

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-26, FLORIDA ADMINISTRATIVE CODE
REFUNDS

AMENDING RULES 12-26.003, 12-26.004, 12-26.008, AND 12-26.009

12-26.003 Application for Refund.

~~(1)(a) Taxes Paid On or After October 1, 1994, and Before July 1, 1999:~~

~~Except as otherwise provided by Section 213.345, F.S., the application for refund as required by Section 215.26, F.S., shall be filed with the Department within five years after the date the tax was paid, or the right to the refund is barred.~~

~~(b) Taxes Paid On or After July 1, 1999:~~

Except as otherwise provided by Section 213.345, F.S., for the tolling of the refund period, the application for refund required by Section 215.26, F.S., must be filed with the Department within three years after the date the tax was paid, or the right to the refund is barred.

(2)(a) No change.

(b) Applications for refund must be filed with the Department by submitting the completed application to the Department:

1. Online at taxapps.floridarevenue.com/Refunds/; or

2. Mailed to ~~using~~ the address ~~or instructions~~ contained within the application.

(3) Form DR-26, Application for Refund (incorporated by reference in Rule 12-26.008, F.A.C.), is the approved refund application for all taxes collected by the Department, except as follows:

(a) COMMUNICATIONS SERVICES TAX. A refund claim for communications services tax must be made directly to the dealer that collected that tax, as provided in Section 202.23, F.S. A refund claim may be made to the Department using Form ~~form~~ DR-26, Application for Refund, only under the following circumstances:

1. through 2. No change.

(b) CORPORATE INCOME TAX. Refunds claimed under Chapter 220 ~~or 221~~, F.S., must be filed with the Department on the following forms:

1. Form F-1120, Florida Corporate Income/Franchise ~~and Emergency Excise~~ Tax Return, Form ~~or form~~ F-1120A, Florida Corporate Short Form Income Tax Return, or Form F-1120X, Amended Florida Corporate Income/Franchise Tax Return (all forms incorporated by reference in Rule 12C-1.051, F.A.C.).

2. through 3. No change.

(c) through (d) No change.

~~(e) INTANGIBLE PERSONAL PROPERTY TAX. All refunds claimed under Chapter 199, F.A.C., must be filed with the Department on form DR-26I, Application for Refund-Intangible Personal Property Tax (incorporated by reference in Rule 12-26.008, F.A.C.).~~

~~(e)(f)~~ No change.

~~(f)(g)~~ SALES AND USE TAX, DISCRETIONARY SALES SURTAX, SURCHARGES, AND FEES. A refund claimed for sales and use taxes, discretionary sales surtaxes, surcharges, and fees imposed or administered under Chapter 212, F.S., must be filed with the Department on Form ~~form~~ DR-26S, Application for Refund-Sales and Use Tax (incorporated by reference in Rule 12-26.008, F.A.C.). ~~An Application for Refund-Sales and Use Tax that is filed under the provisions of Sections 212.08(5)(g), (h), (n), (o), and (q), F.S., must contain the forms and other~~

~~documentation specified in Rule 12A-1.107, F.A.C., to be deemed complete.~~

(4) Applications for refund ~~that as described herein which~~ are not properly completed will not be considered filed for the purpose of tolling the statutory provisions of Section 215.26, F.S., or for the purpose of the payment of interest under the conditions prescribed in Sections 213.235 and 213.255, F.S. The Department ~~will~~ shall notify the applicant of the incomplete application and the necessary actions, corrections, of information needed to complete it within 30 consecutive calendar days of receiving the incomplete application. For the purposes of this rule, a completed application is defined as an application which contains all of the following information:

(a) The taxpayer's current business name, and business mailing address, ~~and physical location of business, if different from the mailing address;~~

(b) 1. The taxpayer's federal taxpayer identification number, or social security number, business partner number, and/or Florida tax registration or license number, and/or audit number, if available;

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

(c) through (d) No change.

(e) Information and documentation that ~~which~~ will enable the Department to determine

eligibility for the refund and verify the amount of the refund claim due requested. This information must include all data which was required to be submitted on the original or original-amended tax return associated with the refund application.

(f) through (h) No change.

~~(5)(a) The Department is empowered, pursuant to Section 213.255, F.S., to require that the applicant provide a cash bond or surety bond to protect the state's financial position in cases when the Department pays a refund claim before completing an audit of the claim.~~

~~(b) Section 213.255, F.S., also authorizes the Department to accept the following alternative security arrangements to the cash bond or surety bond discussed in paragraph (a):~~

~~1. An assigned time deposit; or,~~

~~2. An irrevocable letter of credit.~~

Rulemaking Authority 213.06(1) FS. Law Implemented 95.091(3), 198.29(1), 199.232(5), 202.23, 213.235, 213.255, 213.34, 213.345, 215.26, 220.725, 624.5092, 624.511, 624.518 FS. History—New 11-14-91, Amended 4-18-93, 4-18-95, 4-2-00, 10-4-01, 9-28-04,_____.

12-26.004 Refund Approval Process.

(1) through (2) No change.

(3)(a) For the purpose of implementing the 90 consecutive calendar day interest provision required pursuant to Section 213.255, F.S., and this rule, an application will be considered complete when all information or corrections requested from the applicant are received by the Department, based on the postmark date, fax date, e-mail submission date, or date of hand-delivery of such requested information.

(b) No change.

(4) No change.

Rulemaking Authority 213.06(1), 213.23 FS. Law Implemented 95.091(3), 213.235, 213.255, 213.34, 213.345, 215.26 FS. History—New 11-14-91, Amended 4-2-00, 10-4-01,_____.

12-26.008 Public Use Forms.

(1)(a) The following public use forms are used by the Department in the processing of refunds and are hereby incorporated by reference.

(b) These forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's website Internet site at www.floridarevenue.com/forms; or, 2) calling the Department at 850-488-6800 Monday through Friday (excluding holidays); or, 3) visiting any local Department of Revenue Service Center or, 4) writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112; ~~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; or, 5) downloading selected forms from the Department's Internet site stated in the parentheses (www.myflorida.com/dor).~~ Persons with hearing or speech impairments may call the Florida Relay Service at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

Form Number	Title	Effective Date
(2) DR-26	Application for Refund (R. ____ 06/03)	____ 09/04
	<u>(http://www.flrules.org/Gateway/reference.asp?No=Ref-__)</u>	
(3) DR-26I	Application for Refund Intangible Personal	
	Property Tax (N. 06/03)	09/04

(4) DR-26S	Application for Refund-Sales and Use	
	Tax (R. ___ 01/03)	___ 09/04
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-)	
(4) (5) DR-370026	Mutual Agreement to Audit or Verify	
	Refund Claim (R. ___ 07/02)	___ 09/04
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-)	
(5) DR-26N	Instructions – Application for Refund	01/18
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-)	
(6) DR-26SN	Instructions – Application for Refund	01/18
	<u>Sales and Use Tax</u>	
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-)	
(7) RAO	<u>Rural Areas of Opportunity Application for</u>	<u>01/18</u>
	<u>Certification Exempt Goods and Services Sales</u>	
	<u>Tax Refund Based on s. 212.08(5)(r), F.S.</u>	
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-)	

Rulemaking Authority 213.06(1) FS. Law Implemented 72.011, 199.183, ~~199.185~~, 199.218(5), 201.11, 202.125, 202.23, 206.41, 206.64, 206.8745, 206.97, 206.9815, 206.9875, 206.9941, 206.9942, 212.02(15)(a), (19), 212.05(1)(a)1.b., 212.06(5)(a)1., (7), 212.07(1), 212.08(2)(j), (5)(f), ~~(g), (h), (q)~~, (7), 212.09, 212.11(4), (5), 212.12(6)(a), (c), 212.13(1), (2), 212.12(4), 212.17(1), (2), (3), 212.183, 213.255(2), (3), (4), (12), 213.34, 215.26, 220.725, 220.727, 624.5092, 681.104 FS. History—New 11-14-91, Amended 4-18-93, 10-4-01, 9-28-04, ____.

12-26.009 Refund/Offset Within an Audit.

(1) through (4) No change.

~~(5) Procedures When Auditing Corporate Income Tax and Emergency Excise Tax Only
Same Audit Period.~~

~~(a) For purposes of this rule, corporate income tax and emergency excise tax are considered one tax category. Therefore, when auditing corporate income tax and emergency excise tax for the same audit period, any underpayment or overpayment found in corporate income tax during a filing period is added to or offset against any underpayment or overpayment found in emergency excise tax during the same filing period. The net result of a filing period is then carried forward and added to or offset against the net result of the following filing period(s) under audit to determine the final audit findings.~~

~~(b) Overpayments shall be applied to underpayments in the following order:~~

- ~~1. To any accrued tax;~~
- ~~2. To any accrued interest; and,~~
- ~~3. To any accrued penalty.~~

~~(c) Example: A taxpayer's corporate income tax and emergency excise tax are included on an audit for the tax periods January 1988 through December 1992. The following information is revealed on the audit:~~

Tax		Tax <Over>			Cumulative
Category	Period	Under Paid	Interest	Penalty	Amount
Corporate	12/88	\$ 1,000.00	\$ 0.00	\$ 0.00	
Emergency Excise	12/88	<3,000.00>	0.00	0.00	\$ <2,000.00>
Corporate	12/89	500.00	0.00	0.00	

Emergency Excise	12/89	1,000.00	0.00	0.00	<500.00>
Net Result					<500.00>

~~The 12/88 overpayment in emergency excise tax is offset against the 12/88 underpayment in corporate income tax. The remaining overpayment is carried forward to be offset against later underpayments within the audit period. The 12/88 net overpayment is offset against the 12/89 underpayments in corporate income tax and emergency excise tax. Since the final result of the audit is an overpayment and the entire amount of the overpayment is outside the statute of limitations for refund, the remaining overpayment is barred from any additional refund or credit.~~

(6) through (8) Renumbered (5) through (7) No change.

Rulemaking Authority 213.06(1) FS. Law Implemented 72.011, 95.091, 213.25, 213.34, 215.26

FS. History—New 4-18-95, Amended_____.