

AGENDA
FLORIDA DEPARTMENT OF REVENUE

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

MEMBERS

Governor Rick Scott
Attorney General Pam Bondi
Chief Financial Officer Jeff Atwater
Commissioner Adam H. Putnam

January 13, 2015

Contacts: Danielle Scoggins, Director of Legislative and Cabinet Services
(850) 617-8324

MaryAnn Murphy, Executive Asst. II
(850) 717-7138

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 the November 12, 2014 and December 9, 2014, cabinet meetings. | |
|----|---|--|

(ATTACHMENT 1)

RECOMMEND APPROVAL

- | | | |
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| 2. | Respectfully submit the Department of Revenue's Legislative Budget Request for FY 2015 – 2016. | |
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(ATTACHMENT 2)

RECOMMEND APPROVAL

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

Updates to Veterinary Sales and Services Rule:

The proposed rule amendments conform the rule for veterinary sales and services with a law change in Section 9, Chapter 2014-38, L.O.F., that provides a new sales tax exemption for certain therapeutic veterinary diets. (*Rule 12A-1.0215, F.A.C.*)

Updates to Rules Related to the Taxation of Electricity:

The proposed rule amendments conform several sales tax and gross receipts tax rules to the legislative change in the taxation of electricity found in Sections 2, 4,

5 and 6, Chapter 2014-38, L.O.F. (*Rules 12A-1.022, 12A-1.053, 12B-6.001, 12B-6.0015, and 12B-6.005, F.A.C.*)

Updates to Rule Chapter Relating to Payment of Taxes and Submission of Returns by Electronic Means:

The proposed rule amendments address when the prepaid wireless E911 fee must be reported and remitted to the Department by electronic means consistent with changes made in Section 1, Chapter 2014-196, L.O.F. The proposed rule amendments also remove obsolete language and make technical clarifications. (*Rule Chapter 12-24, F.A.C.*)

(ATTACHMENT 3)

RECOMMEND APPROVAL

4. Respectfully request adoption of and approval to file and certify with the Secretary of State under Chapter 120, Florida Statutes, rules relating to the recent development and deployment of a mobile application that allows dealers to verify whether a purchaser is registered dealer or tax-exempt entity to determine whether the dealer is required to collect sales tax from the purchaser. The proposed rule amendments also remove obsolete language and make technical clarifications. (*Rules 12A-1.038, 12A-1.039, and 12A-19.060, F.A.C.*)

(ATTACHMENT 4)

RECOMMEND APPROVAL

ATTACHMENT 1

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STATE OF FLORIDA

IN RE: MEETING OF THE GOVERNOR AND
CABINET

CABINET MEMBERS: GOVERNOR RICK SCOTT
ATTORNEY GENERAL PAM BONDI
CHIEF FINANCIAL OFFICER
JEFF ATWATER
COMMISSIONER OF AGRICULTURE
ADAM PUTNAM

DATE: WEDNESDAY, NOVEMBER 12, 2014

LOCATION: CABINET MEETING ROOM
LOWER LEVEL, THE CAPITOL
TALLAHASSEE, FLORIDA

REPORTED BY: NANCY S. METZKE, RPR, FPR
COURT REPORTER

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Department of Revenue

By Deputy Director Moreland. 4

State Board of Administration

By Director Williams 7

Board of Trustees

By Secretary Vinyard 9

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DEPARTMENT OF REVENUE

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3 GOVERNOR SCOTT: I'd now like to recognize
4 Deputy Executive Director Andrea Moreland with the
5 Department of Revenue.

6 Hi.

7 DEPUTY DIRECTOR MORELAND: Good morning,
8 Governor Scott --

9 GOVERNOR SCOTT: Good morning.

10 DEPUTY DIRECTOR MORELAND: -- Attorney General
11 Bondi, Commissioner Putnam.

12 (DISCUSSION OFF THE RECORD).

13 DEPUTY DIRECTOR MORELAND: The Department of
14 Revenue has three agenda items for you this
15 morning. Item Number 1, we're requesting approval
16 of the September 23rd, 2014, meeting minutes.

17 (DISCUSSION OFF THE RECORD).

18 GOVERNOR SCOTT: Is there a motion to approve
19 this item?

20 COMMISSIONER PUTNAM: So moved.

21 GOVERNOR SCOTT: Is there a second?

22 ATTORNEY GENERAL BONDI: Second.

23 GOVERNOR SCOTT: Moved and seconded, show the
24 minutes approved without objection.

25 DEPUTY DIRECTOR MORELAND: Item Number 2, the

1 Department respectfully requests permission to
2 publish in the Florida Administrative Register
3 proposed rule amendments relating to the 2014
4 legislative changes. The proposed amendments
5 address areas relating to therapeutic veterinary
6 diets, the taxation of electricity, and the
7 reporting and payment of the 911 fees.

8 GOVERNOR SCOTT: Is there a motion to approve?

9 COMMISSIONER PUTNAM: So moved.

10 GOVERNOR SCOTT: Is there a second?

11 ATTORNEY GENERAL BONDI: Second.

12 GOVERNOR SCOTT: Any comments or objections?

13 (NO RESPONSE).

14 GOVERNOR SCOTT: Hearing none, the motion
15 carries.

16 DEPUTY DIRECTOR MORELAND: Item Number 3, the
17 Department respectfully requests permission to
18 publish in the Florida Administrative Register
19 proposed rule amendments relating to the
20 Department's recent deployment of a mobile ap.
21 This will provide businesses another method of
22 verifying resale certificates and consumer
23 certificates of exemption.

24 GOVERNOR SCOTT: All right. Is there a motion
25 to approve?

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CFO ATWATER: So move.
GOVERNOR SCOTT: Is there a second?
ATTORNEY GENERAL BONDI: Second.
GOVERNOR SCOTT: Any comments or objections?
(NO RESPONSE).
GOVERNOR SCOTT: Hearing none, the motion
carries.
Thank you, Andrea.
DEPUTY EXECUTIVE DIRECTOR: Thank you.

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FLORIDA CABINET

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IN RE: CABINET AGENDA

APPEARANCES:	GOVERNOR RICK SCOTT ATTORNEY GENERAL PAM BONDI CFO JEFF ATWATER COMMISSIONER ADAM PUTNAM
DATE:	TUESDAY, DECEMBER 9, 2014
TIME:	COMMENCED AT: 9:30 A.M. CONCLUDED AT: 1:30 P.M.
LOCATION:	THE CAPITOL CABINET MEETING ROOM
REPORTED BY:	NANCY S. METZKE, RPR, FPR COURT REPORTER

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DEPARTMENT OF REVENUE

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3 GOVERNOR SCOTT: Now I'd like to recognize
4 Executive Director Marshall Stranburg with the
5 Department of Revenue.

6 EXECUTIVE DIRECTOR STRANBURG: Good morning,
7 Governor.

8 GOVERNOR SCOTT: Good morning.

9 EXECUTIVE DIRECTOR STRANBURG: General Bondi,
10 CFO Atwater, and Commissioner Putnam.

11 Our first agenda item, we respectfully request
12 adoption and approval to file and certify with the
13 Secretary of State under Chapter 120,
14 Florida Statutes, rule amendments related to the
15 following rules:

16 Update to protest procedures, Rule 12-6.003;
17 delegation of compromise authority, Rule 12-13.004;
18 and admission rules, 12A-1.005, Florida
19 Administrative Code.

20 GOVERNOR SCOTT: Is there a motion to approve?

21 CFO ATWATER: So moved.

22 GOVERNOR SCOTT: Is there a second?

23 COMMISSIONER PUTNAM: Second.

24 GOVERNOR SCOTT: Any comments or objections?

25 (NO RESPONSE).

1 GOVERNOR SCOTT: Hearing none, the motion
2 carries.

3 EXECUTIVE DIRECTOR STRANBURG: Thank you.

4 Our second item, we respectfully request
5 adoption and approval to file and certify with
6 the Secretary of State under Chapter 120,
7 Florida Statutes, amendments relating to general
8 tax administration rules.

9 These proposed amendments reflect 2014 law
10 changes. They're our annual form updates, and also
11 provides some technical clarifications.

12 GOVERNOR SCOTT: Is there a motion to approve?

13 CFO ATWATER: So moved.

14 GOVERNOR SCOTT: Is there a second?

15 ATTORNEY GENERAL BONDI: Second.

16 GOVERNOR SCOTT: Any comments or objections?

17 (NO RESPONSE).

18 GOVERNOR SCOTT: Hearing none, the motion
19 carries.

20 EXECUTIVE DIRECTOR STRANBURG: Thank you very
21 much.

22 And I want to wish all of you and your
23 families a happy holiday season.

24 GOVERNOR SCOTT: Thanks, Marshall.

25 ATTORNEY GENERAL BONDI: You too.

EXECUTIVE DIRECTOR STRANBURG: Thank you.

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ATTACHMENT 2

**DEPARTMENT OF REVENUE
2015-2016 LEGISLATIVE BUDGET REQUEST**

The Department of Revenue's (Department) fiscal year 2015-2016 Legislative Budget Request totals \$538,889,680. Of this amount, \$537,659,721 is recurring. This represents less than a .5% increase in total recurring funding for all funds over the fiscal year 2014-15 recurring appropriation.

The Department's request issues by program are described below and numbered to correspond to the attached spreadsheet:

General Tax Administration Program

(1) The Department requests an increase of \$1,300,000 in the Emergency Distributions category, Local Half Cent Sales Tax Clearing Trust Fund, to make statutorily authorized emergency distributions pursuant to s. 218.65, F.S.. The emergency and supplemental distributions are available to select counties that meet certain fiscal-related eligibility requirements or have an inmate population of greater than seven percent of the total county population, respectively. The Department is responsible for transferring these distributions to county governments as defined in s. 218.65, F. S. The Office of Economic and Demographic Research (EDR) estimates the small county distributions will be \$20,400,000 for fiscal year 2015-16, which is \$1,300,000 over current appropriations.

(2) The Department requests \$195,775 in Operating Capital Outlay in the Operating Trust Fund to purchase one replacement Remittance Processing Imaging machine for the General Tax Administration Program. The Department's current remittance processing transport equipment is used to image and endorse checks and coupon documents and is a vital component of the revenue and remittance processing unit. The Department currently has four transports: 3 were acquired in 2005 and one in 2009. The normal useful life of this equipment is 8 years. In order to continue processing efficiently, effectively and without interruption in service, one replacement unit in remittance processing is needed to replace one of the older units that were acquired in 2005.

(3) The Department requests \$339,027 in recurring budget authority in the Operating Trust Fund to cover costs associated with the Emergency 911 Fee implementation. The Department has responsibility for administering the collection and remittance of E911 fees from prepaid wireless services, as enacted in Ch. 2014-196 Laws of Florida (House Bill 0175). The legislation contained two appropriations for fiscal year 2014-15: \$250,000 in General Revenue (nonrecurring) and \$190,713 in the Operating Trust Fund (recurring) based on a partial year implementation. The Department is allowed to retain up to 3.2 percent of the fees it collects to cover any remaining costs. An increase of \$94,500 is requested in the Expense category to print and mail coupon booklets and an increase of \$244,527 is requested in the Contracted Services category to provide electronic payment services. The Department estimates that 63,000 businesses will file and pay by remitting paper, and approximately 117,000 businesses will file and pay electronically. The total recurring costs to administer and remit the E911 fee in fiscal year 2015-16 are estimated to be \$529,740, which will be covered by the funding requested in this issue:

Current funding in the Department's recurring base budget:	\$190,713
Additional FY 2015-16 recurring funding requested in this issue:	<u>\$339,027</u>
Total funding including this issue	\$529,740

(4) The Department requests an increase of \$500,000 in Operating Trust Fund budget authority to cover an anticipated increase in payments to collection agencies. The Department currently has \$2,000,000 in recurring budget authority for this purpose. During fiscal year 2013-14, collection agents were paid approximately \$1.75 million and collected approximately \$17 million in receipts. All collection agency payments from this appropriation category are self-funded, since agents are paid from monies collected, and expenditures do not occur until collections have been received. No additional state revenue is required to support appropriations in this category. A SUNTAX system enhancement for ranking the collectability of receivables has allowed a quicker referral of outstanding debts and delinquencies to

**DEPARTMENT OF REVENUE
2015-2016 LEGISLATIVE BUDGET REQUEST**

collection agents. The General Tax Administration Program anticipates that this change, and upcoming system enhancements for reemployment tax bills and delinquencies, will generate continued growth in collection agency referrals. To ensure the ability to compensate agents for these expected collection increases, additional budget authority is needed.

(5 & 6) The Department requests to transfer \$135,000 in existing Operating Trust Fund budget authority from the Expense category to the Operating Capital Outlay (OCO) category to properly align resources with needs for the General Tax Administration Program. Over the past several years, the Department has requested interim budget amendments to provide budget authority to address OCO needs such as hardware replacements, laptop replacements and network printer replacements. This request will reduce the need for such budget amendments.

Child Support Enforcement Program

(7) The Department requests \$264,765 in recurring "double budget" in its Purchase of Services – CSE category (\$99,020 General Revenue and \$174,745 Federal Grants Trust Fund) to fund cost increases incurred by one of the Department's child support partner agencies, the Office of State Courts Administrator (OSCA). The Department's Child Support Program provides state and federal matching dollars to fund appropriations for 77 state court system full-time employees under a cooperative agreement with OSCA. Section 8(2)(a) of HB 5001 (fiscal year 2014-15 General Appropriations Act) provides funding for a special pay increase for the retention of court employees, which includes OSCA. That budget was distributed to the courts in budget amendment EOG AFP7 on 09/02/2014, and the amount distributed to the 77 employees funded under the Child Support agreement was \$126,588. The Department did not receive any additional double budget for that increase. In addition, in August 2014, a new federally approved indirect agreement became effective for OSCA, increasing the reimbursement rate from 3.6% to 5.7%. The Child Support Program does not have Purchase of Services – CSE category budget to pay this cost. The impact of the rate increase is \$137,457. The Court Administrator's office also received an increase to the DMS HR Service fee transfer appropriation in early 2014-15, of which \$720 is related to the Child Support contract.

(8) The Department requests \$94,396 in recurring "double budget" in its Purchase of Services – CSE category (\$32,095 General Revenue and \$62,301 Federal Grants Trust Fund) to fund cost increases incurred by one of the Department's child support partner agencies, the State Attorney's Office, 10th Judicial Circuit (Polk, Hardee and Highlands counties). The Department's Child Support Program contracts with the 10th Judicial Circuit of the State Attorney's Office for representation in Title IV-D Child Support Enforcement issues within the circuit. During the past 18 months, the number of Separately Set hearings involving privately retained counsel and Pro Se litigants has risen dramatically. These are child support cases in which either or both parents or guardians have hired private attorneys to represent their interests in child support. The State Attorney's Office, as the legal representative of the Department, must attend each of these hearings to ensure that the Department's legal interests in the matters are protected. The work involved requires an attorney with a great deal of professional legal experience. To address this caseload increase, in their legislative budget request the State Attorney's Office is requesting one additional full-time equivalent position (FTE), an Assistant State Attorney, with a salary rate of \$60,000, plus benefits.

(9) As required under section 216.043, F.S., the Department requests \$153,801 in non-recurring General Revenue for unamortized tenant improvements to a privately-owned lease that has been terminated by the Department of Revenue (DOR) prior to the expiration of its term. In September 2013, DOR relocated employees from a privately-owned facility in Clearwater to the state-owned Grizzle Building. Section 216.043 directs that an agency relocating from an active private lease executed after September 30, 2000, to a state-owned building must submit a budget request for the unamortized cost of tenant improvements due in the request year.

**DEPARTMENT OF REVENUE
2015-2016 LEGISLATIVE BUDGET REQUEST**

(10) The Department requests \$100,000 in non-recurring federal spending authority needed to expend federal grant award dollars. The Child Support Enforcement (CSE) program was awarded a Special Improvement Project (SIP) grant in the fall of 2012 for The Miami-Dade Child Support and Parent Time-Sharing Plan Establishment Project. The project has been implemented in Miami-Dade County and will facilitate the development of court-approved parenting plans that include parent time-sharing for 300 families who are simultaneously seeking child support order establishment. This additional non-recurring spending authority was requested to fund the final full year of the grant. After submission of the request, it was determined that the Department received \$100,000 in recurring spending authority in Fiscal Year 2014-15. As such, this request for additional spending authority is no longer needed.

Property Tax Oversight Program

(11) The Department requests \$780,393 in non-recurring General Revenue to meet the Department's statutory obligation for providing aerial photography to counties with a population of 25,000 or less. Section 195.022, F.S., requires the Department, upon request of any property appraiser or at least once every 3 years, to prescribe and furnish aerial photographs to the property appraisers as necessary to ensure that all real property within the state is properly listed on the roll. All photographs and maps furnished to counties with a population of 25,000 or less are paid for by the Department, as provided by statute. In order to meet this obligation, the Department requests \$780,383 in non-recurring General Revenue for fiscal year 2015-16. This funding will be used to provide aerial photographs to the following qualifying counties scheduled for aerial photography in 2015-16: Bradford, Calhoun, Dixie, Franklin, Gilchrist, Gulf, Hamilton, Holmes, Jefferson, Lafayette, Liberty, Madison, Taylor, Union, and Washington.

(12) The Department requests to restore \$33,298 in recurring budget that was inadvertently reduced in fiscal year 2013-14 and again in fiscal year 2014-15 for the same leased office space savings. For fiscal year 2013-14, the Property Tax Oversight Program (PTO) proposed a Schedule VIII-B reduction of \$42,391 to its Expense category based on lease actions that reduced PTO's square footage in both the Fort Myers and Coral Springs offices. This action was adopted by the legislature in the 2013-14 General Appropriations Act (GAA). In the fall of 2013, state agencies were asked to review and validate a list of lease actions anticipated to occur during Fiscal Years 2013-14 and 2014-15, and determine the net amount of cost savings to be generated by those actions. The data provided for review contained the same Coral Springs lease action for which a budget reduction had already been taken in Fiscal Year 2013-14; however, the Department did not note that duplication. The reviewed data was subsequently used as the basis for lease savings reductions in the 2014-15 GAA, and as a result, PTO's recurring budget was reduced a second time for the Coral Springs lease savings. The 2014-15 reduction amount was \$33,298.

Department of Revenue
FY 2015-2016
Summary of Issues by Fund Type
All Funds

	FTE	Recurring General Revenue	Nonrecurring General Revenue	Recurring Trust	Nonrecurring Trust	TOTAL
2014-2015 Approved Budget	5,133.0	\$ 184,225,562	\$ 25,152,333	\$ 350,960,457	\$ 870,669	\$ 561,209,021
Adjustments to 2014-2015 Approved Budget for 2015-2016						
Nonrecurring Appropriations			\$ (25,152,333)		\$ (870,669)	\$ (26,023,002)
Annualization Due to Consolidation into the FL Facilities Pool		\$ (57,784)				\$ (57,784)
Subtotal	5,133.0	\$ 184,167,778	\$ -	\$ 350,960,457	\$ -	\$ 535,128,235
Substantive Issues for Fiscal Year 2015-2016						
General Tax Administration (GTA)						
(1) Continuation of Emergency Distribution to Counties				\$ 1,300,000		\$ 1,300,000
(2) Equipment Replacement					\$ 195,775	\$ 195,775
(3) Increase in Admin Cost-Emergency Communications				\$ 339,027		\$ 339,027
(4) Increase Spending Authority to Collections Agencies				\$ 500,000		\$ 500,000
(5) Realignment of General Tax Administration Budget -Add				\$ 135,000		\$ 135,000
(6) Realignment of General Tax Administration Budget -Deduct				\$ (135,000)		\$ (135,000)
Subtotal	0.0	\$ -	\$ -	\$ 2,139,027	\$ 195,775	\$ 2,334,802
Child Support Enforcement (CSE)						
(7) Additional Budget State Court Admin. Pay Increases		\$ 90,020		\$ 174,745		\$ 264,765
(8) Additional Staffing Budget State Attorney 10th Judicial Circuit		\$ 32,095		\$ 62,301		\$ 94,396
(9) Unamortized Tenant Improvement Cost-Clearwater			\$ 153,801			\$ 153,801
(10) Parenting Time Grant					\$ 100,000	\$ 100,000
Subtotal	0.0	\$ 122,115	\$ 153,801	\$ 237,046	\$ 100,000	\$ 612,962
Property Tax Oversight (PTO)						
(11) Aid to Local Government-Aerial Photography/Mapping			\$ 780,383			\$ 780,383
(12) Restore Duplicate Expense Reduction for Lease Savings		\$ 33,298				\$ 33,298
Subtotal	0.0	\$ 33,298	\$ 780,383	\$ -	\$ -	\$ 813,681
Substantive Issue Total	0.0	\$ 155,413	\$ 934,184	\$ 2,376,073	\$ 295,775	\$ 3,761,445
2015-2016 Legislative Budget Request	5,133.0	\$ 184,323,191	\$ 934,184	\$ 353,336,530	\$ 295,775	\$ 538,889,680

ATTACHMENT 3



Executive Director
Marshall Stranburg

January 13, 2015

MEMORANDUM

TO: The Honorable Rick Scott, Governor
Attention: Monica Russell, Director of Cabinet Affairs
Kristin Olson, Deputy Director of Cabinet Affairs

The Honorable Jeff Atwater, Chief Financial Officer
Attention: Robert Tornillo, Director of Cabinet Affairs
Erica Atalla, Senior Cabinet Aide

The Honorable Pam Bondi, Attorney General
Attention: Kent Perez, Associate Deputy Attorney General
Rob Johnson, Director of Legislative and Cabinet Affairs
Erin Sumpter, Deputy Director of Cabinet Affairs
Andrew Fay, Deputy Director of Legislative Affairs

The Honorable Adam Putnam, Commissioner of Agriculture and Consumer Services
Attention: Brooke McKnight, Director of Cabinet Affairs
Jessica Field, Deputy Cabinet Affairs Director

THRU: Marshall Stranburg, Executive Director

FROM: Danielle Scoggins, Director, Legislative and Cabinet Services

SUBJECT: Requesting Adoption and Approval to File and Certify Proposed Rules –
Therapeutic Veterinary Diets (Rule 12A-1.0215, F.A.C.)
Electricity (Rules 12A-1.022, 12A-1.053, 12B-6.001, 12B-6.0015, and 12B-6.005, F.A.C.)
Prepaid Wireless E911 Fee (Rule Chapter 12-24, F.A.C.)

Statement of Sections 120.54(3)(b) and 120.541, F.S. Impact: No impact.

The Department has reviewed the proposed rules for compliance with Sections 120.54(3)(b) and 120.541, F.S. The proposed rules will not likely have an adverse impact on small business, small counties, or small cities, and they are not likely to have an increased regulatory cost in excess of

\$200,000 within 1 year. Additionally, the proposed rules are not likely to have an adverse impact or increased regulatory costs in excess of \$1,000,000 within 5 years.

What is the Department requesting? The Department requests final adoption of the following proposed rules, and approval to file and certify them with the Secretary of State under Chapter 120, F.S.

THERAPEUTIC VETERINARY DIETS

Why is the proposed rule necessary? This rule change is necessary to update Rule 12A-1.0215, F.A.C., to incorporate a new sales tax exemption provided by the 2014 Legislature.

What does the proposed rule do? The proposed amendment provides additional guidance on how a taxpayer may receive the new exemption for qualifying therapeutic diets provided in Section 212.08(2), F.S., by Section 9, Chapter 2014-38, L.O.F.

Were comments received from external parties? Yes. A rule workshop was scheduled to be held on October 30, 2014, if requested in writing. No request was received and no workshop held. On November 12, 2014, the Governor and Cabinet approved the Department's request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was scheduled for December 10, 2014, if requested. No request was received to hold the scheduled rule hearing.

Comments were received from a member of the public requesting that the Department replace the word "pet" with the word "animal" in the amendments being made to the rule. These changes have been made to comport with the language of the statute creating the exemption. The Department published a Notice of Change on December 18, 2014, making the requested changes.

Additionally, comments of a technical nature were received from the staff of the Joint Administrative Procedures Committee. These comments were reviewed and revisions were made in the Notice of Change published on December 18, 2014. Details regarding these changes are contained in the attached summary of the rule.

ELECTRICITY

Why are the proposed rules necessary? These rule changes are necessary to update Rule 12A-1.022, 12A-1.053, 12B-6.001, 12B-6.0015, and 12B-6.005, F.A.C., to incorporate statutory changes made by the 2014 Legislature.

What do the proposed rules do? The proposed amendments update provisions regarding the imposition of sales and use tax and gross receipts tax to the sale of electricity, based on changes to Sections 212.05 and 203.01, F.S., by Sections 2 and 4, Chapter 2014-38, L.O.F., respectively.

Were comments received from external parties? Yes. A rule workshop was scheduled to be held on October 30, 2014, if requested in writing. No request was received and no workshop held. On November 12, 2014, the Governor and Cabinet approved the Department's request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was scheduled for December 10, 2014, if requested. No request was received to hold the scheduled rule hearing.

Comments were received from a member of the public requesting that the Department add a provision to Rule 12A-1.053, F.A.C., (a sales tax rule) clarifying that the gross receipts tax is to be administered as a sales tax. We believe this information is better placed in the gross receipts tax rule, because while the tax is administered like a sales tax, it is imposed under Chapter 203.01(1)(a)(3), F.S., as a gross receipts tax. The Department has addressed this information in revisions to Rule 12A-1.022, F.A.C., in this package.

Additionally, a comment of a technical nature was received from the staff of the Joint Administrative Procedures Committee. This comment was reviewed and a Notice of Correction was published on December 16, 2014. Details regarding the change are contained in the attached summary of the rule.

PREPAID WIRELESS E911 FEE

Why are the proposed rules necessary? These rule changes are necessary to update Rule Chapter 12-24, F.A.C., to incorporate statutory changes made by the 2014 Legislature.

What do the proposed rules do? The proposed amendments clarify when prepaid wireless E911 fees must be reported and remitted electronically. The proposed amendments also remove the requirement that taxpayers who wish to file returns or remit taxes must first enroll for the Department's E-Services; remove the requirement that taxpayers must receive permission from the Department to use the ACH credit remittance method; and replaces the term "unemployment" with "reemployment".

Were comments received from external parties? Yes. A rule workshop was scheduled to be held on October 30, 2014, if requested in writing. No request was received and no workshop held. On November 12, 2014, the Governor and Cabinet approved the Department's request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was scheduled for December 10, 2014, if requested. No request was received to hold the scheduled rule hearing.

Comments were received from the staff of the Joint Administrative Procedures Committee regarding Rule Chapter 12-24, F.A.C. Each of these comments was reviewed and revisions were made to address each concern. Details regarding these changes are contained in the attached summary for the rule.

Attached are copies of:

- Summaries of the proposed rules, which include:
 - Statements of facts and circumstances justifying the rules;
 - Federal comparison statements; and
 - Summaries of the workshops and hearings
- Rule text

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULE 12A-1.0215

SUMMARY OF PROPOSED RULE

The proposed amendment to Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services), modifies the rule to add provisions for the new sales and use tax exemption for certain therapeutic veterinary diets.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 9, Chapter 2014-38, L.O.F., amended Section 212.08(2), F.S., to provide an exemption from sales and use tax for sales of therapeutic veterinary diets specifically formulated to aid in the management of illness and disease of a diagnosed health disorder in an animal, and which are only available from a licensed veterinarian. The proposed amendment to Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services), is necessary to make the rule consistent with the statutory change.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

OCTOBER 30, 2014

A Notice of Proposed Rule Development was published in the Florida Administrative Register on October 15, 2014 (Vol. 40, No. 201, pp. 4528-4529), to advise the public of the proposed changes to Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services), and to provide that, if requested in writing, a rule development workshop would be held on October 30, 2014. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

NOVEMBER 12, 2014

The Governor and Cabinet, sitting as head of the Department of Revenue, met on November 12, 2014, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services). A notice for the public hearing was published in the Florida Administrative Register on November 3, 2014 (Vol. 40, No. 214, p. 4864).

SUMMARY OF RULE HEARING

DECEMBER 10, 2014

A Notice of Proposed Rule was published in the Florida Administrative Register on November 19, 2014 (Vol. 40, No. 225, pp. 5052 - 5053), to advise the public of the proposed changes to Rule 12A-1.0215, F.A.C. (Veterinary Sales and Services), and to provide that, if

requested, a rule hearing would be held on December 10, 2014. No timely request was received by the agency, and no hearing was held. Written comments were received from a taxpayer, requesting that the Department revise references to “pet food” to “animal food,” in accordance with the statutory exemption. The Department revised the proposed language in response to the public comment, so that the rule now references “animal food.” These changes to new subsection (6) of Rule 12A-1.0215, F.A.C., were published in the Florida Administrative Register in a Notice of Change dated December 18, 2014 (Vol. 40, No. 244, p. 5466).

In addition, in response to written comments received from the staff of the Joint Administrative Procedures Committee dated December 2, 2014, the Department removed sections 212.18(3) and 465.186, F.S., from the law implemented portion of the rule, and renumbered subparagraphs to account for the proposed striking of subparagraph (4)(e)(4) from the rule. These changes were also published in the Florida Administrative Register in the Notice of Change dated December 18, 2014 (Vol. 40, No. 244, p. 5466).

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULE 12A-1.0215

12A-1.0215 Veterinary Sales and Services.

(1) – (3) No change.

(4)(a) – (d) No change.

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

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

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

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

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

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

45. Commonly recognized substances possessing curative or remedial properties may be purchased exempt from tax when the licensed veterinarian, or an authorized representative of the licensed veterinarian, extends an exemption certificate to the selling dealer certifying that the purchased substance possessing curative or remedial properties will be ordered and dispensed and applied to, or consumed by, an animal(s) for the alleviation of pain or the cure or prevention of sickness, disease, or suffering of an animal(s). A suggested exemption certificate is provided in paragraph (4)(f).

(f) No change.

(5) No change.

(6) ANIMAL FOOD SOLD TO CONSUMERS

(a) Animal foods that are required by federal or state law to be dispensed only by a prescription are exempt from tax.

(b) Animal foods which are therapeutic veterinary diets are exempt from tax. For the purpose of this rule, “therapeutic veterinary diets” means those animal foods that are specifically formulated to aid in the management of illness and disease of a diagnosed health disorder in an animal and which are only available from a licensed veterinarian.

(c) Even when sold by a veterinarian, animal foods which are not required by federal or state law to be dispensed only by a prescription and animal foods that are not therapeutic veterinary diets are subject to tax.

(6) renumbered (7) No change.

Rulemaking Authority: 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14), (19), 212.05, 212.07(1), 212.08(2), 212.085, 212.12(6)(a), ~~212.18(3)~~, ~~465.186~~, 465.187 FS. History—
New 7-12-10, Amended ____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.022 AND 12A-1.053

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-1.022, F.A.C. (Federal Excise Taxes, Gross Receipts Tax, and Other Fees), clarify when gross receipts tax imposed under Chapter 203, F.S., is included in the taxable charges for electrical power or energy for the purposes of imposing sales and use tax under Chapter 212, F.S.

The proposed amendments to 12A-1.053, F.A.C. (Electric Power and Energy), clarify when sales of electrical power or energy are exempt from sales and use tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendment to Rule 12A-1.022, F.A.C. (Federal Excise Taxes, Gross Receipts Tax, and Other Fees), is necessary to clarify that taxable charges for electrical power or energy include the gross receipts tax imposed under subparagraph 203.01(1)(a)1., F.S., but do not include the gross receipts tax imposed under subparagraph 203.01(1)(a)3., F.S., as provided in Section 4, Chapter 2014-38, L.O.F.

The proposed amendment to Rule 12A-1.053, F.A.C., is necessary to implement the provision of Section 4, Chapter 2014-38, L.O.F., which provides that sales of electric power or energy for use in residential households by utilities who are required to pay the gross receipts tax

imposed under subparagraph 203.01(1)(a)1., F.S., are exempt. The payment of the gross receipts tax imposed under subparagraph 203.01(1)(a)3., F.S., has no effect on the residential sales tax exemption.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

OCTOBER 30, 2014

A Notice of Proposed Rule Development was published in the Florida Administrative Register on October 15, 2014 (Vol. 40, No. 201, p. 4529), to advise the public of the proposed amendments to Rule 12A-1.022, F.A.C. (Federal Excise Taxes, Gross Receipts Tax, and Other Fees) and 12A-1.053, F.A.C. (Electric Power and Energy), and to provide that, if requested in writing, a rule development workshop would be held on October 30, 2014. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

NOVEMBER 12, 2014

The Governor and Cabinet, sitting as head of the Department of Revenue, met on November 12, 2014, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-1.022, F.A.C. (Federal Excise Taxes, Gross Receipts Tax, and Other Fees) and 12A-

1.053, F.A.C. (Electric Power and Energy). A notice for the public hearing was published in the Florida Administrative Register on November 3, 2014 (Vol. 40, No. 214, p. 4864).

SUMMARY OF RULE HEARING

DECEMBER 10, 2014

A Notice of Proposed Rule was published in the Florida Administrative Register on November 19, 2014 (Vol. 40, No. 225, pp. 5053 - 5054), to advise the public of the proposed changes to Rule 12A-1.022, F.A.C. (Federal Excise Taxes, Gross Receipts Tax, and Other Fees) and 12A-1.053, F.A.C. (Electric Power and Energy), and to provide that, if requested, a rule hearing would be held on December 10, 2014. No timely request for a hearing was received by the agency, and no hearing was held.

Written comments were received by the Department from a member of the public, requesting that the Department add a provision to Rule 12A-1.053, F.A.C., (a sales tax rule) clarifying that the gross receipts tax is to be administered as a sales tax. The Department addressed this information in revisions to Rule 12A-1.022, F.A.C., in this package, and no changes were made to Rule 12A-1.053, F.A.C.

Additionally, a comment was received from the staff of the Joint Administrative Procedures Committee, requesting a revision to the Law Implemented portion of the rule. The Department has revised the reference from section 403.7085 to section 403.7185, F.S., as requested.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.022 AND 12A-1.053

12A-1.022 Federal Excise Taxes, Gross Receipts Tax, and Other Fees.

(1) No change.

(2) TAXES AND FEES IMPOSED BY THE STATE OF FLORIDA.

(a)1. The gross receipts tax imposed under the provisions of subparagraph 203.01(1)(a)1, ~~Chapter 203~~, F.S., on the provider of electricity or natural or manufactured gas is included in the charge upon which sales and use tax is computed when the gross receipts tax is passed on to the customer and wholly or partially separately itemized on a customer's bill, invoice, statement, or other tangible evidence of sale.

2. The gross receipts tax imposed under the provisions of subparagraph 203.01(1)(a)3., F.S., is administered in the same manner as sales and use tax and is not included in the charge upon which sales and use tax is computed.

(b) through (c) No change.

(3) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 166.231(1)(a), 166.232(1), 203.01(4), 212.02(16), 212.05(1)(a)1.a., (e)1.c., (3), 212.0606, 403.718, 403.7185, 403.7085, 681.117(2) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.22, Amended 4-17-03,_____.

12A-1.053 Electric Power and Energy.

(1)(a) The sale of electric power or energy by an electric utility is taxable. The sale of electric power or energy for use in residential households, to owners of residential models, or to licensed family day care homes by utilities who are required to pay the gross receipts tax imposed by subparagraph 203.01(1)(a)1, Chapter 203, F.S., is exempt. Also exempt is electric power or energy sold by such utilities and used in the common areas of apartment houses, cooperatives, and condominiums, in residential facilities enumerated in Chapters 400 and 429, F.S., and in other residential facilities. However, if any part of the electric power or energy is used for a non-exempt purpose, the entire sale is subject to tax.

(1)(b) – (4) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2), (19), 212.05(1)(e), 212.06(1)(a), (b), 212.08(4), (5)(e)2., (7)(j), 212.18(2) FS. History—Revised 10-7-68, 6-16-72, Amended 12-11-74, 10-18-78, 6-3-80, 12-23-80, 7-20-82, Formerly 12A-1.53, Amended 10-2-01, 4-17-03, 9-15-08, ____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-6, FLORIDA ADMINISTRATIVE CODE
GROSS RECEIPTS TAX
AMENDING RULES 12B-6.001, 12B-6.0015, AND 12B-6.005

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule Chapter 12B-6, F.A.C. (Gross Receipts Tax), clarify that the rules apply only to the 2.5 percent tax imposed by subparagraph 203.01(1)(a)1., F.S., and administered under the provisions of Chapter 203, F.S. A technical change to Rule 12B-6.005(2), F.A.C. (Payment of Tax; Reports; Public Use Forms), is also being made to correct the title of certain Department personnel.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule Chapter 12B-6, F.A.C. (Gross Receipts Tax), are necessary to clarify that the rules apply only to the tax imposed by subparagraph 203.01(1)(a)1., F.S., as amended by Section 4, Chapter 2014-38, 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

OCTOBER 30, 2014

A Notice of Proposed Rule Development was published in the Florida Administrative Register on October 15, 2014 (Vol. 40, No. 201, p. 4531), to advise the public of the proposed amendments to Rule Chapter 12B-6, F.A.C. (Gross Receipts Tax), and to provide that, if requested in writing, a rule development workshop would be held on October 30, 2014. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

NOVEMBER 12, 2014

The Governor and Cabinet, sitting as head of the Department of Revenue, met on November 12, 2014, and approved the publication of the Notice of Proposed Rule for changes to Rule Chapter 12B-6, F.A.C. (Gross Receipts Tax). A notice for the public hearing was published in the Florida Administrative Register on November 3, 2014 (Vol. 40, No. 214, p. 4864).

SUMMARY OF RULE HEARING

DECEMBER 10, 2014

A Notice of Proposed Rule was published in the Florida Administrative Register on November 19, 2014 (Vol. 40, No. 225, pp. 5060 - 5062), to advise the public of the proposed changes to Rule Chapter 12B-6, F.A.C. (Gross Receipts Tax), and to provide that, if requested, a rule hearing would be held on December 10, 2014. No timely request for a hearing was received by the agency, and no hearing was held. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-6, FLORIDA ADMINISTRATIVE CODE
GROSS RECEIPTS TAX
AMENDING RULES 12B-6.001, 12B-6.0015, AND 12B-6.005

12B-6.001 Scope; Definitions; Index Price.

(1) SCOPE. This rule chapter applies to the tax imposed by subparagraph 203.01(1)(a)1, ~~Chapter 203~~, F.S., on utility services delivered to a retail consumer in Florida.

(2) No change.

(3)(a) No change.

(b) The electricity index prices only apply if the transportation of electricity is sold independent of the sale of the electricity itself. If electricity is sold to a retail consumer in Florida for a price that includes both a charge for the electricity and a charge for the transportation of the electricity, the tax imposed by subparagraph 203.01(1)(a)1, ~~Chapter 203~~, F.S., is calculated by using the distribution company's gross receipts multiplied by 2.5 percent, rather than through use of an index price.

(c) No change.

Rulemaking Authority 213.06(1) FS. Law Implemented 203.01, 203.012 FS. History—New 11-13-78, Amended 6-5-85, Formerly 12B-6.01, Amended 10-4-89, 1-8-90, 5-4-03, 9-18-08,_____.

12B-6.0015 Imposition of the Gross Receipts Tax.

(1) through (3) No change.

(4) USE TAX.

(a) Gross receipts tax is levied upon a person's cost price of electricity, or natural or manufactured gas, imported into this state or severed within this state for the person's own use or consumption as a substitute for purchasing utility, transportation, or delivery services taxable under subparagraph 203.01(1)(a)1, Chapter 203, F.S., and who cannot demonstrate payment of the tax imposed by Chapter 203, F.S. The tax implemented pursuant to this paragraph is calculated by multiplying the cost price of the utility service by 2.5 percent.

(b) No change.

(5) SALES FOR RESALE.

(a) The sale, transportation, or delivery of utility services for resale is only exempt from the tax imposed under subparagraph 203.01(1)(a)1, Chapter 203, F.S., if the sale, transportation, or delivery is documented in strict compliance with this rule. Distribution companies must document sales for resale by obtaining resale certificates from customers who purchase transportation, delivery, or utility services for the purposes of resale. Resale certificates submitted during the protest period will be accepted by the Department as valid proof and documentation of the resale, but will not be accepted when submitted in any proceeding under Chapter 120, F.S., or any circuit court action instituted under Chapter 72, F.S.

(b) The distribution company is only required to obtain one certificate for sales made for the purposes of resale from each customer making purchases for the purposes of resale. The certificate must contain the purchaser's name and address, the purchaser's gross receipts tax registration number and its effective date, a statement that the purchases are for the purpose of resale, the signature of the purchaser or an authorized representative of the purchaser, and the date of issuance. The following is a suggested format of a resale certificate:

RESALE CERTIFICATE FOR GROSS RECEIPTS TAX ON UTILITY SERVICES

This is to certify that the electricity for light, heat, or power or the natural or manufactured gas for light, heat, or power purchased after _____ (date) from _____ (seller's name) is purchased for the purpose of resale ~~pursuant to Chapter 203, F.S.~~

I understand that if I fraudulently issue this certificate to evade the payment of gross receipts tax I will be liable for payment of the tax directly to the Department and subject to the penalties imposed under Section 203.03(2), F.S.

I understand that I must disclose to the seller, or remit tax on, any purchase not for resale when tax was not paid to the seller and/or distribution company.

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

Purchaser's

Name _____

Purchaser's Address _____

Name and Title of Purchaser's Authorized Signature _____

Certificate of Registration Number _____

Effective Date of

Registration _____

By _____

(authorized signature)

Date _____

(6) RECORDKEEPING REQUIREMENTS. Distribution companies that sell, transport, or deliver utility services to retail consumers in Florida and taxpayers that import utility services

into Florida for their own use must maintain electrical interchange agreements or contracts, resale certificates, exemption certificates, and other documentation required under the provisions of this rule chapter in their books and records until tax imposed under subparagraph 203.01(1)(a)1.~~Chapter 203~~, F.S., may no longer be determined and assessed under Section 95.091, F.S. Electronic storage of required documentation through the use of imaging, microfiche, or other electric storage media will satisfy compliance with recordkeeping requirements.

Rulemaking Authority 203.01(1)(f), (3)(a)2., 213.06(1) F.S. Law Implemented 203.01, 203.012, 203.02, 213.37 FS. History—New 9-18-08,_____.

12B-6.005 Payment of Tax; Reports; Public Use Forms.

(1)(a) Except as provided in Rule Chapter 12-24, F.A.C., and paragraph (c) below, all taxes imposed by subparagraph 203.01(1)(a)1.~~Chapter 203~~, F.S., on utility services are due to the Department on or before the 20th day of the month following the date of the sale or transaction. The payment and return must either reach the office of the Department or be postmarked on or before the 20th day of the month for receipts for utility services received in the preceding calendar month for a taxpayer to avoid penalty and interest for late filing. When the 20th day of the month falls on Saturday, a Sunday, or a legal holiday, payments accompanied by returns will be accepted as timely filed if postmarked or delivered to the Department on the next succeeding day that is not a Saturday, a Sunday, or a legal holiday. A tax return is required to be filed on or before the 20th day of each month even when no tax is due. The report is required to be signed by an officer or a representative duly authorized to act by the taxpayer. For this purpose, a legal holiday means a holiday that is observed by federal or state agencies as a legal

holiday as this term is defined in Chapter 683, F.S., and Section 7503 of the 1986 Internal Revenue Code, as amended. A “legal holiday” pursuant to Section 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

(b) through (e) No change.

(2) Persons who engage in the transportation of natural or manufactured gas must provide the Department with a list of customers to whom transportation services were provided in the prior year. A person may satisfy the customer-reporting requirement by: 1) providing a written list of customers to the Department; or 2) maintaining a publicly-accessible customer list on the person’s Internet web site. The person must provide the written list of customers or the Internet address of the publicly-accessible Internet web site by January 31 of each year to GTA Miscellaneous Tax Coordinator - Communications Services and Gross Receipts Taxes, c/o GTA Program Director, Florida Department of Revenue, 5050 W. Tennessee Street, Tallahassee, Florida 32399-0100. Persons who choose to satisfy the customer-reporting requirement by posting a list of customers on a publicly-accessible Internet web site must update the list by January 31 of each year. This reporting requirement does not apply to distribution companies. Any person required to furnish such a list may elect to identify only those customers who take direct delivery without purchasing interconnection services from a distribution company. Rulemaking Authority 213.06(1) FS. Law Implemented 203.01, 203.012, 213.255(1), (2), (3), 213.37, 213.755, 215.26 FS. History—New 11-13-78, Amended 7-1-80, 8-26-81, Formerly 12B-6.05, Amended 10-4-89, 12-19-89, 5-4-03, 9-28-04, 9-18-08,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE

CHAPTER 12-24

PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;

TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

AMENDING RULES 12-24.001, 12-24.002, 12-24.003, 12-24.004, 12-24.005,

12-24.007, 12-24.008, 12-24.009, 12-24.010, AND 12-24.011

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12-24.003, F.A.C. (Requirements to File or to Pay Taxes by Electronic Means), clarify when the prepaid wireless E911 fees must be reported and remitted by dealers through electronic means.

The proposed amendments to Rule 12-24.004, F.A.C. (Enrollment), removes obsolete language regarding mandatory enrollment for filing returns or remitting payment by electronic means.

The proposed amendments to Rule 12-24.005, F.A.C., provide that taxpayers may elect to use either the ACH debit or the ACH credit method for electronic remittance of taxes. Language relating to the granting of permission to use the ACH credit method is also being removed from Rule 12-24.008, F.A.C.

The term “unemployment” is changed to “reemployment” throughout the Rule Chapter. The number given to one of the Department’s forms is also changed based on the statutory change of terms. Finally, technical changes have been made to an address used to receive written notifications from taxpayers and to the Department’s web address.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule 12-24.003, F.A.C. (Requirements to File or to Pay Taxes by Electronic Means), are necessary due to an amendment made to Section 365.172, F.S., by Section 1, Chapter 2014-196, L.O.F. That amendment requires sellers to collect a prepaid wireless E911 fee on each sale of a prepaid wireless service. The law requires the fee to be reported and remitted to the Department of Revenue. The proposed rule amendments are necessary to clarify when the prepaid wireless E911 fee must be reported and remitted through electronic means.

The proposed amendments to Rule 12-24.004, F.A.C. (Enrollment), are necessary to remove obsolete requirements regarding mandatory enrollment for electronic reporting and remittance. The proposed amendments to Rule 12-24.005, F.A.C. (Methods of Payment by Electronic Means), are necessary to clarify that taxpayers may use either the ACH debit or ACH credit method for electronic remittance of taxes.

The term “unemployment” should be changed to “reemployment” throughout the Rule Chapter due to the term being changed through Chapter 443, F.S., by Chapter 2012-30, 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

OCTOBER 30, 2014

A Notice of Proposed Rule Development was published in the Florida Administrative

Register on October 15, 2014 (Vol. 40, No. 201, p. 4527), to advise the public of the proposed amendments to 12-24.001 (Scope of Rules), 12-24.002 (Definitions), 12-24.003 (Requirements to File or to Pay Taxes by Electronic Means), 12-24.004 (Enrollment), 12-24.005 (Methods of Payment by Electronic Means), 12-24.007 (Electronic Payment Transmission Errors), 12-24.008 (Procedures for Payment), 12-24.009 (Due Date; General Provisions), 12-24.010 (General Administrative Provisions; Voluntary Participation; Confidentiality; Granting of Waivers From Electronic Filing Requirements), and 12-24.011 (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on October 30, 2014. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

NOVEMBER 12, 2014

The Governor and Cabinet, sitting as head of the Department of Revenue, met on November 12, 2014, and approved the publication of the Notice of Proposed Rule for changes to 12-24.001 (Scope of Rules), 12-24.002 (Definitions), 12-24.003 (Requirements to File or to Pay Taxes by Electronic Means), 12-24.004 (Enrollment), 12-24.005 (Methods of Payment by Electronic Means), 12-24.007 (Electronic Payment Transmission Errors), 12-24.008 (Procedures for Payment), 12-24.009 (Due Date; General Provisions), 12-24.010 (General Administrative Provisions; Voluntary Participation; Confidentiality; Granting of Waivers From Electronic Filing Requirements), and 12-24.011 (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Register on November 3, 2014 (Vol. 40, No. 214, p. 4864).

SUMMARY OF RULE HEARING

DECEMBER 10, 2014

A Notice of Proposed Rule was published in the Florida Administrative Register on November 19, 2014 (Vol. 40, No. 225, pp. 5046 - 5051), to advise the public of the proposed changes to 12-24.001 (Scope of Rules), 12-24.002 (Definitions), 12-24.003 (Requirements to File or to Pay Taxes by Electronic Means), 12-24.004 (Enrollment), 12-24.005 (Methods of Payment by Electronic Means), 12-24.007 (Electronic Payment Transmission Errors), 12-24.008 (Procedures for Payment), 12-24.009 (Due Date; General Provisions), 12-24.010 (General Administrative Provisions; Voluntary Participation; Confidentiality; Granting of Waivers From Electronic Filing Requirements), and 12-24.011 (Public Use Forms), and to provide that, if requested, a rule hearing would be held on December 10, 2014. No timely request for a hearing was received by the agency, and no hearing was held.

Written comments were received by the Department from the staff of the Joint Administrative Procedures Committee. The first comment received requested a citation revision in the law implemented portion of each rule being revised. Upon further review and discussion with the staff of the Committee, no revision was needed, as the staff of the Committee agreed with the Department that the reference was correct. The second comment requested a citation change from the Law Implemented provision to the Rulemaking Authority provision of each rule, which has been done. The third comment requested a copy of a form and some additional information regarding the form, which the Department provided. It was not originally provided to the staff of the Committee, as the referenced form is promulgated by the Department of Economic Opportunity.

The final comment was regarding an online application for the filing of payment of a tax online. The comment stated that the process appeared to be a form, which would require promulgation. In response, the Department has added back the list of information requested from taxpayers in the referenced online application, which was previously included in rule 12-24.004, F.A.C. The Department had removed that list in this year's proposed rule amendments in an effort to simplify the rule language. A Notice of Change adding back the list of information requested via the online application was published in the Florida Administrative Register on December 31, 2014 (Vol. 40, No. 251, pp. 5692-5693).

STATE OF FLORIDA
DEPARTMENT OF REVENUE

CHAPTER 12-24

PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;

TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

AMENDING RULES 12-24.001, 12-24.002, 12-24.003, 12-24.004, 12-24.005,

12-24.007, 12-24.008, 12-24.009, 12-24.010, AND 12-24.011

12-24.001 Scope of Rules.

Part I of this rule chapter sets forth the rules to be used by the Department of Revenue in the administration of Sections 202.30, 206.485, 213.755 and 220.21(2) and (3), F.S., authorizing the Executive Director to require taxpayers specified by statute or rule to pay taxes and fees and to file tax returns by electronic means. Part I of this rule chapter also sets forth the rules to be used by the Department in administering Section 443.163, F.S., authorizing the Executive Director to require reemployment ~~unemployment~~ tax agents specified by statute or rule to pay taxes and to file returns by electronic means.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), ~~443.1317~~, 443.163 FS. History—New 12-19-89, Amended 10-24-96, 4-30-02, 10-5-03, 6-1-09,_____.

12-24.002 Definitions. For the purposes of Part I of this rule chapter, the terms and phrases used in these rules shall have the meanings prescribed in this section.

(1) – (5) No change.

(6) “Submission day” means the day on which a taxpayer or reemployment ~~unemployment~~ tax agent communicates payment or tax return information to the Data Collection Center.

(7) “Submission period” means:

(a) For the electronic submission of a payment and return together, or just a payment, the specified time interval in each submission day during which an electronic payment or electronically-filed tax return information received by the Data Collection Center is processed for transactions occurring on the next business day, or on a date specified by the taxpayer or reemployment ~~unemployment~~ tax agent. Electronic payment and electronically-filed tax return information must be communicated to the Data Collection Center and completed no later than 5:00 p.m., Eastern Time, on the submission day to clear the Automated Clearing House for deposit in the State Treasury on the next business day.

(b) For the electronic submission of a return only, any business day on or before the due date.

(8) “Data Collection Center” means the Department, or a third party vendor, who, under contract with the Department, collects and processes electronic payments and electronically-filed tax return information from taxpayers or reemployment ~~unemployment~~ tax agents.

(9) No change.

(10) “Due date” means the date on or before which an electronic payment must be received or an electronically-filed tax return must be submitted by a taxpayer or reemployment ~~unemployment~~ tax agent under a revenue law of this state.

(11) – (14) No change.

(15) “Reemployment ~~unemployment~~ tax agent” means a person that prepared and reported the Employer’s Quarterly Report (Form RT-6 ~~UCT-6~~) for 100 or more employers in any calendar quarter in the preceding state fiscal year. For the purposes of this definition, “prepared and reported” means the completion of the Employer’s Quarterly Report (Form RT-6 ~~UCT-6~~) and the submission of the completed report directly to the Data Collection Center. An reemployment ~~unemployment~~ tax agent is not required to pay taxes by electronic means, but if the agent voluntarily chooses to submit payment by electronic means, the payment must be submitted in accordance with these rules.

(16) – (19) No change.

(20) “Tax type” means a tax, surtax, surcharge, or fee that is subject to remittance of payments, and the submission of tax returns, information reports, or data, by electronic means to the Department. The tax types for which taxpayers or reemployment ~~unemployment~~ tax agents will be required to pay amounts due and/or submit tax returns, information reports, or data by electronic means are as follows:

(a) – (j) No change.

(k) Prepaid wireless E911 fee;

(l) Reemployment tax;

(m)~~(k)~~ Rental car surcharge;

(n)~~(t)~~ Sales and use tax, discretionary sales surtaxes, and any tourist development tax, tourist impact tax, or convention development tax administered by the Department;

(o)~~(m)~~ Severance taxes and surcharges on gas and sulfur production, oil production, and solid mineral severance;

(p)~~(n)~~ Solid waste fees, including the new tire fee (waste tire fee) and the new or

remanufactured battery fee.;

~~(e) Unemployment tax.~~

(21) – (22) No change.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3),
443.1317, 443.163(1) FS. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), 443.1317,
443.163 FS. History–New 12-19-89, Amended 1-8-91, 10-24-96, 4-30-02, 10-5-03, 6-1-09, ____.

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

(1) No change.

(2) The following taxpayers must pay taxes, surtaxes, surcharges, and fees and file tax returns by electronic means during the succeeding calendar year when the taxpayer:

(a) Has paid any one of the following taxes, surtaxes, surcharges, or fees in the prior state fiscal year in an amount of \$20,000 or more:

1. – 4. No change.

5. Prepaid wireless E911 fees in the aggregate amount of \$20,000 or more for all business locations.

(b) Files a consolidated sales and use tax return (Forms DR-15CON and DR-7).

(c) Files a consolidated prepaid wireless E911 fee return.

(d)~~(e)~~ Files tax returns to report information for tracking movements of petroleum products on Form DR-309631 (Terminal Supplier Fuel Tax Return), Form DR-309632 (Wholesaler/Importer Fuel Tax Return), or Form DR-309635 (Blender/Retailer of Alternative Fuel Tax Return).

(e)~~(d)~~ Filed an Employer's Quarterly Report (Form RT-6 ~~UCT-6~~) for ten (10) or more

employees in any calendar quarter during the preceding state fiscal year.

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

(a) – (b) No change.

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

(4) – (5)(a) No change.

(b) The Department will notify taxpayers and reemployment ~~unemployment~~ tax agents who initially meet the requirements to participate on the basis of prior state fiscal year tax payments at their last address of record. Once notified of this requirement, the taxpayer or reemployment ~~unemployment~~ tax agent must transmit by electronic means all payments and/or returns for that tax type as provided in this rule.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), ~~443.1317~~, 443.163 FS. History–New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09, 6-28-10, _____.

12-24.004 Enrollment.

(1)(a) On or before November 1 (January 1 for taxpayers remitting only reemployment ~~unemployment~~ tax), the Department will notify every taxpayer or reemployment ~~unemployment~~ tax agent required to pay a tax, surtax, surcharge, or fee, or to ~~and/or~~ file a tax return by electronic means in the upcoming calendar year when:

1. The taxpayer or reemployment ~~unemployment~~ tax agent is not currently enrolled to

pay that tax, surtax, surcharge, or fee or to file that tax return by electronic means; or,

2. The taxpayer or reemployment ~~unemployment~~ tax agent is voluntarily enrolled to pay or to ~~and/or~~ file by electronic means and will be required to pay that tax, surtax, surcharge, or fee or to file that tax return by electronic means in the upcoming calendar year.

(b) The notification by the Department will include:

1. Information on how to access and complete enrollment on the Department's Internet site; and

2. An explanation of the options from which the taxpayer or reemployment ~~unemployment~~ tax agent must choose to pay taxes or fees or to ~~and/or~~ file tax returns by electronic means.

~~(2) Upon receipt of the enrollment package, the taxpayer or unemployment tax agent must, on or before December 1 (February 1 for taxpayers remitting only unemployment tax):~~

~~(a) Access and complete enrollment for all required tax types on the Department's Internet site at myflorida.com/dor/eservices; or~~

~~(b) If the taxpayer or unemployment tax agent is unable to use the Department's Internet site to enroll, complete a separate Form DR-600, Enrollment and Authorization for e-Services Program (incorporated by reference in Rule 12-24.011, F.A.C.), for each tax and return the form(s) to the Department, at the address indicated on the form.~~

~~(2)(3)~~ Enrollment for the e-Services Program requires the submission of the following information:

(a) The taxpayer's or reemployment ~~unemployment~~ tax agent's business entity name;

(b) The taxpayer's or reemployment ~~unemployment~~ tax agent's tax identification numbers assigned by the federal government and the Department, including tax account number

if different from the tax identification numbers. Social Security Numbers are used by the Department 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.

(c) Tax type;

(d) The name, mailing address, telephone number, fax number, and e-mail address of a contact person who is responsible for electronic payments and/or electronic filing of returns for the taxpayer's or reemployment ~~unemployment~~ tax agent's business;

(e) Whether the contact person is an employee of the business or an independent tax preparer;

(f) If completed by an independent tax preparer or an reemployment ~~unemployment~~ tax agent, the preparer's taxpayer identification number or reemployment ~~unemployment~~ tax agent number;

(g) The tax and/or fee type(s) for which the taxpayer or reemployment ~~unemployment~~ tax agent is enrolling;

(h) The filing and payment method the taxpayer or reemployment ~~unemployment~~ tax agent requests; and

(i) The taxpayer's banking information, including the taxpayer's bank name, the bank routing number(s), the taxpayer's bank account number(s), and information stating whether the account is a savings or checking account and whether the account is a business account or a personal account (this information is not required if the taxpayer is requesting the ACH-credit method); ~~and~~.

~~(3)~~(4) By completing and submitting the enrollment information, the taxpayer or

reemployment unemployment tax agent is applying to file tax returns and reports and make tax and fee payments to the Department electronically. In addition, by completing and submitting this enrollment request, the taxpayer or reemployment unemployment tax agent and the Department agree that:

(a) The same statute and rule sections that pertain to all paper documents filed by the taxpayer or reemployment unemployment tax agent govern an electronic return, report, or payment initiated electronically.

(b) The taxpayer's or reemployment unemployment tax agent's electronic transmission of such reports, returns, and payments must be made in a manner compatible with the Department's software, equipment, and facilities. Any failure to comply with this term will result in the taxpayer or reemployment unemployment tax agent being deemed to have failed to file a return or payment.

(c) Each tax return or payment or other remittance communicated electronically will be considered to be "in writing" and "written" to an extent no less than as if in paper, to be "signed," and to be an original.

(d)1. By typing his or her name on the signature line of an electronically-submitted enrollment and authorization agreement for the e-Services Program, the taxpayer or reemployment unemployment tax agent is declaring, under penalties of perjury, that he or she is authorized to sign on behalf of the applicant entity, and that he or she has personally reviewed the information provided, and that the facts stated are true.

2. The typed name of the taxpayer or reemployment unemployment tax agent or its authorized agent(s) affixed to a completed and properly submitted enrollment and authorization agreement for the e-Services Program will be deemed to appear on electronically filed tax

returns, as if actually so appearing.

(e) The taxpayer or reemployment ~~unemployment~~ tax agent must notify the Department of any changes by accessing and completing a change request on the Department's Internet site, or completing and submitting a new Form DR-600, no later than 30 consecutive calendar days before the changes are intended to take effect.

~~(4)~~(5) Upon receipt of enrollment information, the Department will assign confidential user information directly to the taxpayer or reemployment ~~unemployment~~ tax agent enrolling. Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 119.071(5), 202.30, 206.485, 213.755, 220.21(2), (3), ~~443.1317~~, 443.163 FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09, _____.

12-24.005 Methods of Payment by Electronic Means.

(1) Taxpayers may ~~The Department will~~ utilize either the ACH debit or ACH credit transfer as the method by which they ~~taxpayers subject to electronic payment requirements~~ shall remit taxes and fees by electronic means.

(2) ~~However, the Executive Director or the Executive Director's designee will grant taxpayers permission to use the ACH credit method on a case by case basis, as an exception to the required use of the ACH debit method.~~

(a) ~~A taxpayer who requests permission to use the ACH credit method must submit a written request to the Department, by December 1 (February 1 for taxpayers remitting only unemployment tax), which demonstrates that the taxpayer is currently using the ACH credit method for other financial purposes on a regular basis.~~

~~(b) The written request to use the ACH credit method shall be filed with the e-Services Unit, Florida Department of Revenue, P.O. Box 5885, Tallahassee, Florida 32314-5885, by December 1 (February 1 for taxpayers remitting only unemployment tax). The Department will accept facsimile transmissions of requests at telephone number (850) 922-5088. Taxpayers will be notified of the Department's decision.~~

~~(c) The Department reserves the right to revoke the ACH credit method payment privilege of any taxpayer who does not consistently transmit error-free payments; or substantially varies from the requirements and specifications of these rules; or repeatedly fails to make timely electronic payments or timely provide payment information; or, repeatedly fails to provide the required addenda record with the electronic payment.~~

~~(d)1. Taxpayers using the ACH credit method may continue to use the ACH credit method unless and until such time as the Department revokes the taxpayer's right to do so pursuant to paragraph (c).~~

~~2. Nothing in this rule shall be construed to prohibit the use of the ACH credit method by a business that is currently not licensed to do business in Florida, unless such business does not qualify as discussed in paragraph (a).~~

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), 443.1317, 443.163 FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09, ____.

12-24.007 Electronic Payment Transmission Errors.

(1) If a taxpayer makes an error on an electronic payment for a particular period, the taxpayer must, on the nearest business day after the date on which the error is discovered, contact

the Department, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time, at the telephone number for general taxes at (800) 352-3671 or, for reemployment ~~unemployment~~ tax at (800) 482-8293, or at the Department's Internet address at myflorida.com/dor/e-services for specific instructions. Persons with hearing or speech impairments may call the Florida Relay Service at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

(a) – (b) No change.

(2) – (3) No change.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), ~~443.1317~~, 443.163 FS. History–New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09, ____.

12-24.008 Procedures for Payment.

(1) No change.

(2)(a) ACH Credit Method. Taxpayers who elect ~~have been granted permission~~ to use the ACH credit method must contact their own financial institutions and make the arrangements to transfer the tax payment to the State Treasury account using an ACH credit transfer. The Department will not bear the costs for taxpayers to use the ACH credit method.

(b) – (e) No change.

(3) No change.

(a) Prior to initiating the transmission, the taxpayer must fax a written explanation of the emergency situation that prevents timely compliance under either the ACH-debit method or ACH credit method and must request written approval to wire transfer the tax payment in question to the State Treasury account. The ~~e-Services~~ fax number is (850) 922-5088. The

written request must include the information discussed in sub-subparagraphs (3)(b)1.a. through f.

(b) – (c) No change.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.30(1), 206.485, 213.755, 220.21(2), (3), ~~443.1317~~, 443.163 FS. History–New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09, ____.

12-24.009 Due Date; General Provisions.

(1)(a) No change.

(b) To assist the taxpayer in complying with all statutory requirements for timely electronic payment of taxes, surtaxes, surcharges, and fees due and the timely filing of tax returns, the Department will provide an annual calendar of dates by which the initiation of a return with payment, or payment only, must be completed. The annual calendar of dates is posted on the Department’s website at myflorida.com/dor/e-services and may also be obtained by calling the Department toll-free at (800)352-3671. Persons with hearing or speech impairments may call Florida Relay Service at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

(2) No change.

(3) The provisions of Section 213.21, F.S. (Section 443.141(1), F.S., for reemployment ~~unemployment~~ tax), govern the compromise and settlement of any tax, interest, or penalty assessed due to the late payment of an electronically filed payment, except as provided in these rules.

(a) No change.

(b)1. A taxpayer who is required to remit payments under the electronic payment

program and who is unable to make a timely payment because of system failures within the banking system/ACH interface that are beyond the taxpayer's control are not subject to penalty or interest for late payment or loss of collection allowance or discount. The taxpayer must provide a written explanation and supporting documentation concerning any system failure within the banking system/ACH interface to: Taxpayer Services ~~e-Services~~, Florida Department of Revenue, 5050 W. Tennessee Street ~~P.O. Box 5885~~, Tallahassee, Florida 32399-0112~~32314-5885~~.

2. Taxpayers must ensure that they use reasonable and prudent judgment when selecting a banking system or ACH interface to handle their electronic payment transactions.

(c) No change.

(4) No change.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06, 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.28, 202.30, 206.485, 212.12, 213.755, 220.21(2), (3), ~~443.1317~~, 443.163 FS. History—New 12-19-89, Amended 4-30-02, 10-5-03, 6-1-09, _____.

12-24.010 General Administrative Provisions; Voluntary Participation; Confidentiality; Granting of Waivers From Electronic Filing Requirements.

(1) Taxpayers or reemployment ~~unemployment~~ tax agents who need general information concerning the Department's e-Services ~~programs~~ can contact the Department toll-free at (800)352-3671 or for reemployment ~~unemployment~~ tax toll-free at (800) 482-8293, or at the Department's Internet address at 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).

(2) ~~Voluntary inclusion in the electronic payment program.~~ Any taxpayer or ~~reemployment unemployment~~ tax agent may voluntarily participate in the Department's e-Services ~~program~~. See Rule 12-24.004, F.A.C., Enrollment. Taxpayers may terminate voluntary participation by filing a written notice of termination with Account Management ~~the e-Services Unit~~ at least 60 days prior to the due date of the last electronic payment. Termination requests must be directed to the Taxpayer Services ~~e-Services Program~~, Florida Department of Revenue, 5050 W. Tennessee Street P.O. Box 5885, Tallahassee, Florida 32399-0160 32314-5885.

(3) No change.

(4)(a) The Department is authorized to waive the requirement that a taxpayer or ~~reemployment unemployment~~ tax agent submit tax returns by electronic means, if the taxpayer or ~~reemployment unemployment~~ tax agent can establish that he or she is unable to comply with e-filing requirements. To request a waiver the taxpayer or ~~reemployment unemployment~~ tax agent must complete and submit form DR-654, Request for Waiver From Electronic Filing (incorporated by reference in Rule 12-24.011, F.A.C.) to establish in writing the basis under which such waiver is requested. The Department will verify the information submitted on the form and will respond in writing to the taxpayer after reviewing the form.

(b) Grounds for approving a waiver include, but are not limited to:

1. Any of the circumstances specified in Sections 202.30(2)(b), 213.755(9)(a) and (b), 220.21(2) or 443.163(3), F.S.; or

2. The taxpayer or ~~reemployment unemployment~~ tax agent does not have a modem; or

3. The taxpayer or ~~reemployment unemployment~~ tax agent does not have access to the Internet.

(c) A waiver shall be valid for up to two years, and the issuance of a subsequent waiver will be contingent on the taxpayer or reemployment ~~unemployment~~ tax agent working with the Department during the current waiver period to address the issues that originally necessitated the issuance of the waiver. The requirement to work with the Department to address the issues that necessitated a waiver means the taxpayer or reemployment ~~unemployment~~ tax agent will: discuss existing computer capabilities with the Department; consider any assistance, recommendations, or training the Department offers; and implement any Department recommendation that enables the taxpayer or reemployment ~~unemployment~~ tax agent to submit returns by electronic means, unless the taxpayer or reemployment ~~unemployment~~ tax agent can establish that the circumstances or reasons as set forth in Sections 202.30(2)(b), 213.755(9)(a) and (b), 220.21(2), or 443.163(3), F.S., continue to apply.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 202.30, 206.485, 213.755, 220.21(2), (3), ~~443.1317~~, 443.163 FS. History—New 12-19-89, Amended 1-8-91, 11-17-93, 4-30-02, 10-5-03, 6-1-09, ____.

12-24.011 Public Use Forms.

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

(b) No change.

Form Number	Title	Effective Date
(2) DR-600	Enrollment and Authorization for e-Services Program (R. <u>01/15</u> 01/13)	__05/13

([http://www.flrules.org/Gateway/reference.asp?No=Ref- 02539](http://www.flrules.org/Gateway/reference.asp?No=Ref-02539))

(3) No change.

Rulemaking Authority 202.26(3)(a), 206.485(1), 213.06(1), 213.755(8), (9), 220.21(2), (3), 443.1317, 443.163(1) FS. Law Implemented 119.071(5), 202.30, 206.485, 212.08(5)(q), 213.755, 220.21(2), (3), ~~443.1317~~, 443.163 FS. History—New 6-1-09, Amended 6-28-10, 6-6-11, 5-9-13,_____.

ATTACHMENT 4



Executive Director
Marshall Stranburg

January 13, 2015

MEMORANDUM

TO: The Honorable Rick Scott, Governor
Attention: Monica Russell, Director of Cabinet Affairs
Kristin Olson, Deputy Director of Cabinet Affairs

The Honorable Jeff Atwater, Chief Financial Officer
Attention: Robert Tornillo, Director of Cabinet Affairs
Erica Atalla, Senior Cabinet Aide

The Honorable Pam Bondi, Attorney General
Attention: Kent Perez, Associate Deputy Attorney General
Rob Johnson, Director of Legislative and Cabinet Affairs
Erin Sumpter, Deputy Director of Cabinet Affairs
Andrew Fay, Deputy Director of Legislative Affairs

The Honorable Adam Putnam, Commissioner of Agriculture and Consumer Services
Attention: Brooke McKnight, Director of Cabinet Affairs
Jessica Field, Deputy Cabinet Affairs Director

THRU: Marshall Stranburg, Executive Director

FROM: Danielle Scoggins, Director, Legislative and Cabinet Services

SUBJECT: Requesting Adoption and Approval to File and Certify Proposed Rules –
Documentation of Exempt Sales; Mobile App (Rules 12A-1.038, 12A-1.039, and 12A-19.060, F.A.C.)

Statement of Sections 120.54(3)(b) and 120.541, F.S. Impact: No impact.

The Department has reviewed the proposed rules for compliance with Sections 120.54(3)(b) and 120.541, F.S. The proposed rules will not likely have an adverse impact on small business, small counties, or small cities, and they are not likely to have an increased regulatory cost in excess of \$200,000 within 1 year. Additionally, the proposed rules are not likely to have an adverse impact or increased regulatory costs in excess of \$1,000,000 within 5 years.

What is the Department requesting? The Department requests final adoption of the following proposed rules, and approval to file and certify them with the Secretary of State under Chapter 120, F.S.

DOCUMENTATION OF EXEMPT SALES, MOBILE APP

Why are the proposed rules necessary? The proposed amendments to Rule 12A-1.038 and Rule 12A-1.039, F.A.C., are necessary to inform taxpayers of the availability and use of new technology designed by the Department to assist them in documenting exempt sales. Amendments are also proposed to Rule 12A-1.039 and 12A-19.060, F.A.C., to allow taxpayers to receive copies of their Annual Resale Certificates through a secure link on the Department's website and to remove unnecessary and obsolete requirements for documenting a tax-exempt sale.

What do the proposed rules do? The Department has developed a new mobile application to allow taxpayers to more easily verify and document a potential customer's tax-exempt status for the purposes of sales and use tax. The proposed amendments to Rule 12A-1.038 and 12A-1.039, F.A.C., provide information as to the availability and use of this application.

To make it easier for taxpayers using modern technology to receive a copy of their Annual Resale Certificate and to reduce costs to the state, the Department will provide those certificates through a secure link on its website beginning in January 2015. The proposed amendments to Rule 12A-1.039, F.A.C., provide information as to this availability.

Amendments are also proposed to Rule 12A-1.039, and 12A-19.060, F.A.C., to remove unnecessary and obsolete requirements for documenting a tax-exempt sale.

Were comments received from external parties? Yes. A rule workshop was scheduled to be held on October 30, 2014, if requested in writing. No request was received and no workshop held. On November 12, 2014, the Governor and Cabinet approved the Department's request to publish a Notice of Proposed Rule and to conduct a rule hearing. A rule hearing was scheduled for December 10, 2014, if requested. No request was received to hold the scheduled rule hearing.

Comments were received from the staff of the Joint Administrative Procedures Committee regarding Rules 12A-1.038 and 12A-1.039, F.A.C. These comments were reviewed, and the Department published a Notice of Change on December 18, 2014, addressing the requested changes. Details regarding these changes are contained in the attached summary of the rules.

Attached are copies of:

- Summaries of the proposed rules, which include:
 - Statements of facts and circumstances justifying the rules;
 - Federal comparison statements; and
 - Summaries of the workshops and hearings
- Rule text

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.038 AND 12A-1.039

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates) and Rule 12A-1.039, F.A.C. (Sales for Resale), provide information regarding the availability and use of the Department's new mobile application to confirm a customer's status as a tax-exempt entity or a registered dealer. The proposed amendments to Rule 12A-1.039, F.A.C. (Sales for Resale), also remove unnecessary provisions and provide information as to how taxpayers may obtain a copy of their Annual Resale Certificate through a secure link on the Department's website. Finally, technical changes are made to both rules for Departmental addresses and to the time period during which Department operators are available.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates), provides, in part, guidance as to how a dealer may document a sale made to a nongovernmental tax-exempt entity. Rule 12A-1.039, F.A.C., provides similar guidance for sales made to registered dealers for the purposes of resale. In an effort to assist taxpayers using modern technology, the Department has developed a mobile application that can be used to confirm a

customer's status as a tax-exempt entity or a registered dealer. The proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates) and Rule 12A-1.039, F.A.C. (Sales for Resale), are necessary to provide taxpayers with information regarding the availability and use of this new method.

To make it easier for taxpayers using modern technology to receive a copy of their Annual Resale Certificate and to reduce costs to the state, the Department will provide those certificates through a secure link on its website beginning in January, 2015. The proposed amendments to Rule 12A-1.039, F.A.C. (Sales for Resale), are necessary to provide information as to this availability.

The Department has determined that two provisions of Rule 12A-1.039, F.A.C. (Sales for Resale), are unnecessary and provide no benefit to either the taxpayer or the Department. Those provisions are 1) the requirement that a taxpayer sign his or her Annual Resale Certificate; and 2) the requirement of a signed statement by the purchaser on a sales invoice, purchase order, or separate form documenting the sale. The proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates) and Rule 12A-1.039, F.A.C. (Sales for Resale), are necessary to remove these unnecessary provisions.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

OCTOBER 30, 2014

A Notice of Proposed Rule Development was published in the Florida Administrative Register on October 15, 2014 (Vol. 40, No. 201, p. 4529 – 4530), to advise the public of the proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates) and Rule 12A-1.039, F.A.C. (Sales for Resale), and to provide that, if requested in writing, a rule development workshop would be held on October 30, 2014. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

NOVEMBER 12, 2014

The Governor and Cabinet, sitting as head of the Department of Revenue, met on November 12, 2014, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates) and Rule 12A-1.039, F.A.C. (Sales for Resale). A notice for the public hearing was published in the Florida Administrative Register on November 3, 2014 (Vol. 40, No. 214, p. 4864).

SUMMARY OF RULE HEARING

DECEMBER 10, 2014

A Notice of Proposed Rule was published in the Florida Administrative Register on November 19, 2014 (Vol. 40, No. 225, pp. 5054 - 5058), to advise the public of the proposed changes to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates) and Rule 12A-1.039, F.A.C. (Sales for Resale), and to provide that, if requested, a

rule hearing would be held on December 10, 2014. No timely request for a hearing was received by the agency, and no hearing was held.

Written comments were received from the staff of the Joint Administrative Procedures Committee, requesting that the Department remove the following statutory references from the Law Implemented provision of Rule 12A-1.038, F.A.C.: sections 212.05(a)(j), 212.06(1)(c), 212(16), 212.0601, and 21208(5)(m), F.S. In addition, the proposed rule revisions originally removed the effective date of the Annual Resale Certificate. In response to comments from the Committee, the Department withdrew the proposed removal of the effective date from a taxpayer's Annual Resale in a Notice of Change published in the December 18, 2014 (Vol. 40, No. 244, p. 5466), issue of the Florida Administrative Register. Paragraph (2)(a) will have no changes upon adoption.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.038 AND 12A-1.039

12A-1.038 Consumer's Certificate of Exemption; Exemption Certificates.

(1) – (2) No change.

(3) SALES MADE TO EXEMPT ENTITIES OTHER THAN GOVERNMENTAL UNITS

(a) – (e) No change.

(f) The validity of a Florida Consumer's Certificate of Exemption may be verified by using the Department's on-line Certificate Verification System at <http://www.myflorida.com/dor/gta.html>, by using the Department's FL Tax mobile application, or by calling the Department's automated nationwide toll-free verification system at 1(877)357-3725. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

(g)1. TRANSACTION AUTHORIZATION NUMBER ISSUED PRIOR TO OR AT THE POINT-OF-SALE – VALID FOR A SINGLE TRANSACTION ONLY. In lieu of obtaining a copy of the exempt entity's valid Consumer's Certificate of Exemption for each sale, the selling dealer may obtain a Transaction Authorization Number or a Vendor Authorization Number from the Department when making a tax-exempt sale to the exempt entity or its authorized representative.

2. The selling dealer may obtain a transaction authorization number prior to or at the point-

of-sale by using the Department's on-line Certificate Verification System at <http://www.myflorida.com/dor/gta.html>, by using the Department's FL Tax mobile application, or by calling the Department's automated nationwide toll-free verification system at 1(877)357-3725. When using the Department's on-line Certificate Verification System, the dealer may key up to five Florida Consumer's Certificate of Exemption numbers into the system. When using the Department's FL Tax mobile application or the Department's automated nationwide toll-free verification system, the selling dealer is prompted to key in a single Florida Consumer's Certificate of Exemption number. Each ~~Either~~ verification system will issue a 13-digit transaction authorization number or alert the selling dealer that the purchaser does not have a valid Florida Consumer's Certificate of Exemption. Selling dealers using the automated telephone verification system who do not have a touch-tone telephone will be connected to a live operator during the hours of 8:00 a.m. to 5~~7~~:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

3. The selling dealer must document the transaction authorization number on the sales invoice, purchase order, or other document that is prepared by the purchaser or the selling dealer to document the tax exempt purchase by the exempt entity.

4. A transaction authorization number is valid for a single sales transaction and is not valid to properly document subsequent sales made to the same entity. The selling dealer must obtain a new vendor authorization number for subsequent tax exempt transactions.

(h)1. **VENDOR AUTHORIZATION NUMBER FOR REGULAR CUSTOMERS – VALID FOR CALENDAR YEAR ISSUE.** In lieu of obtaining a copy of the exempt entity's valid Florida Consumer's Certificate of Exemption or a Transaction Authorization Number from the

Department for each sale to the entity, the selling dealer may obtain a Vendor Authorization Number for that entity. This option is available to selling dealers throughout the calendar year without limitation. The selling dealer must maintain a copy of the exempt entity's Florida Consumer's Certificate of Exemption in its books and records.

2. The "vendor authorization number" is a customer-specific authorization number that will be valid for all sales made to an exempt entity during the calendar year.

3. To obtain vendor authorization numbers, the selling dealer may use the Department's on-line Certificate Verification System at <http://www.myflorida.com/dor/gta.html> or send a written request to the Department. Dealers obtaining authorization numbers by submitting a written request to the Department may obtain the electronic format for sending the customer data from the Department's web site at www.myflorida.com/dor or call the Department at (850) 488-3516 to obtain the electronic format.

a. The written request should be forwarded to the Florida Department of Revenue, Account Management MS 1-5730, Florida Department of Revenue, 5050 W Tennessee Street~~Production Management, 5040 West Tharpe Street, Suite 202~~, Tallahassee, Florida 32399-0160~~32303-7836~~, along with an electronic file containing a list of the dealer's regular customers for which the dealer has a Florida Consumer's Certificate of Exemption number on file. In response to the request, the Department will issue to the selling dealer, using the same electronic medium, a list containing a unique vendor authorization number for each exempt entity who is a holder of a valid Florida Consumer's Certificate of Exemption.

b. The Department's on-line Certificate Verification System allows the user to verify up to five Florida Consumer's Certificate numbers and to obtain a transaction authorization number for single sales made to each exempt entity at once. The system also allows the user to upload a

batch file of up to 50,000 accounts for verification of a Florida Consumer's Certificate of Exemption and, 24 hours later, retrieve the file containing the vendor authorization numbers for all sales made to an exempt entity during the calendar year.

4. The selling dealer may make tax-exempt sales to the exempt entity during the period in which the vendor authorization number for that entity is valid. Vendor authorization numbers are valid for the remainder of the calendar year during which they are issued. However, vendor authorization numbers issued by the Department in November or December are valid for the remainder of that calendar year and the next calendar year.

(4) – (6) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.02(4), (14)(c), ~~212.05(1)(j), 212.06(1)(c), (16), 212.0601,~~ 212.07(1), 212.08(5)(m), (6), (7), 212.085, 212.18(2), (3), 212.21(2) FS. History—Revised 10-7-68, Amended 6-16-72, 9-28-78, 7-20-82, 4-29-85, Formerly 12A-1.38, Amended 8-10-92, 3-17-93, 9-14-93, 12-13-94, 10-2-01, 6-12-03, 7-31-03, 6-28-04, 11-6-07, 9-1-09, 5-9-13,_____.

12A-1.039 Sales for Resale.

(1) No change.

(2) ANNUAL RESALE CERTIFICATES ISSUED BY THE DEPARTMENT.

(a) No change.

(b) Dealers may obtain a copy of~~who lose~~ their Annual Resale Certificate through a secure link on the Department's website at www.myflorida.com or ~~may request a replacement~~ by contacting the Department at (800) 352-3671. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY). Written

requests should be addressed to Account Management, MS1-5730~~Central Registration~~, Florida Department of Revenue, 5050 West Tennessee Street, Tallahassee, Florida 32399-0160 ~~0100~~.

(3) Except as provided in subsection (4), a dealer making a sale for resale is required to document the exempt sale by CHOOSING ONE of the following three methods:

(a) COPIES OF ANNUAL RESALE CERTIFICATES OBTAINED BY THE SELLING DEALER. The selling dealer who makes a tax exempt sale for the purposes of resale must obtain a copy of the purchaser's current Annual Resale Certificate, or a Transaction Resale Authorization Number or Vendor Resale Authorization Number issued by the Department.

~~1. The copy of the Annual Resale Certificate must be signed by the purchaser or the purchaser's authorized representative.~~

~~2.~~A selling dealer may make sales for resale to a purchaser whose current Annual Resale Certificate is on file without seeking a new Annual Resale Certificate for each subsequent transaction during that calendar year. A new Annual Resale Certificate must be obtained each calendar year. Except for sales made to purchasers who purchase on account from the dealer on a continual basis, a selling dealer may only make exempt sales for resale to purchasers during the calendar year for which the purchaser's Annual Resale Certificate appears valid on its face.

~~2.3.~~ For sales made to purchasers who purchase on account from a dealer on a continual basis, the selling dealer may rely upon the Annual Resale Certificate beyond the expiration date of the certificate and is not required to obtain a new Annual Resale Certificate each calendar year. For purposes of this paragraph, the phrase "purchase on account from a dealer on a continual basis" means that the selling dealer has a continuing business relationship with a purchaser and makes recurring sales on account to that purchaser in the normal course of business. For purposes of this paragraph, a sale "on account" refers to a sale where the dealer

extends credit to the purchaser and records the debt as an account receivable, or where the dealer sells to a purchaser who has an established cash or C.O.D. account, similar to an “open credit account.” For purposes of this paragraph, purchases are made from a selling dealer on a “continual basis” if the selling dealer makes sales to the purchaser no less frequently than once in every twelve month period in the normal course of business.

(b) TRANSACTION RESALE AUTHORIZATION NUMBER ISSUED PRIOR TO OR AT THE POINT-OF-SALE – VALID FOR SINGLE TRANSACTION ONLY. In lieu of obtaining a copy of the purchaser’s Annual Resale Certificate for each tax-exempt sale made for the purposes of resale, the selling dealer may obtain a Transaction Resale Authorization Number or a Vendor Resale Authorization Number from the Department.

1. A “transaction resale authorization number” must be obtained by the selling dealer prior to or at the point-of-sale;

a. ~~By~~ using the Department’s on-line Certificate Verification System at <http://www.myflorida.com/dor/gta.html>;

b. By using the Department’s FL Tax mobile application; or

c. ~~By~~ calling the Department’s automated nationwide toll-free telephone verification system at 1(877)357-3725.

2. When using the Department’s on-line Certificate Verification System, the dealer may key up to five (5) purchaser’s sales tax certificate of registration numbers into the system. When using the Department’s FL Tax mobile application or the Department’s automated nationwide toll-free verification system, the selling dealer is prompted to key in a single purchaser’s sales tax certificate of registration number. Each ~~The~~ system will either issue a 13-digit transaction resale authorization number or alert the selling dealer that the purchaser does not have a valid

resale certificate. Selling dealers using the automated telephone verification system who do not have a touch-tone phone will be connected to a live operator during the hours of 8:00 a.m. to 5:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

3. A transaction resale authorization number is not valid to exempt subsequent resale purchases or rentals made by the same purchaser. A selling dealer must obtain a new transaction resale authorization number for each and every resale transaction.

4. The selling dealer must document the transaction resale authorization number on the sales invoice, purchase order, or a separate form that is prepared by either the purchaser or the selling dealer. ~~The sales invoice, purchase order, or separate form must contain the following statement: “The purchaser hereby certifies that the property or services being purchased or rented are for resale.” This statement must be followed by the signature of the purchaser. The signature may be obtained by the selling dealer through use of an electronic signature pad or other electronic method.~~

5. Alternatively, in lieu of meeting the requirements of subparagraph 4., the transaction resale authorization number may be documented on a properly completed Uniform Sales and Use Tax Certificate-Multijurisdiction, as provided in subsection (8) of this rule.

(3)(c) – (8) No change.

Rulemaking Authority 212.07(1)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.02(14), 212.05(1)(b), (i), 212.07(1), 212.085, 212.13(5)(c), (d), 212.17(6), 212.18(2), (3), 218.186, 212.21(2), 213.053(10), 218.186 FS. History—Revised 10-7-68, Amended 1-7-70, 6-16-72, 9-26-77, 7-20-82, 4-12-84, Formerly 12A-1.39, Amended 1-2-89, 9-14-93, 12-13-94, 10-2-01, 6-12-03, 11-6-07, 9-1-09, 5-9-13,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE
COMMUNICATIONS SERVICES TAX
AMENDING RULE 12A-19.060

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale), provide information as to the availability of a taxpayer's resale certificate through a secure link on the Department's website; remove obsolete provisions; and make a technical change.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

To make it easier for taxpayers using modern technology to receive a copy of their Annual Resale Certificate and to reduce costs to the state, the Department will provide those certificates through a secure link on its website beginning in January, 2015. The proposed amendments to Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale), are necessary to provide information as to this availability.

The Department has determined that two provisions of Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale), are unnecessary and provide no benefit to either the taxpayer or the Department. Those provisions are 1) the requirement that a taxpayer sign his or her Annual Resale Certificate; and 2) the requirement of a signed statement by the purchaser on a sales invoice, purchase order, or separate form documenting the sale. The proposed amendments to Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale) are necessary to remove these

unnecessary provisions.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

OCTOBER 30, 2014

A Notice of Proposed Rule Development was published in the Florida Administrative Register on October 15, 2014 (Vol. 40, No. 201, p. 4530-31), to advise the public of the proposed amendments to Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale), and to provide that, if requested in writing, a rule development workshop would be held on October 30, 2014. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

NOVEMBER 12, 2014

The Governor and Cabinet, sitting as head of the Department of Revenue, met on November 12, 2014, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale). A notice for the public hearing was published in the Florida Administrative Register on November 3, 2014 (Vol. 40, No. 214, p. 4864).

SUMMARY OF RULE HEARING

DECEMBER 10, 2014

A Notice of Proposed Rule was published in the Florida Administrative Register on November 19, 2014 (Vol. 40, No. 225, pp. 5058 - 5060), to advise the public of the proposed changes to Rule 12A-19.060, F.A.C. (Sales for the Purpose of Resale), and to provide that, if requested, a rule hearing would be held on December 10, 2014. No timely request for a hearing was received by the agency, and no hearing was held. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-19, FLORIDA ADMINISTRATIVE CODE
COMMUNICATIONS SERVICES TAX
AMENDING RULE 12A-19.060

12A-19.060 Sales for the Purpose of Resale.

(1) – (3) No change.

(4) ANNUAL RESALE CERTIFICATES ISSUED BY THE DEPARTMENT.

(a) – (c) No change.

(d) Dealers may obtain a copy of their~~In the event that a dealer's original~~ Communications Services Tax Annual Resale Certificate through a secure link on the Department's website at www.myflorida.com~~, is lost or destroyed, a replacement may be requested by~~ visiting any local Department of Revenue Service Center to personally obtain a copy or by contacting the Department at 1(800)352-3671. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY). Written requests should be addressed to Account Management, Florida Department of Revenue, P. O. Box 6480, Tallahassee, Florida 32314-6480.

(5) A dealer is not required to collect tax~~Communications Services Tax Annual Resale Certificate is considered valid~~ when a signed~~signed~~ copy of the certificate is provided to the selling dealer in lieu of payment of the tax on any sale made on or after the registration effective date and on or prior to the certificate expiration date, as indicated on the certificate~~;~~ and when the~~the~~ selling dealer receives a copy of the certificate in good faith.

(6) A dealer making a sale for resale is required to document the exempt sale by CHOOSING ONE of the following three methods:

(a) COPIES OF ANNUAL RESALE CERTIFICATES OBTAINED BY THE SELLING DEALER. A selling dealer who makes a sale for the purpose of resale must obtain a signed copy of the purchaser's current Communications Services Tax Annual Resale Certificate or a Transaction Resale Authorization Number or Vendor Resale Authorization Number issued by the Department.

~~1. The copy of the Communications Services Tax Annual Resale Certificate must be signed by the purchaser or the purchaser's authorized representative.~~

~~2.~~A selling dealer may make sales for resale to a purchaser whose current Communications Services Tax Annual Resale Certificate is on file without seeking a new certificate for each subsequent transaction during that calendar year. A new Communications Services Tax Annual Resale Certificate must be obtained each calendar year. Except for sales made to purchasers who purchase on account from the dealer on a continual basis, a selling dealer may only make exempt sales for resale to purchasers during the calendar year for which the purchaser's Communications Services Tax Annual Resale Certificate appears valid on its face.

~~3.~~ For sales made to purchasers who purchase on account from a dealer on a continual basis, the selling dealer may rely upon the Communications Services Tax Annual Resale Certificate beyond the expiration date of the certificate and is not required to obtain a new certificate each calendar year.

a. For purposes of this paragraph, the phrase "purchase on account from a dealer on a continual basis" means that the selling dealer has a continuing business relationship with a

purchaser and makes recurring sales on account to that purchaser in the normal course of business.

b. For purposes of this paragraph, a sale “on account” refers to a sale where the dealer extends credit to the purchaser and records the debt as an account receivable, or where the dealer sells to a purchaser who has an established cash or cash on delivery (C.O.D.) account, similar to an “open credit account.”

c. For purposes of this paragraph, purchases are made from a selling dealer on a “continual basis” if the selling dealer makes sales to the purchaser no less frequently than once in every twelve-month period in the normal course of business.

(b) TRANSACTION RESALE AUTHORIZATION NUMBER ISSUED PRIOR TO OR AT THE POINT-OF-SALE – VALID FOR SINGLE TRANSACTION ONLY. In lieu of obtaining a signed copy of the purchaser’s Communications Services Tax Annual Resale Certificate for each tax-exempt sale made for the purposes of resale, the selling dealer may obtain a Transaction Resale Authorization Number or a Vendor Resale Authorization Number from the Department.

1. A “transaction resale authorization number” must be obtained by the selling dealer prior to or at the point-of-sale by using the Department’s on-line Certificate Verification System at www.myflorida.com/dor/gta.html or by calling the Department’s nationwide toll-free telephone verification system at 1(877)357-3725.

2. When using the Department’s on-line Certificate Verification System, the dealer may key up to five (5) purchaser’s communications services tax certificate/business partner numbers into the system. When using the Department’s automated nationwide toll-free verification system, the selling dealer is prompted to key in a single purchaser’s communications services tax certificate/business partner number. The system will either issue a 13-digit transaction resale

authorization number or alert the selling dealer that the purchaser does not have a valid resale certificate. Selling dealers using the automated telephone verification system who do not have a touch-tone phone will be connected to a live operator during the hours of 8:00 a.m. to ~~5~~7:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

3. A transaction resale authorization number is not valid to exempt subsequent resale purchases made by the same purchaser. A selling dealer must obtain a new transaction resale authorization number for each and every resale transaction.

4. The selling dealer must document the transaction resale authorization number on the sales invoice, purchase order, or a separate form that is prepared by either the purchaser or the selling dealer. ~~The sales invoice, purchase order, or separate form must contain the following statement: “The purchaser hereby certifies that the communications services being purchased are for resale.” This statement must be followed by the signature of the purchaser. The signature may be obtained by the selling dealer through use of an electronic signature pad or other electronic method.~~

(6)(c) – (9) No change.

Rulemaking Authority 202.16(2), 202.26(3)(c), (d) FS. Law Implemented 202.11(3), (10), (11), 202.13(2), 202.16(2), (4), 202.17(6), 202.34(3), (4)(c) FS. History–New 1-31-02, Amended 7-16-06, 6-4-08,_____.