



facts on TAX

October 2007

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Technical Assistance Advisements

Rules Adopted by Governor and Cabinet Taxpayer Information Publications (TIPs)

The Application of Sales Tax and Discretionary Sales Tax to Investigative Services

Before explaining the current application of sales tax to investigative services, let us begin by briefly reviewing the history of the taxability of investigative services.

History - Historically, Florida has primarily imposed sales and use taxes on the retail sale of goods. In 1987, the Florida Legislature passed legislation that made most services, including investigative services, subject to tax. However, less than a year after its inception, the broad-based tax on services was repealed and, instead, the general sales tax rate was increased from 5 percent to 6 percent.

In a Special Session in 1992, the Florida Legislature passed legislation that made a limited number of services, including investigative services, subject to Florida sales and use tax. This legislation, which became effective September 1, 1992, provided for the taxation of investigative services, including burglar protection and detective services as identified under Standard Industry Codes (SIC) 7381 and 7382. At this time, only the state general sales tax rate of 6 percent was applicable to these services.

Effective April 23, 1993, the tax on investigative services was amended to provide that any law enforcement officer providing detective, burglar prevention, and other protective services was exempt from collecting sales tax according to certain established criteria.

Effective July 1, 1994, investigative services also became subject to any locally imposed discretionary sales surtax, also called a county tax. Until then, all taxable services were only subject to the state general sales tax rate of 6 percent. The application of the surtax is based upon the location that the taxable service is actually performed.

Today - That brings us to today's situation. Currently, if you are performing detective, investigative, or protection services in Leon County, you are required to collect sales tax and surtax at a combined rate of 7.5 percent (state general sale tax rate of 6 percent plus the county rate of 1.5 percent). The \$5,000 cap for surtax does not apply to taxable services. Therefore, if you invoice your client for services rendered in Leon County for \$7,000, the entire amount of the invoice is subject to the combined sales tax and surtax at 7.5 percent. However, it is important to note that if an investigative service was performed in Leon County, but that service was "used or consumed outside this state by the purchaser," the service will not be subject to tax. You will need to review the provisions of Rule 12A-1.0161(2), Florida Administrative Code, for guidance on these situations.

Investigative services that are provided directly to a government entity or any organization that holds a valid Florida Consumer's Certificate of Exemption (Form DR-14) are also exempt from sales and use tax. Investigative services may be re-sold to another investigator who holds a valid Certificate of Registration; in this case, you must obtain a copy of the other investigator's Annual Resale Certificate (Form DR-13) for your files.

The total amount of charges for any and all expenses that are passed on to the client are also subject to tax. If you invoice your client for both taxable and non-taxable services and these services are stated separately on an invoice, only the taxable services will be subject to tax. Exempt services include: credit reporting, any report of public records, and insurance

Application of Sales and Discretionary Tax to Investigative Services continued

services as listed under SIC 6411. These exemptions are listed in Rule 12A-1.0092, Florida Administrative Code. When you perform specifically exempt services, your records must show the name, federal employer identification number or social security number, date, type of service, and the associated costs as provided for in the Florida Administrative Code.

Any tangible personal property that you purchase to perform your services, is considered to be consumed by you, and will be taxable to you, as the ultimate consumer of these products.

For More Information

For more information concerning the application of taxes to investigative services, go to the Department of Revenue Web site at www.myflorida.com/dor and click "Research Law" and then select "Tax Law Library." Under the heading "Sales and Use Tax," look for Section 212.05(1)(i) under "Florida Statutes," and Rules 12A-1.0092 and 12A-1.0161 under "Florida Administrative Code." If you would like to request a presentation for your local chapter, go to "Taxes" on our Internet site and then click "Free Tax Seminars." From there you can locate Taxpayer Education Specialists in your area and request their assistance.

Press Releases

Automobile repair shop owner arrested for not reporting over \$47,000 in tax.

The owner of a Hillsborough County automobile repair business has been arrested on charges that he stole more than \$47,000 in sales tax he collected from customers but failed to send in to the state, the Florida Department of Revenue announced.

William D. Mitchell, 41, of Tampa, was arrested by the Hillsborough County Sheriff's Department on September 17 on felony charges relating to failure to file tax returns and pay tax. If convicted, he faces up to 15 years in prison and up to \$10,000 in fines, as well as possible repayment of stolen tax, interest, penalty and investigative costs. Mitchell also faces charges related to failure to file tax returns as required by law. Mitchell operates Z-Fever, Inc., 4607-A Lois Avenue, Tampa, Florida.

According to Department of Revenue investigators, Mitchell routinely collected tax from customers at his business. However, during various periods between November 2003 and January 2007, Mitchell failed to send in to the state all of the sales taxes that he had collected. Investigators found that Mitchell had illegally kept \$47,304.06 in tax money. Under state law, sales tax is the property of the state at the moment of collection.

Restaurant owner arrested in tax theft case.

The owner of a Marion County restaurant has been arrested on charges that he stole more than \$29,000 in sales tax he collected from customers but failed to send in to the state, the Florida Department of Revenue announced.

Kevin M. Bond, 36, of Belleview, was arrested by the Marion County Sheriff's Department on August 21, 2007, on felony charges relating to failure to file tax returns and pay tax. If convicted, he faces up to 15 years in prison and up to \$10,000 in fines, as well as possible repayment of stolen tax, interest, penalty, and investigative costs. Bond also faces charges related to failure to file tax returns as required by law. Bond operates Bonjon's Pizza n' Wings, Inc., 10093 SE US Highway 441, Belleview, Florida.

Press Releases continued

According to Department of Revenue investigators, Bond routinely collected tax from customers at his business. However, during various periods between April 2005 and December 2006, Bond failed to send in to the state all of the sales taxes that he had collected. Investigators found that Bond had illegally kept \$29,377.50 in tax money. Under state law, sales tax is the property of the state at the moment of collection.

Beauty and nail salon business owner arrested for failing to file taxes.

The owner of a Marion County beauty and nail supply salon has been arrested for two counts on charges that she failed to file six consecutive sales tax returns, the Florida Department of Revenue announced. Each six-payment period for failing to file and pay constitutes a separate felony charge.

Lisa Pauline Nash, 48, of Hawthorne, was arrested by the Marion County Sheriff's Department on July 31, 2007, on felony charges relating to failure to file tax returns and pay tax. If convicted, she faces up to 5 years in prison and up to \$5,000 in fines, for each of the two counts, as well as possible repayment of stolen tax, interest, penalty, and investigative costs. Nash operates Sharp Cuts, 2201 SW College Road, Suite 6, Ocala, Florida.

According to Revenue Department investigators, Nash routinely collected tax from customers at her business. However, during the periods between April 2004 and January 2007, Nash failed to file returns for the sales taxes that she had collected. Under state law, sales tax is the property of the state at the moment of collection and returns must be filed by the 20th day of the month following the collection period. Based upon the level of business, Nash was only required to file quarterly.

"All businesses must pay the taxes they owe to the state," said Jim Zingale, executive director of the Department of Revenue. "Tax cheats steal money that is paid by the public and needed to support vital public services in Florida, such as law enforcement and education. They also steal a competitive advantage over honest business people who pay their taxes. The Department of Revenue cannot and will not allow this to occur." If you have information about tax theft, please call your local Florida Department of Revenue office.

Technical Assistance Advisements

Communications Services Tax

Technical Assistance Advisement: 07A19-001

Issue: Communications services used to provide Internet access and the Internet Tax Freedom Act

Statute cites: s. 202.105, Florida Statutes (F.S.) (2001), and s. 212.05, (F.S.)(1997)

Questions: Are communications services sold to an Internet service provider subject to Florida's communications services tax when the Internet service provider uses

Technical Assistance Advisements continued

such services to provide Internet access? If so, is Florida barred from enforcing its communications services tax on such services by the Internet Tax Freedom Act?

Answer: Communications services sold by communications services providers to Internet service providers, which are used by the Internet service providers to provide Internet access service, are subject to Florida's communications services tax. Furthermore, Florida satisfies the grandfather provision of Section 1104(a) of 47 U.S.C. § 151, Note 1, and, therefore, it is not preempted from continuing to enforce its taxation of the services at issue in this advisement. The November 1, 2007, expiration of the Section 1104(a) grandfather provision is of no consequence with respect to Florida's authority to enforce its taxation of the services at issue in this advisement, because the Internet Tax Freedom Act itself expires on the same date.

Corporate Income Tax

Technical Assistance Advisement: 07C1-003

Issue: Consolidated filing requirements

Statute cite: s. 220.131, F.S.

Rule cite: 12C-1.0131, (3)(b) Florida Administrative Code (F.A.C.)

Question: May a parent/subsidiary consolidated filing group be granted permission to cease filing Florida consolidated corporate tax returns after 100% of its stock was purchased by a new owner (parent), that does not have Florida nexus?

Answer: Yes.

Technical Assistance Advisement: 07C1-004

Issue: Request for written agreement for partnership information

Statute cite: s. 220.22(2), F.S.

Rule cites: 12C-1.021, 12C-1.22(2)(e), 12C-1.022(6)(a), (d), and (e), F.A.C.

Request: A partnership is requesting a written agreement with the Florida Department of Revenue concerning the method by which income gain, loss, and deductions of each partner subject to tax and the partnership in general are required to be reported. Also, the partnership seeks agreement as to the method of reporting the names and addresses of all partners subject to Florida corporate income tax, and the partners' distributive share of the partnership's apportionment factors.

Response: The agreement between the taxpayer and the Department states that the various partnerships will meet their partnership return requirement by attaching the federal Form 1065 along with a spreadsheet summary of the partner's federal information and Florida information for adjustments to taxable income, and apportionment information. The summary information will also include schedules that provide details and explanations of the partnership's federal and Florida amounts, along with the partner's federal Form K-1's.

Technical Assistance Advisement: 07C1-005

Issue: Consolidated Filing Requirements

Statute cite: s.220.131, F.S.

Rule cite: 12C-1.0131(3)(b)2.a, F.A.C.

Technical Assistance Advisements continued

Question: May a parent/subsidiary consolidated filing group be granted permission to cease filing Florida consolidated corporate income tax returns due to changes in their circumstances?

Answer: Yes.

Corporate Income Tax

Technical Assistance Advisement: 07C1-006

Issue: Request for authority to discontinue consolidated filing

Statute cites: s. 220.131(1) and (3), F.S.

Rule cite: 12C-1.0131(3)(b)2.a., F.A.C.

Question: May a parent/subsidiary consolidated filing group be granted permission to cease filing Florida consolidated tax returns after being purchased by a new owner or partner that does not have Florida nexus?

Answer: Yes.

Documentary Stamp Tax

Technical Assistance Advisement: 07B4-003 and 07B4-004

Issue: Conveyance of Real Property to a limited liability company

Statute cite: s. 201.02(1), F.S.

Rule cites: 12B-4.012(1) and (2), F.A.C.

Question: Is a deed conveying unencumbered real property from the individual to the limited liability company solely-owned by the individual subject to tax?

Answer: No. The deed conveying unencumbered real property from the individual to their solely-owned limited liability company is not subject to tax other than the minimum \$.70 (seventy cents).

Technical Assistance Advisement: 07B4-005

Issue: Consideration for Transfer

Statute cite: s. 201.02, F.S.

Question: In the case where a taxpayer owns a 99.5% interest in a parcel of unencumbered real property through a chain of title and receives the remaining .5% via a quit claim deed, is documentary stamp tax due on only the .5% transferred to the taxpayer?

Answer: Yes, the tax is only due on the .5% beneficial interest transferred to the taxpayer based on the fair market value of the property, because the taxpayer indirectly owns 99.5% of the property through a chain of title.

Documentary Stamp Tax and Nonrecurring Intangible Tax

Technical Assistance Advisement: 07M-004

Issue: Line of credit agreements

Statute cites: s. 199.133, 199.143, 201.08, F.S.

Rule cite: 12B-4.052(6), F.A.C.

Question: Is an overdraft protection line of credit agreement signed by a borrower that contains a promise to pay but does not specify a specific amount the borrower

Technical Assistance Advisements continued

promises to repay subject to the documentary stamp tax and nonrecurring intangible tax?

Answer: Unsecured overdraft protection line of credit documents signed by a borrower that contain an obligation to repay the total amounts borrowed but do not contain a specific amount the borrower promises to repay are not subject to the documentary stamp tax. Nonrecurring intangible tax is not applicable to unsecured lines of credit. However, any mortgages filed or recorded in the public records as security for any loans made by a lender to a borrower are subject to documentary stamp tax and nonrecurring intangible tax based on the maximum principal indebtedness secured for both documentary stamp tax and nonrecurring intangible tax.

Documentary Stamp Tax and Nonrecurring Intangible Tax

Technical Assistance Advisement: 07M-005

Issue: Line of Credit Agreements

Statute Cites: s. 201.08(1)(a), s. 199.133(1), F.S.

Question: Is Florida's documentary stamp tax and nonrecurring intangible tax due on the following documents? Specifically:

- Schedule A to Credit Agreement.
- Schedule 1 to Schedule A to Credit Agreement.
- Schedule A-1 to Credit Agreement.
- Exhibit A to Schedule A-1 to Credit Agreement.
- Schedule A-2 to Credit Agreement.
- Schedule A-3 to Credit Agreement.
- Funds Transfer Request Form.
- The Funding Request-Private Bank Form.
- A margin call letter.
- A notice of demand.
- The Private Client Line Option Priced Rate Sheet.

Answer: Documentary stamp tax is due on any instrument executed, signed, or delivered in Florida that contains an unconditional written obligation to pay money. The taxability of a document under this paragraph is determined solely from the face of the document and any separate document expressly incorporated into the document. Documentary stamp tax is due on any mortgage or other lien filed or recorded in Florida. Nonrecurring intangible tax is due on notes and other written obligations to pay money to the degree secured by a mortgage on Florida real property.

It is determined that the Agreements:

- Schedule A, Schedule 1.
- Schedule A-1, Exhibit A.
- Schedule A-2, Schedule A-3.
- Transfer Form, Funding Request Form.
- Margin Call Letter.
- Notice of Demand.
- Option Priced Rate Sheet .

Technical Assistance Advisements continued

provided for review are not subject to documentary stamp tax as independent documents since neither document contains an unconditional obligation to pay or repay a sum certain in money and the signature of the borrower. It is also determined that neither of the documents reviewed contain language that expressly incorporates it with any of the other documents reviewed and as such, no two or more of the documents reviewed can be considered as a single document for documentary stamp tax purposes.

This determination was made based on review of only those documents that were submitted. If other documents are used during the loan process, a different determination might result.

The documents reviewed and determined not to be subject to documentary stamp tax would be subject to tax if they purport to establish a mortgage or lien and are filed or recorded in Florida.

It is determined that nothing within the documents reviewed specifically provide for a mortgage on Florida real property. However, nonrecurring intangible tax as would be due if Florida real property is given to secure the agreement or any other obligation to pay money.

Sales and Use Tax

Technical Assistance Advisement: 07A-018

Issue: Out-of-state sales

Statute cites: s. 212.02(16), 212.05, and 212.06, F.S.

Rule cites: 12A-1.0015 and 12-11.007, F.A.C.

Question: May a Florida dealer sell tangible personal property to a nonresident customer tax-exempt when the dealer ships the property to another Florida dealer, who uses the property to manufacture a finished product and then ships the product out-of-state to the nonresident customer?

Answer: A Florida dealer must collect and remit Florida sales tax on the sale of tangible personal property to a nonresident customer when the property is shipped to another Florida dealer who uses the property to manufacture a finished product.

Technical Assistance Advisement: 07A-022

Issue: Software

Statute cites: s. 212.02, 212.05, 212.06, F.S.

Rule cite: 12A-1.032, F.A.C.

Question: Is the license to use taxpayer's software, which is downloaded electronically by the customer subject to Florida sales tax?

Answer: The license to use software that is downloaded electronically by the customer is a service transaction and is not subject to sales tax provided it is not part of the sale of tangible personal property.

Technical Assistance Advisement: 07A-024

Issue: Toll roads

Statute cite: s. 212.031, F.S.

Rule cite: 12A-1.070, F.A.C.

Technical Assistance Advisements continued

Question: Will the payment of tolls by the motoring public for use of the toll road be subject to Florida sales tax?

Answer: Tolls paid solely for transportation purposes on the toll road discussed herein will not be subject to Florida sales tax.

Sales and Use Tax

Technical Assistance Advisement: 07A-026

Issue: Real property lease at airport

Statute cites: s. 212.031(1) (a)7 and 215.26, F. S.

Rule cite: 12A-1.070(14)(a), F.A.C.

Question: Is that portion of the rental payments allocable to taxiways taxable for sales and use tax according to the provisions of section 212.031(1)(a)7, F.S.?

Answer: The two paved areas between the hangar buildings, which tie in directly to the airport's taxiway, constitute a "taxiway" as required by section 212.031(1)(a)7, F.S. Accordingly, that portion of the rental payments allocable to the taxiways is not taxable.

Question: Is that portion of the real property used for retention ponds and setbacks (required by regulation) taxable?

Answer: Section 212.031(1)(a)7, F.S., clearly limits the real property used at an airport to that property used for aircraft landing or aircraft taxiing or property used by an airline for loading or unloading passengers or cargo from aircraft or for fueling aircraft. Property used for retention ponds or setbacks would not fall within the exclusion.

Question: Is Lessee entitled to a refund of the taxes previously collected by lessor?

Answer: Lessee must secure a refund of taxes previously paid on the non-taxed property from lessor and not the Department. If lessor is unwilling to refund the tax, lessor may issue an assignment of rights to lessee, which will allow lessee to apply for the refund of overpaid taxes directly from the Department.

Technical Assistance Advisement : 07A-027

Issue: Purchase of materials for public works

Statute cite: s.212.08(6), F.S.

Rule cites: 12A-1.038, 12A-1.051, 12A-1.094, F.A.C.

Question: Do the procedures for the purchase of materials set out in the contract for the construction of public works meet the legal requirements for the city to purchase the materials tax exempt?

Answer: The procedures meet the legal requirement for the city to purchase the materials tax exempt as long as the controlling documents provide all of the provisions listed below:

1. The governmental entity must execute the purchase orders for the tangible personal property involved in the contract, which must include the governmental entity's consumer's certificate of exemption number. The contractor may present the governmental entity's purchase orders to the vendors of the tangible personal property.

Technical Assistance Advisements continued

2. The governmental entity must acquire title to and assume liability for the tangible personal property from the point in time when it is delivered to the job site up until the time it is incorporated as real property.
3. Vendors must directly invoice the governmental entity for supplies.
4. The governmental entity must directly pay the vendors for the tangible personal property.
5. The governmental entity must assume all risk of loss or damage for the tangible personal property involved in the contract, as indicated by the entity's acquisition of, or inclusion as the insured party under, insurance on the building materials.

Sales and Use Tax

Technical Assistance Advisement: 07A-028

Issue: Improvements to real property/dual operators

Statute cites: s. 212.05, 212.054, 212.06, F.S.

Rule cites: 12A-1.051, 12A-1.016, 12A-15.004, F.A.C.

Question: Is a taxpayer making improvements to real property or sales of tangible personal property when it is installing several different types of systems?

Answer: Taxpayer jobs are mixed contracts and the taxation is in accordance with the predominant nature of the system unless taxpayer's contract allocates the price upon the various elements.

Question: How does the \$5,000 discretionary sales surtax limitation apply?

Answer: The \$5,000 discretionary sales surtax applies to each system sold on a single qualifying purchase order when the predominant nature of the system is that of tangible personal property, or to the tangible personal property allocated price elements. However, two or more systems on a single purchase order for a single residence cannot be combined into a working unit. For example, if the contract or purchase order calls for a security system and a home entertainment system, the two systems cannot be combined to comprise a working unit.

Question: How does tax apply to taxpayer's purchases of materials in Florida for use in fulfilling real property improvement contracts in Georgia?

Answer: The taxpayer is the ultimate consumer of the materials used, and it owes Florida tax on the purchase of materials upon which delivery is made to a taxpayer in Florida, regardless of whether or not the taxpayer ultimately installs the materials in an improvement to real property outside this state.

Technical Assistance Advisement: 07A-030

Issue: The exemption on repairs to industrial machinery and equipment

Statute cite: s. 212.08(7) (xx), F.S.

Rule cite: 12A-1.096, F.A.C.

Question: Does the replacement of industrial machinery and equipment for the steel manufacturing process constitute repairs under the provisions of Section 212.08(7)(xx), F.S. The items being replaced are the electric arc furnace, the transformer for the electric arc furnace, the electrical substation for the furnace and transformer, the melting facility foundation and housing, and six of the finishing mill stands.

Technical Assistance Advisements continued

Answer: The production of steel is an integrated process beginning with the melting of scrap steel and concluding with the coiling or bundling of the finished steel products. There are no breaks in the production process once the melting of the scrap steel has started. Accordingly, the replacement industrial machinery and equipment will qualify for an exemption as repairs with the exception of the electrical substation. The electrical substation equipment is owned by the local utility and will not qualify for exemption.

Sales and Use Tax

Technical Assistance Advisement: 07A-031

Issue: Whether or not a publication is exempt from sales tax, and if it is, the procedure to obtain a refund.

Statute cites: s. 212.08(7)(w), 215.26, F.S.

Rule cites: 12A-1.008, 12A-1.014, 12-26.003, F.A.C.

Question: Is taxpayer's publication exempt from sales tax?

Answer: Publications included by taxpayer are tax-exempt publications that meet the requirements of Section 212.08(7)(w), F.S., as they are free, circulated publications that are published on a regular basis, the content of which is primarily advertising, and are distributed through the mail, home delivery, or newsstands.

Question: How does a person or business recover a refund for sales tax he or she believes was erroneously paid to a dealer?

Answer: The printer/dealer may refund the sales tax to the taxpayer, and either take a credit on a future tax return or apply for a refund from the Department. The dealer may also execute the assignment of rights, and the taxpayer may request a refund directly from the Department, barring any statute of limitations problem.

Sales and Use Tax and Gross Receipts Tax

Technical Assistance Advisement: 07A-025

Issue: Rental of light poles and light pole fixtures by electric utilities

Statute cites: s.203.01, 212.02, and 212.05, F.S.

Rule cite: 12A-1.039, F.A.C.

Question: Are the transactions involving the provision of light poles and light pole fixtures to customers properly classified, under the facts provided, as leases of tangible personal property for Chapter 212, F.S., tax purposes subject to sales tax as sales of electric power or energy?

Answer: The provision of light poles and light pole fixtures, under the facts provided, are not subject to sales tax as sales of electric power or energy because the charge for leasing is separate from the charge for the provision of electric power or energy.

Question: Are the taxpayers' purchases of light poles and light pole fixtures for purposes of these transactions nontaxable purchases for resale under Chapter 212, F.S.?

Answer: Taxpayers' purchases of poles and pole fixtures for purposes of these transactions are nontaxable purchases for resale under Chapter 212, F.S. Taxpayers are reminded that a sale for resale is exempt from the tax imposed by Chapter 212, F.S., only when the sale for resale is in strict compliance with the provisions of Rule 12A-1.039, F.A.C.

Technical Assistance Advisements continued

Question: Does the gross receipts tax, imposed by Chapter 203, F.S., apply to amounts received in payment for charges on these light poles and light pole fixtures?

Answer: Gross receipts tax does not apply to the amounts received as payment for separately stated charges that are exclusively for these light poles and light pole fixtures. However, gross receipt tax does apply to the amounts received as payment for charges for the delivery of electricity for light, heat, or power.

Rules Adopted by Governor and Cabinet

Gross Receipts Tax

12BER07-1 Scope; Definitions; Index Price

This emergency rule provides that Emergency Rules 12BER07-1 through 12BER07-4 apply to the tax imposed under Chapter 203, F.S., on utility services delivered to a retail consumer in Florida and defines the terms “cost price,” “distribution company,” “Department,” “electricity index price,” “gas index price,” “gross receipts,” “utility services,” and “person” for purposes of these four emergency rules. It also provides:

- That the gross receipts tax imposed on certain utility services delivered to a retail consumer in Florida are based on an index price.
- How the Department will announce the annual index prices for electricity and for natural and manufactured gas.
- That the index price applies to electricity only if the transportation of the electricity is sold independent of the sale of the electricity itself.

Filed: 6/11/07 Effective: 7/1/07

12BER07-2 Imposition of the Gross Receipts Tax

This emergency rule provides that the 2.5 percent gross receipts tax is imposed on distribution companies' gross receipts from the privilege of selling and transporting natural or manufactured gas to retail consumers in Florida and explains how the tax is computed based on the index price. It further states:

- The sale or transportation of natural or manufactured gas to public or private utilities for use as a fuel in the generation of electricity or for resale is not subject to tax.
- The sale or transportation of natural or manufactured gas to persons eligible for an exemption under section 212.08(7)(ff)2., F.S., for use as an energy source or a raw material is not subject to tax.
- Guidelines on how to document such sales.

The emergency rule provides that the 2.5 percent gross receipts tax is imposed on distribution companies' gross receipts from the privilege of selling and transporting electricity to retail consumers in Florida and how the tax is to be calculated.

The following are not subject to the gross receipts tax:

- Receipts from customers for purposes of resale.
- Receipts from separately itemized charges for the connection, disconnection, suspension, or restoration of utility services.
- Receipts from separately itemized fees for returned checks, late payments, and interest due on late payments.

Rules Adopted by Governor and Cabinet continued

- Receipts from separately itemized charges for the sale, lease, rental, repair, or maintenance of customer premises equipment.

The emergency rule provides guidelines on how gross receipts tax is applied to charges for utility services separately itemized to customers as an amount for services based on a standard rate amount with a separate rate adjustment. It states that each and every fee imposed by a political subdivision of the State of Florida that gets passed on to the customer as a separately itemized charge is included in the gross receipts subject to

tax. Any municipal public service tax and any sales tax separately itemized to the customer is not included in the gross receipts subject to tax. The sale or delivery of electricity as part of an electric interchange agreement or contract between utilities is not subject to tax, and there are guidelines on how to document such a sale or delivery. The wholesale sales of electric transmission services and the loss of electricity from the generation, transmission, or distribution of electricity are not subject to tax. Guidelines are provided:

- Regarding any separately itemized charge for gross receipts tax on a customer's bill, invoice, statement, or other evidence of sale.
- On the imposition of tax on natural or manufactured gas imported into Florida for which the Florida gross receipts tax has not been paid.
- On how to document sales of utility services for purposes of resale.

Finally, the emergency rule states recordkeeping requirements for taxpayers who sell or deliver utility services. Filed: 6/11/07 Effective: 7/1/07

12BER07-3 Registration for Gross Receipts Tax Purposes

This emergency rule states that prior to engaging in the business of selling, transporting, delivering, or importing utility services in Florida, every person is required to register with the Department and provides guidelines on how to register with the Department. Filed: 6/11/07 Effective: 7/1/07

12BER07-4 Payment of Gross Receipts Tax; Reports

This emergency rule provides guidelines on the how to report and remit to the Department the gross receipts tax imposed on utility services and guidelines for when taxpayers may elect to pay the gross receipts tax on total billings for electricity each month or on the actual gross receipts for electricity received in that month. It also states that persons engaged in the transportation of natural or manufactured gas must provide the Department with a list of customers to whom transportation services were provided in the prior year or post such a list on a publicly-accessible Internet web site. Filed: 6/11/07 Effective: 7/1/07

Rules Adopted by Governor and Cabinet continued

Property Tax

Rule Chapter 12D-3 Taxation of Interests of Non-Governmental Lessees in Property Owned by Governmental Units

12D-3.001 Introduction

12D-3.003 Assessment and taxation of interests of non-governmental lessees in governmentally owned property which are subject to ad valorem taxation.

These rules are amended to provide that leaseholds in governmental property remain subject to the collection, administration, and enforcement provisions of Chapter 199, F.S. (2005). Adopted: 8/28/07 Effective: 10/2/07

Rule Chapter 12D-7 Exemptions

12D-7.003 Exemption of property of widows, widowers, blind persons, and persons totally and permanently disabled; disabled ex-service members, spouses.

The amendment to this rule states the total amount of the exemption for spouses of deceased disabled veterans. Adopted: 8/28/07 Effective: 10/2/07

12D-7.013 Homestead Exemptions-Abandonment

This rule is amended to remove the obsolete term "business house" and to provide that homestead property that is uninhabitable due to damage or destruction from misfortune or calamity is not considered abandoned under certain conditions.

Adopted: 8/28/07 Effective: 10/2/07

Chapter 12D-8 Assessment Role Preparation and Approval

12D-8.0061 Assessment; homestead property assessments at just value.

This rule is amended to provide that a change in homestead property ownership does not occur under certain types of transfer documents. Adopted: 8/28/07

Effective: 10/2/07

12D-8.011 Uniform Standards for Computer Operations: Minimum Data

Requirements The amendment to this rule provides updated data coding for property appraisers' data processing files. Adopted: 8/28/07 Effective: 10/2/07

Chapter 12D-13 Tax Collectors Rules and Regulations

12D-13.031 Homestead tax deferral-application; approval; income and age requirements; outstanding liens and primary mortgage.

This rule is amended to provide revised age and income requirements for homestead deferred taxes. Adopted: 8/28/07 Effective: 10/2/07

Chapter 12D-16 Administration of Forms: Rule 12DER07-07

The correct forms for use in the maximum millage calculations required by Chapter 2007-321, Laws of Florida. This emergency rule adopts and incorporates by reference the maximum millage levy calculation preliminary disclosure forms and a general information form to help local governments and officials comply with the requirements

Rules Adopted by Governor and Cabinet continued

of Chapter 2007-321, Laws of Florida. The adopted forms are:

Form DR-420C-P

County Maximum Millage Levy Calculation-Preliminary Disclosure; N. 07/07

Form DR-420I-P

Independent Special District Maximum Millage Levy Calculation-Preliminary Disclosure; N. 07/07

Form DR-420M-P

Municipality Maximum Millage Levy Calculation-Preliminary Disclosure, Revision - N. 07/07

Form DR-428

Maximum Millage Calculation-General Information, Revision - N. 07/07

Filed: 7/12/07 Effective: 7/12/07

12D-16.002 Index to Forms

The amendments to this rule incorporate revisions to ad valorem property tax forms.

Adopted: 8/28/07 Effective: 10/2/07

Sales Tax

12AER07-8 Sales of Books, Clothing, and School Supplies during the Period

August 4 through August 13, 2007

This emergency rule notifies the general public and retailers of the sales tax free holiday (Section 1, Chapter 2007-144, Laws of Florida) granting a ten-day exemption from sales tax on the sales of books, clothing, and certain accessories that have a sales price of \$50.00 or less, and on certain school supplies that have a sales price of \$10.00 or less. The ten-day exemption began at 12:01 a.m. on August 4, 2007, and expired at midnight on August 13, 2007.

Filed: 7/16/07 Effective: 8/2/07

Taxpayer Information Publications (TIPs)

TIP 07A01-06

Issued: 07/01/07

Exemption from Commercial Rent Tax (S.212.031, F.S.) for Bookstore Operations at Postsecondary Educational Institutions

TIP 07A19-06

Issued: 07/20/07

Local Communications Service Tax Rate Change Effective September 1, 2007, City of Gainesville

TIP 07C01-04

Issued: 09/18/07

Florida Corporate Income Tax - Voluntary Electronic Filing

TIP 07A01-05

Issued: 07/01/07

Electricity Used for Agricultural Purposes

Taxpayer Information Publications (TIPs)cont.

TIP 07A01-11

Issued: 07/01/07

Indexed Tax on Asphalt will Increase to 62 Cents Per Ton for the Period July 1, 2007, through June 30, 2008

TIP 07B05-02

Issued: 07/01/07

Refund for Motor Fuel Used for Commercial Aviation Purposes

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