

**AMENDED 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

December 8, 2009

**Contact: Robert Babin
(850- 487-1453)**

9:00 A.M.
LL-03, The Capitol
Tallahassee, Florida

ITEM	SUBJECT	RECOMMENDATION
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|----|--|---------------------------|
| 1. | Respectfully request approval of the minutes of November 17, 2009.

(ATTACHMENT 1) | RECOMMEND APPROVAL |
| 2. | Respectfully request approval and authority to publish a Notice of Proposed Rule in the Florida Administrative Weekly to provide that, pursuant to 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:
<i>(Rule 12-3.007, Florida Administrative Code/F.A.C.)</i>

(ATTACHMENT 2) | RECOMMEND APPROVAL |
| 3. | Respectfully request approval and authority to publish a Notice of Proposed Rule in the Florida Administrative Weekly to remove property tax provisions concerning value adjustment board hearing procedures in existing Rule Chapter 12D-10, F.A.C., to conform this chapter to provisions being proposed in new Rule Chapter 12D-9, F.A.C.:
<i>(Rules 12D-10.001, 12D-10.002, 12D-10.003, 12D-10.004, 12D-10.0044, 12D-10.005, and 12D-10.006, F.A.C.)</i>

(ATTACHMENT 3) | RECOMMEND APPROVAL |
| 4. | Respectfully request approval and authority to publish a Notice of Proposed Rule in the Florida Administrative Weekly for the following general tax rule issues:

<p style="text-align:center"><u>Delegation of Authority</u>
Proposed rule to require written agreements when the amount of an assessment of tax, penalty, or interest that is compromised exceeds \$30,000.
<i>(Rule 12-13.009, F.A.C.)</i></p> | |

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 4)

RECOMMEND APPROVAL

5. Respectfully request adoption and approval to file and certify with the Secretary of State Under Chapter 120, Florida Statutes, new and amended child support enforcement rules to provide procedures for processing unidentifiable collections, and to administer implementation of recent federal and state law changes concerning IRS tax refund offset and passport denial procedures:
(Rules 12E-1.0052 and 12E-1.014, F.A.C.)

(ATTACHMENT 5)

RECOMMEND APPROVAL

6. Respectfully request adoption and approval to file and certify with the Secretary of State Under Chapter 120, Florida Statutes, amendments to state tax rules that adopt forms that will be used by businesses in calendar year 2010 to submit taxes, fees, surcharges, and associated information:
(Rules 12A-1.097, 12A-13.002, 12A-16.008, 12A-17.005, 12A-19.100, 12B-4.003, 12B-5.150, 12B-7.004, 12B-7.008, 12B-7.026, 12B-8.003, 12C-1.051, and Rule 12C-2.0115, F.A.C.)

(ATTACHMENT 6)

RECOMMEND APPROVAL

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

November 17, 2009

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 October 27, 2009.
- ITEM 2.** Approved the Performance Contract of the Executive Director of the Department of Revenue for FY 2009-2010.
- ITEM 3.** Granted permission to submit the Department of Revenue's 2010-2011 Legislative Budget Request to the Executive Office of the Governor and Legislature. (Governor abstained)
- ITEM 4.** Granted permission to submit the Department of Revenue's Long Range Program Plan FY 2010-2011 through 2014-2015 to the Executive Office of the Governor and Legislature.
- ITEM 5.** Granted permission to submit the Department of Revenue's Agency Capital Improvement Program Plan FY 2010-2011 through 2014-2015 to the Executive Office of the Governor and Legislature.
- ITEM 6.** Granted permission to submit the Department's 2010 Proposed Legislative Concepts to the Legislature.

ATTACHMENT # 1

November 24, 2009

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 Rule on Department Administration

What is the Department Requesting? Approval to publish a Notice of Proposed Rule to schedule a public hearing for the next stage of rulemaking on proposed amendments to the delegation of rulemaking authority from the Governor and Cabinet to the Department.

Why are These Proposed Rules Necessary? To administratively implement Section 5 of Chapter 2008-104, Laws of Florida, which amended the Administrative Procedure Act.

What Do These Proposed Rules Do? These proposed rules:

- Provide, in accordance with statutory changes, that the Department must obtain permission from its agency head, composed of the Governor and cabinet members, to publish a Notice of Proposed Rule; and,
- 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.

ATTACHMENT #2

Memorandum
November 24, 2009
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Were Comments Received from External Parties? A rule development workshop was held on October 13, 2009. No comments were received.

Are There Significant Administrative Issues in These Rules? No.

Attached are copies of:

- Notice of Cabinet Hearing (for December 8, 2009)
- Notice of Proposed Rule with rule text
- Summary of the proposed rule
- Statements of facts and circumstances justifying the rule
- Federal relation statement
- Summary of workshop

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.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

GENERAL; PROCEDURE

RULE NO: RULE TITLE:

12-3.007 Delegation of Authority

PURPOSE AND EFFECT: 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.

SUMMARY: 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.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 20.05, 20.21, 120.54 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 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 RULE IS:

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, ____.

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 RULES: [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
Proposed Rule Development Workshop was published in the Florida Administrative Weekly on
September 25, 2009 (Vol. 35, No. 38, p. 4635). A rule development workshop was conducted on
October 13, 2009. No comments were received by the Department.

November 24, 2009

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 Rule on Department Administration

What is the Department Requesting? Approval to publish a Notice of Proposed Rule to schedule a public hearing for the next stage of rulemaking on proposed changes to property tax rules in Rule Chapter 12D-10, F.A.C.

Why are These Proposed Rules Necessary? To administratively implement Chapters 2008-197 and 2009-121, Laws of Florida.

What Do These Proposed Rules Do? These proposed rules repeal rules in Rule Chapter 12D-10, F.A.C., to conform to proposed new rules in Rule Chapter 12D-9, F.A.C., which is currently being promulgated.

- These repealed rules are:
 - 12D-10.001 Composition of Value Adjustment Board.
 - 12D-10.002 Appointment and Employment of Special Magistrates.
 - 12D-10.004 Receipt of Taxpayer's Petition to Be Acknowledged.
 - 12D-10.0044 Uniform Procedures for Hearings; Procedures for Information and Evidence Exchange Between the Petitioner and Property Appraiser, Consistent with s. 194.032, F.S.; Organizational Meeting; Uniform Procedures to be Available to Petitioners.
 - 12D-10.005 Duty of Clerk to Prepare and Transmit Record.
 - 12D-10.006 Public Notice of Findings and Results of Value Adjustment Board.

ATTACHMENT #3

- Amend Rule 12D-10.003, F.A.C., to retain provisions that are necessary to:
 - o establish Value Adjustment Board authority;
 - o require that every decision of the Board must contain specific and detailed findings of fact; and,
 - o define the terms “ultimate findings of fact”, and “basic and underlying findings of fact”.

Were Comments Received from External Parties? Parties who are attending the rule workshops and public meetings on the proposed VAB rules in new Rule Chapter 12D-9 have many opportunities to communicate comments and recommendations. Since the repeal of certain provisions in existing Rule Chapter 12D-10 only conform it to similar provisions in proposed Rule Chapter 12D-9, external interests are being addressed during the discussions on Rule Chapter 12D-9. These external parties include representatives of: members and staff of Value Adjustment Boards, Special Magistrates, staff from Clerks of the Court offices; tax representatives; association representatives; county Property Appraiser offices; county Tax Collector offices;; and, other interested parties.

Are There Significant Administrative Issues in These Rules? No.

Attached are copies of:

- Notice of Cabinet Hearing (for December 8, 2009)
- Notice of Proposed Rule with rule text
- Summary of the proposed rule
- Statements of facts and circumstances justifying the rule
- Federal relation statement
- Summary of workshop

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-10, FLORIDA ADMINISTRATIVE CODE
VALUE ADJUSTMENT BOARDS
REPEALING RULES 12D-10.001, 12D-10.002, 12D-10.004,
12D-10.0044, 12D-10.005, AND 12D-10.006
AMENDING RULE 12D-10.003

SUMMARY OF THE PROPOSED RULES

New Rule Chapter 12D-9, F.A.C., is being developed to establish uniform procedures for hearings before value adjustment boards and their special magistrates. The current Rule Chapter 12D-10, F.A.C., contains language that is being included in the new proposed rule chapter. The repeal of specific provisions in existing Rule Chapter 12D-10, F.A.C., fulfills the intention of conforming it to the proposed new Rule Chapter 12D-9, F.A.C. These repeals eliminate confusion for the public and clarify the procedures.

FACTS AND CIRCUMSTANCES JUSTIFYING THE PROPOSED RULES

The repeal of specific provisions in existing Rule Chapter 12D-10, F.A.C., is necessary to administratively implement the provisions of Sections 3, 4, 5, and 6 of Chapter 2008-197, Laws of Florida. The effect of these proposals is that taxpayers who petition property tax matters to Value Adjustment Boards, including property tax assessments, denials of classifications, and denials of exemptions, have access to the procedures that apply to the hearing of their petitions.

The rule draft incorporates a series of technical changes and repeals to place Chapter 12D-10 into consistency with Chapter 12D-9 as currently proposed. These changes to Chapter 12D-10 are a portion of the changes that will ultimately be proposed to fully implement Chapters 2008-197 and 2009-121, Laws of Florida.

FEDERAL COMPARISON STATEMENT

The repeal of specific provisions in existing Rule Chapter 12D-10, F.A.C., does not conflict with federal laws, policies, or standards, since the federal government does not impose an ad valorem tax on real or tangible personal property.

SUMMARY OF RULE DEVELOPMENT WORKSHOPS

Section 120.54(2), F.S. provides that no notice of rule development is required when an entire rule provision is being repealed, therefore, no notice of rule development has been published and no workshop has been held. A notice of rule development was published on December 5, 2008 (see Vol. 34, No. 49. pp. 6352-6353 of the Florida Administrative Weekly/F.A.W). Notices for rule development workshops at which versions of these proposed new and amended rules were also discussed were published on: July 11, 2008, for a workshop that was held in Ft. Lauderdale, Florida, on July 28, 2008 (see Vol. 34. No. 28. pp. 3613-3614 of the Florida Administrative Weekly/F.A.W); July 18, 2008, for a workshop that was held in Live Oak, Florida, on August 6, 2008 (see Vol. 34, No. 29, p. 3668 of the F.A. W); July 18, 2008, for a workshop that was held in Tallahassee, Florida, on August 12, 2008 (see Vol. 34, No. 29, p. 3668 of the F.A.W); September 19, 2008, for a workshop that was held in Tampa, Florida, on October 13, 2008 (see Vol. 34, No. 38, p. 4803, of the F. A.W); September 19, 2008, for a workshop that was held in Panama City,

Florida, on October 17, 2008 (see Vol. 34, No. 38, p. 4803, of the F.A. W); October 31, 2008, for a workshop that was held in Orlando, Florida, on November 19, 2008 (see Vol. 34. No.44, pp. 5709-5711 of the FA W); and, October 31, 2008, for a workshop that was held in Miami, Florida, on November 20, 2008 (see Vol. 34, No. 44, pp, 5709-5711 of the F.A.W). Members of the public attended each of these workshops and made comments on the proposed rules. In addition, written comments have been submitted to the Department by email, and to an Internet site at <http://dor.myflorida.com/dor/property/vabwb/vabws.html>, which was created specifically to give the public access to all versions of public a site to submit comments, and to view the comments submitted by others. A further notice of rule development was published on August 14, 2008 (see Vol. 35, No. 32. pp. 3843-3844 of the Florida Administrative Weekly/F.A.W).

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

PROPERTY TAX OVERSIGHT PROGRAM

RULE NO:	RULE TITLE:
12D-10.001	Composition of Value Adjustment Board.
12D-10.002	Appointment and Employment of Special Magistrates.
12D-10.003	Powers, Authority, Duties and Functions of Value Adjustment Board.
12D-10.004	Receipt of Taxpayer's Petition to Be Acknowledged.
12D-10.0044	Uniform Procedures for Hearings; Procedures for Information and Evidence Exchange Between the Petitioner and Property Appraiser, Consistent with s. 194.032, F.S.; Organizational Meeting; Uniform Procedures to be Available to Petitioners.
12D-10.005	Duty of Clerk to Prepare and Transmit Record.
12D-10.006	Public Notice of Findings and Results of Value Adjustment Board.

PURPOSE AND EFFECT: The repeal of specific provisions in Rule Chapter 12D-10, F.A.C., is necessary to administratively implement the provisions of Sections 3, 4, 5, and 6 of Chapter 2008-197, Laws of Florida and to conform to the new proposed Rule Chapter 12D-9, F.A.C. The effect of these proposed rule changes is that taxpayers who petition property tax matters to Value Adjustment Boards, including property tax assessments, denials of classifications, and denials of exemptions, have access to the procedures that apply to the hearing of their petitions.

SUMMARY: Proposed Rule Chapter 12D-9, F.A.C., is being created to establish uniform procedures for hearings before value adjustment boards and their special magistrates. Current Rule Chapter 12D-10, F.A.C., repeats language in the new proposed chapter. The repeal of specific provisions in current Rule Chapter 12D-10, F.A.C., and the amendment of other provisions in Rule Chapter 12D-10, F.A.C., fulfills the intention of conforming it to the proposed new Rule Chapter 12D-9, F.A.C. The repeal eliminates confusion for the public and clarifies the procedures. The rule draft incorporates a series of technical changes and repeals to place current Rule Chapter 12D-10, F.A.C., into consistency with new Rule Chapter 12D-9, F.A.C., as currently proposed. These changes to Rule Chapter 12D-10, F.A.C., are a portion of the changes that will ultimately be proposed to fully implement Chapters 2008-197 and 2009-121, Laws of Florida.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS.

LAW IMPLEMENTED: Ch. 2008-197, Laws of Florida, 50, 193.122, 194.011, 194.015, 194.032, 194.034, 194.035, 194.036, 194.037, 194.301, 195.002, 195.022, 195.096, 196.011, 197.122, 200.069, 213.05 FS.

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

DATE AND TIME: [To be determined upon approval by the Governor and Cabinet]

PLACE: Training Room D, Building C-1, Taxworld, 5050 W. Tennessee Street, Tallahassee Florida. The public can also participate in the hearing through a simultaneous electronic

broadcast of this event by the Department of Revenue using WebEx, digital video production, and conference calling technology. The requirements to participate are access to the Internet and a phone. The public can participate in this electronic hearing by accessing the broadcast from their home or office.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding is asked to advise the Department at least 48 hours before such proceeding by contacting Janice Forrester at (850)922-7945. 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: Janice Forrester, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P.O. Box 3000, Tallahassee, Florida 32315-3000, telephone 850-922-7945, ForrestJ@dor.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-10, FLORIDA ADMINISTRATIVE CODE
VALUE ADJUSTMENT BOARDS
REPEALING RULES 12D-10.001, 12D-10.002, 12D-10.004,
12D-10.0044, 12D-10.005, AND 12D-10.006
AMENDING RULE 12D-10.003

12D-10.001 Composition of Value Adjustment Board. ~~The value adjustment board may be convened at any time in order to consider necessary business. Each elected member of the board shall serve on the board until he is replaced by a successor elected by his respective parent board or is no longer a member of the governing body or school board of the county. The respective parent boards must elect a replacement for those members of the value adjustment board who are no longer members of the governing body or school board of the county. The quorum requirements of section 194.015, Florida Statutes, may not be waived by anyone, including the petitioner.~~

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 194.015, 213.05 FS. History--New 10-12-76, Formerly 12D-10.01, Amended 12-31-98, Repealed xx-xx-09.

12D-10.002 Appointment and Employment of Special Magistrates. ~~Special magistrates appointed by the board act in place and stead of the board except to render final decision. The recommendation of a special magistrate to the board shall be in writing and contain the findings~~

~~of fact and conclusions of law upon which the recommendation is based and shall conform to the provisions of Rule 12D-10.003(5)(a) and (b), F.A.C. Proceedings before the special magistrate shall meet all basic requirements of a proceeding before the board, and the special magistrate's records and decisions shall be developed, preserved and maintained as described in Rule 12D-10.003(4).~~

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 194.032, 194.034, 194.035, 213.05 FS. History--New 10-12-76, Formerly 12D-10.02, Repealed xx-xx-09.

12D-10.003 Powers, Authority, Duties and Functions of Value Adjustment Board.

(1) The board has no power to fix the original valuation of property for ad valorem tax purposes or to grant an exemption not authorized by law and the board is bound by the same standards as the county property appraiser in determining values and the granting of exemptions. The board has no power to grant relief either by adjustment of the value of a property or by the granting of an exemption on the basis of hardship of a particular taxpayer. The board, in determining the valuation of a specific property, shall not consider the ultimate amount of tax required.

(2) The powers, authority, duties and functions of the board, insofar as they are appropriate, apply equally to real property and tangible personal property (including taxable household goods).

~~(3) A county property appraiser's determination of value is entitled to a presumption of correctness. The petitioning taxpayer has the burden to prove that the property appraiser's determination was incorrect. The presumption of correctness for valuation determinations can be properly rebutted as described in section 194.301, Florida Statutes.~~

~~(4)(a) The verbatim record required by section 194.034(1)(c), Florida Statutes, may be kept by electronic tape recording. The clerk of the board shall maintain the verbatim record and the preserved evidence and listings for a period of not less than four years. All witnesses may be required, upon the request of either party, to testify under oath as administered by the chairman of the board. Witnesses for either party may be cross-examined by the other party when testimony is taken.~~

~~(b) No evidence shall be considered by the board or special magistrate except when presented during the time scheduled for the petitioner's hearing, or at a time when the petitioner has been given reasonable notice. All documentary evidence presented shall be properly preserved and indexed to the verbatim record. Where no decision is rendered in a case, such as where the petition is withdrawn or acknowledged correct by the property appraiser, the reasons for no decision shall be placed in the record and a detailed listing of each case so handled and the reasons therefor shall be compiled by the clerk and maintained along with the verbatim record.~~

~~(c) No petitioner shall present, nor shall the board or special magistrate accept, testimony or other evidentiary materials for consideration that were requested of the petitioner in writing by the property appraiser of which the petitioner had knowledge and deliberately denied to the property appraiser.~~

~~(5)(a) Every decision of the board must contain specific and detailed findings of fact which shall include both ultimate findings of fact and basic and underlying findings of fact. Each basic and underlying finding must be properly annotated to its supporting evidence. For purposes of these rules, the following are defined to mean:~~

~~(a)1.~~ An ultimate finding is a determination of fact. An ultimate finding is usually expressed in the language of a statutory standard and must be supported by and flow rationally from adequate basic and underlying findings.

~~(b)2.~~ Basic and underlying findings are those findings on which the ultimate findings rest and which are supported by evidence. Basic and underlying findings are more detailed than the ultimate findings but less detailed than a summary of the evidence.

~~(c)3.~~ Reasons are those clearly stated grounds upon which the board or property appraiser acted.

~~(b)~~ All decisions made shall include the nature of the change made and indicate the just, taxable, and exempt value before and after the change.

~~(6)~~ The board shall certify each assessment roll or part of an assessment roll after all hearings on that roll or part of a roll have been held. The certificate shall be in the manner and form prescribed by the Department of Revenue and a sufficient number of copies thereof delivered to the property appraiser who shall attach the same to each copy of each assessment roll prepared by the property appraiser. The board shall forward a copy of the certificate to the Department of Revenue.

~~(7)~~ The board shall remain in session until its duties are completed concerning all assessment rolls or parts of assessment rolls. The board may temporarily adjourn from time to time but shall reconvene when necessary in the normal course of business or to hear petitions, complaints, or appeals and disputes filed upon that roll or portion of the roll finally approved which had been disapproved by the Executive Director pursuant to section 193.1142(2), Florida Statutes, or disapproved by the assessment administration review commission or the Supreme Court pursuant to section 195.098, Florida Statutes. A temporary adjournment after consideration of all petitions

~~objecting to an assessment on the roll as submitted to the Department of Revenue under section 193.114(5), Florida Statutes, shall be considered an "adjournment" under section 200.011, Florida Statutes.~~

~~(8) The board may not extend the time for the filing of petitions. However, the failure to meet the statutory deadline for filing a petition to the board is not an absolute bar to consideration of such a petition by the board when the board determines that the petitioner has demonstrated good cause justifying consideration and that the delay will not, in fact, be prejudicial to the performance of its functions in the taxing process.~~

Rulemaking Specific Authority 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.122, 194.011, 194.015, 194.032, 194.034, 194.036, 194.037, 194.301, 195.002, 195.096, 196.011, 197.122, 213.05 FS. History--New 10-12-76, Formerly 12D-10.03, Amended 11-10-77, 9-30-82, 12-31-98, xx-xx-09.

12D-10.004 Receipt of Taxpayer's Petition to Be Acknowledged.

~~(1)(a) The taxpayer has the sole responsibility for filing a petition with the clerk of the value adjustment board to appeal any decision of the property appraiser, including denial of homestead exemption. The prescribed form for filing a petition is Form DR-486 (or DR-486T for tangible personal property), as incorporated by reference in Rule 12D-16.002, F.A.C. Regardless that the value adjustment board uses a form other than Forms DR-486 or DR-486T, as permitted under section 195.022, F.S., a taxpayer may submit, and the value adjustment board must accept, Forms DR-486 and DR-486T.~~

~~(b) The clerk shall acknowledge receipt of the petition and promptly furnish a copy of the petition to the property appraiser. If the taxpayer files a petition after the statutory deadline of 25~~

~~days after the notice of proposed property taxes was mailed, the clerk shall note this fact on the petition and bring it to the attention of the board.~~

~~(c) If any taxpayer's request for homestead exemption is denied by the property appraiser, such taxpayer may file a petition with the clerk of the value adjustment board. The taxpayer must file this petition on or before the 30th day following the mailing (postmark date) of the notice of denial. It is the sole option and responsibility of the taxpayer to file this petition.~~

~~(2) The clerk of the board shall prepare a schedule of appearances before the board based on timely filed petitions. The clerk shall notify each petitioner of the scheduled time of appearance. The notice shall be in writing and delivered by regular or certified U.S. mail or personal delivery so that the notice shall be received by the taxpayer no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The clerk will have prima facie complied with the requirements of this section if the notice was deposited in the U.S. mail thirty (30) days prior to the day of such scheduled appearance.~~

~~(3) For the purposes of section 194.032(2), Florida Statutes, the term "chairman" shall include a special magistrate appointed under section 194.035(1), Florida Statutes.~~

~~(4) Where a petitioner, pursuant to section 194.032(2), Florida Statutes, leaves a scheduled meeting for undue delay, the board or special magistrate is not precluded from considering the petition of the taxpayer. In that event, if the petition contains sufficient information, then the board is authorized to enter its decision on the petition.~~

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 195.022, 200.069, 213.05 FS. History--New 10-12-76, Formerly 12D-10.04, Amended 1-11-94, 12-28-95, 12-31-98, 1-20-03, 12-30-04, Repealed xx-xx-09.

12D-10.0044 Uniform Procedures for Hearings; Procedures for Information and Evidence Exchange Between the Petitioner and Property Appraiser, Consistent with s. 194.032, F.S.; Organizational Meeting; Uniform Procedures to be Available to Petitioners.

~~(1) The value adjustment board must accept Forms DR 486 and DR 486T, regardless that the value adjustment board uses another such form, as permitted under section 195.022, F.S.~~

~~(2) Subsequent to the mailing or sending of the hearing notice, and at least 15 days before the scheduled hearing, the petitioner shall provide the property appraiser with a list and summary of evidence to be presented at the hearing. The list and summary must be accompanied by copies of documentation to be presented at the hearing.~~

~~(3) No later than 7 days before the hearing, if the property appraiser receives the petitioner's documentation and if requested in writing by the petitioner, the property appraiser shall provide the petitioner with a list and summary of evidence to be presented at the hearing. The list and summary must be accompanied by copies of documentation to be presented at the hearing. The evidence list must contain the property record card if provided by the clerk.~~

~~(4)(a) If the taxpayer does not provide the information to the property appraiser at least 15 days prior to the hearing pursuant to subsection (2), the property appraiser need not provide the information to the taxpayer pursuant to subsection (3).~~

~~(b) If the property appraiser does not provide the information within the time required by subsection (3), the hearing shall be rescheduled.~~

~~(5)(a) The exchange in subsections (2) and (3) shall be delivered by regular or certified U.S. mail, personal delivery, overnight mail, FAX or email. It shall be sufficient if at least three (3) FAX or email attempts are made to such address. If more than one (1) FAX number is provided, three (3) attempts must be made for each number to satisfy this requirement. The taxpayer and~~

property appraiser may agree to a different timing and method of exchange. "Provided" means made available in the manner designated by the property appraiser or by the petitioner in his/her submission of information, as via email, facsimile, U.S. mail, or at the property appraiser's office for pick up. If the petitioner does not designate his/her desired manner for receiving the property appraiser's information, the information shall be provided by the property appraiser by depositing it in the U.S. mail.

(b) The information shall be sent to the address listed on the petition form; however, it may be submitted to an email or FAX address if given.

(c) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. If the fifteenth day before a hearing is a Saturday, Sunday, or legal holiday, the information under subsection (2) shall be provided no later than the previous business day.

(6) Level of detail on evidence summary: The summary pursuant to subsections (2) and (3) shall be sufficiently detailed as to reasonably inform a party of the general subject matter of the witness' testimony, and the name and address of the witness.

(7) Hearing procedures: Neither the Board nor the special magistrate shall take any general action regarding compliance with this section, but any action on each petition shall be considered on a case by case basis. Any action shall be based on a consideration of whether there has been a substantial noncompliance with this section, and shall be taken at a scheduled hearing and based on evidence presented at such hearing. "General action" means a prearranged course of conduct

~~not based on evidence received in a specific case at a scheduled hearing on a petition. A property appraiser shall not appear at the hearing and use undisclosed evidence that was not supplied to the petitioner as required. The normal remedy for such noncompliance shall be a rescheduling of the hearing to allow the petitioner an opportunity to review the information of the property appraiser.~~

~~(8) The petitioner may reschedule the hearing one time by submitting a written request to the clerk of the board no less than five (5) calendar days before the scheduled appearance.~~

~~(9) This rule provides procedures for information and evidence exchange between the petitioner and property appraiser, consistent with s. 194.032, F.S., subject to the provisions of s. 194.034(1)(d), F.S., and subsection 12D-10.003(4), F.A.C., relating to a request by a property appraiser for information from the petitioner in connection with a filed petition, which information need not be provided earlier than fifteen (15) days prior to a scheduled hearing pursuant to subsections (2) and (5).~~

~~(10) The value adjustment board shall hold an organizational meeting and must make the uniform procedures available to petitioners. Such procedures shall be available a reasonable time following the organizational meeting and shall be available a reasonable time before the commencement of hearings in conformance with this rule. The Board shall be deemed to have complied if it causes petitioners to be notified in writing, along with or as part of the notice of hearing, of the existence and availability of its procedures and include notice as to the exchange of information contained in this rule. The Board is authorized to use other additional or alternative means of notification directed to the general public or specific taxpayers, as it may determine.~~

~~(11) Such procedures shall be available in time to permit parties to comply with them, and such procedures, and the provisions of this rule, shall apply to petitions heard on and after January 1, 2003.~~

Rulemaking Specific Authority 194.011(5), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034.035, 195.022, 200.069, 213.05 FS. History–New 4-4-04, Amended 12-30-04, Repealed xx-xx-09.

12D-10.005 Duty of Clerk to Prepare and Transmit Record.

~~(1) To the extent not inconsistent with the Florida Rules of Appellate Procedure, when applicable, when a change in the tax roll made by the board becomes subject to review by the Circuit Court pursuant to section 194.036, Florida Statutes, it shall be the duty of the clerk, when requested, to prepare the record for review. The record shall consist of a copy of each paper, including the petition and each exhibit in the proceeding together with a copy of the board's decision and written findings of fact and conclusions of law. The clerk shall transmit to the Court this record, and the clerk's certification of the record which shall be in the following form:~~

Certification of Record

~~I hereby certify that the attached record, consisting of sequentially numbered pages one through, consists of true copies of all papers, exhibits, and the Board's findings of fact and conclusions of law, in the proceeding before the _____ County Value Adjustment Board upon petition numbered filed by~~

Clerk of Value Adjustment Board

By: _____

Deputy Clerk

Should the verbatim transcript be prepared other than by a court reporter, the clerk shall also make the following certification:

~~CERTIFICATION OF VERBATIM TRANSCRIPT~~

~~I hereby certify that the attached verbatim transcript consisting of sequentially numbered pages through _____ is an accurate and true transcript of the hearing held on _____ in the proceeding before the County Value Adjustment Board petition numbered filed by:~~

~~_____~~

~~Clerk of Value Adjustment Board~~

~~By: _____~~

Deputy Clerk

~~(2) The clerk shall provide the petitioner and property appraiser, upon their request, a copy of the record at no more than actual cost.~~

~~Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 194.032, 194.036, 213.05 FS. History--New 10-12-76, Amended 11-10-77, Formerly 12D-10.05, Repealed xx-xx-09.~~

12D-10.006 Public Notice of Findings and Results of Value Adjustment Board.

~~(1) After all hearings have been completed the clerk of the value adjustment board shall publish a public notice advising all taxpayers of the findings and results of the board. The public notice shall be in the form of a newspaper advertisement and shall be referred to as the "tax impact notice". The format of the tax impact notice shall be substantially as follows:~~

~~(2) The size of the notice shall be at least a quarter page size advertisement of a standard or tabloid size newspaper. The newspaper notice shall include all of the above information and no change shall be made in the format or content without Department approval. The notice shall be published in a part of the paper where legal notices and classified ads are not published.~~

~~(3) The notice of the findings and results of the value adjustment board shall be published in a newspaper of paid general circulation within the county. It shall be the specific intent of the publication of notice to reach the largest segment of the total county population. Any newspaper of less than general circulation in the county shall not be considered for publication except to supplement notices published in a paper of general circulation.~~

~~(4) The headline of the notice shall be set in a type no smaller than 18 point and shall read "TAX IMPACT OF VALUE ADJUSTMENT BOARD."~~

~~(5) It shall be the duty of the clerk of the value adjustment board to insure publication of the notice after the board has heard all petitions, complaints, appeals, and disputes.~~

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 50, 194.032, 194.034, 194.037, 213.05 FS. History--New 2-12-81, Formerly 12D-10.06, Repealed xx-xx-09

NAME OF PERSON ORIGINATING PROPOSED RULES: Howard Moyes, Deputy Director, Property Tax Oversight Program, Department of Revenue, Bloxham Building, 725 S. Calhoun Street, Room G-12, Tallahassee, Florida, 32399-0100, telephone 850-922-7991.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: The Governor and Cabinet of Florida.

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: [to be completed if the Governor and Cabinet approve publishing this notice at their meeting on December 8, 2009.]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

Section 120.54(2), F.S. provides that no notice of rule development is required when an entire rule provision is being repealed. However, several notices of proposed rule development have been published, and several rule development workshops have been held. A notice of rule development was published on December 5, 2008 (see Vol. 34, No. 49, pp. 6352-6353 of the Florida Administrative Weekly/F.A.W). Notices for rule development workshops at which versions of these proposed new and amended rules were also discussed were published on: July 11, 2008, for a workshop that was held in Ft. Lauderdale, Florida, on July 28, 2008 (see Vol. 34, No. 28, pp. 3613-3614 of the Florida Administrative Weekly/F.A.W); July 18, 2008, for a workshop that was held in Live Oak, Florida, on August 6, 2008 (see Vol. 34, No. 29, p. 3668 of the F.A. W); July 18, 2008, for a workshop that was held in Tallahassee, Florida, on August 12, 2008 (see Vol. 34, No. 29, p. 3668 of the F.A.W); September 19, 2008, for a workshop that was held in Tampa, Florida, on October 13, 2008 (see Vol. 34, No. 38, p. 4803, of the F. A.W); September 19, 2008, for a workshop that was held in Panama City, Florida, on October 17, 2008 (see Vol. 34, No. 38, p. 4803, of the F.A. W); October 31, 2008, for a workshop that was held in Orlando, Florida, on November 19, 2008 (see Vol. 34, No.44, pp. 5709-5711 of the FA W); and,

October 31, 2008, for a workshop that was held in Miami, Florida, on November 20, 2008 (see Vol. 34, No. 44, pp. 5709-5711 of the F.A.W). Members of the public attended each of these workshops and made comments on the proposed rules. In addition, written comments have been submitted to the Department by email, and to an Internet site at <http://dor.myflorida.com/dor/property/vabwb/vabws.html>, which was created specifically to give the public access to all versions of public a site to submit comments, and to view the comments submitted by others. In addition, a Notice of Rule Development for rules in Rule Chapter 12D-10, F.A.C., was published in the F.A.W. on August 14, 2009 (Vol. 35, No. 32, pp. 3843-3844).

December 2, 2009

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 Rules on General Taxes

What is the Department Requesting? Approval to publish Notices of Proposed Rule to schedule public hearings for the next stage of rulemaking on several proposed general tax and tax administration rule packages.

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

- Recent statute changes;
- Revisions to the Department's structure;
- Streamlined procedures; and,
- Updated instructions.

What Do These Proposed Rules Do? These proposed rules amend provisions concerning the following tax issues:

- Tax Administration--Closing Agreements: clarifying 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.

ATTACHMENT #4

- 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);
 - Exemption for Qualified (film) Production Companies—update the Department’s rules to incorporate a streamlined 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 (Nonprofit Scholarship Funding Organizations)—incorporates 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 tax credit; 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;

Memorandum
December 2, 2009
Page 3

- 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.

Are There Significant Administrative Issues in These Rules? No.

Attached are copies of:

- Summaries of 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 12-13, 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.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

COMPROMISE AND SETTLEMENT

RULE NO: RULE TITLE:

12-13.009 Closing Agreements

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-13.009, F.A.C. (Closing Agreements), is 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.

SUMMARY: 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.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 213.21(5) FS.

LAW IMPLEMENTED: 120.55(1)(a)4., 213.05, 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 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 RULE IS:

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, _____.

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
Proposed Rule Development Workshop was published in the Florida Administrative Weekly on
September 25, 2009 (Vol. 35, No. 38, pp. 4635-4636). A rule development workshop was
conducted on October 13, 2009. No comments were received by the Department.

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.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO: RULE TITLE:

12A-1.005 Admissions

12A-1.085 Exemption for Qualified Production Companies

12A-1.097 Public Use Forms

PURPOSE AND EFFECT: 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).

SUMMARY: 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).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

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), 288.1258(4)(c), 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), 616.260 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 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-1.005, 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,_____.

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 Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4637-4638). A rule development workshop was conducted on October 13, 2009. No comments were 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-8.001

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.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

INSURANCE PREMIUM TAXES, FEES AND SURCHARGES

RULE NO: RULE TITLE

12B-8.001 Premium Tax; Rate and Computation

PURPOSE AND EFFECT: 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 purpose of the proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), is to update the rule to include this law change.

SUMMARY: 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.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 220.183(4)(d), 288.99(11), 624.5105(6) 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.

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 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, _____.

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 Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4638-4639). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

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.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX

RULE NO: RULE TITLE:

12C-1.0186 Credit for Florida Alternative Minimum Tax

12C-1.0187 Credits for Contributions to Nonprofit Scholarship Funding Organizations

12C-1.051 Forms

PURPOSE AND EFFECT: 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., eliminated the Florida renewable energy production credit from the alternative minimum tax credit calculation. 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.

SUMMARY: 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 to the calculation of the alternative minimum tax credit imposed by Chapters 2008-227 and

2009-108, L.O.F., and 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), provide 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).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 220.187, 220.192(7), 220.193(4), 220.51 FS.

LAW IMPLEMENTED: 213.05, 213.35, 213.755, 220.03(1), 220.11, 220.12, 220.13(1), (2), 220.131, 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.

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 RULES 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 RULES IS:

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
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(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
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(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
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(13) through (14) No change.

Rulemaking Specific 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, ____.

NAME OF PERSON ORIGINATING PROPOSED RULES: 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 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 Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4639-4640). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

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 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.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX

RULE NO: RULE TITLE:

12C-1.0191 Capital Investment Tax Credit Program

12C-1.0192 Renewable Energy Technologies Investment Tax Credit

12C-1.0193 Florida Renewable Energy Production Credit

12C-1.051 Forms

PURPOSE AND EFFECT: 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 tax credit granted to the business. The purpose of the amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), is to include provisions on how businesses may transfer a capital investment tax credit.

The purpose of the proposed creation of Rule 12C-1.0192, F.A.C. (Renewable Energy Technologies Investment Tax Credit), is to provide for the administration of section 220.192, F.S., 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 purpose of the proposed creation of Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), is to provide for the administration of Section 220.193, F.S., 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 purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is 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.).

SUMMARY: 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 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.).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 220.191(8), 220.192(5), (7), 220.193, 220.51 FS.

LAW IMPLEMENTED: 213.35, 213.755, 220.02(8), 220.03(1), 220.11, 220.12, 220.13(1), (2), 220.131, 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.

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 RULES IS:

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) 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.

(b) Taxpayers that are required to file returns and remit payments by electronic means pursuant to Sections 213.755 and 220.21, F.S., and Rule Chapter 12-24, F.A.C., must file Form F-1193T (Notice of Intent to Transfer A Florida Energy Tax Credit) electronically with the Department by using the Department's Internet site at www.myflorida.com/dor. Taxpayers who are not required to file returns and remit payments by electronic means are encouraged, but not required, to file these forms electronically, using the Department's Internet site.

(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.

(3) Taxpayers that are required to file returns and remit payments by electronic means pursuant to Sections 213.755 and 220.21, F.S., and Rule Chapter 12-24, F.A.C., must file Form F-1193T (Notice of Intent to Transfer A Florida Energy Tax Credit) electronically with the Department by using the Department's Internet site at www.myflorida.com/dor. Taxpayers who are not required to file returns and remit payments by electronic means are encouraged, but not required, to file these forms electronically, using the Department's Internet site.

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.

(5) Taxpayers that are required to file returns and remit payments by electronic means pursuant to Sections 213.755 and 220.21, F.S., and Rule Chapter 12-24, F.A.C., must file Form F-1193 (Application for Florida Renewable Energy Production Credit Allocation) and Form F-1193T (Notice of Intent to Transfer A Florida Energy Tax Credit) electronically with the Department by using the Department's Internet site at www.myflorida.com/dor. Taxpayers who are not required to file returns and remit payments by electronic means are encouraged, but not required, to file these forms electronically, using the Department's Internet site.

Rulemaking Authority 213.06(1), 220.193, 220.51 FS. Law Implemented 213.35, 213.755, 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 Production Credit Allocation (R. 01/09)</u>	_____
<u>(b) F-1193T</u>	<u>Notice of Intent to Transfer A Florida Energy Tax Credit (R. 01/09)</u>	_____

(13) through (14) renumbered (14) through (15) No change.

Rulemaking Specific 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,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: 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 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 Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4640-4641). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

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.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX

RULE NO: RULE TITLE:

12C-1.0221 Returns, Notices, and Elections; Signing and Verification

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), is 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.

SUMMARY: 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).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 220.51 FS.

LAW IMPLEMENTED: 213.755, 220.221, 220.23(2)(a) 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-1.0221

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,_____.

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 Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, p. 4641). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

November 24, 2009

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 Rules on Child Support Enforcement

What is the Department Requesting? Final adoption of these proposed Child Support Enforcement rules, and approval to file and certify them with the Secretary of State under Chapter 120, Florida Statutes.

Why are These Proposed Rules Necessary? To administratively implement:

- Federal and state law changes concerning collection programs for Internal Revenue Service (IRS) tax refund offset and passport denial; and,
- State law changes concerning unidentifiable collections.

What Do These Proposed Rules Do?

- IRS tax refund offset and Passport Denial—provides new and revised procedures to:
 - Continue collection efforts under the Internal Revenue Service Tax refund offset provisions for non-public assistance families, even if the child is no longer a minor (based on changes to 42 United States Code, Section 664(c));
 - Reduce the past-due support threshold for which a passport can be denied from \$5,000 to amounts over \$2,500, which subjects more non-custodial parents to potential denial (based on changes to s. 409.2564(10), F.S.); and,
 - Provide new criteria for exempting certain non-custodial parents from passport denial.

ATTACHMENT #5

- Unidentifiable Collections—provides new procedures (based on changes to s. 409.2558(3) & (4), F.S.) to:
 - Identify support payments that could not be processed because there was not enough information to identify who the payment was for; and,
 - Retrieve collections from the federal government and the state General Revenue Fund that were previously determined to be unidentifiable, but have subsequently been identified.

**Date the Governor & Cabinet Authorized
Publication of the Public Hearing Notice:**

At their public meeting on August 25, 2009.

Were Comments Received from External Parties? A rule development workshop was held for both proposed rules on May 11, 2009. A public hearing was subsequently held for both rules on September 29, 2009. No one other than Department staff attended the workshop and the hearing, and no one submitted comments at either proceeding. On October 15, 2009, the Joint Administrative Procedures Committee (the Committee) sent the Department a comment on proposed rule 12E-1.014, F.A.C. The Department published a Notice of Change in the November 20, 2009 edition of the Florida Administrative Weekly to address the Committee's comment. This Notice of Change also contains revisions presented by the Department at the September 29th public hearing.

Are There Significant Administrative Issues in These Rules? No.

Attached are copies of:

- Notice of Cabinet Hearing (for December 8, 2009)
- Notice of Proposed Rule with rule text (as originally published on September 4, 2009)
- Notice of Change (as published on November 20, 2009)
- Current Version of Proposed Rules with changes incorporated
- Summaries of the proposed rules
- Statements of facts and circumstances justifying the rules
- Federal relation statements
- Summaries of workshops and hearings

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE
CHILD SUPPORT ENFORCEMENT PROGRAM
CREATING RULE 12E-1.0052
AMENDING RULE 12E-1.014

SUMMARY OF THE PROPOSED RULES

The proposed creation of Rule 12E-1.0052, Florida Administrative Code, establishes a method for determining a support collection as unidentifiable. The rule provides a method of retrieving unidentifiable collections when the collection becomes identified and establishes how the Department will process payment return requests. The rule also incorporates CSE Form CS-FM100 (Request to Return Collection), CSE Form CS-FM101 (Request for Collection Return Denied), and CSE Form CS-FM102 (Collection Return), by reference.

The proposed amendments to Rule 12E-1.014, Florida Administrative Code, allow certification for IRS Tax Offset in non-public assistance cases, whether or not the child is a minor. The amendment changes the certification threshold for passport denial from \$5,000 to more than \$2,500. The amendment also establishes exception criteria for restoration of a passport. The amendment also incorporates CSE Form CS-EF36A (Notice of Outcome of Informal Conference, For IRS Offset Certification/Passport Denial) by reference, as well as incorporates plain language.

FACTS AND CIRCUMSTANCES JUSTIFYING THE PROPOSED RULES

The creation of proposed Rule 12E-1.0052, F.A.C., is necessary to implement the provisions of Sections 409.2558(3) and (4), F.S., which establishes a method for determining a support collection as unidentifiable. The rule also provides a method for retrieving collections that have been determined to be unidentifiable and transferred to the federal government and General Revenue Fund when the collection becomes identified.

The proposed amendments to Rule 12E-1.014, F.A.C., are necessary to implement the provisions of 42 USC Section 664(c) which now allows the certification of past-due amounts for Internal Revenue Service Tax Refund Offset in non-public assistance cases where the child has emancipated. The amendment also changes the certification threshold for passport denial from \$5000 to amounts over \$2500 as allowed by Section 409.2564(10), F.S., as amended July 1, 2007. Other amendments provide new exception criteria for restoring passport privileges to an obligor who owes more than \$2500.

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 MAY 11, 2009

The proposed creation of Rule 12E-1.0052, F.A.C., (Unidentifiable Collections), and amendment of Rule 12E-1.014, F.A.C., (Internal Revenue Service Tax Refund Offset Program; Passport Denial; Internal Revenue Service Full Collection Services), was noticed for a rule development workshop in the *Florida Administrative Weekly (Weekly)* on April 24, 2009, (Vol. 35, No. 16, pp. 1932-1933). A rule development workshop was scheduled for May 11, 2009, to

allow members of the public to ask questions and make comments concerning the proposed creation of Rule 12E-1.0052, F.A.C., and amendment of Rule 12E-1.014, F.A.C. Representatives of the Department attended, but no person appeared to ask questions or make comments. No written comments have been received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON AUGUST 25, 2009

On August 25, 2009, the Governor and Cabinet approved publication of Notices of Proposed Rule for new Rule 12E-1.0052 and amendments to existing Rule 12E-1.014, F.A.C. Notice of the August 25, 2009 meeting of the Governor and Cabinet was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3894).

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 29, 2009

A rule hearing was held on September 29, 2009. Representatives of the Department attended, but no person appeared to ask questions or make comments. As of the hearing date, no written comments have been received by the Department. Proposed changes to Rule 12E-1.0052, Florida Administrative Code, were read into the record along with the statement that the Department will publish a Notice of Change to incorporate the changes. After the hearing, the Joint Administrative Procedures Committee submitted written comments to the Department about Rule 12E-1.014, Florida Administrative Code, which did not affect the proposed amendments. The Department addressed the comments through separate correspondence.

Proposed Rule 12E-1.014, Florida Administrative Code, was changed to correct a revision date in the rule for form CS-EF36A. The correct revision date should read, (R. 11/05). The Department will publish a Notice of Change in the November 20, 2009, issue of the *Florida*

Administrative Weekly.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC HEARING

The Department of Revenue announces a public hearing to which all persons are invited:

DATE AND TIME: December 8, 2009, during a regular meeting of the Governor and Cabinet, which begins at 9:00 a.m.

PLACE: Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Adoption of new Rule 12E-1.0052 (Unidentifiable Collections) and changes to existing Rule 12E-1.014, Florida Administrative Code, (Internal Revenue Service Tax Refund Offset Program; Passport Denial; Internal Revenue Service Full Collection Services). Notice of this proposed adoption was published in the Florida Administrative Weekly on November 20, 2009. A Notice of Change will be published in the Florida Administrative Weekly on November 20, 2009, because the Department is making changes to proposed Rule 12E-1.0052 and Rule 12E-1.014, Florida Administrative Code, as published in the Florida Administrative Weekly on September 4, 2009 (Vol. 35, No. 35 pp. 4280-4284). The proposed changes to Rule 12E-1.0052, Florida Administrative Code, were made a part of the record of the public hearing held on September 29, 2009. The proposed change to Rule 12E-1.014, F.A.C., will include a corrected revision date referenced in the rule for form CS-EF36A (Notice of Outcome of Informal Conference For IRS Offset Certification/Passport Denial).

(The following proposed rule text includes the changes that will be published in the November 20, 2009, issue of the Florida Administrative Weekly.)

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE
CHILD SUPPORT ENFORCEMENT PROGRAM
CREATING RULE 12E-1.0052 AND AMENDING RULE 12E-1.014

12E-1.0052 Unidentifiable Collections.

(1) Introduction. The Department is responsible for distribution and disbursement of child support payments under Section 409.2558, F.S. The State Disbursement Unit operating under Section 61.1824, F.S., is responsible for the collection and disbursement of child support payments for:

(a) cases enforced by the Department under Title IV-D of the Social Security Act; and

(b) cases not enforced by the Department under Title IV-D of the Social Security Act (non Title IV-D cases) in which an order was initially issued in Florida on or after January 1, 1994, and in which the obligor's support obligation is being paid through income deduction.

(2) Definitions. For purposes of this rule:

(a) "Comprehensive Case Information System" or "CCIS" means a secured internet portal developed and set up by Florida Association of Court Clerks and Comptrollers (FACC) that provides a single point of search for statewide court case information.

(b) "Department" means the Florida Department of Revenue.

(c) "State Disbursement Unit" or "SDU" means the unit set up and operated by the Title IV-D agency, under Section 61.1824, F.S. The SDU provides one central address for collection and disbursement of child support payments for the cases listed in subsection (1).

(d) "Unidentifiable collection" as defined by the social and economic assistance provisions of Section 409.2554(14), F.S., means a collection received by the SDU or Department for which the noncustodial parent, custodial parent, depository or circuit civil numbers, or source of the collection cannot be identified.

(3) Payment Processing Procedures.

(a) The State Disbursement Unit's automated remittance processing system will match and apply child support collections to the individual child support case.

(b) When there is any legible identifying information on the payment instrument, the following steps are taken, sequentially, to try to identify the payment instrument owner, recipient, or source of payment when support collections cannot be identified by the automated remittance processing system. If the manual search identifies the owner of the payment instrument or the recipient, the collection is applied to the correct case.

1. Search the State Disbursement Unit databases using available information on the payment instrument. The information can include case number, noncustodial parent name and social security number, and custodial parent name and social security number.

2. Search the payment transaction document imaging database. Searches will be by employer name, phone number, address, check routing number, checking account number, and noncustodial parent name. If an employer is found, an attempt will be made to match the collection amount with the check number, check routing number, checking account number, payment method, and check amount to identify the collection and match it to the correct case. If

the collection cannot be matched to a case, the employer is contacted by phone to try to match the collection to the correct case.

3. Search the Department's automated case management computer system. Searches will be by names, social security numbers, case number, depository number, using the information available from the payment instrument.

4. If the searches under subparagraphs 1. through 3. do not identify the payment instrument owner, recipient, or employer within 7 business days, further research will be conducted in an attempt to identify the collection and match it to the correct case. Further research includes the following Internet searches.

a. Noncustodial parent and/or custodial parent name, address, and phone number

b. Company name

c. Clerk of court records

d. Secretary of State's databases (corporations, trademarks, limited partnerships, federal lien registration, fictitious names, general and limited liability partnerships, and judgment liens)

e. Department of Business and Professional Regulation licensing

f. Department of Health licensing

g. Secretary of State licensing

h. Florida Bar licensing

5. If the searches under subparagraphs 1. through 4. do not identify the collection, repeat the steps described in subparagraphs 1. through 4. twice within 90 calendar days from the original collection receipt date.

(c) If the searches under subparagraph (3)(b)5. of this rule do not identify the owner of the payment instrument, recipient or employer, the collection is considered unidentifiable. The

Department shall declare the unidentifiable collection as program income, deposit the state share of the collection in the General Revenue Fund and the federal share of the collection in the Grants and Donations Trust Funds. If there is no legible identifying information on the payment instrument a manual search under paragraph (3)(b) is not required. The collection is unidentifiable and must be processed as program income unless the Department has the name and/or address of the remitter of the payment. In those instances the Department will attempt to contact the remitter to identify the recipient of the payment. If the Department is unable to contact the remitter, the collection will be returned to the remitter.

(d) The State Disbursement Unit may identify the case, but sends the case data and payment to the Department for Title IV-D processing. If the Department's automated system cannot find the case, search the Comprehensive Case Information System (CCIS) to find out if the collection was sent to the Department in error. If the collection was received in error, it is returned to the appropriate clerk of court.

(4) Reclaiming Unidentifiable Collections.

(a) The obligor may reclaim unidentifiable collections. The obligor may contact the local child support office or contact the Department at (850)922-9590 and ask for the Unidentified Collection Unit.

(b) To reclaim a collection, the obligor must complete and send to the Department, Form CS-FM100, Request to Return Collection, dated September 2009, incorporated by reference in this rule. The obligor must prove they are the collection owner by giving his or her name, their mailing address, child support or case number, date and amount of collection, and proof of payment. Examples of acceptable proof include: front and back copy of canceled check; money order receipt; or pay stub showing date and amount of payment.

(c) The Department will review the information submitted by the obligor and respond in writing to approve or deny the request.

1. If approved, the Department will mail the collection and Form CS-FM102, Collection Return, dated June 2008, incorporated by reference in this rule, to the obligor.

2. If denied, the Department will mail Form CS-FM101, Request for Collection Return Denied, dated September 2009, incorporated by reference in this rule, to the obligor. Form CS-FM101 states the request is denied, reason for the denial, and the obligor may contest the decision by seeking an administrative hearing under Chapter 120, F.S. The form includes a Notice of Rights.

3. An obligor may seek an administrative hearing to contest the Department's decision to deny a request to reclaim a collection considered unidentifiable by the Department. A petition for an administrative hearing must be received by the Department of Revenue, Child Support Enforcement Program, Deputy Agency Clerk within twenty (20) days from the mailing date of Form CS-FM101. Administrative hearings shall be conducted pursuant to Chapter 120, F.S.

(d) Members of the public may get a copy of the forms used in this rule chapter, incorporated by reference, without cost, by writing to the Department of Revenue, Child Support Enforcement Program, Attn.: Forms Coordinator, P.O. Box 8030, Tallahassee, Florida 32314-8030.

Rulemaking Authority 409.2557(3)(j), 409.2558(4), 409.2558(9), FS. Law Implemented 409.2558(3), 409.2558(4), FS. History-New _____.

(Substantial rewording of Rule 12E-1.014 follows. See Florida Administrative Code for present text.)

12E-1.014 Internal Revenue Service Tax Refund Offset Program; Passport Denial; Internal Revenue Service Full Collection Services.

(1) Definitions. As used in this rule:

(a) “Assignment” means any assignment of rights to support as a condition of eligibility for temporary cash assistance, foster care maintenance payments, or medical support as authorized by 45 Code of Federal Regulations, Section 301.1.

(b) “Offset” means the complete or partial interception of an Internal Revenue Service income tax refund or rebate. The Department will intercept federal income tax refunds or rebates for past due support owed for a child, whether or not the child is a minor, as authorized by 42 United States Code, Section 664(c).

(c) “Past-due support” means the amount of support determined under a court order, or an order of an administrative process established under state law, for support and maintenance of a child which has not been paid, whether or not the child is a minor, as defined in 45 Code of Federal Regulations, Section 301.1.

(2) Certification for offset and passport denial. The Department shall certify obligors for offset and passport denial to the Federal Office of Child Support Enforcement when they meet the criteria in paragraphs (5)(b) and (6)(a).

(3) Notifying the obligor that the Department is certifying past-due support for offset and passport denial. The Federal Office of Child Support Enforcement mails one notice to each obligor. The notice tells the obligor he or she has 30 days from the date of the notice to pay the past-due amount in full to prevent certification. The certification continues until the obligor pays the past-due support in full. On a weekly basis, the Department will certify any increase or decrease in an obligor’s past-due support amount. The notice also tells the obligor that he or she

may contest the amount of past-due support owed. To contest, the obligor must contact the Department at the address or telephone number provided in the notice within 30 days from the date of the notice.

(4) Right to informal review and administrative hearing.

(a) If the obligor contacts the Department within 30 days from the date of the notice, the Department shall review its records and any records submitted by the obligor and attempt to resolve the obligor's concerns informally.

(b) If the Department cannot resolve the obligor's concerns during the informal review, the Department shall notify the obligor by regular mail at his or her last known address using Department of Revenue Form CS-EF36A, Notice of Outcome of Informal Conference for IRS Offset Certification/Passport Denial. Form CS-EF36A (R. 11/05) is incorporated by reference in this rule. Members of the public may obtain a copy of this form by writing to: Department of Revenue, Child Support Enforcement Program, attn.: Forms Coordinator, P.O. Box 8030, Tallahassee, FL 32314-8030. The notice tells the obligor that the Department will certify the obligor's past-due support for offset, passport denial, or both. The notice also tells the obligor that he or she may ask for an administrative hearing by filling in the backside of the notice and returning it to the Department within 30 days from the date on the notice.

(c) If the Department does not resolve the obligor's concerns through an informal review, the obligor may ask for an administrative hearing.

1. If the past-due support is based on a Florida order, the obligor may ask for an administrative hearing in Florida. The Department of Children and Family Services, Office of Appeal Hearings conducts this hearing, as authorized by Section 120.80(7), F.S.

2. If the past-due support is based on an order entered in another state, the obligor may ask that a hearing be held either in Florida or in the state that issued the order. If the obligor asks for the hearing to be held in the issuing state, the Department will contact the state that issued the order within 10 days of receiving the obligor's request. The state that issued the order will tell the obligor of the date, time, and place of the administrative hearing.

(d) If the Department of Children and Family Services holds an administrative hearing and a final order is issued in the obligor's favor, the Department will tell the Federal Office of Child Support Enforcement to remove the obligor's certification or change the certification to show the correct past-due support amount. If the final order is issued in the Department's favor, the certification stays in place and any change in the past-due support amount is updated as stated in subsection (3).

(e) If the obligor does not ask for an informal review or administrative hearing within 30 days from the date of the notice, the obligor waives the right to contest the certification.

(5) Internal Revenue Service Tax Refund Offset Program.

(a) Obligor's who owe past-due support in Title IV-D cases are subject to offset as authorized in 45 Code of Federal Regulations, Section 303.72.

(b) Certification for Offset. The Department shall certify an obligor for offset if the obligor owes past-due support as follows:

1. For support assigned to the State, the amount of past-due support is not less than \$150.

2. For support owed to the obligee, the amount of past-due support is not less than \$500.

(c) Notification of Offset. Once an offset occurs, the United States Department of Treasury notifies the obligor by regular mail that they are forwarding the offset amount from the tax refund to the Department.

(d) Distribution of Offset.

1. The Department shall keep federal income tax refund offset payments in current and former temporary cash assistance cases up to the amount of past-due support assigned to the State. After the amount of past-due support assigned to the State is paid in full, any remaining past-due support collected by the Department is paid to the obligee as required by 42 United States Code, Sections 657(a)(1) and (a)(2)(B)(iv).

2. For past-due support that is not assigned to the State, the Department delays distribution of the offset amount for six months for a refund from a joint federal income tax return as allowed by 42 United States Code 664 (a)(3)(B). Distribution is delayed to allow the unobligated joint filer to claim his or her share of the refund before the offset amount is distributed. In these instances, distribution is delayed until one of the following occurs:

a. The Department receives written verification from the United States Department of the Treasury that an injured spouse claim filed by the obligor's spouse has been resolved.

b. The obligor pays the past-due support owed in full.

c. Six months has passed since the receipt of the offset collection.

(6) Passport Denial.

(a) Obligor who are certified under subsection (2) and who owe more than \$2500 in past-due support are also reported to the United States Department of State for passport denial as required by 42 United States Code, Section 652(k).

(b) When the United States Department of State takes action to deny an obligor's passport, they send the obligor a notice telling the obligor he or she is not eligible to receive a passport.

(c) If an obligor needs a United States passport, the obligor must contact the Department at the address or telephone number provided in the notice mailed by the Federal Office of Child

Support Enforcement as out-lined in subsection (3) of this rule. To restore passport eligibility, the obligor must:

1. Reduce the amount of past-due support owed to \$2500 or less: or

2. Prove he or she owes less then \$2500 in past-due support; or

3. Provide documentation from a medical authority verifying a death or medical emergency requiring travel outside of the United States.

(d) An obligor may ask the Department to consider a request to reinstate a denied passport for reasons other than those listed in paragraph (6)(c) above. Such other reasons may include, but are not limited to, cases in which a passport is necessary for travel outside the United States for employment.

(e) Only the state that certifies an obligor for passport denial may decertify the obligor and restore the obligor's passport eligibility. If a state other than Florida certified the obligor for passport denial, the obligor must contact the other state at the address or telephone number listed in the notice discussed in subsection (3) of this rule to ask about passport reinstatement.

(7) Internal Revenue Service Full Collection Services. As allowed by 45 Code of Federal Regulations, 303.71, the Department will request the Federal Office of Child Support Enforcement to certify past-due support to the Secretary of the Treasury for full collection services under the Internal Revenue Code.

Rulemaking Specific Authority 409.2557(3)(i) FS. Law Implemented 61.17, 409.2564 FS.

History-New 6-17-92, Amended 7-20-94, Formerly 10C-25.011, Amended 1-23-

03,_____.

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:

12E-1.0052 Unidentifiable Collections

12E-1.014 Internal Revenue Service Tax Refund Offset Program; Passport Denial;
Administrative Offset Program; Internal Revenue Service Full Collection Services

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules, as published in the September 4, 2009, issue of the Florida Administrative Weekly (Vol. 35, No. 35, pp. 4280-4284). These changes are in accordance with subparagraph 120.54(3)(d)1., F.S. The proposed changes to Rule 12E-1.0052, F.A.C., have been made a part of the record of the public hearing held on September 29, 2009, as noticed in the September 4, 2009, issue of the Florida Administrative Weekly (Vol. 35, No. 35). The proposed change to Rule 12E-1.014, F.A.C., is to correct a revision date referenced in Rule 12E-1.014, F.A.C., to form CS-EF36A.

In response to changes made orally at the public hearing held on September 29, 2009, and having these changes available to the public in print, as provided in the public record, paragraph (b) of subsection (3); subparagraphs 4 and 5 of paragraph (b), in subsection (3); paragraph (c) of subsection (3); paragraphs (a) and (b) of subsection (4); and subparagraph 2 of paragraph (b), in subsection (4); of Rule 12E-1.0052, F.A.C., have been changed.

When adopted, paragraph (b) of subsection (3) will read:

(3)(b) When there is any legible identifying information on the payment instrument, the following steps are taken, sequentially, to try to identify the payment instrument owner, recipient, or source of payment when support collections cannot be identified by the automated

remittance processing system. If the manual search identifies the owner of the payment instrument or the recipient, the collection is applied to the correct case.

When adopted, subparagraphs 4 and 5 of subsection (3) will read:

(3)(b)4. If the searches under subparagraphs 1. through 3. do not identify the payment instrument owner, recipient, or employer within 7 business days, further research will be conducted in an attempt to identify the collection and match it to the correct case. Further research includes the following Internet searches.

a. through h. No change.

5. If the searches under subparagraphs 1. through 4. do not identify the collection, repeat the steps described in subparagraphs 1. through 4. twice within 90 calendar days from the original collection receipt date.

When adopted, paragraph (c) of subsection (3) will read:

(3)(c) If the searches under subparagraph (3)(b)5. of this rule do not identify the owner of the payment instrument, recipient or employer, the collection is considered unidentifiable. The Department shall declare the unidentifiable collection as program income, deposit the state share of the collection in the General Revenue Fund and the federal share of the collection in the Grants and Donations Trust Funds. If there is no legible identifying information on the payment instrument a manual search under paragraph (3)(b) is not required. The collection is unidentifiable and must be processed as program income unless the Department has the name and/or address of the remitter of the payment. In those instances the Department will attempt to contact the remitter to identify the recipient of the payment. If the Department is unable to contact the remitter, the collection will be returned to the remitter.

When adopted, paragraph (a), paragraph (b), and subparagraph (c)2, of subsection (4) will read:

(4) Reclaiming Unidentifiable Collections.

(a) The obligor may reclaim unidentifiable collections. The obligor may contact the local child support office or contact the Department at (850)922-9590 and ask for the Unidentified Collection Unit.

(b) To reclaim a collection, the obligor must complete and send to the Department, Form CS-FM100, Request to Return Collection, dated September 2009, incorporated by reference in this rule. The obligor must prove they are the collection owner by giving his or her name, their mailing address, child support or case number, date and amount of collection, and proof of payment. Examples of acceptable proof include: front and back copy of canceled check; money order receipt; or pay stub showing date and amount of payment.

(4)(c)1. No change.

2. If denied, the Department will mail Form CS-FM101, Request for Collection Return Denied, dated September 2009, incorporated by reference in this rule, to the obligor. Form CS-FM101 states the request is denied, reason for the denial, and the obligor may contest the decision by seeking an administrative hearing under Chapter 120, F.S. The form includes a Notice of Rights.

To correct a revision date referenced in Rule 12E-1.014, F.A.C., to form CS-EF36A, paragraph

(b) of subsection (4); has been changed.

When adopted, paragraph (b) of subsection (4) will read:

(b) If the Department cannot resolve the obligor's concerns during the informal review, the Department shall notify the obligor by regular mail at his or her last known address using Department of Revenue Form CS-EF36A, Notice of Outcome of Informal Conference for IRS Offset Certification/Passport Denial. Form CS-EF36A (R. 11/05) is incorporated by reference in

this rule. Members of the public may obtain a copy of this form by writing to: Department of Revenue, Child Support Enforcement Program, attn.: Forms Coordinator, P.O. Box 8030, Tallahassee, FL 32314-8030. The notice tells the obligor that the Department will certify the obligor's past-due support for offset, passport denial, or both. The notice also tells the obligor that he or she may ask for an administrative hearing by filling in the backside of the notice and returning it to the Department within 30 days from the date on the notice.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CHILD SUPPORT ENFORCEMENT PROGRAM

RULE NO.:	RULE TITLE:
12E-1.0052	Unidentifiable Collections
12E-1.014	Internal Revenue Service Tax Refund Offset Program; Passport Denial; Internal Revenue Service Full Collection Services

PURPOSE AND EFFECT: The purpose of creating proposed Rule 12E-1.0052, F.A.C., is to provide guidance to the public about the Department's procedures for resolving unidentifiable Title IV-D support payments received by the State Disbursement Unit. The proposed rule also provides information to the public about how to reclaim unidentifiable collections. The effect of the proposed rule is to provide: (1) information on identifying support payments that could not be processed because there was not enough information to identify who the payment was for; (2) information on how a noncustodial parent may seek the return of a payment which was never processed; and (3) guidance on how the Department will process payment return requests.

The purpose of the proposed amendments to Rule 12E-1.014, F.A.C., is to reflect the change in 42 United States Code (USC) Section 664(c) which now allows the certification of past-due amounts for Internal Revenue Service Tax Refund Offset in non-public assistance cases where the child has emancipated. The amendment also changes the certification threshold for passport denial from \$5000 to amounts over \$2500 as allowed by Section 409.2564(10), F.S., as amended July 1, 2007. Other amendments provide new exception criteria for restoring passport privileges to a non-custodial parent who owes more than \$2500. The effect of the proposed rule is to inform the public the Department will certify past-due amounts for non-public assistance cases for a

child for Internal Revenue Service Tax Refund Offset, even if the child has emancipated. The rule also informs the public that the certification threshold for past-due support for passport denial has changed from \$5000 to more the \$2500. Finally, the rule informs the public the Department may consider exceptions to restoring an obligor's passport even if the obligor was not certified in error and has not paid the past-due support balance amount below \$2500.

SUMMARY: Rule 12E-1.0052, F.A.C., establishes a method for determining a support collection to be unidentifiable. The rule provides a method for retrieving unidentifiable collections once the collection becomes identified and establishes how the Department will process payment return requests. The rule also incorporates by reference CSE Forms CS-FM100 (Request to Return Payment), CS-FM101 (Request for Payment Return Denied), and CS-FM102 (Payment Return).

Rule 12E-1.014, F.A.C., allows certification for IRS Tax Offset in non-public assistance cases, whether or not the child is a minor. The amendment changes the certification threshold for passport denial from \$5,000 to more than \$2,500. The amendment also establishes exception criteria for restoration of a passport. The amendment also incorporates by reference CSE Form CS-EF36A (Notice of Decision of Informal Conference, Income Tax Refund or Passport Denial), as well as incorporates plain language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC 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: 409.2557(3)(i), 409.2557(3)(j), 409.2558(4), 409.2558(9) FS.

LAW IMPLEMENTED: 61.17, 409.2558(3), 409.2558(4), 409.2564 FS.

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

DATE AND TIME: (September 2009)

PLACE: (To be determined)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: For Rule 12E-1.0052, F.A.C., Phil Scruggs, Government Analyst II, Child Support Enforcement Program, Department of Revenue, P.O. Box 8030, Tallahassee, Florida 32314-8030, telephone (850)922-9558, e-mail address scruggsp@dor.state.fl.us. For Rule 12E-1.014, F.A.C., Steve Robinson, Government Analyst II, Department of Revenue, Post Office Box 8030, Tallahassee, Florida 32314-8030, telephone number (850)922-9716, e-mail address robinsos@dor.state.fl.us

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 48 hours before the hearing by contacting Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the Department by using the Florida Relay Service, 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site:

www.myflorida.com/dor/rules.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE
CHILD SUPPORT ENFORCEMENT PROGRAM
CREATING RULE 12E-1.0052 AND AMENDING RULE 12E-1.014

12E-1.0052 Unidentifiable Collections.

(1) Introduction. The Department is responsible for distribution and disbursement of child support payments under Section 409.2558, F.S. The State Disbursement Unit operating under Section 61.1824, F.S., is responsible for the collection and disbursement of child support payments for:

(a) cases enforced by the Department under Title IV-D of the Social Security Act; and

(b) cases not enforced by the Department under Title IV-D of the Social Security Act (non Title IV-D cases) in which an order was initially issued in Florida on or after January 1, 1994, and in which the obligor's support obligation is being paid through income deduction.

(2) Definitions. For purposes of this rule:

(a) "Comprehensive Case Information System" or "CCIS" means a secured internet portal developed and set up by Florida Association of Court Clerks and Comptrollers (FACC) that provides a single point of search for statewide court case information.

(b) "Department" means the Florida Department of Revenue.

(c) "State Disbursement Unit" or "SDU" means the unit set up and operated by the Title IV-D agency, under Section 61.1824, F.S. The SDU provides one central address for collection and disbursement of child support payments for the cases listed in subsection (1).

(d) "Unidentifiable collection" as defined by the social and economic assistance provisions of Section 409.2554(14), F.S., means a collection received by the SDU or Department for which the noncustodial parent, custodial parent, depository or circuit civil numbers, or source of the collection cannot be identified.

(3) Payment Processing Procedures.

(a) The State Disbursement Unit's automated remittance processing system will match and apply child support collections to the individual child support case.

(b) The following steps are taken, sequentially, to try to identify the payment instrument owner, recipient, or source of payment when support collections cannot be identified by the automated remittance processing system. If the manual search identifies the owner of the payment instrument or the recipient, the collection is applied to the correct case.

1. Search the State Disbursement Unit databases using available information on the payment instrument. The information can include case number, noncustodial parent name and social security number, and custodial parent name and social security number.

2. Search the payment transaction document imaging database. Searches will be by employer name, phone number, address, check routing number, checking account number, and noncustodial parent name. If an employer is found, an attempt will be made to match the collection amount with the check number, check routing number, checking account number, payment method, and check amount to identify the collection and match it to the correct case. If the collection cannot be matched to a case, the employer is contacted by phone to try to match the collection to the correct case.

3. Search the Department's automated case management computer system. Searches will be by names, social security numbers, case number, depository number, using the information available from the payment instrument.

4. If the searches under subparagraphs 1. through 3. do not identify the payment instrument owner, recipient, or employer within 10 business days, further research will be conducted in an attempt to identify the collection and match it to the correct case. Further research includes the following Internet searches.

a. Noncustodial parent and/or custodial parent name, address, and phone number

b. Company name

c. Clerk of court records

d. Secretary of State's databases (corporations, trademarks, limited partnerships, federal lien registration, fictitious names, general and limited liability partnerships, and judgment liens)

e. Department of Business and Professional Regulation licensing

f. Department of Health licensing

g. Secretary of State licensing

h. Florida Bar licensing

5. If the searches under subparagraphs 1. through 4. do not identify the collection, repeat the steps described in subparagraphs 1. through 4. after one hundred business days from the original collection receipt date.

(c) If the searches under subparagraph (3)(b)5. of this rule do not identify the owner of the payment instrument, recipient or employer, the collection is considered unidentifiable. The Department shall declare the unidentifiable collection as program income, deposit the state share

of the collection in the General Revenue Fund and the federal share of the collection in the Grants and Donations Trust Funds.

(d) The State Disbursement Unit may identify the case, but sends the case data and payment to the Department for Title IV-D processing. If the Department's automated system cannot find the case, search the Comprehensive Case Information System (CCIS) to find out if the collection was sent to the Department in error. If the collection was received in error, it is returned to the appropriate clerk of court.

(4) Reclaiming Unidentifiable Collections.

(a) The obligor may reclaim unidentifiable collections. The obligor may contact the local child support office or contact the Department at (850)922-9590 and ask for the Unidentified Collection Unit. The obligor may reclaim an unidentifiable collection up to five years from the date the collection was received by the State Disbursement Unit. Requests after five years will be denied. The five-year limit is based on the limitations of actions found in Section 95.11(2)(b), F.S.

(b) To reclaim a collection, the obligor must complete and send to the Department, Form CS-FM100, Request to Return Collection, dated June 2008, incorporated by reference in this rule. The obligor must prove they are the collection owner by giving his or her name, their mailing address, child support or case number, date and amount of collection, and proof of payment. Examples of acceptable proof include: front and back copy of canceled check; money order receipt; or pay stub showing date and amount of payment.

(c) The Department will review the information submitted by the obligor and respond in writing to approve or deny the request.

1. If approved, the Department will mail the collection and Form CS-FM102, Collection Return, dated June 2008, incorporated by reference in this rule, to the obligor.

2. If denied, the Department will mail Form CS-FM101, Request for Collection Return Denied, dated June 2008, incorporated by reference in this rule, to the obligor. Form CS-FM101 states the request is denied, reason for the denial, and the obligor may contest the decision by seeking an administrative hearing under Chapter 120, F.S. The form includes a Notice of Rights.

3. An obligor may seek an administrative hearing to contest the Department's decision to deny a request to reclaim a collection considered unidentifiable by the Department. A petition for an administrative hearing must be received by the Department of Revenue, Child Support Enforcement Program, Deputy Agency Clerk within twenty (20) days from the mailing date of Form CS-FM101. Administrative hearings shall be conducted pursuant to Chapter 120, F.S.

(d) Members of the public may get a copy of the forms used in this rule chapter, incorporated by reference, without cost, by writing to the Department of Revenue, Child Support Enforcement Program, Attn.: Forms Coordinator, P.O. Box 8030, Tallahassee, Florida 32314-8030.

Rulemaking Authority 409.2557(3)(j), 409.2558(4), 409.2558(9), FS. Law Implemented 409.2558(3), 409.2558(4), FS. History-New _____.

(Substantial rewording of Rule 12E-1.014 follows. See Florida Administrative Code for present text.)

12E-1.014 Internal Revenue Service Tax Refund Offset Program; Passport Denial; Internal Revenue Service Full Collection Services.

(1) Definitions. As used in this rule:

(a) “Assignment” means any assignment of rights to support as a condition of eligibility for temporary cash assistance, foster care maintenance payments, or medical support as authorized by 45 Code of Federal Regulations, Section 301.1.

(b) “Offset” means the complete or partial interception of an Internal Revenue Service income tax refund or rebate. The Department will intercept federal income tax refunds or rebates for past due support owed for a child, whether or not the child is a minor, as authorized by 42 United States Code, Section 664(c).

(c) “Past-due support” means the amount of support determined under a court order, or an order of an administrative process established under state law, for support and maintenance of a child which has not been paid, whether or not the child is a minor, as defined in 45 Code of Federal Regulations, Section 301.1.

(2) Certification for offset and passport denial. The Department shall certify obligors for offset and passport denial to the Federal Office of Child Support Enforcement when they meet the criteria in paragraphs (5)(b) and (6)(a).

(3) Notifying the obligor that the Department is certifying past-due support for offset and passport denial. The Federal Office of Child Support Enforcement mails one notice to each obligor. The notice tells the obligor he or she has 30 days from the date of the notice to pay the past-due amount in full to prevent certification. The certification continues until the obligor pays the past-due support in full. On a weekly basis, the Department will certify any increase or decrease in an obligor’s past-due support amount. The notice also tells the obligor that he or she may contest the amount of past-due support owed. To contest, the obligor must contact the Department at the address or telephone number provided in the notice within 30 days from the date of the notice.

(4) Right to informal review and administrative hearing.

(a) If the obligor contacts the Department within 30 days from the date of the notice, the Department shall review its records and any records submitted by the obligor and attempt to resolve the obligor's concerns informally.

(b) If the Department cannot resolve the obligor's concerns during the informal review, the Department shall notify the obligor by regular mail at his or her last known address using Department of Revenue Form CS-EF36A, Notice of Outcome of Informal Conference for IRS Offset Certification/Passport Denial. Form CS-EF36A (R. 02/08) is incorporated by reference in this rule. Members of the public may obtain a copy of this form by writing to: Department of Revenue, Child Support Enforcement Program, attn.: Forms Coordinator, P.O. Box 8030, Tallahassee, FL 32314-8030. The notice tells the obligor that the Department will certify the obligor's past-due support for offset, passport denial, or both. The notice also tells the obligor that he or she may ask for an administrative hearing by filling in the backside of the notice and returning it to the Department within 30 days from the date on the notice.

(c) If the Department does not resolve the obligor's concerns through an informal review, the obligor may ask for an administrative hearing.

1. If the past-due support is based on a Florida order, the obligor may ask for an administrative hearing in Florida. The Department of Children and Family Services, Office of Appeal Hearings conducts this hearing, as authorized by Section 120.80(7), F.S.

2. If the past-due support is based on an order entered in another state, the obligor may ask that a hearing be held either in Florida or in the state that issued the order. If the obligor asks for the hearing to be held in the issuing state, the Department will contact the state that issued the

order within 10 days of receiving the obligor's request. The state that issued the order will tell the obligor of the date, time, and place of the administrative hearing.

(d) If the Department of Children and Family Services holds an administrative hearing and a final order is issued in the obligor's favor, the Department will tell the Federal Office of Child Support Enforcement to remove the obligor's certification or change the certification to show the correct past-due support amount. If the final order is issued in the Department's favor, the certification stays in place and any change in the past-due support amount is updated as stated in subsection (3).

(e) If the obligor does not ask for an informal review or administrative hearing within 30 days from the date of the notice, the obligor waives the right to contest the certification.

(5) Internal Revenue Service Tax Refund Offset Program.

(a) Obligor's who owe past-due support in Title IV-D cases are subject to offset as authorized in 45 Code of Federal Regulations, Section 303.72.

(b) Certification for Offset. The Department shall certify an obligor for offset if the obligor owes past-due support as follows:

1. For support assigned to the State, the amount of past-due support is not less than \$150.
2. For support owed to the obligee, the amount of past-due support is not less than \$500.

(c) Notification of Offset. Once an offset occurs, the United States Department of Treasury notifies the obligor by regular mail that they are forwarding the offset amount from the tax refund to the Department.

(d) Distribution of Offset.

1. The Department shall keep federal income tax refund offset payments in current and former temporary cash assistance cases up to the amount of past-due support assigned to the

State. After the amount of past-due support assigned to the State is paid in full, any remaining past-due support collected by the Department is paid to the obligee as required by 42 United States Code, Sections 657(a)(1) and (a)(2)(B)(iv).

2. For past-due support that is not assigned to the State, the Department delays distribution of the offset amount for six months for a refund from a joint federal income tax return as allowed by 42 United States Code 664 (a)(3)(B). Distribution is delayed to allow the unobligated joint filer to claim his or her share of the refund before the offset amount is distributed. In these instances, distribution is delayed until one of the following occurs:

a. The Department receives written verification from the United States Department of the Treasury that an injured spouse claim filed by the obligor's spouse has been resolved.

b. The obligor pays the past-due support owed in full.

c. Six months has passed since the receipt of the offset collection.

(6) Passport Denial.

(a) Obligor's who are certified under subsection (2) and who owe more than \$2500 in past-due support are also reported to the United States Department of State for passport denial as required by 42 United States Code, Section 652(k).

(b) When the United States Department of State takes action to deny an obligor's passport, they send the obligor a notice telling the obligor he or she is not eligible to receive a passport.

(c) If an obligor needs a United States passport, the obligor must contact the Department at the address or telephone number provided in the notice mailed by the Federal Office of Child Support Enforcement as out-lined in subsection (3) of this rule. To restore passport eligibility, the obligor must:

1. Reduce the amount of past-due support owed to \$2500 or less: or

2. Prove he or she owes less than \$2500 in past-due support; or

3. Provide documentation from a medical authority verifying a death or medical emergency requiring travel outside of the United States.

(d) An obligor may ask the Department to consider a request to reinstate a denied passport for reasons other than those listed in paragraph (6)(c) above. Such other reasons may include, but are not limited to, cases in which a passport is necessary for travel outside the United States for employment.

(e) Only the state that certifies an obligor for passport denial may decertify the obligor and restore the obligor's passport eligibility. If a state other than Florida certified the obligor for passport denial, the obligor must contact the other state at the address or telephone number listed in the notice discussed in subsection (3) of this rule to ask about passport reinstatement.

(7) Internal Revenue Service Full Collection Services. As allowed by 45 Code of Federal Regulations, 303.71, the Department will request the Federal Office of Child Support Enforcement to certify past-due support to the Secretary of the Treasury for full collection services under the Internal Revenue Code.

Rulemaking Specific Authority 409.2557(3)(i) FS. Law Implemented 61.17, 409.2564 FS.

History-New 6-17-92, Amended 7-20-94, Formerly 10C-25.011, Amended 1-23-

03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: For Rule 12E-1.0052, F.A.C., Phil Scruggs, Government Analyst II, Child Support Enforcement Program, Department of Revenue, P.O. Box 8030, Tallahassee, Florida 32314-8030, telephone (850)922-9558, e-mail address scruggsp@dor.state.fl.us. For Rule 12E-1.014, F.A.C., Steve Robinson, Government Analyst II,

Department of Revenue, Post Office Box 8030, Tallahassee, Florida 32314-8030, telephone number (850)922-9716, e-mail address robinsos@dor.state.fl.us

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULES: The Governor and Cabinet of the State of Florida.

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: August 25, 2009.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT WORKSHOP PUBLISHED IN

FAW: April 24, 2009, Vol. 35, No. 16, pp. 1932-1933. The workshop was held on May 11,

2009. No one appeared at the workshop and the Department did not receive written comments.

November 24, 2009

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 Rules on General Tax Forms

What is the Department Requesting? Final adoption of these proposed tax rules, 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 revised forms that incorporate:

- Recent statute changes;
- New state and local tax rates;
- Simpler language; and,
- Updated instructions.

What Do These Proposed Rules Do? Adopt revised forms that will be used by taxpayers and businesses in calendar year 2010 to submit the following taxes, fees, surcharges, and associated information:

Sales and use tax;	Documentary stamp tax;
Corporate income tax;	Communications services tax;
Tax on fuels and pollutants;	Insurance premium tax;
Severance taxes;	Fee on the sale or lease of motor vehicles;
Solid waste fees and Rental Car Surcharge;	Intangible Tax on Government Leaseholds;
Registration as secondhand dealer or secondary metals recycler.	

ATTACHMENT #6

Memorandum
November 24, 2009
Page 2

**Date the Governor and Cabinet Authorized
Publication of the Public Hearing Notices:**

At their public meeting on August 25, 2009.

Were Comments Received from External Parties? Notices of rule development were published on July 10, 2009 for these proposed forms, stating that a workshop would be held for any forms for which the Department received a request. No one requested a workshop and no one has submitted comments. Subsequently, on October 13, 2009, the Department held a public hearing on these proposed forms. No one attended, and no one has submitted written comments.

Are There Significant Administrative Issues in These Rules? No.

Attached are copies of:

- Summaries of 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 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULE 12A-1.097

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, changes to forms used by taxpayers to report sales and use tax to the Department.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes to forms used by the Department in the administration of sales and use tax.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, pp. 3279-3280), to advise the public of the development of changes to Rule 12A-1.097, F.A.C. (Public Use Forms), and to provide that, if

requested in writing, a rule development workshop would be held on July 28, 2009. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-1.097, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37, pp. 4496-4497). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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	GARY LANDRY, Florida Insurance Council RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

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 RULE 12A-1.097

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) - (b) No change.

Form Number	Title	Effective Date
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(2) through (4) No change.

(5)(a) DR-7	Consolidated Sales and Use Tax Return (R. <u>01/10</u> 01/09)	___ 01/09
(b) DR-7N	Instructions for Consolidated Sales and Use Tax Return (R. <u>01/10</u> 01/09)	___ 01/09
(c) DR-15CON	Consolidated Summary - Sales and Use Tax Return (R. <u>01/10</u> 01/09)	___ 01/09
(6)(a) DR-15	Sales and Use Tax Return (R. <u>01/10</u> 01/09)	___ 01/09
(b) DR-15CS	Sales and Use Tax Return (R. <u>01/10</u> 01/09)	___ 01/09
(c) DR-15CSN	DR-15 Sales and Use Tax - Instructions (R. <u>01/10</u> 01/09)	___ 01/09

(d) DR-15EZ	Sales and Use Tax Return (R. <u>01/10</u> 01/09)	___ 01/09
(e) DR-15EZCSN	DR-15EZ Sales and Use Tax Return - Instructions (R. <u>01/10</u> 01/09)	___ 01/09
(f) DR-15EZN	Instructions for <u>2010</u> 2009 DR-15EZ Sales and Use Tax Returns (R. <u>01/10</u> 01/09)	___ 01/09
(g) No change.		
(h) DR-15MO	Florida Tax on Purchases (R. <u>08/09</u> 07/07)	___ 01/08
(i) DR-15N	Instructions for <u>2010</u> 2009 DR-15 Sales and Use Tax Returns (R. <u>01/10</u> 01/09)	___ 01/09
(j) No change.		
(k) DR-15ZCN	Instructions for Completing the Sales and Use Tax Return, Form DR-15, when taking the Enterprise Zone Jobs Tax Credit under the New Law (R. 06/08)	09/09

(l) through (m) No change.

(7) 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,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-13, FLORIDA ADMINISTRATIVE CODE
FEE ON THE SALE OR LEASE OF MOTOR VEHICLES
AMENDING RULE 12A-13.002

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12A-13.002, F.A.C. (Collection and Remittance of Fee), is to adopt, by reference, changes to Form DR-35 (Motor Vehicle Warranty Remittance Fee Report).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Tax Collectors report and remit taxes and fees, including the motor vehicle warranty fee, electronically to the Department using the Tax Collector Revenue Remittance System. Tax Collectors no longer use Form DR-35 (Motor Vehicle Warranty Remittance Fee Report) to report the fee. The proposed amendments to Rule 12A-13.002, F.A.C. (Collection and Remittance of Fee), are necessary to adopt revisions to Form DR-35 that update the instructions on reporting and remitting the motor vehicle warranty fee and the information on how to obtain copies of the form 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

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, p. 3280), to advise the public of the development of changes to Rule 12A-13.002, F.A.C. (Collection and Remittance of Fee), and to provide that, if requested in writing, a rule development workshop would be held on July 28, 2009. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-13.002, F.A.C. (Collection and Remittance of Fee). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12A-13.002, F.A.C. (Collection and Remittance of Fee), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37, p. 4498). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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

GARY LANDRY, Florida Insurance Council
RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-13, FLORIDA ADMINISTRATIVE CODE
FEE ON THE SALE OR LEASE OF MOTOR VEHICLES
AMENDING RULE 12A-13.002

12A-13.002 Collection and Remittance of Fee.

(1) through (3) No change.

(4) Form DR-35, Motor Vehicle Warranty Remittance Fee Report (R. ~~08/09~~ 01/04, Effective ____), is hereby incorporated, by reference, in this rule. Form DR-35 is 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 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. ~~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) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 4) calling the Forms Request Line during regular office hours at (800) 352-3671 (in Florida only) or (850) 488-6800; or, 5) 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 or (850) 922-1115.

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 219.07, 320.27(1)(c), 681.102(15), 681.117 FS. History—New 4-5-89, Amended 5-4-03, 9-28-04, _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-16, FLORIDA ADMINISTRATIVE CODE
RENTAL CAR SURCHARGE
AMENDING RULE 12A-16.008

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), will update annual forms used by the Department in the administration of sales and use tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes to forms used by the Department in the administration of solid waste fees and the rental car surcharge.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, pp. 3280-3281), to advise the public of the development of changes to Rule 12A-16.008, F.A.C. (Public Use Forms), and to provide that, if

requested in writing, a rule development workshop would be held on July 28, 2009. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-16.008, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37, pp. 4498-4499). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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	GARY LANDRY, Florida Insurance Council RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-16, FLORIDA ADMINISTRATIVE CODE
RENTAL CAR SURCHARGE
AMENDING RULE 12A-16.008

12A-16.008 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department of Revenue in its dealings with the public in administering the rental car surcharge, as provided in this rule chapter, and the solid waste fees, as provided in Rule Chapter 12A-12, F.A.C. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-15SW	Solid Waste and Surcharge Return (R. 01/10 01/09)	___ 01/09
(3) DR-15SWN	Instructions for DR-15SW Solid Waste and Surcharge Returns (R. 01/10 01/09)	___ 01/09

(4) No change.

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.12(2), 213.235, 376.70, 403.717, 403.718, 403.7185 FS. History-New 11-14-89, Amended 7-7-91, 8-10-92, 3-21-95, 6-19-01, 4-17-03, 9-28-04, 6-28-05, 7-25-06, 4-5-07, 1-1-08, 1-27-09, ____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-17, FLORIDA ADMINISTRATIVE CODE
REGISTRATION AS SECONDHAND DEALER
OR SECONDARY METALS RECYCLER
AMENDING RULE 12A-17.005

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12A-17.005, F.A.C. (Public Use Forms), adopt, by reference, changes to the forms used by the Department to register secondhand dealers, mail-in secondhand precious metals dealers, and secondary metals recyclers.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Effective October 1, 2009, Chapters 2009-158 and 2009-162, L.O.F., require mail-in secondhand precious metals dealers to register with the Department of Revenue prior to regularly engaging in the business of purchasing jewelry or precious metals through the mail or Internet-based transactions or prior to contracting with others to buy precious metals in the same manner. The proposed amendments to Rule 12A-17.005, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes to the forms used by the Department to register secondhand dealers and secondary metals recyclers to include provisions to register mail-in secondhand precious metals dealers.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, p. 3281), to advise the public of the development of changes to Rule 12A-17.005, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on July 28, 2009. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-17.005, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12A-17.005, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37,

pp. 4499-4500). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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
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From the Public	GARY LANDRY, Florida Insurance Council RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.
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No comments were received at this rule hearing.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-17, FLORIDA ADMINISTRATIVE CODE
REGISTRATION AS SECONDHAND DEALER
OR SECONDARY METALS RECYCLER
AMENDING RULE 12A-17.005

12A-17.005 Public Use Forms.

(1) The following public-use forms and instructions are employed by the Department in its dealings with the public in administering Chapter 538, F.S., and are incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
(2) DR-1S	<u>Registration Application for Secondhand Dealers</u> <u>and/or Dealer or Secondary Metals Recyclers</u> Recycler Registration (R. <u>07/09</u> 07/08)	___ 09/08
(3) *DR-1SR	Renewal Application for Secondhand <u>Dealers</u> <u>and/or Dealer or Secondary Metals Recyclers</u> Recycler (R. <u>07/09</u> 07/08)	___ 09/08
(4) GT-200403	Secondhand <u>Dealers and/or Dealer/</u> Secondary Metals <u>Recyclers Recycler</u> Fingerprint Card Instructions (R. <u>07/09</u> 07/08)	___ 09/08

Rulemaking Specific Authority 213.06(1), 538.11, 538.37 FS. Law Implemented 538.09, 538.11, 538.25, 538.31, 538.32, 538.36, 538.37, 539.002 FS. History-New 3-15-90, Amended 11-14-91, 4-18-93, 10-17-94, 8-1-02, 9-28-04, 6-28-05, 9-15-08, _____.

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): (1) adopt, by reference, changes to Form DR-700016 (Florida Communications Services Tax Return); and (2) provide which version of Form DR-700016 is to be used to report communications services tax on services billed during specified calendar months.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), are necessary to provide which version of Form DR-700016 (Florida Communications Services Tax Return) is to be used to report communications services tax on services billed during specified calendar months.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, pp. 3281-3282), to advise the public of the development of changes to Rule 12A-19.100, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on July 28, 2009. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-19.100, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37, pp. 4500-4502). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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

GARY LANDRY, Florida Insurance Council
RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule hearing.

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) The following versions of Form DR-700016, Florida Communications Services Tax Return, are applicable to the reporting periods and service billing dates indicated:

REVISION DATE	REPORTING PERIODS	SERVICE BILLING DATES
<u>01/10</u>	<u>January 2010 -</u>	<u>January 1, 2010 -</u>
<u>06/09</u>	<u>June 2009 - December 2009</u>	<u>June 1, 2009 - December 31, 2009</u>
01/09	January 2009 - <u>May 2009</u>	January 1, 2009 - <u>May 31, 2009</u>
09/08	September 2008 - December 2008	September 1, 2008 - December 31, 2008
06/08	June 2008 - August 2008	June 1, 2008 - <u>August 31, 2008</u> December 31, 2008
05/08	May 2008	May 1, 2008 - May 31, 2008
01/08	January 2008 - April 2008	January 1, 2008 - April 30, 2008

09/07	September 2007 - December 2007	September 1, 2007 - December 31, 2007
06/07	June 2007- August 2007	June 1, 2007- August 31, 2007
02/07	February 2007 - May 2007	February 1, 2007 - May 31, 2007
01/07	January 2007	January 1, 2007 - January 31, 2007
06/06	June 2006 - December 2006	June 1, 2006 - December 31, 2006
01/06	January 2006 - May 2006	January 1, 2006 - May 31, 2006
11/05	November 2005 - December 2005	November 1, 2005 - December 31, 2005
06/05	June 2005 - October 2005	June 1, 2005- October 31, 2005
01/05	January 2005 - May 2005	January 1, 2005 - May 31, 2005
11/04	November 2004 - December 2004	November 1, 2004 - December 31, 2004
10/04	October 2004	October 1, 2004 - October 31, 2004
06/04	June 2004 - September 2004	June 1, 2004 - September 30, 2004
01/04	January 2004 - May 2004	January 1, 2004 - May 31, 2004
12/03	December 2003	December 1, 2003 - December 31, 2003
11/03	November 2003	November 1, 2003 - November 30, 2003
10/03	October 2003	October 1, 2003 - October 31, 2003
06/03	June 2003 - September 2003	June 1, 2003 - September 30, 2003
03/03	March 2003 - May 2003	March 1, 2003 - May 31, 2003
01/03	January 2003 - February 2003	January 1, 2003 - February 28, 2003
12/02	December 2002	December 1, 2002 - December 31, 2002
11/02	November 2002	November 1, 2002 - November 30, 2002
10/02	October 2002	October 1, 2002 - October 31, 2002

01/02	January 2002 - September 2002	January 1, 2002 - September 30, 2002
12/01	October 2001 - December 2001	October 1, 2001 - December 31, 2001

Form Number	Title	Effective Date
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(3) No change.

(4)(a) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> (R. <u>01/10</u>)	—
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(b) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> (R. <u>06/09</u> 01/09)	— <u>01/09</u>
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(a) through (cc) renumbered (c) through (ee) No change.

(5) through (12) No change.

Rulemaking Specific 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, _____.

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

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms), adopt, by reference, changes to Form DR-225 (Documentary Stamp Tax Return for Registered Taxpayers' Unrecorded Documents).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes to Form DR-225 (Documentary Stamp Tax Return for Registered Taxpayers' Unrecorded Documents), used by the Department in the administration of documentary stamp tax.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, p. 3282), to advise the public of the development of changes to Rule 12B-4.003, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on July 28, 2009. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12B-4.003, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12B-4.003, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37, pp. 4506-4507). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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)(a) 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.

(b) 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 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
(2) DR-225	Documentary Stamp Tax Return for Registered Taxpayers' Unrecorded Documents (R. 01/10 11/07)	___ 01/08

(3) through (4) No change.

Rulemaking Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02(1), 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,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE
TAX ON 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), adopt, by reference, changes to forms used by the Department in the administration of taxes imposed on fuels and pollutants.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes to 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

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, pp. 3282-3283), to advise the public of the development of changes to Rule 12B-5.150, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on July 28, 2009. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12B-5.150, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37, pp. 4506-4507). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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) DR-138	Application for Fuel Tax Refund – Agriculture, Aquacultural, Commercial Fishing or Commercial Aviation Purposes (R. <u>01/10</u> 01/09)	____ 04/09
(3) through (8) No change.		
(9) DR-160	Application for Fuel Tax Refund – Mass Transit System Users (R. <u>01/10</u> 01/09)	____ 04/09
(10) through (13) No change.		
(14) DR-182	Florida Air Carrier Fuel Tax Return (R. <u>01/10</u> 01/09)	____ 04/09
(15) No change.		
(16) DR-189	Application for Fuel Tax Refund – Municipalities,	

	Counties and School Districts (R. <u>01/10</u> 01/09)	_____ 04/09
(17) DR-190	Application for Fuel Tax Refund – Non-Public Schools. (R. <u>01/10</u> 01/09)	_____ 04/09
(18) No change.		
(19) DR-248	<u>2010</u> 2009 Alternative Fuel Use Permit Application, Renewal, and Decal Order Form (R. <u>11/09</u> 03/09)	_____ 04/09
(20) DR-904	Pollutants Tax Return (R. <u>01/10</u> 01/09)	_____ 04/09
(21) DR-309631	Terminal Supplier Fuel Tax Return (R. <u>01/10</u> 01/09)	_____ 06/09
(22) DR-309631N	Instructions for Filing Terminal Supplier Fuel Tax Return (R. <u>01/10</u> 04/09)	_____ 06/09
(23) DR-309632	Wholesaler/Importer Fuel Tax Return (R. <u>01/10</u> 01/09)	_____ 06/09
(24) DR-309632N	Instructions for Filing Wholesaler/Importer Fuel Tax Return (R. <u>01/10</u> 04/09)	_____ 06/09
(25) DR-309633	Mass Transit System Provider Fuel Tax Return (R. <u>01/10</u> 01/09)	_____ 06/09
(26) DR-309633N	Instructions for Filing Mass Transit System Provider Fuel Tax Return (R. <u>01/10</u> 04/09)	_____ 06/09
(27) DR-309634	Local Government User of Diesel Fuel Tax Return (R. <u>01/10</u> 01/09)	_____ 06/09
(28) DR-309634N	Instructions for Filing Local Government User of Diesel Fuel Tax Return (R. <u>01/10</u> 04/09)	_____ 06/09

(29) DR-309635	Blender/Retailer of Alternative Fuel Tax Return (R. <u>01/10</u> 04/09)	_____ 06/09
(30) DR-309635N	Instructions for Filing Blender/Retailer of Alternative Fuel Tax Return (R. <u>01/10</u> 04/09)	_____ 06/09
(31) DR-309636	Terminal Operator Information Return (R. <u>01/10</u> 04/09)	_____ 06/09
(32) DR-309636N	Instructions for Filing Terminal Operator Information Return (R. <u>01/10</u> 04/09)	_____ 06/09
(33) DR-309637	Petroleum Carrier Information Return (R. <u>01/10</u> 04/09)	_____ 06/09
(34) DR-309637N	Instructions for Filing Petroleum Carrier Information Return (R. <u>01/10</u> 04/09)	_____ 06/09
(35) DR-309638	Exporter Fuel Tax Return (R. <u>01/10</u> 04/09)	_____ 06/09
(36) DR-309638N	Instructions for Filing Exporter Fuel Tax Return (R. <u>01/10</u> 04/09)	_____ 06/09
(37) DR-309639	Application for Refund of Tax Paid on Undyed Diesel Used for Off-Road or Other Exempt Purposes <u>(with Instructions)</u> (R. <u>01/10</u> 03/09)	_____ 04/09
(38) DR-309640	Application for Refund of Tax Paid on Undyed Diesel Consumed by Motor Coaches During Idle Time in Florida (R. <u>01/10</u> 04/09)	_____ 04/09
(39) DR-309645	<u>2010</u> 2009 Refundable Portion of Local Option and State Comprehensive Enhanced	

Transportation System (SCETS) Tax

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

_____ ~~04/09~~

(40) through (41) No change.

Rulemaking Authority 206.14(1), 206.59(1), 213.06(1) FS. Law Implemented 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028, 206.05, 206.055, 206.095, 206.404, 206.43, 206.86, 206.877, 206.90, 206.91, 206.92, 206.9931, 206.9943 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),_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-7, FLORIDA ADMINISTRATIVE CODE
SEVERANCE TAXES AND FEES
AMENDING RULES 12B-7.004, 12B-7.008, and 12B-7.026

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12B-7.004, F.A.C. (Rate of Tax; Oil, Gas, and Sulfur): (1) provide the tiered tax rates for oil produced by tertiary methods, as provided in Section 2, Chapter 2009-139, L.O.F.; and (2) provide an example of how to calculate the amount of tax due.

The proposed amendments to Rule 12B-7.008, F.A.C. (Public Use Forms): (1) adopt, by reference, the tax rates imposed by Chapter 2009-139, L.O.F., on the production of oil reported on Forms DR-145 and DR-145X; and (2) adopt, by reference, rates imposed by Sections 211.025 and 211.026, F.S., on the production of gas and sulfur for calendar year 2010 on Forms DR-144 and DR-144ES.

The proposed amendments to Rule 12B-7.026, F.A.C. (Public Use Forms), adopt, by reference, the tax and surtax rates imposed by Section 211.3101, F.S., on the severance of phosphate rock for calendar year 2010 on Forms DR-142 and DR-142ES.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Effective July 1, 2009, Section 2, Chapter 2009-139, L.O.F., imposes new tiered tax rates on oil produced by tertiary methods in Florida. The proposed amendments to Rule 12B-7.004,

F.A.C. (Rate of Tax; Oil, Gas, and Sulfur), Rule 12B-7.008, F.A.C. (Public Use Forms), and Rule 12B-7.026, F.A.C. (Public Use Forms), are necessary to: (1) update provisions for reporting and remitting tax on oil produced by tertiary methods in Florida, as provided by Section 2, Chapter 2009-139, L.O.F.; and (2) update the tax and surtax rate changes imposed by Sections 211.025, 211.026, and 211.3101, F.S., on the production of gas and sulfur and on the severance of phosphate rock in Florida.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, p. 3283), to advise the public of the development of changes to Rule 12B-7.004, F.A.C. (Rate of Tax; Oil, Gas and Sulfur), Rule 12B-7.008, F.A.C. (Public Use Forms), and Rule 12B-7.026, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on July 28, 2009. No request was received by the Department. No comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule

12B-7.004, F.A.C. (Rate of Tax; Oil, Gas and Sulfur), Rule 12B-7.008, F.A.C. (Public Use Forms), and Rule 12B-7.026, F.A.C.(Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12B-7.004, F.A.C. (Rate of Tax; Oil, Gas and Sulfur), Rule 12B-7.008, F.A.C. (Public Use Forms), and Rule 12B-7.026, F.A.C.(Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37, pp. 4504-4506). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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	GARY LANDRY, Florida Insurance Council RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule hearing. The Department responded to written comments submitted by the Joint Administrative Procedures Committee, dated October 30, 2009, which requested the Department to ensure that Form DR-142ES contains the required information regarding the rule under which the form is adopted, and the effective date of the form. Form DR-142ES contains the required information. No changes were necessary in response to this question.

DEPARTMENT OF REVENUE
CHAPTER 12B-7, FLORIDA ADMINISTRATIVE CODE
SEVERANCE TAXES AND FEES
AMENDING RULES 12B-7.008, 12B-7.026, AND 12B-7.031

PART I - TAX ON PRODUCTION OF OIL, GAS, AND SULFUR

12B-7.004 Rate of Tax; Oil, Gas and Sulfur.

(1) Oil.

(a) The amount of tax shall be measured by the value of oil produced and saved. The rate for oil shall be 8 percent of the gross value thereof at the point of production.

(b) All wells capable of producing less than 100 barrels of oil per day ~~or oil produced by tertiary methods~~ shall be taxed at the rate of 5 percent of the gross value at the point of production.

(c) Oil produced by tertiary methods shall be taxed at the following tiered rates on the gross value at the point of production:

1. 1 percent of the gross value of oil \$60 and below;

2. 7 percent of the gross value of oil above \$60 and below \$80;

3. 9 percent of the gross value of oil \$80 and above.

4. Example: 200 barrels of oil were produced that had a value of \$90.00 per barrel at the time of production. Tax is calculated as follows:

First Tier: 200 barrels x \$60 x 1% = \$120

Second Tier: + 200 barrels x \$20 x 7% = \$280

Third Tier: + 200 barrels x \$10 x 9% = \$180

Total Tax Due: \$580

(d)(e) No change.

(2) through (3) No change.

Rulemaking Specific Authority 211.125, 213.06(1) FS. Law Implemented 211.02, 211.025, 211.026, 211.04 FS. History–New 12-28-78, Formerly 12B-7.04, Amended 12-18-94,_____.

12B-7.008 Public Use Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the taxes imposed on the production of oil, gas, and sulfur. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
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(2) through (3) No change.

(4) DR-145	Oil Production Monthly Tax Return (R. <u>07/09</u> 08/08)	____ (01/09)
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(5) DR-145X	Oil Production Monthly Amended Tax Return (R. <u>07/09</u> 08/08)	____ (01/09)
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Rulemaking Specific Authority 211.075(2), 211.125(1), 213.06(1) FS. Law Implemented 92.525(1)(b), (2), (3), (4), 211.02, 211.026, 211.075, 211.076, 211.125, 213.755(1) FS. History-New 12-28-78, Formerly 12B-7.08, Amended 12-18-94, 5-4-03, 10-1-03, 11-6-07, 1-27-09,_____.

PART II - SEVERANCE TAX ON SOLID MINERALS

12B-7.026 Public Use Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the taxes and surcharge imposed on the severance of solid minerals, phosphate rock, or heavy minerals from the soils and waters of this state. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) DR-142	Solid Mineral Severance Tax Return (R. <u>01/10</u> 01/09)	<u>01/09</u>
(3) DR-142ES	Declaration/Installment Payment of Estimated Solid Mineral Severance Tax (R. <u>01/10</u> 01/09)	<u>01/09</u>

Rulemaking Specific Authority 211.33(6), 213.06(1) FS. Law Implemented 92.525(2), 211.30, 211.31, 211.3103, 211.3106, 211.33, 213.755(1) FS. History-New 12-18-94, Amended 10-4-01, 5-4-03, 10-1-03, 11-6-07, 1-27-09,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULE 12B-8.003

SUMMARY OF PROPOSED RULE

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), are necessary to adopt, by reference, changes to forms used by the Department in the administration of the insurance premium tax.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, pp. 3283-3284), to advise the public of the

development of changes to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), and to provide that, if requested in writing, a rule development workshop would be held on July 28, 2009. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37, pp. 4506-4507). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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	GARY LANDRY, Florida Insurance Council RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

A Notice of Change was published in the October 23, 2009, edition of the Florida Administrative Weekly (Vol. 35, No. 42, pp. 5332-5333) to withdraw proposed changes to Form DR-908, Insurance Premium Taxes and Fees Return for Calendar Year 2009, and to Form DR-908N, Instructions for Preparing Form DR-908, Florida Insurance Premium Taxes and Fees Return, adopted, by reference, in Rule 12B-8.003, F.A.C. (Tax Statements; Overpayments). The withdrawal of these proposed changes were presented at the rule hearing. Revised copies of the proposed forms were subsequently provided to Mr. Landry, Florida Insurance Council.

The proposed changes to amend the statement on Page 3, under Schedule III (Credits Against the Premium Tax), to add a statement on Page 4, under Schedule IV (Computation of Salary Credit), and to amend the statement on Page 4, under Schedule V (Corporate Income, Emergency Excise, Salary and SFO Credit Limitation), of Form DR-908, have been withdrawn. When adopted, this statement will not be included on Page 4, under Schedule IV, and no changes will be made to the statement on Page 3, under Schedule III, or to the statement on Page 4, under Schedule V.

Form GT-600002 (Florida Insurance Premium Taxes and Fees Suggested Consolidated Corporate Income Tax Allocation Schedule), as referenced in the proposed changes to Form DR-908N, has been withdrawn. Form GT-600002 will not be used by the Department.

The following provision to the instructions on Page 7, for Schedule IV, Line 4. (Corporate Income Tax and Emergency Excise Tax Paid), and on Page 8, for Schedule V, Line 1. (Total Corporate Income Tax and Emergency Excise Tax Paid), and on Page 12, for Schedule XIV, Line 3. (Total Corporate Income Tax and Emergency Excise Tax), of Form DR-908N, has been withdrawn:

Attach a schedule showing the computation allocating the corporate income tax among the filers included in a Florida corporate income tax return. Form GT-600002 (Florida Insurance Premium Taxes and Fees Suggested Consolidated Corporate Income Tax Allocation Schedule), is included with the return package mailed to every insurance premium taxpayer, and it can also be downloaded from the Department's Internet site.

When adopted, by reference, no changes will be made to the instructions on Page 7, for Schedule IV, Line 4., on Page 8, for Schedule V, Line 1., or on Page 12, for Schedule XIV, Line 3., of Form DR-908N.

No comments were received at this rule hearing. The Department responded to written comments submitted by the Joint Administrative Procedures Committee, dated October 30, 2009, which requested information regarding the adoption of specified forms referenced within Form DR-908N, Florida Department of Revenue DR-908 Instructions. No changes were necessary in response to this question.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULE 12B-8.003

12B-8.003 Tax Statement; Overpayments.

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

(2) through (4) No change.

Form Number	Title	Effective Date
(5)(a) DR-907	Florida Insurance Premium Installment Payment (R. <u>01/10</u> 01/09)	___ <u>01/09</u>
(b) DR-907N	Information for Filing Insurance Premium Installment Payment (Form DR-907) (R. <u>01/10</u> 01/09)	___ <u>01/09</u>
(6)(a) DR-908	Insurance Premium Taxes and Fees Return for Calendar Year <u>2009</u> 2008 (R. <u>01/10</u> 01/09)	___ <u>01/09</u>
(b) DR-908N	Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. <u>01/10</u> 01/09)	___ <u>01/09</u>
(7) DR-350900	<u>2009</u> 2008 Insurance Premium Tax Information	

for Schedules XII and XIII, DR-908

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

 ~~01/09~~

Rulemaking Specific Authority 213.06(1) FS. Law Implemented 175.041, 175.101, 175.1015, 175.111, 175.121, 175.141, 175.151, 185.02, 185.03, 185.08, 185.085, 185.09, 185.10, 185.12, 185.13, 213.05, 213.053, 213.235, 213.37, 220.183, 220.19, 220.191, 252.372, 288.99, 440.51, 443.1216, 624.11, 624.402, 624.4072, 624.4094, 624.4621, 624.4625, 624.475, 624.501, 624.509, 624.5091, 624.5092, 624.50921, 624.510, 624.5105, 624.5107, 624.511, 624.515, 624.516, 624.518, 624.519, 624.520, 624.521, 624.601, 624.610, 626.7451(11), 627.311, 627.351, 627.3512, 627.357(9), 627.7711, 627.943, 628.6015, 629.401, 629.5011, 631.72, 632.626, 634.131, 634.313(2), 634.415(2), 636.066, 642.0301, 642.032, FS., Ch. 93-128, s. 29, Ch. 2005- 280, L.O.F. History–New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98, 7-1-99, 10-15-01, 8-1-02, 5-4-03, 9-28-04, 6-28-05, 6-20-06, 4-5-07, 1-1-08, 1-27-09,_____.

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), adopt, by reference, changes to forms used by the Department in the administration of the corporate income tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), are necessary to adopt, by reference, changes to 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

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, p. 3284), to advise the public of the development of changes to Rule 12C-1.051, F.A.C. (Forms), and to provide that, if requested in writing, a rule

development workshop would be held on July 28, 2009. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12C-1.051, F.A.C. (Forms). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37, pp. 4507-4508). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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	GARY LANDRY, Florida Insurance Council RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule hearing. The Department responded to written comments submitted by the Joint Administrative Procedures Committee, dated November 3,

2009, which requested information regarding Form F-1065N and F-1120A. No changes were necessary in response to these questions.

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) No change.		
(3) F-851	Corporate Income/Franchise and Emergency Excise Tax Affiliations Schedule (R. <u>01/10 01/09</u>)	__ 01/09
(4)(a) F-1065	Florida Partnership Information Return (R. <u>01/10 01/09</u>)	__ 01/09
(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. <u>01/10 01/09</u>)	__ 01/09
(5) F-1120A	Florida Corporate Short Form Income Tax Return (R. <u>01/10 01/09</u>)	__ 01/09

(6)(a) F-1120	Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. <u>01/10</u> 01/09)	___ 01/09
(b) F-1120N	F-1120 Instructions – Corporate Income/Franchise and Emergency Excise Tax Return for taxable years beginning on or after January 1, <u>2009</u> 2008 (R. <u>01/10</u> 01/09)	___ 01/09
(7) F-1120ES	Declaration/Installment of Florida Estimated Income/Franchise and Emergency Excise Tax For Taxable Year Beginning on or after January 1, <u>2010</u> 2009 (R. <u>01/10</u> 01/09)	___ 01/09
(8)(a) F-1120X	Amended Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. <u>01/10</u> 01/09)	___ 01/09
(b) F-1120XN	Instructions for Preparing Form F-1120X Amended Florida Corporate Income/Franchise and Emergency Excise Tax Return (R. <u>01/10</u> 01/09)	___ 01/09
(9) through (13) No change.		
(14) F-7004	Florida Tentative Income/Franchise and Emergency Excise Tax Return and Application for Extension of Time to File Return (R. <u>01/10</u> 01/09)	___ 01/09

Rulemaking Specific Authority 213.06(1), 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, 220.21, 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,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-2, FLORIDA ADMINISTRATIVE CODE
INTANGIBLE PERSONAL PROPERTY TAX
AMENDING RULE 12C-2.0115

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), adopt, by reference, the updates to the 2009 Valuation Factor Table on the forms used by the Department in the administration of the tax on government leasehold estates.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes to the forms used by the Department in the administration of the tax on government leasehold estates to provide the 2009 Valuation Factor Table used to calculate the amount of tax due.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on July 10, 2009 (Vol. 35, No. 27, p. 3284), and a Notice of Correction was published in the Florida Administrative Weekly on July 24, 2009 (Vol. 35, No. 29, p. 3508), to advise the public of the development of changes to Rule 12C-2.0115, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on July 28, 2009. No request was received by the Department. No written comments have been received by the Department.

SUMMARY OF RULE HEARING

HELD ON AUGUST 25, 2009

The Governor and Cabinet, sitting as head of the Department of Revenue, met on August 25, 2009, and approved the publication of the Notice of Proposed Rule for changes to Rule 12C-2.0115, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Weekly on August 14, 2009 (Vol. 35, No. 32, p. 3893).

SUMMARY OF RULE HEARING

HELD ON OCTOBER 13, 2009

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Weekly on September 18, 2009 (Vol. 35, No. 37, pp. 4508-4509). A rule hearing was held on October 13, 2009, in Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

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
GARY LANDRY, Florida Insurance Council
RALPH SCHWARZ, Colodny, Faas, Talenfeld, P.A.

No comments were received at this rule hearing. The Department responded to written comments submitted by the Joint Administrative Procedures Committee, dated November 3, 2009, which requested information regarding Forms DR-601G and DR-602G. No changes were necessary in response to these questions.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-2, FLORIDA ADMINISTRATIVE CODE
INTANGIBLE PERSONAL PROPERTY TAX
AMENDING RULE 12C-2.0115

12C-2.0115 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department in its dealings with the public related to administration of the intangible tax. These forms are hereby incorporated and made a part of this rule by reference.

(b) No change.

Form Number	Title	Effective Date
(2) DR-601G	Government Leasehold Intangible Personal Property Tax Return for <u>2010</u> 2009 Tax Year (R. <u>01/10</u> 01/09)	<u>01/09</u>
(3) DR-602G	Governmental Leasehold Intangible Personal Property Tax Application for Extension of Time to File Return (R. <u>01/10</u> 01/09)	<u>01/09</u>

(4) through (5) No change.

Rulemaking Specific Authority 199.202(2), 213.06(1) FS. Law Implemented 196.199(2), 199.135, 199.232, 199.292 FS. History-New 11-21-91, Amended 1-5-94, 10-9-01, 5-4-03, 9-28-04, 6-28-05, 10-30-06, 1-28-08, 1-27-09,_____.