidentiality of reports on large currency transactions. [Rule 12-19.005, Florida Administrative Code/F.A.C.]

Consent Agreements: To eliminate possible confusion among taxpayers about how these agreements are administered. [Rule 12-16.005, F.A.C.]

Electronic Reporting—Unemployment Compensation Tax (UT): To clarify the electronic reporting and remittance requirements for unemployment tax agents who prepare UT quarterly reports for 100 or more employers. [Rule 12-24.003, F.A.C.]

Use of Social Security Numbers (SSNs) for Tax Administration Purposes: To administratively implement the recent changes to the required privacy notice disclosure provisions enacted in Chapter 2009-237, Laws of Florida. [Rule Chapters 12-6, 12-18, 12-24, 12A-1, 12A-19, 12B-4, 12B-5, 12C-1, and 12C-3, F.A.C.]

ATTACHMENT #2

Address/Jurisdiction Databases

Communications Services Tax and Insurance Premium Tax: To conform to recent changes to federal and national standards for geographical feature record identifiers. [Rules 12A-19.071 and 12A-19.100, F.A.C.; and, Rule 12B-8.0016, F.A.C.]

Sales and Use Tax

Security to Get or Hold a Registration Certificate: To comply with a stipulated agreement arising from a rule challenge. [Rule 12A-1.060, F.A.C.]

Medical Products, Items, and Services: To administratively implement current statutory provisions and to consolidate and simplify existing procedures. [Rules 12A-1.002, 12A-1.015, 12A-1.020, 12A-1.021, 12A-1.0215, and 12A-1.097, F.A.C.]

Corporate Income Tax

Bonus Depreciation and I.R.S. Section 179 Expense: To administratively implement the provisions regarding the additions for “bonus depreciation” and I.R.S. Section 179 expense. [Rule 12C-1.013, F.A.C.]

What Do These Proposed Rules Do?

Tax Administration

Large Currency Transactions: The proposed amendments to Rule 12-19.005, F.A.C.: (1) clarify the Department’s authority to provide large currency transaction reports to federal, state, or local law enforcement or prosecutorial agencies, or to the Office of Financial Regulation, or the Department of Financial Services, when requested in writing by one of these agencies; (2) update the information on where these agencies may submit the written request; and (3) remove a provision that is redundant of language in another Department rule.

Consent Agreements: Current law authorizes the Department to enter into consent agreements with taxpayers to extend the period in which an assessment may be issued or a claim for refund may be filed. These proposed amendments eliminate confusion in the existing rule that appears to require that the agreement be signed by the Department prior to being signed by the taxpayer.

Electronic Reporting—Unemployment Compensation Tax (UT): These proposed amendments conform an existing rule to the statutory requirement that any person who prepared and reported the unemployment compensation tax returns for 100 or more employers in any quarter during the preceding state fiscal year must file tax returns by electronic means.

Use of Social Security Numbers (SSNs) for Tax Administration Purposes: Based on the provisions of Section 1, Chapter 2009-237, Laws of Florida, the Department reviewed each form on which it requests an SSN, to determine if an alternative unique identifier could be substituted for the SSN. These proposed amendments conform existing forms to the provisions of this new law, including updates to comply with the privacy notice disclosure statement enacted in the law.

Address/Jurisdiction Databases

Communications Services Tax and Insurance Premium Tax: The Department maintains an “Address/Jurisdiction Database” to assign communications service addresses and insurance policies and premiums to local taxing jurisdictions. This database contains a combination of both Geographic Names Information System Feature Identifiers (GNIS Feature ID) and Federal Information Processing System 55 (FIPS 55) place codes, which are federal and national standards. These rule amendments incorporate a national change in which the GNIS Feature ID code has superseded the Federal Information Processing System 55 (FIPS 55) place code.

Sales and Use Tax

Security to Get or Hold a Registration Certificate: A petition challenging the validity of a recently-amended rule provision resulted in the Department agreeing to remove the provision from the rule. The challenged provision defined the term “person” for purposes of establishing criteria used to determine if the person would be required to provide security when applying for or retaining a sales tax registration. These proposed rule amendments remove the challenged provision.

Medical Products, Items, and Services: These proposed new and amended rules:

- Implement statutory provisions enacted since the last update to these rules;
- Exempt drugs and medical products, supplies, and devices required by federal or state law to be dispensed only by a prescription
- Establish a new rule for veterinary sales and services;
- Include the updated lists, as certified by the Florida Department of Health, of tax-exempt and taxable:
 - common household remedies and prosthetic and orthopedic appliances; and,
 - chemical compounds and test kits.

Corporate Income Tax

Bonus Depreciation and I.R.S. Section 179 Expense: These proposed rule amendments contain procedures taxpayers must use to file amended corporate income tax returns for tax years 2007 and 2008, based on the Legislature’s repeal (made retroactive to January 1, 2008) of provisions regarding the additions for “bonus depreciation” and I.R.S. Section 179 expense.

Were Comments Received from External Parties? For all these proposed rules, other than the rules on medical products, items, and services, there were either no requests to hold a rule development workshop, or, no comments received at or after workshops that were held.

For the proposed rules on medical products, items, and services, three workshops were held. Comments were received during or after these workshops, and the Department has made revisions to the proposed rules.

Are There Significant Administrative Issues in These Rules? No.

Attached are copies of:

- Summaries of the proposed rules
- Statements of facts and circumstances justifying the rules
- Federal relation statements
- Summaries of workshops
- Proposed Notices of Proposed Rule with proposed rule text

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-19, FLORIDA ADMINISTRATIVE CODE
REPORTS OF LARGE CURRENCY TRANSACTIONS
AMENDING RULE 12-19.005

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-19.005, F.A.C. (Confidentiality of Reports; Disclosure of Information): (1) clarify that when the Department receives a written request for a report of large currency transactions from a federal, state, or local law enforcement agency or a prosecutorial agency, the Office of Financial Regulation, or the Department of Financial Services, the Department is authorized to provide the report, or the information contained within it, to the requesting agency; (2) update the information on where these agencies may submit a written request for reports of large currency transactions that are filed with the Department; and (3) remove the provision regarding the access to reports of large currency transactions by agents or employees of the Department that is redundant of Rule 12-22.003(1), F.A.C.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12-19.005, F.A.C. (Confidentiality of Reports; Disclosure of Information), are necessary to clarify the Department's procedures regarding the confidentiality and disclosure provisions for reports of large currency transactions filed with the Department and to update the information on requesting copies of a large currency transaction report filed with the Department.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on January 8, 2010 (Vol. 36, No. 1, pp. 5-6), to advise the public of the development of changes to Rule 12-19.005, F.A.C. (Confidentiality of Reports; Disclosure of Information), and that, if requested in writing, a rule development workshop would be held on February 2, 2010. No written request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

REPORTS OF LARGE CURRENCY TRANSACTIONS

RULE NO. RULE TITLE:

12-19.005 Confidentiality of Reports; Disclosure of Information

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-19.005, F.A.C. (Confidentiality of Reports; Disclosure of Information), is to clarify the Department's procedures regarding the confidentiality and disclosure provisions for reports of large currency transactions filed with the Department and to update the information on requesting copies of a large currency transaction report filed with the Department.

SUMMARY: The proposed amendments to Rule 12-19.005, F.A.C. (Confidentiality of Reports; Disclosure of Information): (1) clarify that when the Department receives a written request for a report of large currency transactions from a federal, state, or local law enforcement agency or a prosecutorial agency, the Office of Financial Regulation, or the Department of Financial Services, the Department is authorized to provide the report, or the information contained within it, to the requesting agency; (2) update the information on where these agencies may submit a written request for reports of large currency transactions that are filed with the Department; and (3) remove the provision regarding the access to reports of large currency transactions by agents or employees of the Department that is redundant of Rule 12-22.003(1), F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a

proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 896.102(3) FS.

LAW IMPLEMENTED: 213.053(9), 250.535(1)(e), 896.102 FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-19, FLORIDA ADMINISTRATIVE CODE
REPORTS OF LARGE CURRENCY TRANSACTIONS
AMENDING RULE 12-19.005

12-19.005 Confidentiality of Reports; Disclosure of Information.

(1) Reports of large currency transactions and the information contained in them are confidential and are not subject to disclosure to the public. ~~Access to the reports filed with the Department of Revenue is restricted to those agents and employees of the Department of Revenue who have a need to know the information contained in the reports.~~ However, the reports of large currency transactions filed with the Department, or the information contained within the reports, are documents and information shall be subject to disclosure pursuant to subpoena, as provided in Section 213.053 ~~(9)(8)~~, F.S.

(2)(a) ~~In addition, when Notwithstanding the provisions of subsection (1), the Department receives a written request for a report is authorized to provide copies of any reports of large currency transactions filed with the Department from as specified under Section 896.102(2), F.S., to a federal, state or a local law enforcement agency or a prosecutorial agency, and to the Office of Financial Regulation, or the Department of Financial Services, the Department is authorized to provide the report, or the information contained within the report, to the requesting agency Banking and Finance. Written requests for reports of large currency transactions are to be addressed to the Florida Department of Revenue, Criminal Investigations~~

Process Owner, 5050 W. Tennessee Street, Building G, Capital Center Complex, Tallahassee, Florida 32399-0100.

(b) For purposes of this rule chapter, law enforcement agency shall mean a lawfully established federal, state, or local public agency that is responsible for the prevention and detection of crime and the enforcement of penal, traffic, regulatory, game, immigration, postal, customs, or controlled substance laws.

(c) ~~Requests for reports by authorized entities may be obtained by written request to the Investigation Manager, Compliance Enforcement Investigations Process, Florida Department of Revenue, 5050 W. Tennessee Street, Building G, Capital Center Complex, Tallahassee, Florida 32399-0100.~~ For additional information regarding reports of large currency transactions, contact the Criminal Investigations Process Owner at (850)922-2673.

(3) The custodian of the reports of large currency transactions which are filed with the Department of Revenue ~~is shall be~~ the Criminal ~~Investigation~~ Investigations Process Owner. Subpoenas seeking disclosure of documents and information filed with the Department, that do not fall under the disclosure provision of Section 896.102, F.S., should be served to the custodian of the reports.

(4) Federal tax information obtained from the Internal Revenue Service under Information Sharing Agreements shall not be disclosed under this rule chapter.

Rulemaking Specific Authority 896.102(3) FS. Law Implemented 213.053(9)(8), 250.535(1)(e), 896.102 FS. History—New 2-18-88, Amended 12-18-88, 1-2-95,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on January 8, 2010 (Vol.
36, No. 1, pp. 5-6). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-16, FLORIDA ADMINISTRATIVE CODE
CONSENT AGREEMENTS
AMENDING RULE 12-16.005

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-16.005, F.A.C. (Requirements for Consent Agreements), clarify the Department's procedures for signing written agreements to extend the period during which an assessment may be issued or a claim for refund may be filed.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 213.23, F.S., authorizes the Executive Director, or his or her designee, to enter into consent agreements with a taxpayer to extend the period during which an assessment may be issued or a claim for refund may be filed. When both the Department and the taxpayer provide written consent, a tax assessment may be issued or a claim for a tax refund may be made at any time prior to the expiration of the period agreed upon. The proposed amendments to Rule 12-16.005, F.A.C. (Requirements for Consent Agreements), are necessary to eliminate confusion over the language that appears to require that the agreement be signed by the Department prior to being signed by the taxpayer.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, p. 6693), to advise the public of the development of changes to Rule 12-16.005, F.A.C. (Requirements for Consent Agreements), and that a rule development workshop would be held on January 27, 2010. No comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CONSENT AGREEMENTS

RULE NO: RULE TITLE:

12-16.005 Requirements for Consent Agreements

PURPOSE AND EFFECT: Section 213.23, F.S., authorizes the Executive Director, or his or her designee, to enter into consent agreements with a taxpayer to extend the period during which an assessment may be issued or a claim for refund may be filed. When both the Department and the taxpayer provide written consent, a tax assessment may be issued or a claim for a tax refund may be made at any time prior to the expiration of the period agreed upon. The purpose of the proposed amendments to Rule 12-16.005, F.A.C. (Requirements for Consent Agreements), is to eliminate confusion over the language that appears to require that the agreement be signed by the Department prior to being signed by the taxpayer.

SUMMARY: The proposed amendments to Rule 12-16.005, F.A.C. (Requirements for Consent Agreements), clarify the Department's procedures for signing written agreements to extend the period during which an assessment may be issued or a claim for refund may be filed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1) F.S.

LAW IMPLEMENTED: 213.23 F.S.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-16, FLORIDA ADMINISTRATIVE CODE
CONSENT AGREEMENTS
AMENDING RULE 12-16.005

12-16.005 Requirements for Consent Agreements.

(1) through (3) No change.

(4) A consent agreement or an extension of a consent agreement shall ~~first~~ be signed and dated on behalf of the Department by a person with delegated authority to enter into a consent agreement or an extension of a consent agreement under Rule 12-16.004, F.A.C.

(5) No change.

(6)(a) A consent agreement or an extension of a consent agreement is effective when it has been signed and dated by both the taxpayer or authorized representative and on behalf of the Department by a person with the delegated authority ~~received by the Department, unless the agreement as originally signed by the Department has been subsequently altered by the taxpayer.~~

(b) The Department will use the later of the date the agreement or extension is signed and dated by the taxpayer or the Department to determine whether the agreement is timely.

(c) No change.

(7) A consent agreement or an extension of a consent agreement, signed and dated by both the taxpayer or authorized representative and on behalf of the Department by a person with delegated authority, is binding and sufficient when transmitted by electronic means or facsimile. Rulemaking Specific Authority 213.06(1) FS. Law Implemented 213.23 FS. History–New 12-

28-88, Amended 12-2-03,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on December 31, 2009
(Vol. 35, No. 52, p. 6693). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-24, FLORIDA ADMINISTRATIVE CODE
PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;
TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS
PART I ELECTRONIC FUNDS TRANSFER AND RETURN SUBMISSION
AMENDING RULE 12-24.003

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-24.003, F.A.C. (Requirements to File or to Pay Taxes by Electronic Means), clarify, consistent with section 443.163(1), F.S., that any unemployment tax agent who prepared and reported Form UCT-6 (Employer's Quarterly Report) for 100 or more employers in any calendar quarter during the preceding state fiscal year is required to file the reports electronically with the Department.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 443.163(1), F.S., requires any person who prepared and reported the unemployment compensation tax returns (Form UCT-6, Employer's Quarterly Reports) for 100 or more employers in any quarter during the preceding state fiscal year to file the tax returns by electronic means. The purpose of the proposed amendments to Rule 12-24.003, F.A.C. (Requirements to File or to Pay Taxes by Electronic Means), is to clarify the electronic reporting requirements for unemployment tax agents who prepare and report unemployment tax for 100 or more employers.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON MARCH 8, 2010

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on February 19, 2010 (Vol. 36, No. 7, p. 781), to advise the public of the development of changes to Rule 12-24.003, F.A.C. (Requirements to File or to Pay Taxes by Electronic Means), and that a rule development workshop, if requested in writing, would be held on March 8, 2010. No written request was received by the Department. No comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;
TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

RULE NO. RULE TITLE:

12-24.003 Requirements to File or to Pay Taxes by Electronic Means

PURPOSE AND EFFECT: Section 443.163(1), F.S., requires any person who prepared and reported the unemployment compensation tax returns (Form UCT-6, Employer's Quarterly Reports) for 100 or more employers in any quarter during the preceding state fiscal year to file the tax returns by electronic means. The purpose of the proposed amendments to Rule 12-24.003, F.A.C. (Requirements to File or to Pay Taxes by Electronic Means), is to clarify the electronic reporting requirements for unemployment tax agents who prepare and report unemployment tax for 100 or more employers.

SUMMARY: The proposed amendments to Rule 12-24.003, F.A.C. (Requirements to File or to Pay Taxes by Electronic Means), clarify, consistent with section 443.163(1), F.S., that any unemployment tax agent who prepared and reported Form UCT-6 (Employer's Quarterly Report) for 100 or more employers in any calendar quarter during the preceding state fiscal year is required to file the reports electronically with the Department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3) FS.

LAW IMPLEMENTED: 202.30, 206.485, 213.755, 220.21(2), (3), 443.1317, 443.163 FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-24, FLORIDA ADMINISTRATIVE CODE
PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;
TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS
PART I ELECTRONIC FUNDS TRANSFER AND RETURN SUBMISSION
AMENDING RULE 12-24.003

12-24.003 Requirements to File or to Pay Taxes by Electronic Means.

(1) through (2) No change.

(3) The following taxpayers must file tax returns by electronic means:

(a) through (b) No change.

(c) Any unemployment tax agent who prepared ~~Prepared~~ and reported Form UCT-6 (Employer's Quarterly Report) for 100 or more employers ~~employees~~ in any calendar quarter during ~~in~~ the preceding state fiscal year.

(4) through (5) No change.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3) FS.

Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), 443.1317, 443.163 FS. History-New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on February 19, 2010
(Vol. 36, No. 7, p. 781). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-6, FLORIDA ADMINISTRATIVE CODE
INFORMAL PROTEST AND APPEAL PROCEDURE
AMENDING RULE 12-6.0015

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-6.0015, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on Form DR-835, Power of Attorney and Declaration of Representative.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The proposed amendments to Rule 12-6.0015, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes that will update the privacy notice statement on Form DR-835, Power of Attorney and Declaration of Representative, used by taxpayers to grant a representative

authority to perform certain acts on behalf of the taxpayer and to receive and inspect confidential information from the Department.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on January 15, 2010 (Vol. 36, No. 2, pp. 112-113), to advise the public of the development of changes to Rule 12-6.0015, F.A.C. (Public Use Forms), and that, if requested in writing, a rule development workshop would be held on February 2, 2010. No written request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

INFORMAL PROTEST AND APPEAL PROCEDURE

RULE NO: RULE TITLE:

12-6.0015 Public Use Forms

PURPOSE AND EFFECT: Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The purpose of the proposed amendments to Rule 12-6.0015, F.A.C. (Public Use Forms), is to adopt, by reference, changes that will update the privacy notice statement on Form DR-835, Power of Attorney and Declaration of Representative, used by taxpayers to grant a representative authority to perform certain acts on behalf of the taxpayer and to receive and inspect confidential information from the Department.

SUMMARY: The proposed amendments to Rule 12-6.0015, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on Form DR-835, Power of Attorney and Declaration of Representative.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to

provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 213.21(1) FS.

LAW IMPLEMENTED: 72.011, 119.071(5), 120.54(5), 120.569, 120.57, 213.21 FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-6, FLORIDA ADMINISTRATIVE CODE
INFORMAL PROTEST AND APPEAL PROCEDURE
AMENDING RULE 12-6.0015

12-6.0015 Public Use Forms. The following form is employed by the Department in its dealings with the public. This form is hereby incorporated by reference in this rule. Copies of this form are available, without cost, by using one or more of the following methods: 1) downloading the form from the Department’s Internet site at www.myflorida.com/dor/forms; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8 a.m. to 7 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304. Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331 or (850)922-1115.

Form Number	Title	Effective Date
DR-835	Power of Attorney and Declaration of Representative (R. 06/08 <u>09/09</u>)	___ <u>01/09</u>
<p><u>Rulemaking Specific</u> Authority 213.06(1), 213.21(1) FS. Law Implemented 72.011, <u>119.071(5)</u>, 120.54(5), 120.569, 120.57, 213.21 FS. History-New 3-6-03, Amended 4-5-07, 1-27-09, _____.</p>		

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on January 15, 2010
(Vol. 36, No. 2, pp. 112-113). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-18, FLORIDA ADMINISTRATIVE CODE
COMPENSATION FOR TAX INFORMATION
AMENDING RULE 12-18.004

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on Form DR-55 (Application for Compensation for Tax Information).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The proposed amendments to Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), are necessary to adopt, by reference, changes that will update the privacy notice statement on Form DR-55, Application for Compensation for Tax Information, used by

the Department in the compensation for tax information.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on January 15, 2010 (Vol. 36, No. 2, p. 113), to advise the public of the development of changes to Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), and that, if requested in writing, a rule development workshop would be held on February 2, 2010. No written request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

COMPENSATION FOR TAX INFORMATION

RULE NO: RULE TITLE:

12-18.004 Submission of Information and Claims for Compensation

PURPOSE AND EFFECT: Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The purpose of the proposed amendments to Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), is to adopt, by reference, changes that will update the privacy notice statement on Form DR-55 (Application for Compensation for Tax Information), used by the Department in the compensation for tax information.

SUMMARY: The proposed amendments to Rule 12-18.004, F.A.C. (Submission of Information and Claims for Compensation), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on Form DR-55 (Application for Compensation for Tax Information).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to

provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 213.30(1) FS.

LAW IMPLEMENTED: 92.525(2), 119.071(5), 213.30 FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-18, FLORIDA ADMINISTRATIVE CODE
COMPENSATION FOR TAX INFORMATION
AMENDING RULE 12-18.004

12-18.004 Submission of Information and Claims for Compensation.

(1) through (2) No change.

(3)(a) The Department designates Form DR-55, Application for Compensation for Tax Information, as the form to be used by claimants for this purpose. Form DR-55, Application for Compensation for Tax Information (R. ~~09/09~~ ~~03/09~~, Effective ___ ~~06/09~~), is hereby incorporated, by reference, in this rule.

(b) No change.

Rulemaking Authority 213.06(1), 213.30(1) FS. Law Implemented 92.525(2), 119.071(5), 213.30 FS. History—New 6-21-88, Amended 11-14-91, 10-19-99, 10-1-03, 10-30-06, 6-1-09,___.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on January 15, 2010
(Vol. 36, No. 2, p. 113). No comments have been received by the Department.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12-24, FLORIDA ADMINISTRATIVE CODE

PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;

TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

PART I ELECTRONIC FUNDS TRANSFER AND RETURN SUBMISSION

AMENDING RULE 12-24.011

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., to Form DR-600 (Enrollment and Authorization for e-Services Program).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), are necessary to

adopt, by reference, changes that will update the privacy notice statement on Form DR-600 (Enrollment and Authorization for e-Services Program), used by the Department in the administration of the e-Services Program for paying taxes and filing returns electronically.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on January 15, 2010 (Vol. 36, No. 2, pp. 113-114), to advise the public of the development of changes to Rule 12-24.011, F.A.C. (Public Use Forms), and that, if requested in writing, a rule development workshop would be held on February 2, 2010. No written request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;
TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

RULE NO: RULE TITLE:

12-24.011 Public Use Forms

PURPOSE AND EFFECT: Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The purpose of proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), is to adopt, by reference, changes that will update the privacy notice statement on Form DR-600 (Enrollment and Authorization for e-Services Program), used by the Department in the administration of the e-Services Program for paying taxes and filing returns electronically.

SUMMARY: The proposed amendments to Rule 12-24.011, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on Form DR-600 (Enrollment and Authorization for e-Services Program).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3) FS.

LAW IMPLEMENTED: 119.071(5), 202.30, 206.485, 213.755, 220.21(2), (3), 443.1317, 443.163 FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone 850-922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12-24, FLORIDA ADMINISTRATIVE CODE

PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;

TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

PART I ELECTRONIC FUNDS TRANSFER AND RETURN SUBMISSION

AMENDING RULE 12-24.011

12-24.011 Public Use Forms.

(1)(a) The following public use forms and instructions are utilized by the Department for the purposes of the e-Services Program and are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-600	Enrollment and Authorization for e-Services Program (R. 11/08 <u>10/09</u>)	____ 06/09

(3) No change.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3) FS.

Law Implemented 119.071(5), 202.30, 206.485, 213.755, 220.21(2), (3), 443.1317, 443.163 FS.

History-New 6-1-09, Amended _____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on January 15, 2010
(Vol. 36, No. 2, pp. 113-114). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.060, 12A-1.061, AND 12A-1.097

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on applications to register with the Department for tax purposes or on applications for certain tax exemptions under the Florida Enterprise Zone Program or the Florida Neighborhood Revitalization Program.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes on its applications for registration for sales and use tax purposes. The proposed amendments to Rule 12A-1.060, F.A.C. (Registration), Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use

Transient Accommodations), and Rule 12A-1.097, F.A.C. (Public Use Forms), are necessary to update the privacy notice statement on applications for registration with the Department or to remove the request for a social security number from the form.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on January 15, 2010 (Vol. 36, No. 2, p. 114), to advise the public of the development of changes to Rule 12A-1.060, F.A.C. (Registration), Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations), and Rule 12A-1.097, F.A.C. (Public Use Forms), and that, if requested in writing, a rule development workshop would be held on February 2, 2010. No written request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO. RULE TITLE:

12A-1.060 Registration

12A-1.061 Rentals, Leases, and Licenses to Use Transient Accommodations

12A-1.097 Public Use Forms

PURPOSE AND EFFECT: Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes on its applications for registration for sales and use tax purposes. The purpose of the proposed amendments to Rule 12A-1.060, F.A.C. (Registration), Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations), and Rule 12A-1.097, F.A.C. (Public Use Forms), is to update the privacy notice statement on applications for registration with the Department or to remove the request for a social security number from the form.

SUMMARY: The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on applications to register with the Department for tax

purposes or on applications for certain tax exemptions under the Florida Enterprise Zone Program or the Florida Neighborhood Revitalization Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 119.071(5), 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.0596(1), (2), 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (2), (4), (5), 212.12(1), (2), (5), (6), (7), (9), (12), (13), 212.13, 212.14(4), (5), 212.16(1), (2), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 213.756, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical

Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.060, 12A-1.061, AND 12A-1.097

12A-1.060 Registration.

(1) through (2) No change.

(3) REGISTRATION OF TRANSIENT ACCOMMODATIONS.

(a) through (d) No change.

(e)1. through 5. No change.

6. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers obtained for tax administration purposes are confidential under Sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. Collection of an individual's social security number is authorized under state and federal law. Visit the Department's Internet site at www.myflorida.com/dor and select "Privacy Notice" for more information regarding the state and federal law governing the collection, use, or release of social security numbers, including authorized exceptions.

(4) through (6) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 119.071(5), 212.03(1), (2), 212.04(4), 212.0596(1), (2), 212.06(2), 212.12(2), (5), (6), 212.14(4), 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, 4-17-03, 6-12-03, 6-4-08, 9-1-09,_____.

12A-1.061 Rentals, Leases, and Licenses to Use Transient Accommodations.

(1) through (6) No change.

(7) REGISTRATION.

(a) No change.

(b)1. through 5. No change.

6. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers obtained for tax administration purposes are confidential under Sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. Collection of an individual's social security number is authorized under state and federal law. Visit the Department's Internet site at www.myflorida.com/dor and select "Privacy Notice" for more information regarding the state and federal law governing the collection, use, or release of social security numbers, including authorized exceptions.

(8) through (19) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 119.071(5), 212.02(2), (10)(a)-(g), (16), 212.03(1), (2), (3), (4), (5), (7), 212.031, 212.04(4), 212.08(6), (7)(i), (m), 212.11(1), (2), 212.12(7), (9), (12), 212.13(2), 212.18(2), (3), 213.37, 213.756 FS. History—Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 4-19-74, 12-11-74, 5-27-75, 10-18-78, 4-11-80, 7-20-82, 1-29-83, 6-11-85, Formerly

12A-1.61, Amended 10-16-89, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 7-1-99, 3-4-01(4), 3-4-01(2), (5), (14), 10-2-01, 8-1-02, 9-1-09,_____.

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
(2)(a) DR-1	Application to Collect and/or Report Tax In Florida (R. 09/09 01/06)	____ 04/06

(b) No change.

(3) through (5) No change.

(6)(a) through (f) No change.

(g) DR-15JEZ	Application for the Exemption of Electrical Energy Used in an Enterprise Zone Effective July 1, 1995 (R. 08/09 04/01)	____ 06/01
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(h) through (i) No change.

(j) DR-15ZC	Application for Florida Enterprise Zone Jobs Credit for Sales Tax (R. 10/09 06/08)	____ 09/09
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(k) through (m) No change.

(7) No change.

(8) DR-17A	Certificate of Cash Deposit/Cash Bond	
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(R. 03/10 ~~06/07~~)

____ ~~06/08~~

(9) through (10) No change.

(11) DR-26RP Florida Neighborhood Revitalization Program

(R. 10/09 ~~01/06~~)

____ ~~04/07~~

(12) DR-29 Application for Release or Refund of

Security (R. 03/10 ~~06/07~~)

____ ~~06/08~~

(13) through (23) No change.

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 119.071(5), 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) 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, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09, 9-1-09, 11-3-09, 1-11-10,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be
determined]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on January 15, 2010
(Vol. 36, No. 2, p. 114). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE
COMMUNICATIONS SERVICES TAX
AMENDING RULE 12A-19.100

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on Form DR-700019 (Communications Services Use Tax Return).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes that will update the privacy notice statement on Form DR-700019 (Communications Services Use Tax Return).

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on January 15, 2010 (Vol. 36, No. 2, p. 115), to advise the public of the development of changes to Rule 12A-19.100, F.A.C. (Public Use Forms), and that, if requested in writing, a rule development workshop would be held on February 2, 2010. No written request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

COMMUNICATIONS SERVICES TAX

RULE NO: RULE TITLE:

12A-19.100 Public Use Forms

PURPOSE AND EFFECT: Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The purpose of the proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), is to adopt, by reference, changes that will update the privacy notice statement on Form DR-700019 (Communications Services Use Tax Return).

SUMMARY: The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on Form DR-700019 (Communications Services Use Tax Return).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a

proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.26(3)(a), (c), (d), (e), (j), 202.27(7) FS.

LAW IMPLEMENTED: 119.071(5), 175.1015, 185.085, 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(6), 202.27, 202.28(1), (2), 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE
COMMUNICATIONS SERVICES TAX
AMENDING RULE 12A-19.100

12A-19.100 Public Use Forms.

(1)(a) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S., Communications Services Tax, and in the administration of the Department’s electronic Address/Jurisdiction Database created pursuant to Sections 175.1015 and 185.085, F.S. These forms are hereby incorporated by reference in this rule.

(b) No change.

(2) through (4) No change.

Form Number	Title	Effective Date
(5) DR-700019	Communications Services Use Tax Return (R. 10/09 N. 12/02)	<u> </u> 07/03

(6) through (12) No change.

Rulemaking Authority 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.26(3)(a), (c), (d), (e), (j), 202.27(7) FS. Law Implemented 119.071(5), 175.1015, 185.085, 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(6), 202.27, 202.28(1), (2), 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS. History-New 4-17-03, Amended 7-31-03, 10-1-03, 9-28-04, 6-28-05, 11-14-05, 7-16-06, 4-5-07, 11-6-07, 12-20-07, 1-28-08, 1-27-09, 1-11-10,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on January 15, 2010
(Vol. 36, No. 2, p. 115). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-4, FLORIDA ADMINISTRATIVE CODE
DOCUMENTARY STAMP TAX
AMENDING RULES 12B-4.003

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on Form DR-228 (Documentary Stamp Tax Return for Nonregistered Taxpayers' Unrecorded Documents).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes that will update the privacy notice statement on Form DR-228 (Documentary Stamp Tax Return for Nonregistered Taxpayers' Unrecorded Documents).

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on January 15, 2010 (Vol. 36, No. 2, pp. 115-116), to advise the public of the development of changes to Rule 12B-4.003, F.A.C. (Public Use Forms), and that, if requested in writing, a rule development workshop would be held on February 2, 2010. No written request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

DOCUMENTARY STAMP TAX

RULE NO: RULE TITLE:

12B-4.003 Public Use Forms

PURPOSE AND EFFECT: Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The purpose of the proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms), is to adopt, by reference, changes that will update the privacy notice statement on Form DR-228 (Documentary Stamp Tax Return for Nonregistered Taxpayers' Unrecorded Documents).

SUMMARY: The proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on Form DR-228 (Documentary Stamp Tax Return for Nonregistered Taxpayers' Unrecorded Documents).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a

proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 201.11, 213.06(1) FS.

LAW IMPLEMENTED: 119.071(5), 201.01, 201.02(1), 201.022, 201.031(1), 201.07, 201.08(1)(a), 201.133 FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-4, FLORIDA ADMINISTRATIVE CODE
DOCUMENTARY STAMP TAX
AMENDING RULES 12B-4.003

12B-4.003 Public Use Forms.

(1) The following public-use forms and instructions are employed by the Department of Revenue in its administration of the documentary stamp tax, 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) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304. Persons with hearing or speech impairments may call the Department's TDD at (800) 367-8331 or (850) 922-1115.

Form Number	Title	Effective Date
(2) No change.		
(3) DR-228	Documentary Stamp Tax Return for Nonregistered Taxpayers' Unrecorded Documents (R. 10/09 <u>12/04</u>)	<u>06/05</u>
(4) No change.		

Rulemaking Authority 201.11, 213.06(1) FS. Law Implemented 119.071(5), 201.01, 201.02(1), 201.022, 201.031(1), 201.07, 201.08(1)(a), 201.133 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, 5-4-03, 6-28-05, 1-1-08, 4-14-09, 1-11-10,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on January 15, 2010
(Vol. 36, No. 2, pp. 115-116). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE
MOTOR FUELS, DIESEL FUELS, ALTERNATIVE FUELS,
AVIATION FUELS, AND POLLUTANTS
AMENDING RULE 12B-5.150

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on forms used by the Department in the administration of the taxes imposed on fuels and pollutants.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes that will update the privacy notice statement on forms used by the

Department in the administration of taxes imposed on fuels and pollutants.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on January 15, 2010 (Vol. 36, No. 2, p. 116), to advise the public of the development of changes to Rule 12B-5.150, F.A.C. (Public Use Forms), and that, if requested in writing, a rule development workshop would be held on February 2, 2010. No written request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

TAX ON MOTOR FUELS, DIESEL FUELS, ALTERNATIVE FUELS, AVIATION FUELS,
AND POLLUTANTS

RULE NO: RULE TITLE:

12B-5.150 Public Use Forms

PURPOSE AND EFFECT: Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The purpose of the proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), is to adopt, by reference, changes that will update the privacy notice statement on forms used by the Department in the administration of taxes imposed on fuels and pollutants.

SUMMARY: The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on forms used by the Department in the administration of the taxes imposed on fuels and pollutants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to

provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 206.14(1), 206.485(1), 206.59(1), 213.06(1), 213.755(8), 526.206 FS.

LAW IMPLEMENTED: 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.095, 206.11, 206.404, 206.41, 206.43, 206.44, 206.485, 206.86, 206.874, 206.8745, 206.877, 206.90, 206.91, 206.92, 206.9835, 206.9865, 206.9931, 206.9943, 212.0501, 213.255, 213.755, 526.203 FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE
MOTOR FUELS, DIESEL FUELS, ALTERNATIVE FUELS,
AVIATION FUELS, AND POLLUTANTS
AMENDING RULE 12B-5.150

12B-5.150 Public Use Forms.

(1)(a) The following public use forms and instructions are utilized by the Department and are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) No change.		
(3) DR-156	Florida Fuel Tax Application (R. 10/09 04/05)	____ 04/07
(4) DR-156R	Renewal Application for Florida Fuel/Pollutant License (R. 10/09 40/05)	____ 05/06
(5) DR 156T	Florida Temporary Fuel Tax Application (R. 10/09 03/09)	____ 06/09
(6) through (10) No change.		
(11) DR-166	Florida Pollutant Tax Application (R. 10/09 03/09)	____ 04/09
(12) DR-176	Application for Air Carrier Fuel Tax License (R. 10/09 03/09)	____ 04/09
(13) through (14) No change.		

(15) DR-185 Application for Fuel Tax Refund Permit

(R. 10/09 ~~07/07~~)

_____ ~~07/07~~

(16) through (41) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 213.06(1), 213.755(8), 526.206 FS.

Law Implemented 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.095, 206.11, 206.404, 206.41, 206.43, 206.44, 206.485, 206.86, 206.874, 206.8745, 206.877, 206.90, 206.91, 206.92, 206.9835, 206.9865, 206.9931, 206.9943, 212.0501, 213.255, 213.755, 526.203 FS. History-New 11-21-96, Amended 10-27-98, 5-1-06, 4-16-07, 1-1-08, 1-27-09, 4-14-09, 6-1-09, 6-1-09(5), 1-11-10,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on January 15, 2010
(Vol. 36, No. 2, p. 116). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULE 12C-1.051

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on forms used by the Department in the administration of the corporate income tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), are necessary to adopt, by reference, changes that will update the privacy notice statement on forms used by the Department in the administration of the corporate income tax.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on January 15, 2010 (Vol. 36, No. 2, pp. 116-117), to advise the public of the development of changes to Rule 12C-1.051, F.A.C. (Forms), and that, if requested in writing, a rule development workshop would be held on February 2, 2010. No written request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX

RULE NO. RULE TITLE:

12C-1.051 Forms

PURPOSE AND EFFECT: Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, changes that will update the privacy notice statement on forms used by the Department in the administration of the corporate income tax.

SUMMARY: The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on forms used by the Department in the administration of the corporate income tax.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this

notice.

RULEMAKING AUTHORITY: 213.06(1), 220.51 FS.

LAW IMPLEMENTED: 119.071(5), 213.755(1), 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, 220.187, 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 DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULE 12C-1.051

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) DR-703	Dealer Questionnaire (R. <u>01/10</u> 02/00)	___ 03/00

(3) through (9) No change.

(10)(a) F-1156Z	Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (R. <u>01/10</u> 04/09)	___ 01/09
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(b) F-1156ZN	Instructions for Completing Form F-1156Z Florida Enterprise Zone Jobs Credit Certificate of Eligibility for Corporate Income Tax (R. <u>01/10</u> 04/09)	___ 01/09
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(11) through (14) No change.

Rulemaking Authority 213.06(1), 220.51 FS. Law Implemented 119.071(5), 213.755(1), 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, 220.187, 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, 6-19-
03, 3-15-04, 9-24-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 1-27-09, 1-11-10,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on January 15, 2010
(Vol. 36, No. 2, pp. 116-117). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-3, FLORIDA ADMINISTRATIVE CODE
ESTATE TAX
AMENDING RULE 12C-3.008

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on forms used by the Department in the administration of the estate tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes that will update the privacy notice statement on forms used by the Department in the administration of the estate tax.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on January 15, 2010 (Vol. 36, No. 2, p. 117), to advise the public of the development of changes to Rule 12C-3.008, F.A.C. (Public Use Forms), and that, if requested in writing, a rule development workshop would be held on February 2, 2010. No written request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

ESTATE TAX

RULE NO: RULE TITLE:

12C-3.008 Public Use Forms

PURPOSE AND EFFECT: Section 1, Chapter 2009-237, L.O.F., requires agencies to identify in writing the specific federal or state laws governing the collection, use, and release of social security numbers. Social security numbers are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. Social security numbers that are obtained for tax administration purposes continue to remain confidential under sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records. The Department has updated the information regarding the collection of social security numbers as unique identifiers for tax administration purposes. The purpose of the proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), is to adopt, by reference, changes that will update the privacy notice statement on forms used by the Department in the administration of the estate tax.

SUMMARY: The proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), update the privacy statement regarding the collection, use, and release of social security numbers required by Chapter 2009-237, L.O.F., on forms used by the Department in the administration of the estate tax.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this

notice.

RULEMAKING AUTHORITY: 198.08, 198.32(2), 213.06(1) FS.

LAW IMPLEMENTED: 92.525(1)(b), 119.071(5), 198.08, 198.13, 198.22, 198.23, 198.26, 198.32(2), 198.33(1), 198.38, 198.39, 213.37, 837.06 FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-3, FLORIDA ADMINISTRATIVE CODE
ESTATE TAX
AMENDING RULE 12C-3.008

12C-3.008 Public Use Forms.

(1)(a) The following public-use forms and instructions are employed by the Department in its administration of the Florida estate tax and are hereby adopted by reference.

(b) No change.

Form Number	Title	Effective Date
(2) DR-308	Request and Certificate for Waiver and Release of Florida Estate Tax Lien (R. 10/09 <u>04/09</u>)	___ <u>04/09</u>
(3) DR-310	Domicile Statement (R. 10/09 <u>12/07</u>)	___ <u>04/09</u>
(4) through (5)	No change.	
(6) F-706	Florida Estate Tax Return for Residents, Nonresidents and Nonresident Aliens (R. 10/09 <u>04/09</u>)	___ <u>04/09</u>

Rulemaking Authority 198.08, 198.32(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 119.071(5), 198.08, 198.13, 198.22, 198.23, 198.26, 198.32(2), 198.33(1), 198.38, 198.39, 213.37, 837.06 FS. History-New 9-26-77, Formerly 12C-3.08, Amended 1-11-93, 8-25-94, 1-22-01, 5-4-03, 10-30-06, 11-6-07, 4-14-09,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on January 15, 2010
(Vol. 36, No. 2, p. 117). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE
COMMUNICATIONS SERVICES TAX
AMENDING RULES 12A-19.071 AND 12A-19.100

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database), and to Rule 12A-19.100, F.A.C. (Public Use Forms), adopt changes to the Guide for Address Change Requests to the Department's Address/Jurisdiction Database, and to Form DR-700012 (Application for Certification of Communications Services Database), necessary to include the Geographic Names Information System Feature Identifier place codes.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The Geographic Names Information System Feature Identifier (GNIS Feature ID) has superseded the Federal Information Processing Standards 55 (FIPS 55) database place code as the federal and national standard geographical feature record identifier.

Effective October 3, 2009, the Department's Address/Jurisdiction Database, maintained by the Department for purposes of assigning communications service addresses and insurance policies and premiums to local taxing jurisdictions, contains a combination of both GNIS Feature ID place codes and FIPS 55 place codes. The FIPS 55 place code will remain as a field in the database. Local taxing jurisdictions submit address/jurisdiction changes to the Department using the Guide for Address Change Requests. This guide contains the required record layout using the

specified place codes.

Providers of communications services address/jurisdiction database and vendors of such databases may request that the Department certify their database for accuracy of the address/jurisdictions contained within the database. To apply, service providers and database vendors must submit Form DR-700012 (Application for Certification of Communications Services Database) and their database in the required record layout using the specified place codes. The required database layout contains a combination of Federal Information Processing Standards (FIPS) 55 place codes and the Geographic Names Information System (GNIS) Feature Identifier place codes.

The proposed amendments to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database), and to Rule 12A-19.100, F.A.C. (Public Use Forms), are necessary to adopt, by reference, updates to Form DR-7000012 and to the Guide for Address Change Requests necessary to the Department's Address/Jurisdiction Database to include the GNIS Feature Identifier place codes.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, pp. 6695-6696), to advise the public of the development of changes to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic

Database), and to Rule 12A-19.100, F.A.C. (Public Use Forms), and that a rule development workshop would be held on January 27, 2010. No comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

COMMUNICATIONS SERVICES TAX

RULE NO: RULE TITLE:

12A-19.071 Department of Revenue Electronic Database

12A-19.100 Public Use Forms

PURPOSE AND EFFECT: The Geographic Names Information System Feature Identifier (GNIS Feature ID) has superseded the Federal Information Processing Standards 55 (FIPS 55) database place code as the federal and national standard geographical feature record identifier.

Effective October 3, 2009, the Department's Address/Jurisdiction Database, maintained by the Department for purposes of assigning communications service addresses and insurance policies and premiums to local taxing jurisdictions, contains a combination of both GNIS Feature ID place codes and FIPS 55 place codes. The FIPS 55 place code will remain as a field in the database. Local taxing jurisdictions submit address/jurisdiction changes to the Department using the Guide for Address Change Requests. This guide contains the required record layout using the specified place codes.

Providers of communications services address/jurisdiction database and vendors of such databases may request that the Department certify their database for accuracy of the address/jurisdictions contained within the database. To apply, service providers and database vendors must submit Form DR-700012 (Application for Certification of Communications Services Database) and their database in the required record layout using the specified place codes. The required database layout contains a combination of Federal Information Processing

Standards (FIPS) 55 place codes and the Geographic Names Information System (GNIS) Feature Identifier place codes.

The purpose of the proposed amendments to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database), and to Rule 12A-19.100, F.A.C. (Public Use Forms), is to adopt, by reference, updates to Form DR-7000012 and to the Guide for Address Change Requests necessary to the Department's Address/Jurisdiction Database to include the GNIS Feature Identifier place codes.

SUMMARY: The proposed amendments to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database), and to Rule 12A-19.100, F.A.C. (Public Use Forms), adopt changes to the Guide for Address Change Requests to the Department's Address/Jurisdiction Database, and to Form DR-700012 (Application for Certification of Communications Services Database), necessary to include the Geographic Names Information System Feature Identifier places codes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.26(3)(a), (b), (c), (d), (e), (g), (j), 202.27(7) FS.

LAW IMPLEMENTED: 175.1015, 185.085, 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(2), (6), 202.23, 202.27, 202.28(1), (2), 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE
COMMUNICATIONS SERVICES TAX
AMENDING RULES 12A-19.071 AND 12A-19.100

12A-19.071 Department of Revenue Electronic Database.

(1) No change.

(2)(a) No change.

(b) Local taxing jurisdictions must submit information requesting changes to the Address/Jurisdiction Database electronically following the on-line Guide for Address Change Requests (~~October 4, 2009~~ ~~February 7, 2007~~, hereby incorporated by reference, effective ~~___~~ ~~12/07~~). Only local taxing jurisdictions that are registered users of the Department's electronic change submission process can access the Guide for Address Change Requests. Authorized local jurisdiction contact persons may access the login screen for registered users at <http://geotax.state.fl.us>. Local taxing jurisdictions that do not have access to computers with Internet access should contact the Department to request authorization to submit changes through alternative electronic media. The information must also be submitted on Form DR-700022, Notification of Jurisdiction Change for Local Communications Services and Local Insurance Premium Tax (incorporated by reference in Rule 12A-19.100, F.A.C.).

(c) through (e) No change.

(3) No change.

Rulemaking Specific Authority 202.26(3)(b), (g) FS. Law Implemented 202.22(2), 202.23 FS. History–New 11-14-05, Amended 12-20-07,_____.

12A-19.100 Public Use Forms.

(1)(a) The Department employs the following public-use forms and instructions in the administration of Chapter 202, F.S., Communications Services Tax, and in the administration of the Department's electronic Address/Jurisdiction Database created pursuant to Sections 175.1015 and 185.085, F.S. These forms are hereby incorporated by reference in this rule.

(b) No change.

(2) No change.

Form Number	Title	Effective Date
(3) DR-700012	Application for Certification of Communications Services Database (R. 10/09 01/08)	<u> </u> 01/09

(4) through (12) No change.

Rulemaking Authority 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.26(3)(a), (c), (d), (e), (j), 202.27(7) FS. Law Implemented 175.1015, 185.085, 202.11(3), (10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7), 202.22(6), 202.27, 202.28(1), (2), 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS. History–New 4-17-03, Amended 7-31-03, 10-1-03, 9-28-04, 6-28-05, 11-14-05, 7-16-06, 4-5-07, 11-6-07, 12-20-07, 1-28-08, 1-27-09, 1-11-10,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: [To be
determined]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on December 31, 2009
(Vol. 35, No. 52, pp. 6695-6696). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULE 12B-8.0016

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database), adopt changes to the Guide for Address Change Requests to the Department's Address/Jurisdiction Database necessary to include the Geographic Names Information System Feature Identifier place codes.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The Geographic Names Information System Feature Identifier (GNIS Feature ID) has superseded the Federal Information Processing Standards 55 (FIPS 55) database place code as the federal and national standard geographical feature record identifier.

Effective October 3, 2009, the Department's Address/Jurisdiction Database, maintained by the Department for purposes of assigning communications service addresses and insurance policies and premiums to local taxing jurisdictions, contains a combination of both GNIS Feature ID place codes and FIPS 55 place codes. The FIPS 55 place code will remain as a field in the database. Local taxing jurisdictions submit address/jurisdiction changes to the Department using the Guide for Address Change Requests. This guide contains the required record layout using the specified place codes.

The purpose of the proposed amendments to Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database), is to adopt, by reference, updates to the Guide for Address Change Requests necessary to the Department's Address/Jurisdiction Database to include the GNIS Feature Identifier place codes.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, p. 6697), to advise the public of the development of changes to Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database), and that a rule development workshop would be held on January 27, 2010. No comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

COMMUNICATIONS SERVICES TAX

RULE NO: RULE TITLE:

12B-8.0016 Department of Revenue Electronic Database

PURPOSE AND EFFECT: The Geographic Names Information System Feature Identifier (GNIS Feature ID) has superseded the Federal Information Processing Standards 55 (FIPS 55) database place code as the federal and national standard geographical feature record identifier.

Effective October 3, 2009, the Department's Address/Jurisdiction Database, maintained by the Department for purposes of assigning communications service addresses and insurance policies and premiums to local taxing jurisdictions, contains a combination of both GNIS Feature ID place codes and FIPS 55 place codes. The FIPS 55 place code will remain as a field in the database. Local taxing jurisdictions submit address/jurisdiction changes to the Department using the Guide for Address Change Requests. This guide contains the required record layout using the specified place codes.

The purpose of the proposed amendments to Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database), is to adopt, by reference, updates to the Guide for Address Change Requests necessary to the Department's Address/Jurisdiction Database to include the GNIS Feature Identifier place codes.

SUMMARY: The proposed amendments to Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database), adopt changes to the Guide for Address Change Requests to the Department's Address/Jurisdiction Database necessary to include the Geographic Names Information System Feature Identifier places codes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 175.1015(5), 185.085(5) FS.

LAW IMPLEMENTED: 175.1015, 185.085 FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULE 12B-8.0016

12B-8.0016 Department of Revenue Electronic Database.

(1) No change.

(2)(a) No change.

(b) Local taxing jurisdictions must submit information requesting changes to the database electronically following the on-line Guide for Address Change Requests (October 4, 2009 ~~February 7, 2007~~, incorporated by reference in Rule 12A-19.071, F.A.C.). Only local taxing jurisdictions that are registered users of the Department's electronic change submission process can access the Guide for Address Change Requests. Authorized local jurisdiction contact persons may access the login screen for registered users at <http://geotax.state.fl.us>. Local taxing jurisdictions that do not have access to computers with Internet access should contact the Department to submit changes through alternative electronic media. The information must also be submitted on Form DR-700022, Notification of Jurisdiction Change for Local Communications Services and Local Insurance Premium Tax (incorporated by reference in Rule 12A-19.100, F.A.C.), with the exception of Special Fire Control Districts, which must use Form DR-350907, Local Insurance Premium Tax Special Fire Control Districts Notification of Jurisdiction Change (R. 10/06, hereby incorporated by reference, effective 12/07).

(c) through (e) No change.

(3) through (4) No change.

Rulemaking Specific Authority 175.1015(5), 185.085(5) FS. Law Implemented 175.1015,
185.085 FS. History-New 12-20-07,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on December 31, 2009
(Vol. 35, No. 52, p. 6697). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULE 12A-1.060

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12A-1.060, F.A.C. (Registration), remove the definition of "person" from subparagraphs (a)1. and 2. of subsection (6), Cash Deposits, Surety Bonds, or Letters of Credit.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

All In One Consultants, LLC, has filed a petition challenging the validity of the provisions of subparagraphs 12A-1.060(6)(a)1. and 2., F.A.C. - All In One Consultants, LLC v. Department of Revenue (DOAH Case No. 09-3012RX). In the rule challenge, All In One Consultants alleged that the Department did not have statutory authority to promulgate a rule defining "person," a term defined in section 212.02(12), F.S., and therefore the rule provision constituted an invalid exercise of delegated legislative authority under section 120.52(8), F.S. The Department has agreed to remove the definition from the rule. This rulemaking is necessary to remove the definition of the term "person" contained within subparagraphs (6)(a)1. and 2. of Rule 12A-1.060, F.A.C. (Registration).

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, p. 6695), to advise the public of the development of changes to Rule 12A-1.060, F.A.C. (Registration), and that a rule development workshop would be held on January 27, 2010. No comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO. RULE TITLE:

12A-1.060 Registration

PURPOSE AND EFFECT: All In One Consultants, LLC, has filed a petition challenging the validity of the provisions of subparagraphs 12A-1.060(6)(a)1. and 2., F.A.C. - All In One Consultants, LLC v. Department of Revenue (DOAH Case No. 09-3012RX). In the rule challenge, All In One Consultants alleged that the Department did not have statutory authority to promulgate a rule defining "person," a term defined in section 212.02(12), F.S., and therefore the rule provision constituted an invalid exercise of delegated legislative authority under section 120.52(8), F.S. The Department has agreed to remove the definition from the rule. The purpose of this rulemaking is to remove the definition of the term "person" contained within subparagraphs (6)(a)1. and 2. of Rule 12A-1.060, F.A.C. (Registration).

SUMMARY: The proposed amendments to Rule 12A-1.060, F.A.C. (Registration), remove the definition of "person" from subparagraphs (a)1. and 2. of subsection (6), Cash Deposits, Surety Bonds, or Letters of Credit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING 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), 212.14(4), 212.16(1), (2), 212.18(3) FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULE 12A-1.060

12A-1.060 Registration.

(1) through (5) No change.

(6) CASH DEPOSITS, SURETY BONDS, OR LETTERS OF CREDIT. The Department will utilize the criteria in this subsection when it requires a cash deposit, surety bond, or irrevocable letter of credit as a condition to any person obtaining or retaining a dealer's certificate of registration. Nothing in this subsection prohibits the Department from pursuing any other authorized means to collect a tax or fee liability. Nothing in this subsection requires the Department to permit the posting of a cash deposit, surety bond, or irrevocable letter of credit instead of revoking or refusing to issue a dealer's certificate of registration. This subsection does not apply to a person currently in compliance with a written agreement with the Department regarding its tax or fee liabilities and obligations.

(a) Definitions. For the purposes of this subsection:

~~1. "Person" means any person, as defined in Section 212.02(12), F.S., and includes individuals owning a controlling interest in a person.~~

~~2. "Person" also includes any person with an existing certificate of registration or any person seeking to obtain a dealer's certificate of registration.~~

~~a. Who has acquired ownership or controlling interest in a business that would be otherwise liable for posting security, if the person fails to provide evidence the business was acquired in an arm's length transaction or for consideration; or~~

~~b. For a business that will be operated at an identical location of a previous business that would otherwise have been liable for posting security, if such person fails to provide evidence the business was acquired in an arm's length transaction or for consideration.~~

3. through 4. Renumbered 1. through 2. No change.

(b) through (g) No change.

Rulemaking 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), 212.14(4), 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, 4-17-03, 6-12-03, 6-4-08, 9-1-09,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on December 31, 2009
(Vol. 35, No. 52, p. 6695). No comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.020 AND 12A-1.021
REPEALING RULES 12A-1.002 AND 12A-1.015
CREATING RULE 12A-1.0215

SUMMARY OF PROPOSED RULES

The proposed repeal of Rule 12A-1.002, F.A.C. (Practitioners of the Healing Arts), removes provisions regarding licensed practitioners that are included in the proposed substantial rewording of Rule 12A-1.020, F.A.C., or in proposed new Rule 12A-1.0215, F.A.C.

The proposed repeal of Rule 12A-1.015, F.A.C. (Industrial Gases), removes the provisions regarding the application of tax to certain gases that are redundant of other administrative rules. Provisions for compressed medical gases and medical oxygen are included in the proposed substantial rewording of Rule 12A-1.020, F.A.C., and proposed new Rule 12A-1.0215, F.A.C.

The proposed substantial rewording of Rule 12A-1.020, F.A.C.: (1) updates the title of the rule to "Licensed Practitioners; Drugs, Medical Products and Supplies); (2) defines the terms "licensed practitioner" and "drug or medicinal drug" for purposes of the rule; (3) provides that hospitals, healthcare entities, and licensed practitioners are required to pay tax on taxable items or services consumed in providing medical services; (4) provides for the exemption for prescription drugs and medical gases and opaque drugs; (5) provides for the exemption for

common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings and the taxability of cosmetics, toilet articles, and hygiene products; (6) provides that, unless specifically exempt, medical products, supplies, and devices are subject to tax; (7) provides that medical products, supplies, or devices are exempt when dispensed pursuant to a written prescription; (8) provides that medical products, supplies, or devices bearing the prescription labeling required under federal or state law and that are intended to be used one time only are not subject to tax; (9) provides for the exemption for medical products, supplies, or devices that are temporarily or permanently incorporated into a patient; (10) provides that medical trays required by federal or state law to be dispensed only by prescription and that are intended to be used one time only are not subject to tax; (11) provides a suggested exemption certificate to be used to purchase non-taxable medical products, supplies, or devices; (12) provides for the taxability of chemical compounds and test kits, including a list of taxable and a list of nontaxable chemical compounds and test kits; (13) provides for the exemption for parts or other items added to tangible personal property so that a handicapped person may use an item; (14) provides for the exemption for orthopedic or corrective shoes, eyeglasses, lenses, and stock lenses; (15) provides a suggested exemption certificate to buy certain stock lenses without paying tax at the time of purchase; and (17) provides the recordkeeping requirements for the sale or purchase of medical products, supplies, and devices.

The proposed amendments to Rule 12A-1.021, F.A.C. (Prosthetic and Orthopedic Appliances): (1) clarify that the term "duly licensed practitioner" includes physicians, osteopathic physicians, chiropractic physicians, podiatric physicians, or dentists duly licensed under Florida law; (2) update the list of prosthetic and orthopedic appliances to include only

those items that are specifically exempt under section 212.08(2), F.S., or are certified by the Department of Health as tax-exempt prosthetic or orthopedic appliances, as required in section 212.08(2)(b)1., F.S.; (3) provide that materials and supplies that are incorporated into and become a component part of a prosthetic or orthopedic appliance or device dispensed by a licensed prosthetist or orthotist pursuant to a prescription written by a licensed practitioner are not subject to sales or use tax; (4) provide that expendable materials and supplies used for such purposes are subject to tax; (5) provide a suggested exemption certificate to be extended to the seller when purchasing such materials and supplies and when the exemption certificate is required; (6) provide the recordkeeping requirements for such exemption certificates; and (7) remove provisions for the exemption provided in Section 212.08(2)(j), F.S., for prescribed parts and attachments added to tangible personal property to assist a person with special needs that will be provided in Rule 12A-1.020, F.A.C., as substantially revised.

The proposed creation of Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services), provides: (1) that professional services provided by veterinarians are not subject to tax; (2) that charges for hospitalization of animals are not subject to tax; (3) that charges for boarding and grooming are not subject to tax, but items consumed in providing those services are subject to tax; (4) that prescription drugs, medical gases, and opaque drugs are not subject to tax when required by federal or state law to be dispensed by prescription only; (5) for the taxability of items used by veterinarians for treatment of animals and a list of items that are specifically exempt when purchased by veterinarians; (6) that medical products, supplies, or devices bearing the prescription labeling required under federal law that are intended to be used one time only are not subject to tax; (7) that medical products, supplies, or devices that are temporarily or permanently incorporated into an animal are exempt; (8) that medical trays required by federal or

state law to be dispensed only by prescription and that are intended to be used one time only are not subject to tax; (9) when commonly recognized substances possessing curative or remedial properties purchased by veterinarians are exempt; (10) a suggested exemption certificate to be extended to the seller to purchase items exempt from tax; (11) how to purchase items for purposes of resale to clients without paying tax at the time of purchase; and (12) recordkeeping requirements for veterinarians.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, changes to Form DR-46NT, Nontaxable Medical and General Grocery List, to include updated lists of chemical compounds, test kits, common household remedies, prosthetic and orthopedic appliances, optical goods, other medical items, general grocery items, bakery products, seeds, and fertilizers that provide information on whether the item is subject to tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed changes to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), are necessary to update, consistent with current statutory provisions, the application of tax to drugs, medicines, and medical products, supplies, and devices used in the treatment of human disease, illness, or injury, and in the treatment of animals.

The proposed substantial rewording of Rule 12A-1.020, F.A.C. (Licensed Practitioners; Drugs, Medical Products and Supplies), is necessary to provide for the administration of sales tax for the following items used to treat human disease, illness, or injury:

- Drugs, medical products, supplies, or devices
- Common household remedies
- Cosmetics, toilet articles, and hygiene products

- Chemical compounds and test kits
- Eyeglasses and lenses
- Orthopedic, therapeutic, or corrective shoes
- Prescribed parts and attachments to assist a person with special needs

The proposed amendments to Rule 12A-1.021, F.A.C. (Prosthetic and Orthopedic Appliances), are necessary to update the list of tax-exempt prosthetic or orthopedic appliances and provide how to purchase materials and supplies that will be incorporated into tax-exempt prosthetic or orthopedic appliances without paying tax at the time of purchase.

Proposed new Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services), is necessary to provide for the application of tax to items used in the practice of veterinary medicine, including medical products, supplies, and devices, and substances possessing curative or remedial properties.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes to Form DR-46NT, Nontaxable Medical and General Grocery List, necessary to reflect the provisions of substantially reworded Rule 12A-1.020, F.A.C., revised Rule 12A-1.020, F.A.C., and new Rule 12A-1.0215, F.A.C.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON MARCH 29, 2005

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 March 11, 2005 (Vol. 31, No. 10, pp. 931-946). A rule development workshop was held on March 29, 2005, in Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida, commencing at 2:00 p.m., to allow members of the public to ask questions and make comments regarding the proposed changes to this rule chapter for the following rule sections:

- 12A-1.0011 Schools Offering Grades K through 12; Parent-Teacher Associations; and Parent-Teacher Organizations
- 12A-1.002 Practitioners of the Healing Arts
- 12A-1.011 Sales of Food Products for Human Consumption by Grocery Stores, Convenience Stores, and Supermarkets; Sales of Bakery Products by Bakeries, Pastry Shops or Like Establishments; Drinking Water; Ice
- 12A-1.0115 Sales of Food Products Served, Prepared, or Sold in or by Restaurants, Lunch Counters, Cafeterias, Caterers, Hotels, Taverns, or Other Like Places of Business and by Transportation Companies
- 12A-1.015 Industrial Gases
- 12A-1.020 Licensed Practitioners; Drugs, Medical Products and Supplies, and Prosthetic and Orthopedic Appliances
- 12A-1.021 Veterinary Sales and Services
- 12A-1.040 Sales of Containers, Wrapping and Packing Materials and Related Products
- 12A-1.071 Rentals, Leases, or License to Use Tangible Personal Property
- 12A-1.097 Public Use Forms

PARTIES ATTENDING

For the Department
of Revenue

MARK ZYCH, Deputy Director, Technical Assistance and
Dispute Resolution
GARY GRAY, Revenue Program Administrator, Technical
Assistance and Dispute Resolution
RICHARD PARSONS, Tax Law Specialist, Technical Assistance
and Dispute Resolution
JONATHAN SWIFT, Tax Law Specialist, Technical Assistance
and Dispute Resolution

Participants

JIM ERVIN, Holland & Knight
GLENN BEDONIE, C.P.A, P.A.
DON DAVIS, Florida Dental Association
MICHELE HOLCOMB, Florida Coca-Cola Bottling Company

Written Comments

DOUGLAS S. BELL., Pennington Moore Wilkinson Bell &
Dunbar
GLENN A. BEDONIE, C.P.A, P.A.

**NATURE OF COMMENTS RECEIVED AT THE RULE DEVELOPMENT
WORKSHOP AND OF THE WRITTEN COMMENTS RECEIVED:**

The Department will be engaging in a separate rulemaking proceeding for the following
proposed rule sections:

- 12A-1.0011 Schools Offering Grades K through 12; Parent-Teacher Associations; and
Parent-Teacher Organizations
- 12A-1.011 Sales of Food Products for Human Consumption by Grocery Stores,
Convenience Stores, and Supermarkets; Sales of Bakery Products by
Bakeries, Pastry Shops or Like Establishments; Drinking Water; Ice
- 12A-1.0115 Sales of Food Products Served, Prepared, or Sold in or by Restaurants,
Lunch Counters, Cafeterias, Caterers, Hotels, Taverns, or Other Like
Places of Business and by Transportation Companies
- 12A-1.040 Sales of Containers, Wrapping and Packing Materials and Related
Products
- 12A-1.071 Rentals, Leases, or License to Use Tangible Personal Property
- 12A-1.097(15)(a) Public Use Forms

Rule 12A-1.020, F.A.C., Licensed Practitioners; Drugs, Medical Products and Supplies, and Prosthetic and Orthopedic Appliances.

Rule 12A-1.020, F.A.C, provides guidelines to licensed practitioners regarding drugs, medical products and supplies, and prosthetic and orthopedic appliances.

Mr. Don Dennis, Florida Medical Association, requested clarification that the proposed rule does not recommend new changes, but is more or less a codification of the Department's stance regarding these issues. Mr. Jonathan Swift confirmed Mr. Dennis' observation that the rule codifies the Department's current position regarding these issues.

The Department has proposed the repeal of Rule 12A-1.015, F.A.C. Subsection (5) of that rule currently provides that "gases used for medical or therapeutic purposes are exempt." Mr. Bedonie requested that the Department bring this feature back into the current proposed rule on medical issues. Mr. Swift advised that if the gas is a medical product it would be exempt as an item incorporated into a patient. Gases that are prescribed would also be exempt. The item could also be listed as an exempt item on Form DR-46NT, Nontaxable Medical and General Grocery List. Mr. Bedonie submitted written comments, dated March 31, 2005, reiterating this position and requesting that the wording in subsection (5) of Rule 12A-1.015, F.A.C., which is currently proposed for repeal, be included in the proposed rules on medical issues, even though the items may be listed on Form DR-46NT.

In response, provisions to establish when compressed medical gases and medical oxygen are exempt from tax have been added to the proposed amendments to Rule 12A-1.020, F.A.C., Licensed Practitioners; Drugs, Medical Products and Supplies, and Prosthetic and Orthopedic Appliances, and to the proposed creation of Rule 12A-1.0205, F.A.C., Veterinary Sales and Services.

ADDITIONAL CHANGES TO THE PROPOSED RULES:

After further review by the Department, changes were made to the following proposed rules:

Proposed Rule 12A-1.020, F.A.C., Licensed Practitioners; Drugs, Medical Products and Supplies, and Prosthetic and Orthopedic Appliances

- The scope of the rule was clarified
- A definition of the term “prescription” was added
- Provisions for drug samples were added
- The exemption for opaque drugs that are used in the connection with medical X-rays for the treatment of human bodies was added
- Provisions for the taxability of medical gases and nonmedical gases were added
- Provisions to clarify the taxability of common household products, cosmetics, toilet articles, and hygiene products were added
- Provisions for the sale of medical products, supplies, or devices to hospitals and to licensed practitioners were added
- Provisions for medical trays bearing the required federal Rx labeling were added
- Provisions for the taxability of chemical compounds and test kits were added
- Form DR-46NT, Nontaxable Medical Items and General Grocery List, has been revised to include updated lists of tax-exempt Common Household Remedies and tax-exempt Prosthetic and Orthopedic appliances, as certified by the Department of Health on September 18, 2007

Proposed New Rule 12A-1.0205, F.A.C., Veterinary Sales and Services

- Instead of amending Rule 12A-1.021, F.A.C., a new rule was created to provide for the taxability of items used or provided by veterinarians

- Provisions for grooming and boarding and for items used in providing grooming and boarding were added
- Provisions for the exemption for prescription drugs and medical gases and opaque drugs used in the connection with the treatment of animals were added
- Examples of items used in the treatment of animals that are subject to tax were added
- Provisions for medical trays bearing the required federal Rx labeling were added
- Provisions for the taxability of chemical compounds and test kits used for the treatment of animals were added
- Additional examples of items purchased for resale by veterinarians were added

Proposed Repeal of Rule 12A-1.021, F.A.C., Prosthetic and Orthopedic Appliances

- Instead of amending Rule 12A-1.021, F.A.C., to provide for the taxability of veterinary sales and services, the rule is proposed to be repealed, and new Rule 12A-1.0205, F.A.C., will be created for this purpose.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON MAY 19, 2008

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 April 11, 2008 (Vol. 34, No. 15, pp. 1965-1972). A rule development workshop was held on May 19, 2008, in Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida, commencing at 10:09 a.m., to allow members of the public to ask questions and make comments regarding the proposed changes to this rule chapter for the following rule sections:

12A-1.002 Practitioners of the Healing Arts (*Proposed Repeal*)

- 12A-1.015 Industrial Gases (*Proposed Repeal*)
- 12A-1.020 Licensed Practitioners; Drugs, Medical Products and Supplies, and Prosthetic and Orthopedic Appliances (*Substantial Rewording*)
- 12A-1.0205 Veterinary Sales and Services (*New*)
- 12A-1.021 Prosthetic and Orthopedic Appliances (*Proposed Repeal*)
- 12A-1.097 Public Use Forms (*Proposed Amendments*)

PARTIES ATTENDING

For the Department
of Revenue

MARK ZYCH, Director, Technical Assistance and Dispute Resolution
GARY GRAY, Revenue Program Administrator I, Technical Assistance and Dispute Resolution
JANET YOUNG, Tax Law Specialist, Technical Assistance and Dispute Resolution

Participants

EDWIN BAYO, Florida Veterinary Medical Association
GLENN A. BEDONIE, C.P.A, P.A.
MARK HOLCOMB, Madsden, Goldman, & Holcomb

Written Comments

RON LAFACE, Capital City Consulting, Florida Association of Orthotists & Prosthetists

NATURE OF COMMENTS RECEIVED AT THE RULE DEVELOPMENT WORKSHOP:

Proposed Repeal of Rule 12A-1.015, F.A.C., Industrial Gases

Mr. Glenn Bedonie commented that it appeared that the exemption is being narrowed from an exemption for “industrial gases used for medical purposes” to an exemption for compressed oxygen and compressed medical gases. Mr. Bedonie suggests that natural gas used to heat hospitals is in fact exempt under the current rule. Ms. Janet Young, Department of Revenue, confirmed that the exemption would be for gas used for medical purposes and questioned the statutory authority for Mr. Bedonie’s position. Mr. Bedonie responded that he was just reading it literally.

No change to the Proposed Repeal of Rule 12A-1.015, F.A.C. Subsection (5) of current Rule 12A-1.015, F.A.C., provides that “[g]ases used for medical or therapeutic purposes are exempt.” There is no specific statutory exemption for medical or therapeutic gases. However, Section 212.08(2)(a), F.S., provides an exemption for any medical products and supplies or medicine dispensed according to an individual prescription written by a prescriber authorized by law to prescribe medicinal drugs. Federal regulations (21 C.F.R. Parts 200-299) and Florida law (Rule Chapter 64F-12.007, F.A.C.) require oxygen and other medical gases to be dispensed under a prescription written by a licensed practitioner of the healing arts.

To provide that “natural gas used in a hospital is exempt” is beyond the scope of the exemption provided in Section 212.08(2)(a), F.S., for medical products dispensed according to a prescription.

Proposed Substantial Rewording of Rule 12A-1.020, F.A.C., Licensed Practitioners; Drugs, Medical Products and Supplies, and Prosthetic and Orthopedic Appliances

Mr. Mark Holcomb, Madsen, Goldman & Holcomb, requested clarification in proposed paragraphs (1)(a) and (3)(a) whether hospitals are included as licensed practitioners when using the phrase “hospitals, physicians, dentists, and other licensed practitioners.”

Changes to Paragraphs (1)(a) and (3)(a) of Proposed Rule 12A-1.020: The phrase in these paragraphs has been clarified to refer to hospitals separately from physicians, dentists, and other licensed practitioners.

Mr. LaFace submitted written comments, on behalf of Mr. Morris Gallo, President, Florida Association of Orthotists & Prosthetists, dated May 5, 2008, which expressed concerns that, under the proposed rules, some types of prescribed services and devices would become taxable. Proposed subparagraph 12A-1.020(2)(b)1., F.A.C., defining the term “prescription” for purposes of the entire rule, limits a “prescription” to orders only for items dispensed by a pharmacist. This means that written orders from a physician for medicinal supplies or devices not provided by a pharmacist, such as prosthetics, PT/OT provided supports or devices, speech provided devices, and others are no longer considered prescriptions for tax-exempt purposes. Subparagraph 3. limits an out-of-state prescription to items dispensed by a pharmacist. These limiting phrases should be deleted.

At the proceeding held on May 19, 2008, Mr. Ron LaFace, Florida Association of Orthotists and Prosthetists, commented that proposed paragraph (2)(b), defining the term “prescription” for purposes of the rule, is limited to the definition provided in the rule text. There are many prescriptive devices that are not necessarily dispensed by a pharmacist pursuant to a written prescription. Orthotists and prosthetists all dispense and make custom orthotic and prosthetic devices pursuant to a prescription, but there is no pharmacist involved. Mr. LaFace requests that a section be added to the term “prescription” to show that it is not an exhaustive list of what a prescription means for purposes of the rule.

Mr. Edwin Bayo, Florida Veterinary Medical Association, pointed out that drugs and medicinal supplies are sometime dispensed by doctors that have a license as a prescriber practitioner. There is no pharmacist involved.

Mr. LaFace also pointed out that a prescribing physician, such as a surgeon, may dispense a drug or orthotic device that the physician is not selling to the patient. In these cases, the health insurers will bill the manufacturer of the drug or device directly. The provisions of proposed paragraph (f) do not directly address this issue. The requirement that a prescription has to go through a pharmacist is too limited. Dispensing a drug by a physician and selling a drug by a physician are two separate items.

Ms. Young advised the workshop participants that the Department would look at these sections of the proposed rule and the statutory provisions to provide some clarity to these provisions.

Removal of Paragraph (2)(b) of Proposed Rule 12A-1.020: The provisions of this paragraph reflect the definition of the term "prescription" provided in Section 212.08(2)(b)4., F.S. This definition of “prescription” is identical to the definition provided in Section 465.003(14), F.S. (Pharmacy), which defines the term for purposes of a pharmacist who dispenses drugs or medicinal supplies.

The exemptions provided in Section 212.08(2), F.S., for medical items and products are not limited to those dispensed by a pharmacist. In addition to defining the term “prescription,” the provisions of subsection 212.08(2), F.S., provide exemptions for:

- *medical products and supplies or medicine dispensed according to an individual prescription written by a prescriber authorized by law to prescribe medicinal drugs;*
- *prosthetic and orthopedic appliances according to an individual prescription written by licensed physician*
- *commonly recognized substances possessing curative or remedial property ordered and dispensed by the prescription of a duly licensed veterinarian; and*
- *parts, special attachments, special lettering, and other like items added or attached to tangible personal property so that a handicapped person can use them when purchased pursuant to an individual prescription.*

This definition will be removed from the proposed rule.

Comments to Subsection (6) Medical Products, Supplies, or Devices:

Mr. Gallo, in his written comments submitted by Mr. LaFace, dated May 5, 2008, provided that premade prosthetic and orthotic devices that are modified and fit to a patient are tax-exempt under the rule. However, the rule does not adequately address the components and materials incorporated into a custom-made device. Examples of these components and materials would be sheets of plastic, liquid resins, and fiberglass. These components are incorporated into and used to make the custom prescription devices and should be tax-exempt at purchase. These are not materials or supplies used in the process of fabrication; they are raw materials and components that are incorporated into the finished tax-exempt device. An additional provision should be added to the rule to allow for these components to be purchased tax-exempt. The exemption is not intended to cover items used in the manufacturing process, such as sandpaper, glues, rivets, tape. These are expendable and taxable to the practitioner.

In additional written comments submitted on June 9, 2008, Mr. Laface suggested the following language:

Materials used in the manufacture or repair of any prescribed orthotic or prosthetic device, and provided by a person licensed in Florida to do so, are exempt from tax

provided the licensed provider has on file with the supplier an exemption certificate as provided below:

Mr. LaFace continued that this language would limit the tax-exempt status to only materials a licensed person could use in prescribed items. It would also make clear that the licensee would only need to provide a generic certificate and not need to be registered with the Department of Revenue.

Changes to Prosthetic and Orthopedic Appliances: Provisions for prosthetic and orthopedic appliances will be retained in Rule 12A-1.021, F.A.C. That rule will be revised to provide that materials incorporated into a prosthetic or orthopedic appliance that become a component part of the appliance are not subject to tax when purchased by a licensed prosthetist or orthotist. The prosthetist or orthotist must provide a written certification to the supplier.

At the rule workshop held on May 19, 2008, Mr. Mark Holcomb provided comment that the provisions of subparagraph (6)(d)2. provide that when a single taxable item is contained on a medical tray that is dispensed under a federal label, the tray is exempt. Surely the Department did not mean to limit the provision to a single taxable item on a medical tray. Mr. Holcomb requested that the provision be modified so that there could be a couple of things on the tray that would otherwise be subject to tax, so that the whole medical tray remains exempt.

Changes to Paragraph (6)(d) of Proposed Rule 12A-1.020: In agreement, this provision has been clarified to provide an exemption for medical trays that contain one or more items that, when sold separately, would be subject to tax.

Mr. Holcomb commented that there is an overlap between (6)(d), (6)(e), and (8). It is like a Venn diagram, overlapping in certain areas. There may be items that are federally labeled as single-use items, that are medical devices incorporated into a patient, and that are also listed as a prosthetic or orthopedic device. For example, pacemakers that could be [exempt under] (6)(d), (6)(e), and (8). The question is whether the vendor is going to require an exemption certificate for an item like a pacemaker or an artificial nose or ear that would fall into the three categories.

Under (6)(d) and (8), no exemption certificate is required. However, if the vendor is looking at (6)(e), the rule says that an exemption certificate is required. There is an administrative burden on sellers and the purchasers of those items. If an exemption certificate is not required under (6)(d) and (8), then there should not be a catch-all category under (6)(e) which would require vendors to obtain exemption certificates. Mr. Holcomb requests that the Department insert language into (6)(e) to provide that a certificate is required, unless the item is covered under (6)(d) or (8). He is just asking for clarity so that taxpayers, vendors, and buyers are not out there unnecessarily getting exemption certificates. It is a burden for recordkeeping in large operations over an extended period of time to be maintaining documentation. The provision is unnecessary and unworkable, and the Department should provide clarification.

Mr. Holcomb questioned what the Department was trying to capture in (6)(e) that was not already captured in (6)(d) or (8). Mr. Young responded that it was the provisions of Section 212.08(2)(g), F.S. For example, a specific metal used by a dentist could also be used by others for other purposes. These items are not federally labeled.

Changes to Medical Products, Supplies, or Devices: Provisions have been added to this paragraph to clarify that an exemption certificate is not required to be issued to purchase such medical products, supplies, or devices tax-exempt *when the item:*

- *The item is listed as a tax-exempt item in Form DR-46NT, Nontaxable Medical Items and General Grocery List; or,*
- *The label of the item indicates that it must be dispensed under federal or state law by the prescription or order of a licensed practitioner and that it is intended for use on a single patient.*

Comments to Prosthetic and Orthopedic Appliances:

Mr. Gallo, in his written comments submitted by Mr. LaFace, dated May 5, 2008, provided that the provisions of paragraph (8)(b) did not make sense. Prosthetic and orthopedic devices are not prescribed by the Department of Health, but by a physician. What does “certified to the Department of Revenue” mean?

At the proceeding held on May 19, 2008, Mr. LaFace questioned the criteria to add an item to the list of orthotic and prosthetic appliances of Form DR-46NT. Ms. Young responded that the Department of Revenue worked with the Department of Health to update the list with products that are currently available. The list has not been updated since 1987. The law has changed as well. There is now a specific exemption for some of the items that are on the current list – for example, an artificial limb.

Comments to Orthopedic or Corrective Shoes:

Mr. Gallo, in his written comments submitted by Mr. LaFace, dated May 5, 2008, concluded his comments with provisions regarding factory-made therapeutic shoes. The rule does a good job with custom-made orthopedic shoes; however, factory-made therapeutic shoes are not addressed. Additional language is needed to cover these shoes deemed “therapeutic” by Medicare’s provisions. These shoes are used to prevent or cure ulcers of the foot due to diabetes. They are prescribed by a physician and must meet specifications detailed under the CMS Therapeutic Shoe Bill. The following language is suggested:

(10)(e) Shoes and inserts, meeting the requirements of the Medicare Therapeutic Shoe Bill, prescribed by a physician to treat, or prevent, ulcers of the foot are exempt from tax.

In additional written comments submitted on June 9, 2008, Mr. Laface suggested the following to remove the connection to federal law that is subject to change:

(10)(a) Orthopedic shoes ... are exempt from tax. For the purpose of this act, any shoe prescribed by a treating physician and supplied by a person licensed in Florida to provide such shoe, is considered an orthopedic shoe.

At the rule proceeding, Mr. LaFace questioned whether the list could be updated again through the rulemaking process. Ms. Young confirmed that it could be updated again. There are two items that Mr. LaFace is interested in possibly updating on the list – (1) the raw components

for prescriptive custom-made orthotic and prosthetic devices (fiberglass that becomes a component; not sandpaper to file them down); and (2) therapeutic shoes (as an orthopedic or corrective shoe section). It does not appear that the current orthopedic or corrective shoe section encompasses therapeutic shoes, which has a different meaning for Medicare concerns. They do require a prescription. They are not tailor-made. They are ordered based on the type of ulcer a person has.

Mr. Gary Gray, Department of Revenue, asked why the fiberglass should be specifically exempt from tax. Mr. LaFace responded that we would like it to be. When you have a finished product that is tax-exempt, we feel that some of the components of that item should also be tax-exempt, so that you are not adding cost layers.

Mr. Holcomb questioned whether these component parts would be exempt under the manufacturing rules. Mr. Mark Zych, Department of Revenue, responded that they would have to be registered and purchase the items with a resale certificate. Mr. Holcomb responded that it may not be a workable process for these practitioners.

Mr. Bedonie commented that the Department may want to consider a product exemption. “For example, I don’t know of any other use for a pacemaker – it could not be used to open a garage door.”

Changes to Orthopedic or Corrective Shoes: The title of this subsection has been changed to "Orthopedic, Therapeutic, or Corrective Shoes" to reflect the addition of provisions for therapeutic shoes that are prescribed by a licensed physician.

A new paragraph will be added to provide that materials and supplies that are incorporated into and become a component part of a prosthetic or orthopedic appliance or device that will be dispensed by a licensed prosthetist or orthotist to a patient pursuant to a prescription written by a licensed physician are not subject to sales or use tax. An exemption certificate will be required to be issued by the prosthetist or orthotist to the selling dealer to purchase such items tax-exempt. A suggested exemption certificate is provided. Items that are used by the prosthetist or orthotist that do not become a part of the item dispensed are subject to tax. These provisions will be moved to the proposed amendments to Rule 12A-1.021, F.A.C.

Rule 12A-1.0205, F.A.C., Veterinary Sales and Services (Renumbered 12A-1.0215)

Mr. Edwin Bayo, Metzger, Grossman, Furlow & Bayo, on behalf of the Florida Veterinary Medical Association, offered his support of the rule text, having no problem with it. “We would suggest that the first item, the purpose of the rule, be clarified.”

Changes in Response: The change that is necessary relates to the purpose and effect and the summary of the proposed rules contained in the Notice of Rule Development Workshop. This provision will be clarified in the Notice of Proposed Rulemaking.

Mr. Holcomb asked that his comments on proposed Rule 12A-1.020, F.A.C., regarding the change for medical trays be applied to this rule.

Changes to Paragraph (4)(c) of Proposed Rule 12A-1.0205: In agreement, this provision has been clarified to provide an exemption for medical trays that contain one or more items that, when sold separately, would be subject to tax.

Rule 12A-1.097, F.A.C., Public Use Forms-Adoption of Form DR-46NT, Nontaxable Medical Items and General Grocery List

Mr. LaFace commented that his prior comments regarding Form DR-46NT, incorporated by reference in this rule, apply to this rule as well.

Mr. Mark Holcomb submitted written comments, dated June 3, 2008, regarding proposed revised form DR-46NT (draft dated 12/17/07). First, for purposes of clarity, the list of prosthetic and orthopedic appliances in the revised form should be expanded to include specifically exempt appliances listed in current Rule 12A-1.021(1)(b), F.A.C., that are not included in revised Form DR-46NT. These items include:

- Artificial Limbs
- Artificial larynx
- Artificial Heart Valves
- Artificial Arteries
- Bone Cement, Nails, Pins, Plates, Screws and Wax
- Catheters
- Colostomy Bags and Appliances
- Dentures

Eyeglasses
Eyelid Load Prosthesis
Hypodermic Syringe Tubing and Parts, when used for medical purposes
Human Organs
Pacemakers (Cardiac)
Portable Resuscitators

The Department should review its prior rulings and determinations since the last amendment to Rule 12A-1.021, F.A.C., in 1987, and the last update to Form DR-46NT in 2001, and include any additional items determined to be tax-exempt exempt prosthetic and orthopedic appliances.

Form DR-46NT lists “Other Exempt Medical Items,” including certain medical products and supplies that are temporarily or permanently incorporated into a patient. These categories conform to paragraph (6)(e) and subsection (8) of proposed Rule 12A-1.020, F.A.C.; however, there is no provision for federal legend/single patient use items that are exempt under proposed paragraph (6)(d) of that rule. The form states the “[u]nless listed as a specifically tax-exempt item, sales of medical equipment to physicians, dentists, hospitals, clinics, and like establishments are taxable....” For purposes of clarity, federal legend/single patient use items should be listed under the category on the form.

Changes in Response: Section 212.08(2)(b)1., F.S., provides an exemption for prosthetic or orthopedic appliances "according to a list prescribed and approved by the Department of Health," which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. As a part of this rulemaking, the Department of Revenue worked with the Department of Health in updating this list. The final list was certified by the Department of Health on September 18, 2007, and included in the proposed changes to Form DR-46NT.

Section 212.08(2)(g), F.S., provides an exemption for medical products and supplies used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity which are temporarily or permanently incorporated into a patient or client by a licensed practitioner. These items are not required to be certified by the Department of Health to be tax-exempt.

Proposed subsection (6) of Rule 12A-1.020, F.A.C., provides an exemption for:

- *Medical products, supplies, or devices sold to hospitals, healthcare entities, or licensed practitioners that are dispensed under federal or state law only by the prescription or order of a licensed practitioner and are intended for a single patient use; and*
- *Medical products, supplies, and devices used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity that are temporarily or permanently incorporated into a patient or client or an animal by a licensed physician or a licensed veterinarian*

The items that have been requested to be reinserted on the list as tax-exempt items are not currently certified as tax-exempt prosthetic or orthopedic appliances by the Department of Health. However, these items are specifically exempt under Section 212.08(2), F.S., or as medical products, supplies, and devices temporarily or permanently incorporated into a patient or client by a licensed physician or licensed veterinarian.

Amendments to Rule 12A-1.021, F.A.C., Prosthetic and Orthopedic Appliances, will be proposed to update the rule to reflect the current statutory provisions, including updates to the list of prosthetic and orthopedic appliances that are specifically exempt. Form DR-46NT will list tax-exempt prosthetic and orthopedic appliances and other tax-exempt medical items.

However, the proposed amendments to Rule 12A-1.021, F.A.C., will remove those items that do not qualify as tax-exempt prosthetic or orthopedic appliances. However, these items remain tax-exempt as medical products, supplies, or devices:

- *dispensed under federal or state law only by the prescription or order of a licensed practitioner and are intended for a single patient use; or,*
- *used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity that are temporarily or permanently incorporated into a patient or client or an animal by a licensed physician or a licensed veterinarian*

ADDITIONAL CHANGES TO THE PROPOSED RULE CHANGES:

After further review by the Department, changes were made to the following proposed rules:

Proposed Rule 12A-1.020, F.A.C., Licensed Practitioners; Drugs, Medical Products and Supplies, and Prosthetic and Orthopedic Appliances

- The definition of the term "drug" or "medicinal drug" was clarified
- Provide that medical products, supplies, and devices are exempt when dispensed under federal or state law only by the prescription or order of a licensed practitioner
- Provided a single suggested exemption certificate to purchase certain qualifying medical products, supplies, devices, or materials tax-exempt

Proposed Rule 12A-1.021, F.A.C., Prosthetic and Orthopedic Appliances

- This rule, previously proposed to be repealed, will be retained to provide for the exemption provided in Section 212.08(2)(b)1., F.S., for prosthetic and orthopedic appliances
- Update provisions for those physicians that licensed to prescribe a prosthetic or orthopedic appliance
- Update the list of tax-exempt prosthetic and orthopedic appliances to include those certified by the Department of Health on September 18, 2007
- Provide for the purchase of materials and supplies by prosthetists and orthotists that are used by them to produce, or that are incorporated into, a prosthetic or orthopedic appliance that is dispensed pursuant to a prescription written by a licensed physician
- Remove provisions for the exemption provided for prescribed parts and attachments added to tangible personal property to assist a person with special needs that will be provided in Rule 12A-1.020, F.A.C., as amended

Proposed Rule 12A-1.0215, F.A.C., Veterinary Sales and Services (Renumbered)

- The definition of the term "drug" or "medicinal drug" was clarified
- Provide that charges to a client by a veterinarian for substances possessing curative or remedial properties that are not required by federal or state law to be dispensed only on a prescription are subject to tax

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON JANUARY 27, 2010

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 December 31, 2009 (Vol. 35, No. 52, pp. 6693-6694). A rule development workshop was held on January 27, 2010, in Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida, to allow members of the public to ask questions and make comments regarding the proposed changes to the following rule sections:

- 12A-1.002 Practitioners of the Healing Arts (*Proposed Repeal*)
- 12A-1.015 Industrial Gases (*Proposed Repeal*)
- 12A-1.020 Licensed Practitioners; Drugs, Medical Products and Supplies (*Substantial Rewording*)
- 12A-1.021 Prosthetic and Orthopedic Appliances (*Proposed Amendments*)
- 12A-1.0215 Veterinary Sales and Services (*New*)
- 12A-1.097 Public Use Forms (*Proposed Amendments*)

PARTIES ATTENDING

For the Department
of Revenue

MARK ZYCH, Director, Technical Assistance and Dispute
Resolution
LARRY GREEN, Senior Management Analyst II
JANET YOUNG, Tax Law Specialist, Technical Assistance and
Dispute Resolution

Participants

MARY EDENFIELD, Florida Dental Association
MARK HOLCOMB, Madsden, Goldman & Holcomb
RON LAFACE, Capital City Consulting, Florida Association of
Orthotists & Prosthetists
RON WATSON, Florida Dental Association

**NATURE OF COMMENTS RECEIVED AT THE RULE DEVELOPMENT
WORKSHOP:**

Mr. Mark Holcomb commended the drafter of the proposed rules for working with interested parties in making changes and incorporating them into the proposed rules.

Form DR-46NT, Nontaxable Medical Items and General Grocery List, provides a list of prosthetic appliances or orthopedic appliances that are exempt from sales tax. Changes are proposed to the list of tax-exempt appliances. Mr. Mark Holcomb, Madsden, Goldman, & Holcomb, questioned why some items, such as pacemakers, were proposed to be removed from the list.

Ms. Janet Young, Department of Revenue, explained that there are two reasons for the proposed changes to this list. First, the list is being updated to reflect the current statutory provisions of section 212.08(2), F.S. One of these changes is the exemption for items that are temporarily or permanently incorporated into the body by a licensed practitioner. Second, the list is being updated to reflect the Department's policy that items that contain the federal or state warning label that the item must be dispensed or ordered by a licensed practitioner, such as an Rx warning label, are tax-exempt. Items that are proposed to be removed from the list remain tax-exempt, but not as a prosthetic or orthopedic appliance.

Mr. Holcomb continued, stating that provisions in Rule 12A-1.020, F.A.C., provide that no exemption certificate or annual resale certificate is required to be obtained by the selling dealer from the purchasing hospital to document tax-exempt sales of medical products, supplies, or devices. A similar provision is not included in proposed Rule 12A-1.021, F.A.C., Prosthetic and Orthopedic Appliances. At issue is an item that does not have the federal or state required warning label, is not specifically exempt, or has not been certified by the Department of Health as tax-exempt. Ms. Young responded that this issue did need to be reviewed.

Mr. Ron Watson, Florida Dental Association, commented that under Chapter 466, F.S., the definition of physician specifically includes dentists. He questioned whether the term physician applied to dentistry throughout the proposed rules, or only in the proposed rules regarding prosthetic and orthopedic appliances. Also, the term physician is used on Form DR-46NT. Ms. Young responded that this issue did need to be reviewed, so that there is consistency in the treatment of the term "physician" or "licensed practitioner" to consistently include dentists in the proposed rules, as well as in proposed Form DR-46NT. She also confirmed that for the proposed rules, a dentist is a physician licensed to practice medicine in Florida.

Mr. Ron LaFace, representing the Florida Association of Orthotists and Prosthetists, commended the good work of the Department on the revisions to these rules since the prior workshop.

ADDITIONAL CHANGES TO THE PROPOSED RULE CHANGES:

After further review by the Department, changes were made to the following proposed amendments:

Proposed Rule 12A-1.021, F.A.C., Prosthetic and Orthopedic Appliances

- Clarified that, for purposes of the rule, a “licensed practitioner” includes a physician, osteopathic physician, chiropractic physician, podiatric physician, or dentist duly licensed under Florida law
- Clarified that no exemption certificate is required when: (1) the item is listed as an item exempt from tax in Form DR-46NT, Nontaxable Medical Items and General Grocery List, or, (2) the label of the item indicates that it must be dispensed under federal or state law by the prescription or order of a licensed practitioner and that it is intended for use on a single patient

Proposed Form DR-46NT, Nontaxable Medical Items and General Grocery List

- Included dental bridges and crowns as items that are temporarily or permanently incorporated into the body by a licensed practitioner and are tax-exempt
- Added provisions from the proposed rules that medical products, supplies, or devices are exempt when they are dispensed under federal or state law only by the prescription or order of a licensed practitioner and are intended for use on a single patient.
- Included examples of tax-exempt items containing the required federal warning label that were previously included as tax-exempt prosthetic or orthopedic appliances (artificial arteries, heart valves, larynxes; bone cement, nails, pins, plates, screws, and wax; catheters; eyelid load prosthesis; and pacemakers)

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO: RULE TITLE:

12A-1.002 Practitioners of the Healing Arts

12A-1.015 Industrial Gases

12A-1.020 Licensed Practitioners; Drugs, Medical Products and Supplies

12A-1.021 Prosthetic and Orthopedic Appliances

12A-1.0215 Veterinary Sales and Services

12A-1.097 Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed changes to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), is to update, consistent with current statutory provisions, the application of tax to drugs, medicines, and medical products, supplies, and devices used in the treatment of human disease, illness, or injury, and in the treatment of animals.

When adopted, the proposed substantial rewording of Rule 12A-1.020, F.A.C. (Licensed Practitioners; Drugs, Medical Products and Supplies), will provide for the administration of sales tax for the following items used to treat human disease, illness, or injury:

- Drugs, medical products, supplies, or devices
- Common household remedies
- Cosmetics, toilet articles, and hygiene products
- Chemical compounds and test kits
- Eyeglasses and lenses
- Orthopedic, therapeutic, or corrective shoes

- Prescribed parts and attachments to assist a person with special needs

When adopted, the proposed amendments to Rule 12A-1.021, F.A.C. (Prosthetic and Orthopedic Appliances), will update the list of tax-exempt prosthetic or orthopedic appliances and provide how to purchase materials and supplies that will be incorporated into tax-exempt prosthetic or orthopedic appliances without paying tax at the time of purchase.

When adopted, proposed new Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services), will provide for the application of tax to items used in the practice of veterinary medicine, including medical products, supplies, and devices, and substances possessing curative or remedial properties.

When adopted, the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), will adopt, by reference, changes to Form DR-46NT, Nontaxable Medical and General Grocery List, necessary to reflect the provisions of substantially reworded Rule 12A-1.020, F.A.C., revised Rule 12A-1.021, F.A.C., and new Rule 12A-1.0215, F.A.C.

SUMMARY: The proposed repeal of Rule 12A-1.002, F.A.C. (Practitioners of the Healing Arts), removes provisions regarding licensed practitioners that are included in the proposed substantial rewording of Rule 12A-1.020, F.A.C., or in proposed new Rule 12A-1.0215, F.A.C.

The proposed repeal of Rule 12A-1.015, F.A.C. (Industrial Gases), removes the provisions regarding the application of tax to certain gases that are redundant of other administrative rules. Provisions for compressed medical gases and medical oxygen are included in the proposed substantial rewording of Rule 12A-1.020, F.A.C., and proposed new Rule 12A-1.0215, F.A.C.

The proposed substantial rewording of Rule 12A-1.020, F.A.C.: (1) updates the title of the rule to "Licensed Practitioners; Drugs, Medical Products and Supplies); (2) defines the terms

“licensed practitioner” and “drug or medicinal drug” for purposes of the rule; (3) provides that hospitals, healthcare entities, and licensed practitioners are required to pay tax on taxable items or services consumed in providing medical services; (4) provides for the exemption for prescription drugs and medical gases and opaque drugs; (5) provides for the exemption for common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings and the taxability of cosmetics, toilet articles, and hygiene products; (6) provides that, unless specifically exempt, medical products, supplies, and devices are subject to tax; (7) provides that medical products, supplies, or devices are exempt when dispensed pursuant to a written prescription; (8) provides that medical products, supplies, or devices bearing the prescription labeling required under federal or state law and that are intended to be used one time only are not subject to tax; (9) provides for the exemption for medical products, supplies, or devices that are temporarily or permanently incorporated into a patient; (10) provides that medical trays required by federal or state law to be dispensed only by prescription and that are intended to be used one time only are not subject to tax; (11) provides a suggested exemption certificate to be used to purchase nontaxable medical products, supplies, or devices; (12) provides for the taxability of chemical compounds and test kits, including a list of taxable and a list of nontaxable chemical compounds and test kits; (13) provides for the exemption for parts or other items added to tangible personal property so that a handicapped person may use an item; (14) provides for the exemption for orthopedic or corrective shoes, eyeglasses, lenses, and stock lenses; (15) provides a suggested exemption certificate to buy certain stock lenses without paying tax at the time of purchase; and (17) provides the recordkeeping requirements for the sale or purchase of medical products, supplies, and devices.

The proposed amendments to Rule 12A-1.021, F.A.C. (Prosthetic and Orthopedic Appliances): (1) clarify that the term "duly licensed practitioner" includes physicians, osteopathic physicians, chiropractic physicians, podiatric physicians, or dentists duly licensed under Florida law; (2) update the list of prosthetic and orthopedic appliances to include only those items that are specifically exempt under section 212.08(2), F.S., or are certified by the Department of Health as tax-exempt prosthetic or orthopedic appliances, as required in section 212.08(2)(b)1., F.S.; (3) provide that materials and supplies that are incorporated into and become a component part of a prosthetic or orthopedic appliance or device dispensed by a licensed prosthetist or orthotist pursuant to a prescription written by a licensed practitioner are not subject to sales or use tax; (4) provide that expendable materials and supplies used for such purposes are subject to tax; (5) provide a suggested exemption certificate to be extended to the seller when purchasing such materials and supplies and when the exemption certificate is required; (6) provide the recordkeeping requirements for such exemption certificates; and (7) remove provisions for the exemption provided in Section 212.08(2)(j), F.S., for prescribed parts and attachments added to tangible personal property to assist a person with special needs that will be provided in Rule 12A-1.020, F.A.C., as substantially revised.

The proposed creation of Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services), provides: (1) that professional services provided by veterinarians are not subject to tax; (2) that charges for hospitalization of animals are not subject to tax; (3) that charges for boarding and grooming are not subject to tax, but items consumed in providing those services are subject to tax; (4) that prescription drugs, medical gases, and opaque drugs are not subject to tax when required by federal or state law to be dispensed by prescription only; (5) for the taxability of items used by veterinarians for treatment of animals and a list of items that are specifically

exempt when purchased by veterinarians; (6) that medical products, supplies, or devices bearing the prescription labeling required under federal law that are intended to be used one time only are not subject to tax; (7) that medical products, supplies, or devices that are temporarily or permanently incorporated into an animal are exempt; (8) that medical trays required by federal or state law to be dispensed only by prescription and that are intended to be used one time only are not subject to tax; (9) when commonly recognized substances possessing curative or remedial properties purchased by veterinarians are exempt; (10) a suggested exemption certificate to be extended to the seller to purchase items exempt from tax; (11) how to purchase items for purposes of resale to clients without paying tax at the time of purchase; and (12) recordkeeping requirements for veterinarians.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, changes to Form DR-46NT, Nontaxable Medical and General Grocery List, to include updated lists of chemical compounds, test kits, common household remedies, prosthetic and orthopedic appliances, optical goods, other medical items, general grocery items, bakery products, seeds, and fertilizers that provide information on whether the item is subject to tax.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 212.17(6), 212.18(2), 213.06(1) F.S.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 212.02(14), (19), 212.05, 212.06, 212.07(1), 212.08(2), 212.085, 212.13, 212.18(2), (3), 213.37, 465.186, 465.187 FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.020, 12A-1.021, AND 12A-1.097
REPEALING RULE 12A-1.002, AND 12A-1.015
CREATING RULE 12A-1.0215

12A-1.002 Practitioners of the Healing Arts.

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14), (19), 212.05(1), 212.08(2), (7) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.02, Repealed.

12A-1.015 Industrial Gases.

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), 212.05, 212.08(2), (6), (7)(o) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.15, Repealed.

(Substantial Rewording of Rule 12A-1.020 follows. See Florida Administrative Code for present text.)

12A-1.020 Licensed Practitioners; Drugs, ~~Medicine and~~ Medical Products and Supplies.

(1) SCOPE.

(a) Section 212.08(2), F.S., provides an exemption for certain items used in the practice of medicine by hospitals and healthcare entities or by physicians, dentists, and other licensed practitioners. This rule is intended to clarify the application of tax to items sold to hospitals and healthcare entities or to physicians, dentists, and other licensed practitioners for use in their practice of medicine. This rule is also intended to clarify the exemption for chemical compounds and test kits, common household remedies, drugs, eyeglasses and lenses, medical gases, and medical products, supplies, and devices.

(b) Rule 12A-1.021, F.A.C. (Prosthetic and Orthopedic Appliances), is intended to clarify the exemption provided in Section 212.08(2), F.S., for prosthetic and orthopedic appliances.

(c) Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services), is intended to clarify the application of tax to items used in the practice of veterinary medicine, for the exemptions provided for substances possessing curative or remedial properties, and for medical products, supplies, and devices used in the treatment of animals.

(2) LICENSED PRACTITIONERS.

(a) For purposes of this rule, a “licensed practitioner” is any person who is duly licensed and authorized by laws of the State of Florida to administer, prescribe, or dispense, as appropriate, a drug or device for medical purposes.

(b) Hospitals, healthcare entities, and licensed practitioners are required to pay tax at the time of purchase on taxable items or services used or consumed in providing medical services.

See Rule 12A-1.038, F.A.C., for purchases by hospitals or healthcare entities that hold a valid Consumer’s Certificate of Exemption issued by the Department.

(3) DRUGS.

(a) Drugs and medicinal drugs used in connection with medical treatment are exempt.

The term "drug" or "medicinal drug" means those substances or preparations commonly known as "prescription" or "legend" drugs that are required by federal or state law to be dispensed only by a prescription.

(b) Opaque drugs, including X-ray opaques, and radiopaque, such as the various opaque dyes and barium sulphate, that are used in connection with medical X-rays for the treatment of human bodies are exempt.

(4) MEDICAL GASES.

(a) Compressed medical gases and medical oxygen in compliance with the provisions of Rule 64F-12.007, F.A.C., are exempt.

(b) The charge for filling or refilling tanks containing compressed air or nitrox to be used for scuba diving is subject to tax.

(5) COMMON HOUSEHOLD REMEDIES; COSMETICS; TOILET ARTICLES; HYGIENE PRODUCTS.

(a)1. Common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, according to a list prescribed and approved by the Department of Health and certified to the Department of Revenue, are exempt. This list is contained in Form DR-46NT, Nontaxable Medical and General Grocery List (incorporated by reference in Rule 12A-1.097, F.A.C.).

2. Common household items that are not intended to cure, mitigate, treat, or prevent illness or disease in human beings are subject to tax. For example, disinfectants used for the sterilization of glass, containers, utensils, or equipment are subject to tax; products used for the

purification of air or for deodorants are subject to tax; chlorine used for the treatment of water in swimming pools is subject to tax.

(b) The exemption provided for common household remedies does not include cosmetics or toilet articles, even when the cosmetic or toilet article contains medicinal ingredients.

Cosmetics and toilet articles, including those that contain medicinal ingredients, are subject to tax, except when dispensed pursuant to a prescription written by a licensed practitioner.

1. For purposes of this rule, "cosmetics" means any article intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance. The term includes articles intended for use as a compound of any such articles, such as cold creams, suntan products, makeup, and body lotions.

2. For purposes of this rule, "toilet articles" means any article advertised or held out for sale for grooming purposes and those articles which are customarily used for grooming purposes, regardless of the name by which they may be known, such as soaps, toothpastes, hair sprays, shaving products, colognes, perfumes, shampoos, deodorants, and mouthwashes.

(c) Personal hygiene products, except when dispensed pursuant to a prescription written by a licensed practitioner, are subject to tax.

(d) Contraceptive products, except when dispensed pursuant to a prescription written by a licensed practitioner, are subject to tax.

(e) Taxpayers who have a question regarding the taxable status of a product may submit a written description of the product, including the product name, ingredients, and recommended uses, to the Department. This request should be addressed to the Florida Department of Revenue,

Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443.

(6) MEDICAL PRODUCTS, SUPPLIES, OR DEVICES.

(a) “Medical products, supplies, or devices” are any products, supplies, or devices that are intended or designed to be used for a medical purpose to treat, prevent, or diagnose human disease, illness, or injury. The purpose is assigned to a product, supply, or device by its label or its general instructions for use.

(b) Unless specifically exempt, products, supplies, or devices sold to hospitals and healthcare entities or to licensed practitioners are subject to tax. Examples of items that do not qualify for exemption are: absorbent cotton; gloves, gowns, uniforms, masks, drapes, or towels; infusion pumps; reusable knives, needles, or scissors; scales; ear syringes; tongue depressors; specimen bags; instruments, equipment, and machines and their parts and accessories; microscopes; examination tables; hospital beds; X-ray machines; X-ray films and developing solutions; computerized axial tomography (CAT) machines; and magnetic resonance imaging (MRI) machines. This is not intended to be an exhaustive list.

(c)1. Medical products, supplies, or devices sold to hospitals, healthcare entities, or licensed practitioners are exempt when:

a. The medical product, supply, or device must be dispensed under federal or state law only by the prescription or order of a licensed practitioner; and

b. The medical product, supply, or device is intended for use on a single patient and is not intended to be reusable.

2. Medical trays and surgical or procedure kits containing medical products, supplies, or devices that are labeled to be dispensed only by the prescription or order of a licensed

practitioner and are intended for use on a single patient are exempt, even when the medical tray or kit contains one or more items that, when sold separately, would be subject to tax.

3. No exemption certificate or Annual Resale Certificate is required to be obtained by the selling dealer from the purchasing hospital, healthcare entity, or licensed practitioner to document exempt sales of medical products, supplies, or devices that are labeled to be dispensed only by the prescription or order of a licensed practitioner. However, selling dealers are required to maintain documents in their records evidencing that the medical product, supply, or device sold to a hospital, healthcare entity, or licensed practitioner is labeled to be dispensed only by the prescription or order of a licensed practitioner.

(d)1. Medical products, supplies, and devices used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of a patient(s) that are temporarily or permanently incorporated into a patient(s) by a licensed practitioner are exempt.

2. A licensed practitioner, or an authorized representative of the licensed practitioner, may extend an exemption certificate to the selling dealer certifying that the purchased medical products, supplies, or devices will be temporarily or permanently incorporated into a patient(s) for the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of a patient(s). For example, a licensed dentist may purchase gold, silver, amalgam, or other dental restorative materials used for dental fillings exempt from tax by extending an exemption certificate to the supplier when those materials are not labeled "Rx only." A suggested exemption certificate is provided in subsection (11).

3. Any person that is not a licensed practitioner must register with the Department as a dealer, as provided in Rule 12A-1.060, F.A.C., to sell medical products, supplies, or devices in Florida. Registered dealers may purchase products, supplies, or devices for the purposes of

resale, or materials to manufacture, compound, process, or fabricate such items for sale, by extending a copy of its Annual Resale Certificate to the selling dealer, as provided in Rule 12A-1.039, F.A.C.

4. No exemption certificate or Annual Resale Certificate is required to make purchases of medical products, supplies, or devices exempt from tax when:

a. The item is listed as an item exempt from tax in Form DR-46NT, Nontaxable Medical Items and General Grocery List; or,

b. The label of the medical product, supply, or device indicates that it must be dispensed under federal or state law by the prescription or order of a licensed practitioner and that it is intended for use on a single patient.

(e) Medical products, supplies, and devices are exempt when dispensed to a patient according to an individual prescription written by a licensed practitioner.

(7) CHEMICAL COMPOUNDS AND TEST KITS.

(a) The sale of chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury is exempt. The following is a nonexhaustive list of chemical compounds and test kits that are not subject to tax:

1. Allergy test kits that use human blood to test for the most common allergens;
2. Anemia meters and test kits;
3. Antibodies to Hepatitis C test kits;
4. Bilirubin test kits (blood or urine);
5. Blood analyzers, blood collection tubes, lancets, capillaries, test strips, tubes containing chemical compounds, and test kits to test human blood for levels of albumin.

cholesterol, HDL, LDL, triglycerides, glucose, ketones, or other detectors of illness, disease, or injury;

6. Blood sugar (glucose) test kits, reagent strips, test tapes, and other test kit refills;

7. Blood pressure monitors, kits, and parts;

8. Breast self-exam kit;

9. Fecal occult blood tests (colorectal tests);

10. Hemoglobin test kits;

11. Human Immunodeficiency Virus (HIV) test kits and systems;

12. Influenza AB test kits;

13. Middle ear monitor;

14. Prostate Specific Antigen (PSA) test kits;

15. Prothrombin (clotting factor) test kits;

16. Thermometers, for human use;

17. Thyroid Stimulating Hormone (TSH) test kits;

18. Urinalysis test kits, reagent strips, tablets, and test tapes to test levels, such as albumin, blood, glucose, leukocytes, nitrite, pH, or protein levels, in human urine as detectors of illness, disease, or injury;

19. Urinary tract infection test kits; and

20. Vaginal acidity (pH) test kits.

(b) Chemical compounds and test kits that are not used to diagnose or treat human disease, illness, or injury are subject to tax. The following is a nonexhaustive list of chemical compounds and test kits that do not test for human illness, disease, or injury and are subject to tax:

1. Blood typing test kits for home use;
2. DNA tests (such as maternity tests, paternity tests, sibling ship tests, twin zygotity tests, ancestry testing, avuncular (grandparent, aunt, and uncle) tests, male lineage tests, or article tests);
3. Drug and alcohol (including nicotine) test kits;
4. Ethanol breathalyzer tests (alcohol intoxication);
5. Follicle stimulating hormone (FSH) test kits;
6. Hazard chemicals detection kits;
7. Male fertility (semen analysis) test kits;
8. Menopause monitors and test kits;
9. Ovulation/leutinizing hormone (LH) test kits;
10. Personal wellness or body balance check test kits, such as those to measure hormone levels, cortisol levels, melatonin levels, mineral levels, or antioxidant levels; and
11. Pregnancy test kits.

(8) PRESCRIBED PARTS AND ATTACHMENTS.

(a) Parts, special attachments, special lettering, and other like items that are added to or attached to tangible personal property to assist a person with special needs are exempt when purchased pursuant to an individual prescription. When purchased without an individual prescription, these items are subject to tax. For example, items installed on motor vehicles to make them adaptable for use by persons with special needs, such as special controls, purchased pursuant to a written prescription are exempt; however, the motor vehicle and the standard or optional equipment available on the motor vehicle are subject to tax.

(b) If tangible personal property is sold with special controls, lettering, or devices, and the additional charge for the added features is separately stated on the sales invoice for the tangible personal property, that charge for the added features is exempt when purchased pursuant to an individual prescription.

(9) ORTHOPEDIC, THERAPEUTIC, OR CORRECTIVE SHOES.

(a) Orthopedic shoes made to specifications prescribed by a podiatrist, orthopedist, or other licensed practitioner for the purpose of treating or preventing illness or disease, or to correct physical incapacity are exempt. Therapeutic shoes and inserts prescribed by a licensed practitioner for purposes of treating diabetic foot disease and provided by a podiatrist, orthotist, prosthetist, or pedorthist are exempt.

(b) Shoes made to order for special fitting problems, such as narrow or large feet, are subject to tax.

(c) When a shoe is modified to specifications prescribed by a podiatrist, orthopedist, or other physician by the insertion of a lift, a wedge, or an arch support for the purpose of treating or preventing illness or disease, or to correct physical incapacity, the charge for the shoe is subject to tax. However, any reasonable separately stated charge for the modification is exempt. If no separate charge is made for the modification, the entire charge is subject to tax.

(d) When a shoe is modified for a more comfortable fit (e.g., heel pad inserted or insole added), for improving the style, or for similar purposes, the total charge for the modification and the shoe is subject to tax.

(10) EYEGLASSES AND LENSES.

(a) Prescription eyeglasses, incidental items, and items that become a part of prescription eyeglasses are exempt. Prescription eyeglasses include lenses, including contact lenses,

prescribed for the correction of a patient's refractive effort, for the improvement of a patient's vision, or for protective purposes. Incidental items include frames, component parts, carrying cases, contact lens cases, and other similar items.

(b) The sale of eyeglass lens cleaning solutions, contact lens cleaning solutions, and contact lens disinfectants are subject to tax.

(c) The sale of standard or stock eyeglasses, incidental items, or items that become a part of standard or stock eyeglasses, without a prescription, is subject to tax. Some examples are: frames and component parts, carrying cases, safety glasses, sunglasses, field glasses, opera glasses, and magnifying glasses.

(d) When the purchaser of one-time items that transfer essential optical characteristics to contact lenses has paid at least \$100,000 in tax (sales tax, plus discretionary sales surtax) in any calendar year on such purchases, the purchaser is exempt from tax on purchases of such items for the remainder of that calendar year. Purchasers who hold a valid Sales and Use Tax Direct Pay Permit issued by the Department may make purchases of these items exempt from tax when:

1. The purchaser extends a copy of a valid Sales and Use Tax Direct Pay Permit, as provided in Rule 12A-1.0911, F.A.C., to the selling dealer at the time of purchase; and

2. The purchaser pays to the Department each calendar year \$100,000 in tax due on purchases of one-time items that transfer essential optical characteristics to contact lenses during the calendar year.

(11) SUGGESTED EXEMPTION CERTIFICATE; RECORDKEEPING REQUIREMENTS.

(a) The following is a suggested exemption certificate to be issued to purchase qualified medical products, supplies, or devices exempt from tax at the time of purchase:

EXEMPTION CERTIFICATE

MEDICAL PRODUCTS, SUPPLIES, DEVICES, OR MATERIALS

I, the undersigned individual, as a practitioner licensed in the State of Florida, or an authorized representative of a licensed practitioner, certify that the medical products, supplies, devices, or other materials purchased on or after _____ (date) from _____
(Selling Dealer's Business Name): _____

(Check the use that qualifies the product, supply, device, or material for exemption)

Meet the definition of a medical product, supply, or device and will be dispensed by a licensed practitioner.

Will be used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of a patient and will be temporarily or permanently incorporated into a patient(s) by a licensed practitioner.

I understand that if I use the medical product, supply, device, or other materials for any nonexempt purpose, I must pay tax on the purchase price of the item 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.

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

Name of Licensed Practitioner: _____

Florida License Number: _____

Address: _____

Name of Authorized Representative: _____

(Signature of Licensed Practitioner or Authorized Representative)

Title

Date

(b) The selling dealer is only required to obtain one certificate for sales made for the purposes indicated on the certificate and is not required to obtain an exemption certificate for subsequent sales made to the same licensed practitioner or authorized representative. The selling dealer must maintain the required exemption certificates in its books and records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(c) Dealers must maintain copies of exemption certificates, Annual Resale Certificates, prescriptions, 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 Section 95.091(3), F.S.

(d) Electronic storage by the selling dealer of the required certificates, prescriptions, and other documentation will be sufficient compliance with the provisions of this subsection.

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.08(2), 212.085, 213.37, 465.186, 465.187 FS. History-Revised 10-7-68, Amended 1-17-71, Revised 6-16-72, Amended 5-27-75, 5-10-77, 6-26-78, 2-26-79, 6-3-80, 12-31-81, 8-28-84, Formerly 12A-1.20, Amended 12-8-87, _____.

12A-1.021 Prosthetic and Orthopedic Appliances.

(1)(a) Prosthetic and orthopedic appliances are exempt. The term "prosthetic and orthopedic appliances" means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, used to alleviate the malfunction of any part of the body, or used to assist any disabled person in leading a normal life by facilitating such person's mobility. Such apparatus, instrument, device, or equipment is exempt ~~shall be exempted~~ according to an individual prescription or prescriptions written by a duly licensed practitioner ~~authorized by the laws of the state to prescribe medicinal drugs~~, or according to a list prescribed and approved by the Department of Health and, ~~which list shall be certified to the Department of Revenue from time to time. For purposes of this rule, a "licensed practitioner" includes a physician, osteopathic physician, chiropractic physician, podiatric physician, or dentist duly licensed under Florida law. The~~ A list of tax-exempt prosthetic and orthopedic appliances is contained in Form DR-46NT (DR-46NT), Nontaxable Medical and General Grocery List (incorporated by reference in Rule 12A-1.097, F.A.C.), dated October 1987, which is incorporated in this rule and made part of this rule by reference, and which has been certified to the Department of Revenue by the Department of Health, is available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the 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 (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

(b) The prosthetic and orthopedic appliances listed below are specifically exempt:

Arch, foot, and heel supports, gels, insoles, and cushions ~~Supports~~, excluding shoe
reliners and pads

Artificial Limbs

Artificial Eyes

~~Artificial Larynx~~

~~Artificial Heart Valves~~

~~Artificial Arteries~~

Artificial Noses and Ears

Abdominal Belts

Back Braces

Batteries, for use in Prosthetic and Orthopedic Appliances

~~Bone Cement, Nails, Pins, Plates, Screws and Wax~~

Braces and Supports Worn on the Body to Correct or Alleviate a Physical Incapacity or
Injury

Canes (all)

~~Catheters~~

~~Colostomy Bags and Appliances~~

Crutches, Crutch Tips, and Pads

Dentures, Denture Repair Kits and, Cushions, ~~etc.~~

Dialysis Machines and Artificial Kidney Machines, Parts and Accessories

~~Eyeglasses, Eyelid Load Prosthesis~~

Fluidic Breathing Assistor

Hearing Aids (repair parts, batteries, wires, and condensers, ~~etc.~~)

Heart Stimulators - External Defibrillators

~~Hypodermic Needles, Hypodermic Syringes, Hypodermic Syringe~~

~~Tubing and Parts, when used for medical purposes~~

~~Human Organs~~

~~Lithotripter~~

Mastectomy Pads

Ostomy pouch and accessories

~~Pacemakers (Cardiac)~~

Patient Safety Vests

Portable Resuscitators

Rupture belts

Suspensories

Trusses

Urine collectors and accessories ~~Urinal Bags~~

Walking Bars

Walkers, including walker chairs

Wheelchairs, including powered models, their parts and repairs

~~*NOTE: Gold, silver and other materials/devices temporarily or permanently incorporated into the human body by physicians or dentists shall be exempt (i.e.: organ implant, dentures, dental bridge work and crowns).~~

(2)(e) Taxpayers who have a question concerning the taxable or exempt status of a prosthetic or orthopedic appliance may submit a written request to the Department, containing the name and a description of the appliance and its (appliance name, recommended use, for a determination of taxability of the appliance. The written request should be addressed usage, etc.) to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443 for a determination of taxability.

(3)(a) Materials and supplies that are incorporated into and become a component part of a prosthetic or orthopedic appliance or device that will be dispensed by a prosthetist or an orthotist licensed in the State of Florida to a patient pursuant to a prescription written by a licensed practitioner are not subject to sales or use tax. Examples of such items are: sheets of plastic, liquid resins, and fiberglass.

(b) A licensed prosthetist or orthotist, or its authorized representative, may extend an exemption certificate to the selling dealer certifying that materials and supplies purchased will be incorporated into and become a component part of a prosthetic or orthopedic appliance or device that will be dispensed to a patient pursuant to a prescription written by a licensed practitioner. No exemption certificate is required when:

1. The item is listed as an item exempt from tax in Form DR-46NT, Nontaxable Medical Items and General Grocery List; or,

2. The label of the material or supply indicates that it must be dispensed under federal or state law by the prescription or order of a licensed practitioner and that it is intended for use on a single patient.

(c) Expendable materials, supplies, and other items that do not become a component part of, or accompany, a prosthetic or orthopedic appliance dispensed to a patient are subject to tax.

Examples of such items are: sandpaper, molds used on more than one patient, and tools used by a prosthetist or an orthotist.

(d) The following is a suggested exemption certificate to be issued to purchase materials and supplies purchased that will be incorporated into and become a component part of a prosthetic or orthopedic appliance or device at the time of purchase exempt from tax:

EXEMPTION CERTIFICATE

MATERIALS AND SUPPLIES THAT BECOME A COMPONENT PART OF A
PRESCRIBED PROSTHETIC OR ORTHOPEDIC APPLIANCE

I, the undersigned individual, as a practitioner licensed in the State of Florida, or an authorized representative of a licensed prosthetist or a licensed orthotist, certify that the materials and supplies purchased on or after _____ (date) from _____ (Selling Dealer's Business Name) will be incorporated into and become a component part of a prosthetic or orthopedic appliance or device that will be dispensed pursuant to a prescription written by a licensed practitioner.

I understand that if I use the materials or supplies for any nonexempt purpose, I must pay tax on the purchase price of the item 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.

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

Name of Licensed Prosthetist or Orthotist: _____

Florida License Number: _____

Address: _____

Name of Authorized Representative: _____

(Signature of Licensed Prosthetist or Orthotist or Authorized Representative)

Title

Date

(e) The selling dealer is only required to obtain one certificate for sales made for the purposes indicated on the certificate and is not required to obtain an exemption certificate for subsequent sales made to the same licensed prosthetist or orthotist or authorized representative. The selling dealer must maintain the required exemption certificates in its books and records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(f) Dealers must maintain copies of exemption certificates required under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S. Electronic storage of the required certificates will be sufficient compliance with the provisions of this rule.

~~(2)(a) Parts, special attachments, special lettering and other like items that are added to or attached to tangible personal property so that a handicapped person can use them are taxable, unless such items are purchased by a person pursuant to an individual prescription or prescriptions as prescribed in paragraph (a) of subsection (1). For example: items installed on~~

~~motor vehicles to make them adaptable for use by handicapped persons, such as special controls for paralytics or amputees, when purchased by a person pursuant to a written prescription, are exempt. However, standard or optional equipment, as well as the motor vehicle, is taxable.~~

~~(b) If tangible personal property is sold with special controls, lettering or devices, and the additional charge for the added features is separately stated on the sales invoice for the tangible personal property, that portion of the sales receipts attributable to the added features is taxable, unless purchased pursuant to an individual prescription or prescriptions. For example, a television set sold with a closed captioned device built in, the portion of the price attributable to the closed captioned device, if separately stated on the sales invoice and purchased by a person pursuant to a written prescription, may be deducted from the selling price before computing tax.~~

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.06(1), 212.07(1), 212.08(2), 212.085, 213.37 FS. History-Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 6-9-76, 6-26-78, 12-31-81, Formerly 12A-1.21, Amended 12-8-87,_____.

12A-1.0215 Veterinary Sales and Services.

(1) VETERINARY SERVICES.

(a) Services, such as examinations, treatment, or vaccinations of animals rendered by veterinarians are not subject to tax.

(b) Charges for hospitalization as part of the veterinarian's treatment for a diagnosed health disorder are not subject to tax.

(2) BOARDING AND GROOMING.

(a) Charges for boarding animals or for grooming animals are not subject to tax.

(b) Items purchased for use in providing boarding or grooming are subject to tax. For example, cat food, dog food, nail care items, clippers, shears, brushes, combs, soaps, detergents, deodorizers, and colognes are subject to tax. Disinfectants used to clean kennels, cages, equipment, or other items used for boarding or grooming animals are subject to tax.

(3) DRUGS AND MEDICAL GASES.

(a) Drugs, medicinal drugs, and veterinary prescription drugs used in connection with medical treatment of animals are exempt. The term "drug" or "medicinal drug" means those substances or preparations commonly known as "prescription" or "legend" drugs that are required by federal or state law to be dispensed only by a prescription. The term "veterinary prescription drugs" means those drugs intended solely for veterinary use for which the label of the drug bears the statement: "Caution: Federal law restricts this drug to sale by or on the order of a licensed veterinarian."

(b) Opaque drugs, including X-ray opaques, and radiopaque, such as the various opaque dyes and barium sulphate, that are used in connection with medical X-rays for the treatment of animals are exempt.

(c) Compressed medical gases or medical oxygen in compliance with the provisions of Rule 64F-12.007, F.A.C., are exempt.

(4) ITEMS PURCHASED FOR TREATMENT.

(a) Veterinarians are required to pay tax at the time of purchase on taxable items and services used or consumed in rendering veterinary services. Some examples of taxable items used or consumed by veterinarians in their practice are: gloves, gowns, uniforms, masks, drapes, or towels; infusion pumps; reusable knives, needles, or scissors; scales; ear syringes; specimen bags; instruments, equipment, and machines, and their parts and accessories; microscopes;

examination tables; X-ray machines; X-ray films and developing solutions; computerized axial tomography (CAT) machines; magnetic resonance imaging (MRI) machines; tags; identification chips; disposable medical restraint collars and muzzles; and chemical compounds and test kits used for the diagnosis or treatment of animals' disease, illness, or injury. This is not intended to be an exhaustive list.

(b) The following items sold to veterinary clinics or hospitals or licensed veterinarians are exempt:

1. Antiseptics;
2. Absorbent cotton;
3. Gauze for bandages;
4. Hypodermic needles and syringes;
5. Lotions;
6. Vitamins; and
7. Worm remedies.

(c) 1. Medical products, supplies, or devices sold to veterinary clinics or hospitals or licensed veterinarians are exempt when:

a. The medical product, supply, or device must be dispensed under federal or state law only by the prescription or order of a licensed practitioner; and

b. The medical product, supply, or device is intended for single use and is not intended to be reusable.

2. Medical trays and surgical or procedure kits containing medical products, supplies, or devices that are labeled to be dispensed only by the prescription or order of a licensed

practitioner and are intended for a single use are exempt, even when the medical tray or kit contains one or more items that, when sold separately, would be subject to tax.

3. No exemption certificate is required to be obtained by the selling dealer from the purchasing veterinary clinic or hospital or licensed veterinarian to document tax-exempt sales of medical products, supplies, or devices that are labeled to be dispensed only by the prescription or order of a licensed practitioner. However, selling dealers are required to maintain documents in their records evidencing that the medical product, supply, or device sold to a veterinary clinic or hospital or licensed veterinarian is labeled to be dispensed only by the prescription or order of a licensed practitioner.

(d) Medical products, supplies, and devices used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of an animal(s) that are temporarily or permanently incorporated into an animal(s) are exempt. Such medical products, supplies, and devices may be purchased tax-exempt when the licensed veterinarian, or an authorized representative of the licensed veterinarian, extends an exemption certificate to the selling dealer certifying that the purchased medical products, supplies, or devices will be temporarily or permanently incorporated into an animal(s) for the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of an animal(s). A suggested exemption certificate is provided in paragraph (f).

(e)1. Commonly recognized substances possessing curative or remedial properties are exempt when:

a. Purchased by a licensed veterinarian who orders and dispenses the substance as treatment for a diagnosed health disorder of an animal; and

b. The substance is applied to, or consumed by, animals for the alleviation of pain or the cure or prevention of sickness, disease, or suffering.

2. Charges to a client by a veterinarian for substances possessing curative or remedial properties that are not required by federal or state law to be dispensed only by a prescription are subject to tax.

3. Examples: Transdermal medications, sprays, or powders designed to prevent or treat flea or tick infestation are exempt when they are purchased by and ordered and dispensed by a licensed veterinarian as part of treatment of a diagnosed health disorder of an animal.

4. Pet foods that are not required by federal or state law to be dispensed only by a prescription are subject to tax.

5. Commonly recognized substances possessing curative or remedial properties may be purchased exempt from tax when the licensed veterinarian, or an authorized representative of the licensed veterinarian, extends an exemption certificate to the selling dealer certifying that the purchased substance possessing curative or remedial properties will be ordered and dispensed and applied to, or consumed by, an animal(s) for the alleviation of pain or the cure or prevention of sickness, disease, or suffering of an animal(s). A suggested exemption certificate is provided in paragraph (f).

(f) The following is a suggested exemption certificate:

EXEMPTION CERTIFICATE

MEDICAL PRODUCTS, SUPPLIES, AND DEVICES

SUBSTANCES POSSESSING CURATIVE OR REMEDIAL PROPERTIES

I, the undersigned individual, as a veterinarian licensed in the State of Florida, or an authorized representative of a licensed veterinarian, certify that the items indicated below,

purchased on or after _____ (date) from _____ (Selling Dealer's Business Name), are for the exempt purpose indicated below. The option checked below applies to this purchase:

() Medical products, supplies, or devices that will be temporarily or permanently incorporated into an animal for use in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of an animal(s).

() Substances possessing curative or remedial properties that will be ordered and dispensed and applied to, or consumed by, an animal as treatment for the alleviation of pain or the cure or prevention of sickness, disease, or suffering of an animal(s).

I understand that if I use the medical product or supply or substance for any nonexempt purpose, I must pay tax on the purchase price of the item 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.

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

Licensed Veterinarian's Name: _____

Veterinarian's Address: _____

Veterinarian's Florida License No.: _____

Name of Veterinarian's Authorized Representative: _____

(Signature of Veterinarian or Authorized Representative)

Title

Date _____

(5) ITEMS PURCHASED FOR RESALE.

(a) Veterinarians who sell, lease, or rent items of tangible personal property, such as pet carriers, crates, kennels, houses, cages, clothing, bedding, toys, collars, leashes, leads, tie-outs, feeders, bowls, dishes, gates, or doors, are required to register as a dealer and collect and remit the applicable tax to the Department. This is not intended to be an exhaustive list.

(b) As a registered dealer, the veterinarian may provide a copy of the dealer's Annual Resale Certificate to purchase taxable items of tangible personal property for resale in lieu of paying tax to the selling vendor, as provided in Rule 12A-1.039, F.A.C.

(6) RECORDKEEPING REQUIREMENTS.

(a) Veterinarians must maintain copies of records indicating the prescription or orders for and the dispensing of drugs, medicines, medical products, supplies, and devices, and substances possessing curative or remedial properties in their records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(b) Electronic storage by the veterinarian of the orders or prescriptions will be sufficient compliance with the provisions of this subsection.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14), (19), 212.05, 212.07(1), 212.08(2), 212.085, 212.18(3), 465.186, 465.187 FS. History-New _____.

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 (14) No change.

(15) DR-46NT	Nontaxable Medical and General Grocery List <u>(R. 07/10 r-02/92)</u>	
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08/92

(16) through (23) No change.

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) F.S. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) 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, 4-17-03, 5-4-03, 06-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09, 9-1-09, 11-3-09,_____.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULES: [To be determined]

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [To be determined]

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 March 11, 2005 (Vol. 31, No. 10, pp. 931-946), April 11, 2008 (Vol. 34, No. 15, pp. 1965-1972), and December 31, 2009 (Vol. 35, No. 52, pp. 6693-6695). Rule development workshops were held on March 29, 2005, May 19, 2008, and January 27, 2010, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida, to allow members of the public to ask questions and make comments regarding the proposed rule changes. In response, changes were made to address public comment and concerns.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULE 12C-1.013

SUMMARY OF PROPOSED RULE

The proposed amendments: (1) provide the additions that taxpayers are required to make for the amount of the federal deduction claimed under I.R.C. section 179 that exceeds \$128,000, the amount of special 50 percent bonus depreciation, and the amount of deferral of cancellation of indebtedness; (2) provide the subtractions that are available in each of seven tax years beginning with the year an addition is made under Section 220.13(1)(e), F.S.; (3) require taxpayers to maintain a schedule reflecting all adjustments made under Section 220.13(1)(e), F.S.; (4) provide that these adjustments do not affect the basis of the property; (5) require taxpayers who filed their Florida corporate income tax returns in a manner other than provided in Chapter 2009-18, L.O.F., to amend their Florida tax return; (6) provide that penalty and interest that are a direct result of the changes in Chapter 2009-18, L.O.F., will be compromised or waived when an amended Florida corporate income tax return is filed; (7) provide when the subtractions under Section 220.13(1)(e), F.S., are not to be included in a taxpayer's Florida corporate income tax return; and (8) provide when the deductions allowed under section 179, I.R.C., and for special 50 percent bonus depreciation are not required to be included in a taxpayer's Florida corporate income tax return.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Chapter 2009-18, L.O.F., and Chapter 2009-192, L.O.F., amend Section 220.13(1)(e), F.S., to require adjustments for the special 50 percent bonus depreciation, and section 179, I.R.C., expense in excess of \$128,000. In addition Chapter 2009-192, L.O.F., amends Section 220.13(1)(e), F.S., to address the deferral of cancellation of indebtedness income. These provisions were added to the Internal Revenue Code by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the Economic Stimulus Act of 2008, Public Law 110-185. The amendments to Rule 12C-1.013, F.A.C. (Adjusted Federal Income Defined), are necessary to update the provisions for adjustments to federal income for Florida income tax purposes and to establish procedures for reporting the additions and claiming the subtractions required by Section 220.13(1)(e), F.S., and to provide procedures for filing amended Florida corporate income tax returns for the 2007 and 2008 tax years.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, pp. 6697-6698), to advise the public of the development of changes to Rule 12C-1.013, F.A.C. (Adjusted Federal Income Defined), and that a rule development workshop would be held on January 27, 2010. No comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX

RULE NO: RULE TITLE:

12C-1.013 Adjusted Federal Income Defined

PURPOSE AND EFFECT: Chapter 2009-18, L.O.F., and Chapter 2009-192, L.O.F., amend Section 220.13(1)(e), F.S., to require adjustments for the special 50 percent bonus depreciation, and section 179, I.R.C., expense in excess of \$128,000. In addition, Chapter 2009-192, L.O.F., amends Section 220.13(1)(e), F.S., to address the deferral of cancellation of indebtedness income. These provisions were added to the Internal Revenue Code by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the Economic Stimulus Act of 2008, Public Law 110-185. The proposed amendments to Rule 12C-1.013, F.A.C. (Adjusted Federal Income Defined), are necessary to update the provisions for adjustments to federal income for Florida income tax purposes and to establish procedures for reporting the additions and claiming the subtractions required by Section 220.13(1)(e), F.S., and to provide procedures for filing amended Florida corporate income tax returns for the 2007 and 2008 tax years.

SUMMARY: The proposed amendments: (1) provide the additions that taxpayers are required to make for the amount of the federal deduction claimed under I.R.C. section 179 that exceeds \$128,000, the amount of special 50 percent bonus depreciation, and the amount of deferral of cancellation of indebtedness; (2) provide the subtractions that are available in each of seven tax years beginning with the year an addition is made under Section 220.13(1)(e), F.S.; (3) require taxpayers to maintain a schedule reflecting all adjustments made under Section 220.13(1)(e), F.S.; (4) provide that these adjustments do not affect the basis of the property; (5) require

taxpayers who filed their Florida corporate income tax returns in a manner other than provided in Chapter 2009-18, L.O.F., to amend their Florida tax return; (6) provide that penalty and interest that are a direct result of the changes in Chapter 2009-18, L.O.F., will be compromised or waived when an amended Florida corporate income tax return is filed; (7) provide when the subtractions under Section 220.13(1)(e), F.S., are not to be included in a taxpayer's Florida corporate income tax return; and (8) provide when the deductions allowed under section 179, I.R.C., and for special 50 percent bonus depreciation are not required to be included in a taxpayer's Florida corporate income tax return.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 220.51 FS., s. 4, Ch. 2009-18, s. 3, Ch. 2009-192, L.O.F.

LAW IMPLEMENTED: 220.02(3), 220.03(5), 220.13, 220.131(1), 220.43(1), (3) FS.

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

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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 48 hours before such proceeding by contacting Larry Green at (850)922-4830. 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 RULE IS: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4111.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULE 12C-1.013

12C-1.013 Adjusted Federal Income Defined.

(1) through (13) No change.

(14) Adjustments for excess s. 179, I.R.C., expense, special 50 percent bonus depreciation (s. 168(k), I.R.C.), and deferred cancellation of indebtedness income.

(a) Additions Required:

1. For tax years that begin in 2008 and 2009, taxpayers are required to add back the amount of the federal deduction claimed under s. 179, I.R.C., that exceeds \$128,000. All amounts in excess of \$128,000 are required to be added back, including amounts carried over from previous tax years under s. 179(b)(3)(B), I.R.C. The increased overall investment limitation contained in s. 179(b)(2), I.R.C., is the same for Florida as it is for federal income tax purposes.

2. Taxpayers are required to add back the amount of the federal deduction claimed as special 50 percent bonus depreciation under s. 168(k), I.R.C., for assets placed in service after December 31, 2007, and before January 1, 2010.

3. For indebtedness acquired after December 31, 2008, and before January 1, 2010, taxpayers are required to add back the gross amount of cancellation of indebtedness income that is deferred under s. 108(i), I.R.C. (relating to business indebtedness discharged by the reacquisition of a debt instrument). The deferral of the deduction for original issue discount in

debt for debt exchanges required by s. 108(i)(2), I.R.C., is also required for Florida corporate income tax purposes.

(b) Subtractions allowed for special 50 percent bonus depreciation and s. 179, I.R.C., expense previously added back:

1. In each of the seven tax years commencing with the year the addition is made under Section 220.13(1)(e), F.S., taxpayers may subtract one-seventh of the amount of excess s. 179, I.R.C., expense and one-seventh of the special 50 percent bonus depreciation that is added back under Section 220.13(1)(e), F.S.

2. The total amount that may be subtracted over the seven-year period should equal, but may not exceed, the amounts of s. 179, I.R.C., expense and special 50 percent bonus depreciation that have been added back to Florida taxable income under Section 220.13(1)(e), F.S.

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

(c) Subtractions for cancellation of indebtedness deferred under s. 108(i), I.R.C.:

1. Taxpayers may subtract the income required to be added back under Section 220.13(1)(e)3., F.S., when the deferred cancellation of indebtedness income is recognized for federal income tax purposes. The subtraction may not exceed the amount of income from deferred cancellation of indebtedness that is added back under Section 220.13(1)(e)3., F.S.

2. Cancellation of indebtedness income is included in the tax base, but it is excluded from the apportionment formula by all taxpayers under Section 220.15(5)(a), F.S.

(d) A schedule reflecting all of the adjustments made under Section 220.13(1)(e), F.S., must be created and maintained. Taxpayers must also report any additions on Schedule I,

Additions and/or Adjustments to Federal Taxable Income, of the Florida Corporate Income/Franchise and/or Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) and any subtractions on Schedule II (Subtractions from Federal Taxable Income), of the return for the current tax year. Partnerships filing a Florida Partnership Information Return (Form F-1065, incorporated by reference in Rule 12C-1.051, F.A.C.) are required to make the adjustments required by Section 220.13(1)(e)1. and 3., F.S., on Part I (Florida Adjustment to Partnership Income), of the return. The additions and subtractions under Section 220.13(1)(e)1. and 3., F.S., must be reported in Part I of Form F-1065. Partnerships must report the amount of expenses claimed under s. 179, I.R.C., to their partners, so that their partners can compute the amount under subparagraph (14)(a)1.

(e) Basis of Property. The adjustments required by Section 220.13(1)(e)1. and 2., F.S. (relating to excess s. 179, I.R.C., expense and special 50 percent bonus depreciation), do not affect the basis of the underlying property. The basis of the property for Florida corporate income tax purposes is the same as the basis of the property for federal income tax purposes. If the property is sold or otherwise disposed of, the gain or loss for Florida corporate income tax purposes is the same as the gain or loss for federal income tax purposes and is included in federal taxable income apportioned to Florida. Differences in the apportionment fraction from one year to the next are disregarded. The applicable depreciation conventions, methods, and recovery periods are computed in the same manner as they are computed in determining federal taxable income.

(f) Example: On its calendar-year 2009 federal income tax return, Taxpayer claimed \$250,000 in s. 179, I.R.C., expense, of which \$25,000 was a carryover from 2006 allowed under s. 179(b)(3)(B), I.R.C. Taxpayer also claimed \$300,000 in special 50 percent bonus depreciation

under I.R.C. s. 168(k) and \$50,000 of depreciation under I.R.C. s. 168(b) for assets placed in service during the 2009 calendar year. Taxpayer is required to add back \$122,000 (\$250,000 minus \$128,000) of s. 179, I.R.C., expense and \$300,000 of the special 50 percent bonus depreciation in computing its Florida taxable income. Taxpayer is not required to add back the amount of regular depreciation (non-special 50 percent bonus depreciation) it claimed under s. 168(b), I.R.C., on its 2009 federal income tax return. On its 2009 Florida corporate income tax return, the taxpayer may also claim subtractions for one-seventh of the amount of special 50 percent bonus depreciation required to be added back (\$300,000 divided by seven equals \$42,857.14) and one-seventh of the amount of s. 179, I.R.C., expense required to be added back (\$122,000 divided by seven equals \$17,428.57). In each of the subsequent six tax years, the Taxpayer may subtract \$42,857.14 and \$17,428.57. At the end of these years, the subtractions should equal the amount(s) required to be added back. If Taxpayer disposes of the property, the gain or loss is the same for Florida as it is for federal income tax purposes. Any differences resulting from additions to Florida income are recovered solely through the subtraction process, even though the underlying property may be disposed of or fully depreciated.

(g) Example: In 2009, Taxpayer purchased its own indebtedness, a \$10,000 bond it had previously sold for face value. Taxpayer was able to reacquire its bond for \$7,000 and elected to defer recognition of the \$3,000 of cancellation of indebtedness income under s. 108(i), I.R.C. Under Section 220.13(1)(e), F.S., Taxpayer would add back the deferred cancellation of indebtedness income (\$3,000) to Florida income. In 2014 through 2018 (five years from 2009), the Taxpayer is required under s. 108(i), I.R.C., to recognize the \$3,000 of cancellation of indebtedness income it deferred in 2009. Therefore, Taxpayer would be allowed under Section 220.13(1)(e), F.S., to subtract the cancellation of indebtedness income as it is recognized for

federal tax purposes (provided that this income was added back in computing Florida net income in 2009). When Taxpayer recognizes the \$600 of cancellation of indebtedness income in 2014 for federal tax purposes, a Florida subtraction is allowed in 2014 for the same amount, \$600. The addition and subtractions to income associated with the cancellation of indebtedness income are excluded from the sales factor of the apportionment formula.

(h) Example: In 2009, Taxpayer issued new indebtedness in order to acquire its previously issued indebtedness. Taxpayer issued a 10-year, \$10,000 bond, for \$9,000, which was used to purchase a \$15,000 bond it had previously sold for face value. The Taxpayer makes an election under s. 108(i), I.R.C., to defer recognition of cancellation of indebtedness income. Taxpayer is prevented by s. 108(i)(2)(A), I.R.C., from amortizing the \$1,000 original issue discount on the new \$10,000 bond. Under Section 220.13(1)(e), F.S., Taxpayer would add back the deferred cancellation of indebtedness income of \$5,000 to Florida income and would also be prohibited from amortizing the \$1,000 original issue discount. When Taxpayer recognizes the \$5,000 (\$1,000 per year) in cancellation of indebtedness income for federal tax purposes, a Florida subtraction is allowed for the same amount (provided that this income was added back in computing Florida net income). The deduction for the \$1,000 original issue discount will be recognized for Florida corporate income tax purposes when it is allowed as a deduction for federal tax purposes.

(i) Amended returns and Section 220.13(1)(a)14. and 15., F.S. The original law (Chapter 2009-18, L.O.F.), which created Section 220.13(1)(e), F.S., repealed Section 220.13(1)(a)14. and 15., F.S., and made these changes retroactive to January 1, 2008. Taxpayers that filed their Florida corporate income tax returns and reported additions to tax for special 50 percent bonus depreciation and s. 179, I.R.C., expense under Sections 220.13(1)(a)14. and 15., F.S., or pursuant

to Emergency Rule 12CER08-31, F.A.C., are required to amend their Florida corporate income tax return(s) to conform to the new law, Chapter 2009-18, L.O.F. To the extent that any tax is due and paid on a 2007 or 2008 amended return(s) as a result of the differences between the additions and subtractions required by Sections 220.13(1)(a)14., and 15., F.S., and the adjustments required by Section 220.13(1)(e), F.S., additional interest or penalty will be compromised or waived. The provisions of this rule do not relieve a taxpayer of its obligation to file a Florida corporate income tax return and report the adjustments required by Section 220.13(1)(e), F.S.

(j) The subtractions allowed by Section 220.13(1)(e), F.S., are the means by which the additions required by Section 220.13(1)(e), F.S., are reconciled and recovered. If a taxpayer does not claim a deduction for special 50 percent bonus depreciation, does not claim a deduction for s. 179, I.R.C., expense in excess of \$128,000, or does not elect to defer cancellation of indebtedness income pursuant to s. 108(i), I.R.C., on the related federal income tax return(s), no add back is required or subtraction allowed for Florida corporate income tax purposes. Similarly, if a taxpayer did not add back special 50 percent bonus depreciation, or did not add back excess s. 179, I.R.C., expense, or deferred cancellation of indebtedness income because, for example, it was not subject to the Florida corporate income tax in that year, no subtraction is allowed for Florida corporate income tax purposes.

(k) Bonus depreciation claimed for assets placed in service prior to January 1, 2008, is not required to be added back under Section 220.13(1)(e), F.S. Section 179, I.R.C., expense claimed in tax years beginning before January 1, 2008, is not required to be added back. No subtraction is allowed for special 50 percent bonus depreciation, s. 179, I.R.C., expense, or

deferred cancellation of indebtedness income unless it has been added back in computing Florida taxable income under Section 220.13(1)(e), F.S.

(14) through (20) Renumbered (15) through (21) No change.

Rulemaking Authority 213.06(1), 220.51 F.S., s. 4, Ch. 2009-18, s. 3, Ch. 2009-192, L.O.F. Law Implemented 220.02(3), 220.03(5), 220.13, 220.131(1), 220.43(1), (3) FS. History—New 10-20-72, Amended 1-19-73, 10-20-73, 10-8-74, 4-21-75, 5-10-78, 11-13-78, 12-18-83, Formerly 12C-1.13, Amended 12-21-88, 12-7-92, 5-17-94, 10-19-94, 3-18-96, 10-2-01, 4-14-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4111.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Rule Development was published in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, pp. 6697-6698). No comments have been received by the Department.

March 11, 2010

MEMORANDUM

TO: The Honorable Charlie Crist, Governor
Attention: Pat Gleason, Director of Cabinet Affairs

The Honorable Bill McCollum, Attorney General
Attention: Rob Johnson, Cabinet Affairs

The Honorable Alex Sink, Chief Financial Officer
Attention: Robert Tornillo, Chief Cabinet Aide
Amber Hughes, Cabinet Aide

The Honorable Charles Bronson, Agriculture Commissioner
Attention: Jim Boxold, Chief Cabinet Aide
Cathy Giordano, Cabinet Aide

FROM: Robert Babin, Director
Office of Legislative and Cabinet Services

SUBJECT: Rulemaking—Proposed Rules on State and Local Tax Issues

What is the Department Requesting? Final adoption of these proposed new and amended rule provisions, and approval to file and certify them with the Secretary of State under Chapter 120, Florida Statutes.

Why are These Proposed Rules Necessary? To adopt provisions that incorporate:

- Recent statute changes;
- Streamlined procedures; and,
- Updated instructions.

What Do These Proposed Rules Do?

Delegation of Authority—Rulemaking

- Administratively implement statutory changes requiring the Department to get permission from its agency head (the Governor and Cabinet), to publish a Notice of Proposed Rule; and,

ATTACHMENT #3

- Eliminate a rule provision that previously allowed the Department to publish a Notice of Proposed Rule if, after the Governor and each cabinet member was given a 10-day period to review the proposed rule, no member submitted a written objection to the proposal.

Tax Administration—Closing Agreements

Clarify that written agreements are required when the amount of a taxpayer's assessment of tax, interest, or penalty compromised by the Department exceeds \$30,000.

Sales and Use Tax

- Tax on Admissions—remove an obsolete rule provision that was based on a statutory exemption that recently expired (the exemption was for admissions to certain events sponsored by government or sports entities); and,
- Exemption for Qualified (film) Production Companies—update the Department's rules to incorporate the application process developed by the Office of Film and Entertainment; and,
- Public Use forms—revise forms to support these sales and use tax proposed rule changes.

Insurance Premium Tax and Corporate Income Tax—Credits For Contributions to Nonprofit Scholarship Funding Organizations

Administratively implements recent law changes allowing:

- Insurance companies to claim the nonprofit scholarship funding organization tax credit against their insurance premium tax liability; and,
- Taxpayers who pay the Florida Alternative Minimum Tax to take a credit for such tax in future years.

Corporate Income tax (Capital Investment & Renewable Energy Tax Credits)

Provides procedures for taxpayers to:

- Apply for and claim the:
 - Renewable Energy Technologies Investment tax credit; and,
 - Renewable Energy Production tax credit; and,
- Transfer each of these credits (applies to the Capital Investment and Renewable Energy tax credits).

Corporate Income Tax (Electronic Signing and Verification)

Adds procedures explaining how, for electronically transmitted returns and notices, a tax return preparer can make the statutorily-required declaration that he or she has prepared the return based on all information of which the preparer had knowledge.

Were Comments Received from External Parties? Rule development workshops were held for each of the rule provisions discussed above:

- For all issues other than the renewable energy tax credits for Corporate Income tax, workshops were held on October 13, 2009, and no comments were received;
- For the Corporate Income tax–Renewable Energy tax credits—the Department held two workshops:
 - At the first workshop on October 8, 2007, comments were received and the Department subsequently revised the proposed rules based on the statutory authority existing at that time;
 - Then, during a subsequent legislative session, statutory revisions were enacted to address additional issues discussed at the 2007 workshop;
 - At the second workshop on October 13, 2009, additional changes were presented, based on the statutory revisions.

In addition, public hearings for each of these proposed rule provisions were held on January 27, 2010. No comments were received from the public on these proposals.

Attached are copies of:

- Summaries of the proposed rules
- Statements of facts and circumstances justifying the rules
- Federal relation statements
- Summaries of meetings, workshops, and hearings
- Proposed rule text with notices of change incorporated
- Notice of cabinet meeting

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-3, FLORIDA ADMINISTRATIVE CODE
GENERAL; PROCEDURE
AMENDING RULE 12-3.007

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-3.007, F.A.C. (Delegation of Authority): (1) remove obsolete language that does not reflect the requirement provided in section 120.54(1)(k), F.S.; (2) provide that the Department will publish a notice of rulemaking to conduct public hearings after obtaining approval by the Governor and Cabinet; and (3) provide that the Department will file and certify proposed rule changes only after they have been approved by the Governor and Cabinet, as provided in section 120.54(3)(e)1., F.S.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 120.54(1)(k), F.S., as amended by section 5, Chapter 2008-104, L.O.F., requires the Governor and Cabinet, as head of the Department of Revenue, to approve the publication of a notice of intended rulemaking. Prior to this law change, the Governor and Cabinet, under specific conditions, delegated this function to the Executive Director of the Department under Rule 12-3.007, F.A.C. (Delegation of Authority). The purpose of this rulemaking is to remove that delegation of authority and to provide that the Governor and Cabinet will authorize the Department to publish a notice of rulemaking to conduct a public rule hearing and to file and certify proposed rule changes.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON OCTOBER 13, 2009

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, p. 4635), to advise the public of the development of changes to Rule 12-3.007, F.A.C. (Delegation of Authority), and that a rule development workshop would be held on October 13, 2009. A rule development workshop was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, FL, to allow members of the public to ask questions and make comments concerning the proposed rule amendments.

PARTIES ATTENDING

For the Department of
Revenue

LARRY GREEN, Workshop Moderator
ROBERT DUCASSE, Revenue Program Administrator I
BEN JABLOW, Assistant General Counsel
JANET YOUNG, Tax Law Specialist

From the Public

JIM ERVIN, representing Mosaic Phosphates
GARY LANDRY, Florida Insurance Council
RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule development workshop.

SUMMARY OF RULE HEARING

HELD ON DECEMBER 8, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 8, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-3.007, F.A.C. (Delegation of Authority). A notice for the public hearing was published in the Florida Administrative Weekly on November 13, 2009 (Vol. 35, No. 45, p. 5829).

SUMMARY OF RULE HEARING

HELD ON JANUARY 27, 2010

The proposed amendments to Rule 12-3.007, F.A.C. (Delegation of Authority), were noticed for a rule hearing in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, pp. 6720-6721). A rule hearing was held on January 27, 2010, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida. No comments were received at this rule hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-3, FLORIDA ADMINISTRATIVE CODE
GENERAL; PROCEDURE
AMENDING RULE 12-3.007

12-3.007 Delegation of Authority.

(1) Authority to take the following action is hereby delegated by the Governor and Cabinet acting as the head of the Department of Revenue to the Executive Director of the Department or the Executive Director's designee:

(a) through (g) No change.

(h) To act on behalf of the agency in carrying out the provisions of Chapter 120, F.S., unless prohibited by law or by directives issued by the Governor and Cabinet acting as the head of the Department. This delegation specifically includes, but is not limited to, the following:

1.a.(I) To publish a notice of intended rulemaking, after approval of such proposed notice by the Governor and Cabinet pursuant to Section 120.54(1)(k), F.S. ~~To initiate rulemaking by publishing a notice of intended action. However, before a notice of intended action is published, the Department must submit the proposed notice, including the proposed rule text, to the Governor and each member of the Cabinet. Upon the written request of the Governor or any member of the Cabinet, the Department shall submit the proposed rules for action by the Governor and Cabinet at the next appropriate Cabinet meeting. If, after being given 10 working days to review the Department's proposed notice of intended action and rule text, neither the Governor nor any member of the Cabinet notifies the Department of his or her objection to such~~

~~publication, the Department may proceed to initiate rulemaking pursuant to Section 120.54(3)(a)1., F.S. The power to determine whether proposed rules should be approved for final adoption is hereby reserved to the Governor and Cabinet acting as the head of the Department.~~

(II) To certify that a proposed rule has been approved by the Governor and Cabinet pursuant to Section 120.54(3)(e)1., F.S.

(III) To file with the Department of State the approved rule pursuant to Section 120.54(3)(e)1., F.S.

b. To explain in writing when appropriate why a rule development workshop is unnecessary.

2. through 10. No change.

(i) through (n) No change.

(2) No change.

Rulemaking Specific Authority 213.06(1), 409.2557 FS. Law Implemented 20.05, 20.21, 72.011(1), (3), 120.54, 120.565, 120.569(2), 120.57(1), (2), (3), 120.63(1), 120.74(2), 195.095, 213.05, 213.21, 213.22, 409.2557 FS. History—New 7-14-80, Amended 12-31-81, 8-29-85, 11-6-85, Formerly 12-3.07, Amended 5-18-86, 12-20-92, 12-6-98,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-13, FLORIDA ADMINISTRATIVE CODE
COMPROMISE AND SETTLEMENT
AMENDING RULE 12-13.009

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-13.009, F.A.C. (Closing Agreements), provide that written agreements are required when the amount of a taxpayer's assessment of tax, interest, or penalty compromised by the Department exceeds \$30,000.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12-13.009, F.A.C. (Closing Agreements), are necessary to revise the rule to reflect the statutory requirement in section 213.21(1), F.S., that written agreements are required when the amount of a taxpayer's assessment of tax, interest, or penalty compromised by the Department exceeds \$30,000.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKHOP

HELD ON OCTOBER 13, 2009

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4635-4636), to advise the public of the development of changes to Rule 12-13.009, F.A.C. (Closing Agreements), and that a rule development workshop would be held on October 13, 2009. A rule development workshop was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, FL, to allow members of the public to ask questions and make comments concerning the proposed rule amendments.

PARTIES ATTENDING

For the Department of
Revenue

LARRY GREEN, Workshop Moderator
ROBERT DUCASSE, Revenue Program Administrator I
BEN JABLOW, Assistant General Counsel
JANET YOUNG, Tax Law Specialist

From the Public

JIM ERVIN, representing Mosaic Phosphates
GARY LANDRY, Florida Insurance Council
RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule development workshop.

SUMMARY OF RULE HEARING

HELD ON DECEMBER 8, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 8, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-13.009, F.A.C. (Closing Agreements). A notice for the public hearing was published in the Florida Administrative Weekly on November 13, 2009 (Vol. 35, No. 45, p. 5829).

SUMMARY OF RULE HEARING

HELD ON JANUARY 27, 2010

The proposed amendments to Rule 12-13.009, F.A.C. (Closing Agreements), were noticed for a rule hearing in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, pp. 6721-6722). A rule hearing was held on January 27, 2010, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida. No comments were received at this rule hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-13, FLORIDA ADMINISTRATIVE CODE
COMPROMISE AND SETTLEMENT
AMENDING RULE 12-13.009

12-13.009 Closing Agreements.

(1) A written closing agreement ~~is shall~~ be necessary to settle or compromise tax, interest, or penalty when a tax matter relates to an ~~audit~~ assessment ~~or billing~~ where the amount compromised is in excess of \$30,000 or to a matter in an informal protest in Technical Assistance and Dispute Resolution. Settlement or compromise of tax matters in litigation must ~~shall~~ be pursuant to a written settlement agreement, court order, or similar written document reflecting the agreement reached between the taxpayer and the Department. In all other cases of compromise or settlement, the signature and name of the person exercising the Department's authority, the reason for the compromise or settlement, and the date the action was taken is ~~required to shall~~ be placed on the taxpayer's written request or ~~shall otherwise be~~ documented in the Department's records of the compromise or settlement.

(2) through (5) No change.

Rulemaking Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 120.55(1)(a)4., 213.05, 213.21 FS. History—New 5-23-89, Amended 8-10-92, 5-18-94, 10-24-96, 10-2-01, _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.005, 12A-1.085, AND 12A-1.097

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), remove the exemption from the tax on admission charges to certain events sponsored by a governmental entity, sports authority, or sports commission provided in Section 212.04(2)(a)2.b., F.S., from the rule.

The proposed amendments to Rule 12A-1.085, F.A.C. (Exemption for Qualified Production Companies): (1) provide that any production company desiring to obtain an exemption certificate under Section 288.1258, F.S., must complete the Entertainment Industry Tax Exemption Application at www.filminflorida.com; (2) remove provisions regarding the application and the renewal application previously used by the Department for this purpose; and (3) adopt revisions to the Certificate of Exemption for Entertainment Industry Qualified Production Company (Form DR-231) that provide information on how a dealer is able to verify the exemption granted to a qualified production company.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms): (1) remove the adoption, by reference, of forms that are no longer used in the administration of the exemption for qualified production companies provided in Section 288.1258, F.S.; and (2) adopt,

by reference, revisions to the Certificate of Exemption for Entertainment Industry Qualified Production Company (Form DR-231).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Effective July 1, 2009, the exemption from the tax on admission charges to certain events sponsored by a governmental entity, sports authority, or sports commission provided in Section 212.04(2)(a)2.b., F.S., expired. The purpose of the proposed amendments to Rule 12A-1.005, F.S., is to remove provisions regarding this exemption from the rule.

In cooperation with the Department, the Office of Film and Entertainment has expedited the application process for a production company qualified under Section 288.1258, F.S., to receive the sales tax exemption provided in Sections 212.031(1)(a)9., 212.06(1)(b), and 212.08(5)(f) and (12), F.S. An electronic application process has replaced the hard-copy application process. Currently, qualified production companies are required to extend the exemption certificate issued by the Department to vendors to purchase qualified items tax-exempt. To assist those vendors in verifying the exemption, the Department has provided additional information on the exemption certificate on how vendors are able to verify the exemption. The purpose of the proposed amendments to Rule 12A-1.085, F.A.C. (Exemption for Qualified Production Companies), is to update the rule to reflect these changes.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to: (1) remove the adoption of the hard-copy application previously used in the administration of the exemption for qualified production companies provided in Section 288.1258, F.S.; and (2) to adopt, by reference, revisions to the Certificate of Exemption for Entertainment Industry Qualified Production Company (Form DR-231).

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON OCTOBER 13, 2009

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4637-4638), to advise the public of the development of changes to Rule 12A-1.005, F.S. (Admissions), Rule 12A-1.085, F.A.C. (Exemption for Qualified Production Companies), and Rule 12A-1.097, F.A.C. (Public Use Forms), and that a rule development workshop would be held on October 13, 2009. A rule development workshop was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, FL, to allow members of the public to ask questions and make comments concerning the proposed rule amendments.

PARTIES ATTENDING

For the Department of
Revenue

LARRY GREEN, Workshop Moderator
ROBERT DUCASSE, Revenue Program Administrator I
BEN JABLOW, Assistant General Counsel
JANET YOUNG, Tax Law Specialist

From the Public

JIM ERVIN, representing Mosaic Phosphates
GARY LANDRY, Florida Insurance Council
RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule development workshop.

SUMMARY OF RULE HEARING

HELD ON DECEMBER 8, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 8, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-1.005, F.S. (Admissions), Rule 12A-1.085, F.A.C. (Exemption for Qualified Production Companies), and Rule 12A-1.097, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on November 13, 2009 (Vol. 35, No. 45, p. 5829).

SUMMARY OF RULE HEARING

HELD ON JANUARY 27, 2010

The proposed amendments to Rule 12A-1.005, F.S. (Admissions), Rule 12A-1.085, F.A.C. (Exemption for Qualified Production Companies), and Rule 12A-1.097, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, pp. 6722-6725), as corrected in the Florida Administrative Weekly on January 29, 2010 (Vol. 36, No. 4, p. 496). A rule hearing was held on January 27, 2010, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida. No comments were received at this rule hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.005, 12A-1.085, AND 12A-1.097

12A-1.005 Admissions.

(1) No change.

(2) EXEMPT ADMISSIONS. The following admissions are exempt from the tax imposed under Section 212.04, F.S.:

(a) through (f) No change.

~~(g) Admission charges to an event held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility are exempt when:~~

~~1. The event is sponsored by a sports authority or commission, exempt from federal income tax under the provisions of s.501(c)(3) of the Internal Revenue Code, as amended, that is contracted with a county or municipal government for the purpose of promoting and attracting sports tourism events to the community or is sponsored by a governmental entity;~~

~~2. 100 percent of the funds at risk belong to the sponsoring entity;~~

~~3. 100 percent of the risk of success or failure lies with the sponsoring entity; and~~

~~4. The talent for the event is not derived exclusively from students or faculty.~~

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

(3) through (6) No change.

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1), 212.04, 212.08(6), (7), 616.260 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 7-19-72, 12-11-74, 9-28-78, 7-3-79, 12-3-81, 7-20-82, Formerly 12A-1.05, Amended 1-2-89, 12-16-91, 10-17-94, 3-20-96, 3-4-01, 10-2-01, 4-17-03, 6-28-05,_____.

12A-1.085 Exemption for Qualified Production Companies.

(1) For purposes of this rule, a “qualified production company” means any company engaged in this state in the production of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings that has been approved by the Governor's Office of the Film and Entertainment Commissioner and has obtained a Certificate of Exemption for Entertainment Industry Qualified Production Company from the Department of ~~Revenue~~.

(2)(a) Any production company conducting motion picture, television or sound recording business in this state desiring to obtain a Certificate of Exemption from the Department must ~~file~~ with the Department of Revenue:

1. Complete the Entertainment Industry Tax Exemption Application at www.filminflorida.com ~~An Entertainment Industry Qualified Production Company Application for Certificate of Exemption (Form DR 230, incorporated by reference in Rule 12A-1.097, F.A.C.); and~~

2. Provide documentation ~~Documentation~~ sufficient to substantiate the applicant’s claim for qualification as a production company pursuant to Section 288.1258, F.S.

(b) No change.

(c) Qualified production companies that hold a Certificate of Exemption for

Entertainment Industry Qualified Production Company issued for a period of 90 consecutive days may request an extension of their certificates. Qualified production companies that hold a Certificate of Exemption issued for 12 consecutive months may renew their certificates annually for up to five years. To request an extension or a renewal of a certificate, qualified production companies must complete the Entertainment Industry Tax Exemption Application at www.filminflorida.com file an Application for Renewal or Extension of Entertainment Industry Exemption Certificate (Form DR 232, incorporated by reference in Rule 12A 1.097, F.A.C.), with the Office of the Film Commissioner. Upon approval by the Governor's Office of the Film and Entertainment Commissioner, an extension to the 90-day certificate or a renewal of the 12-month certificate will be issued by the Department.

(3) through (5) No change.

~~(6) Copies of Form DR 230 (Entertainment Industry Qualified Production Company Application for Certificate of Exemption), Form DR 230N (Information and Instructions for Completing Entertainment Industry Qualified Production Company Application for Certificate of Exemption), Form DR 232 (Application for Renewal or Extension of Entertainment Industry Exemption Certificate), and Form DR 232N (Application for Renewal or Extension of Exemption Certificate Instructions) are available, without cost, by: 1) calling the Offices of the Film Commissioner at (877) 352 3456; or, 2) downloading selected forms from the Office of the Film Commissioner's Internet site at www.filminflorida.com; or, 3) from any local Film Commission offices throughout Florida. These forms are also available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the 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 (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800) 367-8331.~~

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1), 288.1258(4)(c) FS. Law Implemented 212.031(1)(a)9., 212.06(1)(b), 212.08(5)(f), (12), 288.1258 FS. History—New 2-21-77, Amended 5-28-85, Formerly 12A-1.85, Amended 3-12-86, 12-13-88, 10-21-01,_____.

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) Copies of these forms, except those denoted by an asterisk (*), are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

(b) Forms (certifications) specifically denoted by an asterisk (*) are issued by the

Department upon final approval of the appropriate application. Defaced copies of certifications, for purposes of example, may be obtained by written request directed to:

Department of Revenue

Taxpayer Services

5050 West Tennessee Street ~~1379 Blountstown Highway~~

Tallahassee, Florida 32399-0100 ~~32304~~.

Form Number	Title	Effective Date
(2) through (19)	No change.	
(20)(a) DR-230	Entertainment Industry Qualified Production Company Application for Certificate of Exemption (R. 03/01)	08/92
(b) DR-230N	Information and Instructions for Completing Entertainment Industry Qualified Production Company Application for Certificate of Exemption (R. 03/01)	10/01
(c) DR-231*	Certificate of Exemption for Entertainment Industry Qualified Production Company (R. 08/09 N. 01/01)	___ 10/01
(d) DR-232	Application for Renewal or Extension of Entertainment Industry Exemption Certificate (N. 03/01)	10/01
(e) DR-232N	Application for Renewal or Extension of Exemption Certificate Instructions (Form DR-232)	

(21) through (23) No change.

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) 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, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09, 9-1-09, 1-11-10,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULE 12B-8.001

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation): (1) include provisions for the credit for contributions to a nonprofit scholarship funding organizations in the list of credits against the insurance premium tax; (2) provide that contributions to nonprofit scholarship funding organizations are not payments of estimated tax or installment payments; and (3) provide that the provisions of Section 220.187, F.S., and Rule 12C-1.0187, F.A.C., apply to the credit for contributions to a nonprofit scholarship funding organization.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 3, Chapter 2009-108, L.O.F., expands the tax credit for contributions to nonprofit scholarship funding organizations to the insurance premium tax. The proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), are necessary to update the rule to include this law change.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON OCTOBER 13, 2009

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4638-4639), to advise the public of the development of changes to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), and that a rule development workshop would be held on October 13, 2009. A rule development workshop was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, FL, to allow members of the public to ask questions and make comments concerning the proposed rule amendments.

PARTIES ATTENDING

For the Department of
Revenue

LARRY GREEN, Workshop Moderator
ROBERT DUCASSE, Revenue Program Administrator I
BEN JABLOW, Assistant General Counsel
JANET YOUNG, Tax Law Specialist

From the Public

JIM ERVIN, representing Mosaic Phosphates
GARY LANDRY, Florida Insurance Council
RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule development workshop.

SUMMARY OF RULE HEARING

HELD ON DECEMBER 8, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 8, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation). A notice for the public hearing was published in the Florida Administrative Weekly on November 13, 2009 (Vol. 35, No. 45, p. 5829).

SUMMARY OF RULE HEARING

HELD ON JANUARY 27, 2010

The proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), were noticed for a rule hearing in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, pp. 6725-6726). A rule hearing was held on January 27, 2010, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida. No comments were received at this rule hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULE 12B-8.001

12B-8.001 Premium Tax; Rate and Computation.

(1) through (2) No change.

(3) Credits Against the Tax.

(a) through (e) No change.

(f) Credit for Contributions to Nonprofit Scholarship Funding Organizations.

1. Section 624.51055, F.S., provides a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship funding organization, as provided in Section 220.187, F.S., against any net tax due for a taxable year under Section 624.509(1), F.S. However, the credit may not exceed 75 percent of the tax due under Section 624.509(1), F.S., after deducting from such tax:

a. Deductions for assessments made pursuant to Section 440.51, F.S. (workers compensation administrative assessments);

b. Credits for taxes paid under Sections 175.101 and 185.08, F.S. (firefighter's and police officers' pension trust funds); and,

c. Credits for income taxes and emergency excise taxes paid under Chapters 220 and 221, F.S., and the salary credit allowed under Section 624.509(5), F.S., as these are limited by Section 624.509(6), F.S. (the 65 percent limitation).

2. Contributions to a nonprofit scholarship funding organization are not payments of estimated tax or installment payments.

3. The provisions of Section 220.187, F.S., regarding definitions, the credit application process, the rescindment provisions, the preservation of credit provisions, and the administrative provisions, including the three year credit carryover provision, and the provisions of Rule 12C-1.0187, F.A.C., apply to the credit against the insurance premium tax for contributions to nonprofit scholarship funding organizations.

4. Applicants subject to the insurance premium tax imposed under Section 624.509(1), F.S., may only claim credit for eligible contributions they made to a nonprofit scholarship funding organization against their insurance premium tax liability.

(4) through (9) No change.

Rulemaking Specific Authority 213.06(1), 220.183(4)(d), 288.99(11), 624.5105(4)(b) FS. Law Implemented 175.101, 175.1015, 175.121, 175.141, 185.08(3), 185.085, 185.10, 185.12, 213.05, 213.235, 220.183(3), 220.187, 288.99(11), 624.4621, 624.46226, 624.4625, 624.475, 624.509, 624.5092, 624.50921, 624.510, 624.5105, 624.51055, 624.511, 624.518, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS. History-New 2-3-80, Formerly 12B-8.01, Amended 3-25-90, 4-10-91, 2-18-93, 6-16-94, 10-19-94, 1-2-96, 12-9-97, 6-2-98, 4-2-00, 10-15-01, 8-1-02, 6-20-06, 9-1-09, _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULES 12C-1.0186, 12C-1.0187 AND 12C-1.051

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12C-1.0186, F.A.C. (Credit for Florida Alternative Minimum Tax), Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), and Rule 12C-1.051, F.A.C. (Forms), reflect the changes imposed by Chapters 2008-227 and 2009-108, L.O.F., which includes the expansion of the Florida Nonprofit Scholarship Program provided in Chapter 2009-108, L.O.F.

The proposed amendments to Rule 12C-1.0186, F.A.C. (Credit for Florida Alternative Minimum Tax), provides that the amount of the alternative minimum tax credit is computed without application of the tax credit for contributions to nonprofit scholarship funding organizations or the tax credit for renewable energy production.

The proposed amendments to Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations): (1) provide that insurers may claim a credit against their insurance premium tax liability for eligible contributions made to a nonprofit scholarship funding organization; (2) clarify that contributions to nonprofit scholarship funding organizations are not payments of estimated tax or installment payments required under Chapter 220, F.S., or section 624.5092, F.S.; and (3) remove unnecessary provisions regarding the annual

list of eligible nonprofit scholarship funding organizations provided by the Department of Education.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, changes to Form F-1160 (Application for Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations), and Form F-1161 (Application for Rescindment of Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Chapter 2009-108, L.O.F., expands the Florida Tax Credit Scholarship Program to allow insurers, who make contributions to nonprofit funding organizations, to take a tax credit against the insurance premium tax imposed under section 624.509, F.S. Chapter 2008-227, L.O.F., and eliminated the Florida renewable energy production credit from the alternative minimum tax credit calculation. Chapter 2009-108, L.O.F., also eliminates the nonprofit scholarship funding organization credit from the alternative minimum tax credit computation. The purpose of the proposed amendments to Rule 12C-1.0186, F.A.C. (Credit for Florida Alternative Minimum Tax), Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), and Rule 12C-1.051, F.A.C. (Forms), is to update these rules and the forms used by the Department to administer the credit for contributions to nonprofit scholarship funding organizations authorized under sections 220.187 and 624.51055, F.S., and to update provisions on the calculation of the amount of the alternative minimum tax.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON OCTOBER 13, 2009

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4639-4640), to advise the public of the development of changes to Rule 12C-1.086, F.A.C. (Credit for Florida Alternative Minimum Tax), Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), and Rule 12C-1.051, F.A.C. (Forms), and that a rule development workshop would be held on October 13, 2009. A rule development workshop was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, FL, to allow members of the public to ask questions and make comments concerning the proposed rule amendments.

PARTIES ATTENDING

For the Department of
Revenue

LARRY GREEN, Workshop Moderator
ROBERT DUCASSE, Revenue Program Administrator I
BEN JABLOW, Assistant General Counsel
JANET YOUNG, Tax Law Specialist

From the Public

JIM ERVIN, representing Mosaic Phosphates
GARY LANDRY, Florida Insurance Council
RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule development workshop.

SUMMARY OF RULE HEARING

HELD ON DECEMBER 8, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 8, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12C-1.086, F.A.C. (Credit for Florida Alternative Minimum Tax), Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), and Rule 12C-1.051, F.A.C. (Forms). A notice for the public hearing was published in the Florida Administrative Weekly on November 13, 2009 (Vol. 35, No. 45, p. 5829).

SUMMARY OF RULE HEARING

HELD ON JANUARY 27, 2010

The proposed amendments to Rule 12C-1.086, F.A.C. (Credit for Florida Alternative Minimum Tax), Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), and Rule 12C-1.051, F.A.C. (Forms), were noticed for a rule hearing in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, pp. 6726-6728). A rule hearing was held on January 27, 2010, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida. No comments were received at this rule hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULES 12C-1.0186, 12C-1.0187 AND 12C-1.051

12C-1.0186 Credit for Florida Alternative Minimum Tax.

(1) If the Florida alternative minimum tax is paid pursuant to Section 220.11(3), F.S., or the Florida alternative minimum tax is offset by the credits provided in Sections 220.187 or 220.193, F.S., an alternative minimum tax credit is allowed by Section 220.186, F.S., in subsequent years.

(2) The amount of the alternative minimum tax credit is equal to the excess of the alternative minimum tax ~~AMT~~ paid over the amount of regular corporate income tax without application of the credits provided in Sections 220.187 or 220.193, F.S., that would have otherwise been due. There is no limitation on the total dollar amount of the credit.

(3) through (4) No change.

Rulemaking Specific Authority 213.06(1), 220.187(12), 220.193(4), 220.51 FS. Law Implemented 220.186, 220.187, 220.193 FS. History-New 12-7-92, Amended _____.

12C-1.0187 Credits for Contributions to Nonprofit Scholarship Funding Organizations.

(1) An Application for Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations (~~SFO~~) (Form F-1160, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department to

receive such credit. Applicants subject to the insurance premium tax imposed under Section 624.509, F.S., may only claim credit for eligible contributions they made to a nonprofit scholarship funding organization against their insurance premium tax liability. All other taxpayers may only claim the credit for eligible contributions made to a nonprofit scholarship funding organization against their corporate income tax liability. Contributions to a nonprofit scholarship funding organization are not payments of estimated tax or installment payments.

(a) through (c) No change.

(2) through (3) No change.

(4) A taxpayer is required to make a separate application for each nonprofit scholarship funding organization ~~SFO~~ it intends to support or any carry forward credit it would like to use.

(5) through (6) No change.

(7) A ~~Effective for tax years beginning on or after January 1, 2006,~~ a taxpayer may apply to the Department for rescindment of all or part of a previously approved credit allocation for a contribution to a nonprofit scholarship funding organization ~~an SFO~~, or a credit carryforward. The rescindment will be approved unless: (1) the taxpayer has had more than one approved rescindment of this credit within the last three (3) tax years; (2) the previously approved credit allocation amount to be rescinded has been claimed as a credit on a previously filed Florida corporate income tax or insurance premium tax return; or (3) the allocation year is closed for all taxpayers. The allocation for a particular year is closed for all taxpayers at the end of the subsequent calendar year. For example, the allocation year beginning January 1, 2009 ~~2006~~, closes for all taxpayers on December 31, 2010 ~~2007~~, regardless whether the annual allotment has been reached, because there are no more tax years remaining open that began in calendar year 2009 ~~2006~~ as of December 31, 2010 ~~2007~~.

(a) An Application for Rescindment of Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations ~~(SFOs)~~ (Form F-1161, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department to rescind all or part of a previously approved credit allocation or credit carryforward allocation.

(b) through (d) No change.

~~(8) The Department and the Department of Education shall develop a cooperative agreement to assist in the administration of this section. The Department of Education shall be responsible for submitting to the Department, by March 15 of each year, a list of eligible nonprofit scholarship funding organizations that meet the eligibility requirements and for monitoring eligibility of nonprofit scholarship funding organizations that meet the eligibility requirements, eligibility of nonpublic schools that meet the requirements, and eligibility of expenditures under this credit provision.~~

Rulemaking Specific Authority 213.06(1), 220.187, 220.51 FS. Law Implemented 213.05, 213.35, 213.755, 220.03(1), 220.131, 220.187, 220.44, 624.51055 FS. History-New 3-15-04, Amended 4-5-07,_____.

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 (11)	No change.	
(12)(a) F-1160	Application for Corporate Income Tax <u>and Insurance Premium Tax</u> Credit for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (R. <u>07/09</u> 07/08)	___ 01/09
(b) F-1161	Application for Rescindment of Corporate Income Tax <u>and Insurance Premium Tax</u> Credit for Contributions to Nonprofit Scholarship Funding Organizations (SFOs) (R. <u>07/09</u> 07/08)	___ 01/09

(13) through (14) No change.

Rulemaking Authority 213.06(1), 220.187, 220.192(7), 220.193(4), 220.51 FS. Law Implemented 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, 220.187, 220.1895, 220.19, 220.191, 220.192, 220.193, 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, 624.51055 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, 6-19-03, 3-15-04, 9-24-04, 6-28-05 5-1-06, 1-1-08, 1-27-09, 1-11-10,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULES 12C-1.0191 AND 12C-1.051
CREATING RULES 12C-1.0192 AND 12C-1.0193

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), provide that: (1) a business which located a new solar panel manufacturing facility in Florida generating at least 400 jobs, with an average salary of at least \$50,000, and received a capital investment tax credit may assign or transfer the credit to another business by filing Form F-1193T (Notice of Intent to Transfer a Florida Energy Tax Credit) with the Department; (2) the transfer must be verified by the Department prior to the transferor claiming the credit; (3) the letter of authorization from the Department must be attached to the return upon which the credit is claimed; and (4) those businesses required to file returns and remit payments by electronic means must apply electronically with the Department to transfer a credit.

The creation of Rule 12C-1.0192, F.A.C. (Renewable Energy Technologies Investment Tax Credit), provides that: (1) a business must apply to the Florida Energy and Climate Commission for an allocation of the renewable energies technologies investment tax credit; (2) the use of the credit is limited to the year in which it is authorized to the business; (3) a business may transfer the credit to another business by applying to the Department on Form F-1193T (Notice of Intent to Transfer a Florida Energy Tax Credit); (4) the Department will issue a letter

of authorization to transfer the credit; (5) the letter of authorization from the Department must be attached to the return upon which the credit is claimed; and (6) those businesses required to file returns and remit payments by electronic means must apply electronically with the Department to transfer a credit.

The creation of Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), provides that: (1) renewable energy facilities placed in service after May 1, 2006, and existing renewable energy facilities that meet the required increase in production and sale of electricity from a renewable energy source, must apply file an Application for Florida Renewable Energy Product Credit Allocation (Form F-1193) with the Department by February 1 of each year; (2) by March 1 of each year, the Department will notify eligible taxpayers of the amount of credit they may claim on their corporate income tax return; (3) unused credits may be transferred to another entity one time by applying to the Department on Form F-1193T (Notice of Intent to Transfer a Florida Energy Tax Credit); (4) the Department will issue a letter of authorization to transfer the credit; (5) the letter of authorization must be attached to the return upon which the credit is claimed; (6) documentation to substantiate and support entitlement to the credit must be maintained by those facilities for which the credit is authorized; and (7) those businesses required to file returns and remit payments by electronic means must apply electronically with the Department to transfer a credit.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, the Application for Florida Renewable Energy Production Credit Allocation (Form F-1193) and the Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T). Form F-1193T is used by taxpayers to notify the Department of intent to transfer a Florida renewable energy production credit (authorized by section 13, Chapter 2006-230, L.O.F.), a Florida renewable

energy technologies investment tax credit (authorized by section 11, Chapter 2008-227, L.O.F.), or a capital investment tax credit (authorized by section 10, Chapter 2008-227, L.O.F.).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Section 10, Chapter 2008-227, L.O.F., authorizes businesses which located a new solar panel manufacturing facility in Florida generating at least 400 jobs, with an average salary of at least \$50,000, to assign or transfer a capital investment credit granted to the business. The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), are necessary to include provisions on how businesses may transfer a capital investment tax credit.

The creation of Rule 12C-1.0192, F.A.C. (Renewable Energy Technologies Investment Tax Credit), is necessary to provide for the administration of section 220.192, F.S. (Renewable Energy Technologies Investment Tax Credit), including provisions for a taxpayer to transfer the tax credit to another taxpayer, as authorized by section 11, Chapter 2008-227, L.O.F. When adopted, this rule will incorporate the procedures for applying for an allocation of the Florida renewable energy technologies investment tax credit, for claiming the credit on a Florida corporate income tax return, and for transferring the tax credit.

The creation of Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), is necessary to provide for the administration of Section 220.193, F.S. (Florida Renewable Energy Production Credit), created by section 13, Chapter 2006-230, L.O.F., and amended by section 12, Chapter 2008-227, L.O.F. When adopted, this rule will incorporate the procedures for applying for an allocation of the Florida renewable energy production credit, for claiming the credit on a Florida corporate income tax return, and for transferring the credit to another taxpayer.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), are necessary to adopt, by reference, the Application for Florida Renewable Energy Production Credit Allocation (Form F-1193) and the Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T). Form F-1193T is used by taxpayers to notify the Department of intent to transfer a Florida renewable energy production credit (authorized by section 13, Chapter 2006-230, L.O.F.), a Florida renewable energy technologies investment tax credit (authorized by section 11, Chapter 2008-227, L.O.F.), or a capital investment tax credit (authorized by section 10, Chapter 2008-227, L.O.F.).

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON OCTOBER 8, 2007

The proposed creation of Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), and the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), were noticed for a rule development workshop in the Florida Administrative Weekly on September 21, 2007 (Vol. 33, No. 38, pp. 4320-4322). A rule development workshop was held on October 8, 2007, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida, to allow members of the public to ask questions and make comments regarding this proposed new rule.

PARTIES ATTENDING

For the Department of
Revenue:

LARRY GREEN, Workshop Moderator
ROBERT BABIN, Deputy Director, Technical Assistance and
Dispute Resolution
RODNEY FELIX, Revenue Program Administrator I
JOE PARRAMORE, Revenue Program Administrator I
GRACE REEVES, Compliance Coordinator
JOHN WEILER, Compliance Coordinator
THOMAS BUTSCHER, Counselor
GARY MORELAND, Senior Attorney
ROBERT DUCASSE, Tax Law Specialist
JEFFERY SOFF, Tax Law Specialist
JANET YOUNG, Tax Law Specialist

From the Public:

MICHAEL OHLSEN, Florida Department of Environmental
Protection
JIM ERVIN, Holland & Knight, Mosaic Fertilizer LLC
BOB GOLDMAN, Vickers, Madsen & Goldman

Mr. Gary Moreland, Department of Revenue, presented an overview of the proposed creation of Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit). The purpose of this proposed new rule is to provide for the administration of Section 220.193, F.S., which provides for a corporate income tax credit, the Florida renewable energy production credit. The purpose of the proposed amendments to Rule 12C-1.051, F.A.C., is to adopt, by reference, new Form F-1193 (Application for Florida Renewable Energy Production Credit Allocation) and new Form F-1193T (Notice of Intent to Transfer Florida Renewable Energy Production Tax Credit).

Mr. Jim Ervin, Holland & Knight, representing Mosaic Fertilizer, began his comments by requesting confirmation that the first application will be due February 1, 2008, and requesting the time period for which the application would apply. Mr. John Weiler, Department of Revenue,

confirmed that the time period of the application would be the preceding calendar year (calendar year 2007).

Mr. Ervin questioned how that time period would work with taxpayers who are not on a calendar year for tax purposes. Mr. Moreland pointed out to Mr. Ervin that the application form, Form F-1193, under the section “Claiming the Credit,” addressed this issue. Mr. Ervin requested information on how the Department would break down a credit of \$100,000, for calendar year 2007, for example, where some would be attributable to one tax year and some to another.

Mr. Weiler responded that the credit is based on the production and sales of the calendar year without any kind of reference to the taxpayer’s tax year. The legislation speaks to the calendar year. The credit is approved by the Department in February for the prior calendar year and would be applied to the next return filed subsequent to the date approved. The letter issued by the Department will indicate for which tax year the credit may be claimed. Mr. Rod Felix, Department of Revenue, confirmed that a credit for the particular calendar year will be taken on the return, even though the production computation for the credit may fall outside the return’s reporting year.

Mr. Ervin questioned how the fiscal allocation of the \$5 million that is made on a state fiscal year (July 1 – June 30) would apply to the applications filed by February 1. Mr. Weiler responded that the fiscal allocation made on July 1 would be applied to those applications filed by February 1 of that fiscal year.

Mr. Ervin questioned whether the maximum credit available would be the amount of the increased production or the amount of increased sales. Mr. Felix responded that since the statute provides that it has to be an increase in production and sales, the credit would be the amount that is actually going to be increased and sold. Mr. Ervin responded that Section 220.193(3)(a),

Florida Statutes, provides: “For an expanded facility, the credit shall be based on increases in the facility production that are achieved after May 1, 2006.” Based on this provision, the cap amount of the credit should be the production, not the sales. The reading of the statutes is that in order to be an expanded facility, you have to meet the 5% test for both production and sales, but the credit is based on the increase in production, limited to electricity that is sold to third parties. The maximum credit available would be the amount of the increase in production over the 2005 year.

Mr. Felix responded that the issue would be looked at further.

Changes to Subsection (1) of the proposed new rule: Provisions were added to subsection (1) of the proposed new rule to clarify when the Florida Renewable Energy Production Credit is available to a new Florida renewable energy facility operationally placed in service after May 1, 2006, and when the credit is available to an existing Florida renewable energy facility. Provisions were also added to provide that the allocation of the available credit is based upon the applicant’s increased production and sales of electricity and to provide that the increased production must be sold to unrelated parties.

Mr. Ervin also requested confirmation of how the 5% test would apply to multiple expansions over multiple years. Mr. Moreland responded that you have to meet the requirements each year and to have increased by 5% each year to be eligible for the credit. The 5% test, until the statute is changed, is based on the 2005 calendar year.

Mr. Ervin then questioned how the “May 1, 2006,” referenced in the last sentence of subsection (3) of Section 220.193, Florida Statutes, relates to the measuring period of 2005; or does it relate? Mr. Weiler and Mr. Felix responded that the increase in production is to be after May 1, 2006, but the base year is still 2005.

Mr. Ervin questioned whether a taxpayer would be eligible for the credit if there was an increase in production for a partial year that is below 5%, but when annualized would meet the criteria. Mr. Felix responded that the statute requires that the comparison be calendar year to calendar year.

Section 220.193(1), Florida Statutes, provides: “The allocation of available credit is based on the applicant’s increased production and sales of electricity.” Mr. Ervin asked how the increased element would factor into the allocation of the credit. Mr. Moreland responded that the credit would be based on the amount of the applicant’s qualified production, whatever amount of credit it is entitled to, versus the amount of credit that everyone is entitled to. Confirming his understanding, Mr. Ervin summarized that the allocation would be pro rata, based on the total amount of applications, credit applied for, versus the amount of credit available. He agreed that the allocation method was appropriate.

Mr. Ervin provided that in proposed subsection (3) of the rule the Department requires that the transferor and transferee execute a written agreement detailing the transfer of the available credit. He does not believe that the Department has the authority to require that there be a written agreement. What the Department really cares about is being on notice that a credit was transferred. If the Department needs some confirmation that there was indeed a transfer of the credit, simply have the transferor and the transferee sign the application form to put the Department on notice that the transfer has taken place.

Changes to Subsection (3) of the proposed new rule: Proposed subsection (3) was changed to provide that a transfer of the tax credit must be verified, instead of being approved, by the Department prior to the transferor claiming the credit. Provisions requiring that the transferor and the transferee must execute a written agreement detailing the transfer of the available credit were removed.

Mr. Bob Goldman confirmed that the period in time within which you actually measure increases is determined with reference to May 1, 2006, for purposes of calculating credits. Mr. Weiler responded that May 1, 2006, applies to the date that the facility would have to be in operation. Mr. Goldman requested clarification that the 2005 sales year would be used not only

for determining eligibility for the credit, but also for measuring the amount of the credit. Mr. Moreland confirmed that would be true for an expanded facility, but not for a new facility.

Mr. Goldman asked how long it takes for the Department to respond once an application is submitted. Mr. Moreland provided that the information is in the application – the Department will notify applicants on or before March 1 of the tax credit allocated to them.

Changes to Subsection (1) of the proposed new rule: Procedures for notifying taxpayers of the amount of corporate income tax credit allocated to the taxpayer and the tax year in which the credit may be claim, as provided in Form F-1193, were added to subsection (1) of the proposed rule.

Mr. Ervin commented that there is reference in the statute to facilities, new facilities, and expanding facilities; however, there is no definition of the term “facility” in the statute. Mr. Moreland responded that the statute does define “new facility” and “expanded facility.” Mr. Weiler responded that on Page 4, of the Form F-1193 Instructions, under the paragraph titled “Florida Renewable Energy Facility Information,” there is a description of a “facility.” Mr. Ervin confirmed that the provision does address the issue.

Mr. Ervin questioned whether there is a requirement to increase your generation capacity, or is it sufficient to simply generate more steam or other power to run the turbine to meet the 5% test? Mr. Felix responded that if you had excess capacity, and you simply added more steam and produced and sold more, you would meet the criteria.

Mr. Ervin summarized that the only issue remaining for which additional written comments would be necessary would be the production versus sales issue with regard to the amount of credit available. His position is that it should be based on production in terms of available credit per the sentence in subsection (3) of the Section 220.193, F.S. If the Department

agrees, no further comments are necessary. If not, further comments may be needed. Within five (5) days of learning the Department's conclusion, written comments could be submitted.

Changes to Rule 12C-1.0193, Florida Administrative Code: The changes to the proposed rule text indicated above have been reviewed by Mr. Ervin. He has advised that no further comment will be provided to the Department regarding the development of this proposed new rule.

Mr. Bob Goldman requested that the comment period be extended to October 19, 2007. Ms. Young agreed to contact Mr. Goldman before proceeding with the rulemaking process. On October 22, 2007, Mr. Goldman advised that he would not be submitting written comments regarding this proposed new rule.

SUMMARY OF CHANGES TO THE PROPOSED NEW RULE 12C-1.0193, F.A.C., AND THE ADOPTION OF RELATED FORMS IN PROPOSED RULE 12C-1.051, F.A.C.:

Based on the comments received and made a part of the rule development workshop, the following changes were made to proposed new Rule 12C-1.0193, F.A.C.:

Subsection (1):

- Clarify when the Florida renewable energy production credit is available to a new Florida renewable energy facility operationally placed in service after May 1, 2006, and when the credit is available to an existing Florida renewable energy facility.
- Provide that the allocation of the available credit is based upon the applicant's increased production and sales of electricity.
- Provide that the Department will notify eligible taxpayers of the amount of corporate income tax credit allocated to the taxpayer and that the notification letter must be attached to the taxpayer's Florida corporate income tax return on which the credit is taken.

Subsection (2):

- Provide for the basis of the credit for a new Florida renewable energy facility.

Subsection (3):

- Provide that the transfer must be verified, instead of being approved, by the Department prior to the transferor claiming the credit.
- Remove the requirement that the transferor and the transferee must execute a written agreement detailing the transfer of the available credit.

Subsection (4):

- Provide that taxpayers claiming the Florida renewable energy production tax credit must retain documentation which substantiates and supports the credit.

Section 220.193, F.S., was amended by section 12, Chapter 2008-227, L.O.F., to define the terms "sale" or "sold" and "taxpayer for purposes of the exemption and to provide for the pass-through of the Florida renewable energy production credit. These provisions are remedial and apply retroactively to the effective date of the law providing the energy credit. They have been included in proposed Rule 12C-1.0193, F.A.C., Florida Renewable Energy Production Tax Credit.

In addition, sections 11 and 13, Chapter 2008-227, L.O.F., authorize the transfer of the Florida renewable energy technologies investment tax credit or the Florida capital investment tax credit. Provisions for the transfer of these credits have been included in Form F-1193T, Notice of Intent to Transfer A Florida Energy Tax Credit. Changes to Rule 12C-1.0191 (Capital Investment Tax Credit Program), have been made to include provisions regarding the transfer of the credit. Rule 12C-1.0192, F.A.C. (Renewable Energy Technologies Investment Tax Credit), has been proposed to include provisions on how to obtain the credit and how to transfer the credit.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON OCTOBER 13, 2009

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4640-4641), to advise the public of the development of changes to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), and Rule 12C-1.051, F.A.C. (Forms), the proposed creation of Rule 12C-1.0192, F.A.C., (Renewable Energy Technologies Investment Tax Credit), and Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit). A rule development workshop was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, FL, to allow members of the public to ask questions and make comments concerning the proposed rule amendments.

PARTIES ATTENDING

For the Department of
Revenue

LARRY GREEN, Workshop Moderator
ROBERT DUCASSE, Revenue Program Administrator I
BEN JABLOW, Assistant General Counsel
JANET YOUNG, Tax Law Specialist

From the Public

JIM ERVIN, representing Mosaic Phosphates
GARY LANDRY, Florida Insurance Council
RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

Mr. Jim Ervin requested confirmation that the changes in Chapter 2008-227, L.O.F., to sections 220.192, and 220.193, F.S., were considered in the development of these proposed amendments. Mr. Robert DuCasse confirmed that the provisions of that law were incorporated into the proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), the proposed creation of Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), and the forms used to administer the capital investment tax credit and the renewable energy credits against corporate income and insurance premium taxes.

SUMMARY OF RULE HEARING

HELD ON DECEMBER 8, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 8, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), and Rule 12C-1.051, F.A.C. (Forms), and the proposed creation of Rule 12C-1.0192, F.A.C., (Renewable Energy Technologies Investment Tax Credit), and Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit). The notice for the public hearing was published in the Florida Administrative Weekly on November 13, 2009 (Vol. 35, No. 45, p. 5829). Prior to publication of the Notice of Proposed Rule provisions requiring the electronic submissions of the applications were withdrawn.

SUMMARY OF RULE HEARING

HELD ON JANUARY 27, 2010

The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), and Rule 12C-1.051, F.A.C. (Forms), and the proposed creation of Rule 12C-1.0192, F.A.C., (Renewable Energy Technologies Investment Tax Credit), and Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), were noticed for a rule hearing in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, pp. 6728-6731). A rule hearing was held on January 27, 2010, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida. In response to written comments received, when adopted, by reference, changes to Form F-1193, Application for Florida Renewable Energy Production Credit Allocation, will be made to provide that the Florida Renewable Energy Credit is based on

increases in electricity produced from renewable sources between January 1, 2007, and June 30, 2010. The application for the credit must be submitted on or before February 1, 2010, for electricity produced during the 2009 calendar year. The revision date of the form will be "R. 01/10." When adopted, paragraph (13)(a) of Rule 12C-1.051, F.A.C., will incorporate by reference the January 2010 revision to Form F-1193.

A notice of change will be published in the Florida Administrative Weekly on February 12, 2010.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULES 12C-1.0191 AND 12C-1.051
CREATING RULES 12C-1.0192 AND 12C-1.0193

12C-1.0191 Capital Investment Tax Credit Program.

(1) through (4) No Change.

(5) A qualifying business that establishes a qualifying project that includes locating a new solar panel manufacturing facility in Florida that generates a minimum of 400 jobs within six months after commencement of operations with an average salary of at least \$50,000, may assign or transfer its capital investment tax credit, or any portion thereof, to any other business. The amount of credit that may be transferred in any year is the lesser of (1) the qualifying business's Florida corporate income tax liability for the tax year, or (2) the credit amount granted for the tax year. A business receiving the transferred credit may use the credit only in the year received, and the credit may not be used in any other tax year. Taxpayers are required to file a Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T, incorporated by reference in Rule 12C-1.051, F.A.C.) to transfer a capital investment tax credit for which a transfer is provided. The transfer must be verified by the Department prior to the transferee claiming the credit. Within 15 days of receipt of a completed Form F-1193T, the Department will notify the transferor and the transferee of the amount of tax credit authorized for transfer. A copy of the letter from the Department allowing the transfer must be attached by the transferee to the Florida Corporate

Income/Franchise and Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on which the credit is claimed.

(6)(5) Taxpayers making application for the Capital Investment Tax Credit or transferring a capital investment tax credit should refer to Section 220.191, F.S., for the definition of terms, statutory requirements, and other pertinent guidelines.

Rulemaking Specific Authority 213.06(1), 220.191(8)(7), 220.51 FS. Law Implemented 220.191 FS. History—New 8-4-05, Amended 4-5-07,_____.

12C-1.0192 Renewable Energy Technologies Investment Tax Credit.

(1) Taxpayers wishing to obtain an allocation of renewable energy technologies investment tax credit must apply to the Florida Energy and Climate Commission, as provided in Section 220.192, F.S.

(2) For tax years beginning on or after January 1, 2009, a corporation, general partnership, limited partnership, limited liability company, unincorporated business, or any other business entity or subsequent transferee may transfer the renewable energy technologies investment tax credit, in whole or in part, to any taxpayer by written agreement. A taxpayer receiving the transferred credit may apply the credit with the same effect as if the transferee had incurred the eligible costs. Taxpayers are required to file a Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T, incorporated by reference in Rule 12C-1.051, F.A.C.) to transfer a renewable energy technologies investment tax credit. The transfer must be verified by the Department prior to the transferee claiming the credit. Within 15 days of receipt of a completed Form F-1193T, the Department will notify the transferor and the transferee of the amount of tax credit authorized for transfer. A copy of the letter from the Department allowing the

transfer must be attached by the transferee to the Florida Corporate Income/Franchise and Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on which the credit is claimed.

Rulemaking Authority 213.06(1), 220.192(5), (7), 220.51 FS. Law Implemented 220.192 FS.

History—New _____.

12C-1.0193 Florida Renewable Energy Production Credit.

(1) A Florida Renewable Energy Production Credit is provided in Section 220.193, F.S., for the sale of electricity from a new Florida renewable energy facility operationally placed in service after May 1, 2006, and for increases of more than five percent (5%) in the production and sale of electricity from renewable energy sources at an existing Florida renewable energy facility. The terms “sale” and “sold” include the use of electricity by the producer of such electricity from renewable sources if such use reduces the amount of electricity that the producer would otherwise have to purchase. To claim the credit, an Application for Florida Renewable Energy Production Credit Allocation (Form F-1193, incorporated by reference in Rule 12C-1.051, F.A.C.), must be filed with the Department on or before February 1 of each year for an allocation of credit. The allocation of credit is based upon the applicant’s increased production and sales of electricity and the increased production and sales of all applicants. On or before March 1 of each year, the Department will notify eligible taxpayers by letter of the amount of credit that is allocated to them and the tax year in which the taxpayer may claim the credit on its Florida corporate income tax return. A copy of this letter must be attached to the taxpayer’s Florida corporate income tax return on which the credit is taken.

(2) Taxpayers that increase both production and sales of renewable electrical energy by more than five percent (5%) over the 2005 calendar year for each expanded Florida renewable energy facility may submit one application each year for each qualifying facility. For a new Florida renewable energy facility, the credit is based on the taxpayer's sale of the facility's entire electrical production. A taxpayer may not transfer its right to apply for a credit to another taxpayer. Florida Renewable Energy Production credits may only be taken once against the Florida corporate income tax, may not be carried back to an earlier tax year, and must be taken in the order prescribed in Section 220.02(8), F.S. A taxpayer claiming the credit on its Florida corporate income tax return must add back the amount of the credit to its Florida net income. Credit amounts that are not granted in full or in part due to the annual \$5 million limitation are not eligible for a Florida Renewable Energy Production credit in later years.

(3) The Florida Renewable Energy Production Credit may be transferred in a merger or acquisition. In addition, unused credits may be transferred one time (outside a merger or acquisition) to another taxpayer in whole or in increments of not less than twenty-five percent (25%) of the remaining credit. Taxpayers are required to file a Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T, incorporated by reference in Rule 12C-1.051, F.A.C.) to transfer the unused renewable energy production credits available for transfer. The transfer must be verified by the Department prior to the transferee claiming the credit. Within 15 days of receipt of a completed Form F-1193T, the Department will notify the transferor and the transferee by letter of the amount of tax credit authorized for transfer. A copy of the letter from the Department allowing the transfer must be attached by the transferee to the Florida Corporate Income/Franchise and Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on which the credit is claimed. The transfer of a credit does not affect the

time for taking the credit, and the credit is subject to the same limitations imposed on the transferor.

(4) Every taxpayer claiming a Florida Renewable Energy Production Credit must retain documentation that substantiates and supports the credit, a copy of the letter received from the Department granting the credit, a schedule reconciling all credit carryovers, transfers, and sales, and a copy of the letter from the Department allowing the transfer until tax imposed by Chapter 220, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

Documentation to substantiate and support the credit includes: production records or other evidence of the amount of electricity produced; evidence of the increase in production and sales of electricity over the 2005 calendar year by an expanded facility; and evidence establishing that the electricity was produced from renewable energy.

Rulemaking Authority 213.06(1), 220.193, 220.51 FS. Law Implemented 213.35, 220.02(8), 220.03(1), 220.131, 220.193, 220.21 FS. History-New _____.

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
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(2) through (12) No change.

<u>(13)(a) F-1193</u>	<u>Application for Florida Renewable Energy</u>	
	<u>Production Credit Allocation (R. 01/10)</u>	_____
<u>(b) F-1193T</u>	<u>Notice of Intent to Transfer A Florida Energy</u>	
	<u>Tax Credit (R. 12/09)</u>	_____

(13) through (14) renumbered (14) through (15) No change.

Rulemaking Authority 213.06(1), 220.192(5), (7), 220.193(4), 220.51 FS. Law Implemented 213.755(1), 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, 220.187, 220.1895, 220.19, 220.191, 220.192, 220.193, 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, 6-19-03, 3-15-04, 9-24-04, 6-28-05 5-1-06, 4-5-07, 1-1-08, 1-27-09, 1-11-10,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULE 12C-1.0221

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), provide that the inclusion of the preparer's name on an electronically-filed corporate income tax return or notice: (1) means that the return or notice has been signed by the tax return preparer; (2) meets the requirement that the tax return preparer must have examined the information on the return or notice and must declare that it is true, correct, and complete to the best of the preparer's knowledge and belief; and (3) follows the requirements of Internal Revenue Notice 2004-54 (Alternative Methods of Signing for Income Tax Return Preparers).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), are necessary to provide procedures for how and when the Department will accept an electronic signature of the preparer of a corporate income tax return or notice when the tax return preparer is other than the taxpayer.

FEDERAL COMPARISON STATEMENT

The provisions contained in this rule do not conflict with comparable federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON OCTOBER 13, 2009

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, p. 4641), to advise the public of the development of changes to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), and that a rule development workshop would be held on October 13, 2009. A rule development workshop was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, FL, to allow members of the public to ask questions and make comments concerning the proposed rule amendments.

PARTIES ATTENDING

For the Department of Revenue	LARRY GREEN, Workshop Moderator ROBERT DUCASSE, Revenue Program Administrator I BEN JABLOW, Assistant General Counsel JANET YOUNG, Tax Law Specialist
From the Public	JIM ERVIN, representing Mosaic Phosphates GARY LANDRY, Florida Insurance Council RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule development workshop.

SUMMARY OF RULE HEARING

HELD ON DECEMBER 8, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on December 8, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification). A notice for the public hearing was published in the Florida Administrative Weekly on November 13, 2009 (Vol. 35, No. 45, p. 5829).

SUMMARY OF RULE HEARING

HELD ON JANUARY 27, 2010

The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), were noticed for a rule hearing in the Florida Administrative Weekly on December 31, 2009 (Vol. 35, No. 52, pp. 6731-6733). A rule hearing was held on January 27, 2010, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida. No comments were received at this rule hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULE 12C-1.0221

12C-1.0221 Returns, Notices, and Elections; Signing and Verification.

(1) through (2) No change.

(3) Each return or notice required to be filed under this code shall be verified by a written declaration that is made under the penalties of perjury. A return prepared for the taxpayer by another person shall contain a declaration by the preparer that it was prepared on the basis of all information of which the preparer has knowledge.

(a) Florida corporate income tax returns (Form F-1120), amended returns (Form F-1120X), and partnership information returns (Form F-1065) shall contain a declaration, under the penalties of perjury, that the officer, partner, or fiduciary signing the return has examined the return, including accompanying schedules and statements, and declares that to the best of his or her knowledge and belief the return is true, correct, and complete. If such returns are prepared by a person other than the taxpayer, the preparer shall declare, under penalties of perjury, that the return, accompanying schedules, and statements are true, correct, and complete to the best of his or her knowledge and belief based on all of the information of which he or she has any knowledge.

(b) Affiliations schedules (Form F-851) shall contain a declaration, under the penalties of perjury, that the officer or fiduciary signing the schedule has examined the information and

statements contained therein and declares to the best of his or her knowledge and belief that the schedule is true and correct.

(c) Florida tentative income tax return and application for extension of time to file income tax return (Form F-7004) and authorization and consent of subsidiary corporation to be included in a consolidated return (Form F-1122) shall contain a declaration, under the penalties of perjury, that the person signing such form has been authorized to sign the form and that the information and statements therein are true and correct to the best of his or her knowledge and belief.

(4) No change.

(5) Tax Return Preparers Other Than the Taxpayer.

(a) If an electronically filed return is prepared by a person other than the taxpayer, the declaration of the preparer that such return or notice was prepared on the basis of all information of which he or she has any knowledge shall be deemed to be signed when the preparer includes his or her name in the completed electronic return data identified as preparer information.

(b) When the preparer includes his or her name in the completed electronic return data identified as preparer information, it will also be deemed to serve as the written declaration made under penalties of perjury in accordance with subsection (3).

(c) The requirements of Internal Revenue Notice 2004-54, Alternative Methods of Signing for Income Tax Return Preparers (August 16, 2004, herein incorporated by reference), will be followed regarding the signature of a tax return preparer (other than the taxpayer) for returns submitted electronically to a taxpayer and filed with the Department by the taxpayer.

(d) All filed returns, including electronically-filed returns, prepared by a person other than the taxpayer, must include all information that is required on the return for paid preparers,

including the firm name of the preparer (or individual name for a self-employed preparer) and address, and the preparer's tax identification number and federal employer identification number.

Rulemaking Specific Authority 213.06(1), 220.51 FS. Law Implemented 213.755, 220.221, 220.23(2)(a) FS. History-New 3-5-80, Amended 12-18-83, Formerly 12C-1.221, Amended 12-21-88, 4-8-92, 1-28-08,_____.