

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

December 10, 2013

Contacts: Vincent Aldridge, Legislative and Cabinet
Services Director, (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 adoption of and approval to file and certify with the Secretary of State under Chapter 120, Florida Statutes, rules relating to General Tax Administration. The proposed amendments reflect 2013 law changes, update forms, and remove obsolete provisions:

General Tax Administration: Rules 12A-1.059, 12A-1.0641, 12A-1.097, 12A-16.008, 12A-19.071, 12A-19.100, 12B-5.020, 12B-5.060, 12B-5.080, 12B-5.090, 12B-5.130, 12B-5.140, 12B-5.150, 12B-5.200, 12B-5.300, 12B-5.500 (new), 12B-8.003, 12B-8.0016, 12C-1.051, 12C-2.0115, 12C-3.0015, 12C-3.0025 (repeal), 12C-3.0035 (repeal), 12C-3.0045 (repeal), 12C-3.0055 (repeal), 12C-3.008, 12C-3.010, 12C-3.011(repeal), 12C-3.012 (repeal), 12-24.023, and 12-28.008.

(ATTACHMENT 1)

RECOMMEND APPROVAL

2. Respectfully request adoption of and approval to file and certify with the Secretary of State under Chapter 120, Florida Statutes, rules relating to Property Tax Oversight. The proposed amendments reflect recent law changes, update forms, address an administrative law decision, and remove unnecessary provisions:

Property Tax Oversight: Rules 12D-1.002, 12D-1.009, 12D-1.010, 12D-1.011(repeal), 12D-6.006, 12D-7.0025 (new), 12D-7.0143, 12D-8.0065 (new), 12D-9.001, 12D-9.019, 12D-9.020, and 12D-16.002.

(ATTACHMENT 2)

RECOMMEND APPROVAL

3. Respectfully request approval and authority to publish Notices of Proposed Rule in the Florida Administrative Register for the following rules:

Research and Development Tax Credit: Implement and formalize the process and procedure by which a taxpayer may apply for a corporate income tax credit for qualifying research and development expenses in Florida pursuant to section 220.196, F.S. [Proposed Rule 12C-1.0196 (Research and Development Tax Credit), and Rule 12C-1.051, F.A.C. (Forms)]

(ATTACHMENT 3)

RECOMMEND APPROVAL

ATTACHMENT 1



Executive
Director
Marshall Stranburg

November 26, 2013

MEMORANDUM

TO: The Honorable Rick Scott, Governor
Attention: Michael Sevi, Director of Cabinet Affairs
Karl Rasmussen, Deputy Director of Cabinet Affairs
Jacob Horner, Cabinet Aide

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

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: Vince Aldridge, Director, Legislative and Cabinet Services

SUBJECT: Requesting Adoption and Approval to File and Certify Proposed Rules

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 businesses, 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, Florida Statutes:

Sales and Use Tax

- Include the exemption for natural gas used in non-combustion fuel cells (*Section 4, Chapter 2013-42, L.O.F.*) (*Rule 12A-1.059, F.A.C.*)
- Include the exemption for dyed diesel fuel used for commercial fishing and aquacultural purposes (*Chapter 2013-82, L.O.F.*) (*Rules 12A-1.059 and 12A-1.0641, F.A.C.*)
- Include the exemption effective January 1, 2014, for natural gas fuel placed into the fuel supply system of a motor vehicle (*Section 15, Chapter 2013-198, L.O.F.*) (*Rule 12A-1.059, F.A.C.*)
- Update forms used in the administration of sales and use tax (*Rule 12A-1.097, F.A.C.*)

Rental Car Surcharge

- Update form instructions on solid waste fees and the rental car surcharge (*Rule 12A-16.008, F.A.C.*)

Communications Services Tax

- Update instructions to the Department's Address/Jurisdiction Database for assigning local communications services tax rates (*Rule 12A-19.071, F.A.C.*)
- Update tax returns to reflect local communications services tax rates (*Rule 12A-19.100, F.A.C.*)

Fuel Tax

- Update the definition of gasohol to reflect the repeal of the Florida Renewable Fuel Standard Act (*Chapter 2013-103, L.O.F.*) (*Rule 12B-5.020, F.A.C.*)
- Remove provisions regarding alternative fuels repealed effective January 1, 2014 (*Chapter 2013-198, L.O.F.*) (*Rules 12B-5.060 and 12B-5.200, F.A.C.*)
- Update the licensing requirements for biodiesel fuel manufactured for sale by municipalities, counties, and school districts (*Chapter 2013-142, L.O.F.*) (*Rules 12B-5.060 and 12B-5.090, F.A.C.*)
- Include the exemption for biodiesel fuel manufactured by municipalities, counties, and school districts for their own use (*Chapter 2013-142, L.O.F.*) (*Rules 12B-5.060 and 12B-5.090, F.A.C.*)
- Correct the application that is used to obtain a refund of tax paid on undyed diesel fuel used in a commercial fishing vessel or in a vessel engaged in commercial transportation (*Rule 12B-5.130, F.A.C.*)

- Include the exemption for dyed diesel fuel used for commercial fishing and aquacultural purposes (*Chapter 2013-82, L.O.F.*) (*Rule 12B-5.130, F.A.C.*)
- Provide for the annual licensing of natural gas fuel retailers beginning January 1, 2014 (*Rules 12B-5.150 and 12B-5.500, F.A.C.*)
- Update forms and tax returns used in the administration of taxes imposed on fuels and pollutants (*Rule 12B-5.150, F.A.C.*)
- Remove obsolete references to effective dates (*Rules 12B-5.080, 12B-5.140, and 12B-5.300, F.A.C.*)

Insurance Premium Tax, Fees, and Surcharges

- Update the annual insurance premium tax returns (*Rule 12B-8.003, F.A.C.*)
- Update the instructions for the Department's Address/Jurisdiction Database used to assign premiums and policies to local tax jurisdictions (*Rule 12B-8.0016, F.A.C.*)

Corporate Income Tax

- Update the annual corporate income tax returns to reflect the increase in the exemption from \$25,000 to \$50,000 (*Rule 12C-1.051, F.A.C.*)

Annual Tax on Government Leasehold Estates

- Update the instructions for the tax return used to remit the annual tax on governmental leasehold estates (*Rule 12C-2.0115, F.A.C.*)

Estate Tax

- Repeal requirements for filing a Florida Estate Tax Return for decedents who died on or after January 1, 2005 (Section 1, Chapter 2013-172, L.O.F.) (*Rule Chapter 12C-3, F.A.C.*)

Clerk of the Court Remittances

- Provide for the remittance of designated funds beginning November 1, 2013, by the clerks of the court to the Department (Section 8, Chapter 2013-44, L.O.F.) (*Rule 12-28.008, F.A.C.*)

Recordkeeping Requirements

- Remove provisions regarding the obsolete substitute communications systems tax return (*Rule 12-24.023, F.A.C.*)

Why are the proposed rules necessary? These rule changes are necessary to update rule provisions to incorporate law changes made by the 2013 Legislature, to update instructions to the Department's Address/Jurisdiction Database for assigning local tax jurisdictions for communications services tax and insurance premium tax, to update annual tax returns for reporting and paying taxes to the Department, and to remove obsolete provisions.

Were comments received from external parties? A rule development workshop was held August 22, 2013, on the proposed amendments repealing the annual decal for alternative fuels and requiring the annual licensing of natural gas fuel retailers beginning January 1, 2014. A participant requested clarification of the law changes; however, no comments or suggested changes were received.

A rule development workshop was scheduled for Rule 12-24.023, F.A.C., to be held September 5, 2013, if requested. No request was received to hold the scheduled workshop.

On September 24, 2013, 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 held November 13, 2013.

Written comments were received regarding the taxability of natural gas and the sales tax exemption for natural gas when placed into the fuel supply system of a motor vehicle. (*Rule 12A-1.059, F.A.C.*)

Written comments were also received requesting clarification of the term "fish" as it relates to the exemption provided for dyed diesel fuel placed into the storage tank of a vessel or equipment used exclusively for commercial fishing and aquacultural purposes. (*Rule 12A-1.0641, F.A.C.*)

To address these concerns, Notices of Change to Rules 12A-1.059 and 12A-1.0641, F.A.C., were published in the Florida Administrative Register.

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 workshops and hearings
- Rule text

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.059, 12A-1.0641, AND 12A-1.097

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-1.059, F.A.C. (Fuels): (1) include the exemption for natural gas used to generate electricity in a non-combustion fuel cell used in stationary equipment effective July 1, 2013, as provided in Section 4, Chapter 2013-42, L.O.F., and provide a suggested exemption certificate for purchasing such gas tax-exempt; (2) provide for the exemption for natural gas fuel placed into the fuel supply system of a motor vehicle effective January 1, 2014, as provided in Section 15, Chapter 2013-198, L.O.F.; (3) provide for the exemption for dyed diesel fuel used in a vessel or equipment used exclusively for commercial fishing and aquacultural purposes, as provided in Chapter 2013-82, L.O.F.; and (4) clarify that exemptions for fuel used for certain agricultural purposes are provided in Rule 12A-1.087, F.A.C.

The purpose of the proposed amendments to Rule 12A-1.0641, F.A.C. (Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes), is to provide that dyed diesel fuel used in a vessel or equipment used exclusively for commercial fishing or aquacultural purposes is exempt from sales tax, as provided in Chapter 2013-82, L.O.F., and to provide a suggested exemption certificate to purchase such fuel tax-exempt.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to adopt, by reference, a new return for reporting Florida use tax due on an aircraft and changes to forms currently used by the Department to administer sales and use tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule 12A-1.059, F.A.C. (Fuels), are necessary to provide for the exemption for natural gas used to generate electricity in a non-combustion fuel cell used in stationary equipment provided in Section 4, Chapter 2013-42, L.O.F., effective July 1, 2013, and for the exemption for natural gas fuel placed into the fuel supply system of a motor vehicle provided in Section 15, Chapter 2013-198, L.O.F., effective January 1, 2014.

The proposed amendments to Rule 12A-1.0641, F.A.C. (Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes), are necessary to provide for the exemption for dyed diesel fuel placed into the fuel supply tank of a vessel or equipment used exclusively for commercial fishing or aquacultural purposes, as provided in Chapter 2013-82, L.O.F.

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

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, pp. 3823 - 3824), to advise the public of the proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013. A rule development workshop was held on that date; however, no comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 24, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax). A notice for the public hearing was published in the Florida Administrative Register on September 13, 2013 (Vol. 39, No. 179, pp. 4604 - 4607).

SUMMARY OF RULE HEARING

NOVEMBER 13, 2013

The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), were noticed for a rule hearing in the Florida Administrative Register on October 21, 2013 (Vol. 39, No. 205, pp. 5257-5260). A rule hearing was held on November 13, 2013, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida.

The Florida Natural Gas Association provided written comments, dated October 31, 2013, and November 12, 2013, requesting clarification regarding the taxability of natural gas and the sales tax exemption for natural gas when placed into the fuel supply system of a motor vehicle. In response, Notices of Change to subsection (6) of Rule 12A-1.059, F.A.C. (Fuels), were published in the Florida Administrative Register on November 4, 2013 (Vol. 39, No. 215, p. 5481), and on November 22, 2013 (Vol. 39, No. 228), so that, when adopted, that subsection will read:

(6)(5) Natural gas fuel as defined in Section 206.9951(2), F.S., natural gas, compressed natural gas, and liquefied natural gas are exempt from sales tax when placed into the fuel supply system of a motor vehicle. The sale of alternative fuel, as defined in Section 206.86(4), F.S., is subject to sales tax. Alternative fuels include liquefied petroleum gas, compressed natural gas, natural gasoline, butane gas, and propane gas. See Rule 12A-1.087, F.A.C., for alternative fuel used for agricultural purposes.

The Organized Fishermen of Florida provided written comment, dated November 13, 2013, requesting clarification of the term “fish” as it relates to the exemption provided for dyed diesel fuel placed into the storage tank of a vessel or equipment used exclusively for commercial fishing and aquacultural purposes. In response, a Notice of Change was published in the Florida Administrative Register on November 22, 2013 (Vol. 39, No. 228), to clarify in paragraph (6)(a) of Rule 12A-1.0641, F.A.C. (Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes), that “commercial fishing and aquacultural purposes” means fuel used in the operation of boats, vessels, or equipment used exclusively for the taking of food fish, freshwater fish, marine fish, saltwater fish, and shellfish as defined in Section 379.101, F.S., from any Florida waters for resale to the public.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.059, 12A-1.0641, AND 12A-1.097

12A-1.059 Fuels.

(1) through (2) No change.

(3)(a) Natural gas used to generate electricity in a non-combustion fuel cell used in stationary equipment is exempt. To purchase natural gas used for this purpose tax-exempt, the purchaser is required to provide an exemption certificate to the selling dealer declaring that the natural gas will be used to generate electricity in a non-combustion fuel cell used in stationary equipment. The following is a suggested format of a certificate:

EXEMPTION CERTIFICATE

NATURAL GAS USED TO GENERATE ELECTRICITY

IN A NON-COMBUSTION FUEL CELL USED IN STATIONARY EQUIPMENT

I certify that natural gas purchased on or after _____ (Date) from

_____ (Selling Vendor's Name) will be used to generate electricity in a non-combustion fuel cell used in stationary equipment.

I understand that if I use the purchased natural gas for any nonexempt purpose, I must pay tax on the purchase price of the natural gas directly to the Florida Department of Revenue.

I understand that if I fraudulently issue this Certificate to evade the payment of Florida sales tax, I will be liable for payment of the tax, plus a penalty of 200% of the tax, and may be subject to

conviction of a third degree felony.

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

SIGNATURE OF PURCHASER OR AUTHORIZED AGENT

TITLE OR DESIGNATION

DATE

~~(4)~~~~(3)~~(a) No change.

(b) The following sales or purchases of diesel fuel are exempt from sales and use tax:

1. Fuel upon which the fuel taxes imposed under Chapter 206, F.S., have ~~has~~ been paid;
2. Fuel used for certain agricultural purposes, as provided in Rule 12A-1.087, F.A.C.; and
3. Fuel purchased or stored for purposes of resale.

~~(5)~~~~(4)~~ Dyed diesel ~~Diesel~~ fuel used by a licensed common carrier to operate railroad locomotives or vessels used to transport persons or property for hire in interstate or foreign commerce, ~~or used to operate a commercial fishing vessel~~, is subject to the partial exemption provided in Section 212.08(4)(a)2., F.S. Tax is based on the mileage apportionment factor of the licensed carrier or vessel owner or operators. Dyed diesel fuel used exclusively for commercial fishing and aquacultural purposes is exempt. See Rules 12A-1.064 and 12A-1.0641, F.A.C.

~~(6)~~~~(5)~~ Natural gas fuel as defined in Section 206.9951(2), F.S., natural gas, compressed natural gas, and liquefied natural gas are exempt from sales tax when placed into the fuel supply system of a motor vehicle. ~~The sale of alternative fuel, as defined in Section 206.86(4), F.S., is~~

~~subject to sales tax. Alternative fuels include liquefied petroleum gas, compressed natural gas, natural gasoline, butane gas, and propane gas. See Rule 12A-1.087, F.A.C., for alternative fuel used for agricultural purposes.~~

Cross Reference: Rule 12A-1.022, F.A.C., for guidelines on federal excise taxes, gross receipts tax, and other fees; ~~Rule 12A-1.087, F.A.C.~~, and Rule 12B-5.130, F.A.C.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 206.86(4), 212.05, 212.06(3), 212.08(4), (7)(b), (j), (8) FS. History— Revised 10-7-68, 6-16-72, Amended 7-19-72, 12-11-74, 10-18-78, 7-3-79, 6-3-80, 12-23-80, 8-26-81, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.59, Amended 12-13-88, 5-19-93, 9-14-93, 3-20-96, 10-2-01, 4-17-03, 6-12-03, 5-9-13, _____.

12A-1.0641 Sales of Vessels Used in Interstate or Foreign Commerce or for Commercial Fishing Purposes.

(1) through (5) No change.

(6) DYED DIESEL FUEL USED IN INTERSTATE OR FOREIGN COMMERCE OR FOR COMMERCIAL FISHING PURPOSES.

(a)1. The sale of dyed diesel fuel placed into the storage tank of a vessel or equipment used exclusively for commercial fishing and aquacultural purposes is exempt. “Commercial fishing and aquacultural purposes” means fuel used in the operation of boats, vessels, or equipment used exclusively for the taking of food fish, freshwater fish, marine fish, saltwater fish, and shellfish as defined in Section 379.101, F.S., from any Florida waters for resale to the public.

2. This exemption does not include fuel used for sport or pleasure fishing or fuel used in

any vehicle or equipment driven or operated upon the highways of Florida.

3. To purchase dyed diesel fuel exempt from sales tax at the time of purchase, the purchaser is required to provide an exemption certificate to the selling dealer declaring that the fuel will be used exclusively in equipment or a vessel for commercial fishing or aquacultural purposes. The following is a suggested format of a certificate:

EXEMPTION CERTIFICATE

DYED DIESEL FUEL USED EXCLUSIVELY FOR

COMMERCIAL FISHING OR AQUACULTURAL PURPOSES

I certify that dyed diesel fuel placed in the storage tank of a vessel or equipment on or after

_____ (Date) from _____ (Selling Vendor's Name) will

be used exclusively in equipment or a vessel for commercial fishing or aquacultural purposes.

I understand that if I use the purchased dyed diesel fuel for any nonexempt purpose, I must pay tax on the purchase price of the dyed diesel fuel directly to the Florida Department of Revenue.

I understand that if I fraudulently issue this Certificate to evade the payment of Florida sales tax,

I will be liable for payment of the tax, plus a penalty of 200% of the tax, and may be subject to conviction of a third degree felony.

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

SIGNATURE OF PURCHASER OR AUTHORIZED AGENT

TITLE OR DESIGNATION

DATE

~~(b)1.(a)~~ The sale of dyed diesel fuel to the owner, operator, or the owner's agent or representative of vessels operated to transport persons or property for hire in interstate or foreign commerce ~~or for commercial fishing purposes~~ is subject to the partial exemption provided in Section 212.08(4)(a)2., F.S. Tax imposed is based on the vessel owner's mileage apportionment factor.

~~2.(b)~~ To purchase dyed diesel fuel exempt from sales tax at the time of purchase, the owner, operator, or the owner's agent or representative is required to execute an affidavit a statement to the selling dealer declaring that the fuel will be used in a vessel operated to transport persons or property for hire in interstate or foreign commerce ~~or for commercial fishing purposes~~. The following is a suggested format of an affidavit a certificate:

AFFIDAVIT CERTIFICATE

DYED DIESEL FUEL FOR USE IN A VESSEL OPERATED

IN INTERSTATE OR FOREIGN COMMERCE

~~OR FOR COMMERCIAL FISHING PURPOSES~~

I, the undersigned individual, as the Owner, Operator, or the Owner's agent or representative of the vessel, _____, Home Port of _____, certify the following. The option checked below applies to this purchase:

() The named vessel is used to transport persons or property for hire in interstate or foreign commerce ~~or for commercial fishing purposes~~ in non-Florida waters, including the mileage from the territorial limit to port dockside and return into international waters. The fuel will not be used to operate the vessel in or on the canals or waterways, or within the territorial waters, of Florida and is not subject to Florida sales tax.

() The named vessel is used to transport persons or property for hire in interstate or foreign commerce ~~or for commercial fishing purposes~~ in non-Florida waters and in Florida territorial waters. The fuel will be used to operate vessels in interstate or foreign commerce ~~or for commercial fishing purposes~~ and is subject to the partial exemption provided in Section 212.08(4)(a)2., F.S. The Owner holds a valid sales and use tax certificate of registration issued by the Florida Department of Revenue and must pay tax due on the fuel directly to the Florida Department of Revenue. The tax is due on the 1st day of the month following the date of purchase of the fuel and is delinquent on the 21st day of that month.

I understand that if I fraudulently issue this Affidavit Certificate to evade the payment of Florida sales tax, I will be liable for payment of the tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Under the penalties of perjury, I declare that I have read the foregoing Affidavit Certificate and the facts stated herein are true and correct to the best of my knowledge and belief.

SIGNATURE OF OWNER, OPERATOR, AGENT, OR REPRESENTATIVE

TITLE OR DESIGNATION

DATE

(7) through (9) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525,
212.02(10)(g), 212.05(1), 212.0501(4), 212.06(1), 212.08(4)(a)2., 4., (8), 212.085, 212.13(1),
212.21(3), 213.37 FS. History—New 6-12-03, Amended 5-9-13,_____.

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
(2)(a) DR-1	Florida Business Tax Application (R. <u>10/13 07/11</u>)	<u>01/12</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00846)	
(b) DR-1N	Instructions for Completing the Florida Business Tax Application (Form DR-1) (R. <u>10/13 N: 07/11</u>)	<u>01/12</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00847)	

(3) through (5) No change.

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

<u>(c) DR-15AIR</u>	<u>Sales and Use Tax Return for Aircraft (N. 08/13)</u>	<u> </u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___)	

(c) through (e) renumbered (d) through (f) No change.

<u>(g)(f) DR-15MO</u>	Florida Tax on Purchases (R. <u>08/13 09/10</u>)	<u>01/11</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___)	

(g) through (j) renumbered (h) through (k) No change.

(7)(a) No change.

(b) DR-16P*	Sales and Use Tax Direct Pay Permit	
	(R. <u>08/13 10/12</u>)	<u>01/13</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02158)	

(c) No change.

(8) through (15) No change.

(16) DR 72-2 Declaration of Taxable Status – Trailer Camps,
Mobile Home Parks, and Recreational Vehicle

Parks (R. 06/13 02/00)

06/99

(<http://www.flrules.org/Gateway/reference.asp?No=Ref->)

(17) through (23) No change.

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (n)4., (o)4., (7), 212.11(5)(b), 212.12(1)(a)2., 212.17(6), 212.18(2), (3), 212.183, 213.06(1), 288.1258(4)(c), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 119.071(5), 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 212.183, 213.235, 213.29, 213.37, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History– New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09, 9-1-09, 11-3-09, 1-11-10, 4-26-10, 6-28-10, 7-12-10, 1-12-11, 1-25-12, 1-17-13, 5-9-13,_____.

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

SUMMARY OF PROPOSED RULE

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), are necessary to adopt, by reference, updated instructions for obtaining additional tax information on solid waste fees and the rental car surcharge.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, pp. 3824 - 3825), to advise the public of the proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 24, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-16.008, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Register on September 13, 2013 (Vol. 39, No. 179, pp. 4604 - 4607).

SUMMARY OF RULE HEARING

NOVEMBER 13, 2013

The proposed amendments to Rule 12A-16.008, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Register on October 21, 2013 (Vol. 39, No. 205, pp. 5261-5262). A rule hearing was held on November 13, 2013, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one from the public was in attendance. No written comments were received by the Department.

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

12A-16.008 Public Use Forms.

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

(b) No change.

Form Number	Title	Effective Date
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(2) No change.

(3) DR-15SWN	Instructions for DR-15SW Solid Waste and Surcharge Returns (R. 01/14 01/12)	___ 01/12
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(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00820)

(4) No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.0606, 212.12(2), 213.235, 376.70, 403.717, 403.718, 403.7185 FS. History—New 11-14-89, Amended 7-7-91, 8-10-92, 3-21-95, 6-19-01, 4-17-03, 9-28-04, 6-28-05, 7-25-06, 4-5-07, 1-1-08, 1-27-09, 1-11-10, 1-12-11, 1-25-12, _____.

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

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database), adopt, by reference, updates to instructions for the Department's Address/Jurisdiction Database used for assigning local communications services tax.

The proposed amendments to Rule 12A-19.100, F.A.C. (Public Use Forms), adopt, by reference, updates to instructions used to administer the Department's Address/Jurisdiction Database and updates to tax returns used to report the Florida communications services tax.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed amendments to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database) and Rule 12A-19.100, F.A.C. (Public Use Forms), are necessary to adopt, by reference, updates to the instructions to the Department's Address/Jurisdiction Database and updates to tax returns used to report the Florida communications services tax.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, p. 3825), to advise the public of the proposed amendments to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database) and Rule 12A-19.100, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 24, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database) and Rule 12A-19.100, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Register on September 13, 2013 (Vol. 39, No. 179, pp. 4604 - 4607).

SUMMARY OF RULE HEARING

NOVEMBER 13, 2013

The proposed amendments to Rule 12A-19.071, F.A.C. (Department of Revenue Electronic Database) and Rule 12A-19.100, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Register on October 21, 2013 (Vol. 39, No. 205, pp. 5262-5265). A rule hearing was held on November 13, 2013, in Room 1220, Building One, 2450

Shumard Oak Blvd., Tallahassee, Florida. No one from the public was in attendance. No written comments were received by the Department.

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

12A-19.071 Department of Revenue Electronic Database.

(1) No change.

(2)(a) No change.

(b) Local taxing jurisdictions must submit information requesting changes to the Address/Jurisdiction Database electronically following the on-line User's Guide for the Address/Jurisdiction Database Address Change Requests (October 4, 2013 October 4, 2009, hereby incorporated by reference, effective ___ 06/10). Only local taxing jurisdictions that are registered users of the Department's electronic change submission process can access the User's Guide for the Address/Jurisdiction Database Address Change Requests. Authorized local jurisdiction contact persons may access the login screen for registered users at <https://pointmatch.state.fl.us> ~~<http://geotax.state.fl.us>~~. Local taxing jurisdictions that do not have access to computers with Internet access should contact the Department to request authorization to submit changes through alternative electronic media. The information must also be submitted on Form DR-700022, Notification of Jurisdiction Change for Local Communications Services and Local Insurance Premium Tax (incorporated by reference in Rule 12A-19.100, F.A.C.).

(c) through (e) No change.

(3) No change.

Rulemaking Authority 202.26(3)(b), (g) FS. Law Implemented 202.22(2), 202.23 FS. History—
 New 11-14-05, Amended 12-20-07, 6-28-10,_____.

12A-19.100 Public Use Forms.

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

(b) No change.

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

REVISION DATE	REPORTING PERIODS	SERVICE BILLING DATES
01/14	January 2014 -	January 1, 2014 -
01/13	January 2013 – <u>December 2013</u>	January 1, 2013 – <u>December 31, 2013</u>
07/12	July 2012 – December 2012	July 1, 2012 – December 31, 2012
01/12	January 2012 – June 2012	January 1, 2012 – June 30, 2012
07/11	July 2011 – December 2011	July 1, 2011 – December 31, 2011
01/11	January 2011 – June 2011	January 1, 2011 – June 30, 2011
08/10	August 2010 – December 2010	August 1, 2010 – December 31, 2010
01/10	January 2010 – July 2010	January 1, 2010 – July 31, 2010
06/09	June 2009 – December 2009	June 1, 2009 – December 31, 2009

01/09	January 2009 – May 2009	January 1, 2009 – May 31, 2009
09/08	September 2008 – December 2008	September 1, 2008 – December 31, 2008
06/08	June 2008 – August 2008	June 1, 2008 – August 31, 2008
05/08	May 2008	May 1, 2008 – May 31, 2008
01/08	January 2008 – April 2008	January 1, 2008 – April 30, 2008
09/07	September 2007 – December 2007	September 1, 2007 – December 31, 2007
06/07	June 2007 – August 2007	June 1, 2007 – August 31, 2007
02/07	February 2007 – May 2007	February 1, 2007 – May 31, 2007
01/07	January 2007	January 1, 2007 – January 31, 2007
06/06	June 2006 – December 2006	June 1, 2006 – December 31, 2006
01/06	January 2006 – May 2006	January 1, 2006 – May 31, 2006
11/05	November 2005 – December 2005	November 1, 2005 – December 31, 2005
06/05	June 2005 – October 2005	June 1, 2005 – October 31, 2005
01/05	January 2005 – May 2005	January 1, 2005 – May 31, 2005
11/04	November 2004 – December 2004	November 1, 2004 – December 31, 2004
10/04	October 2004	October 1, 2004 – October 31, 2004
06/04	June 2004 – September 2004	June 1, 2004 – September 30, 2004
01/04	January 2004 – May 2004	January 1, 2004 – May 31, 2004
12/03	December 2003	December 1, 2003 – December 31, 2003
11/03	November 2003	November 1, 2003 – November 30, 2003
10/03	October 2003	October 1, 2003 – October 31, 2003
06/03	June 2003 – September 2003	June 1, 2003 – September 30, 2003

03/03	March 2003 – May 2003	March 1, 2003 – May 31, 2003
01/03	January 2003 – February 2003	January 1, 2003 – February 28, 2003
12/02	December 2002	December 1, 2002 – December 31, 2002
11/02	November 2002	November 1, 2002 – November 30, 2002
10/02	October 2002	October 1, 2002 – October 31, 2002
01/02	January 2002 – September 2002	January 1, 2002 – September 30, 2002
12/01	October 2001 – December 2001	October 1, 2001 – December 31, 2001

Form Number	Title	Effective Date
(3) DR-700012	Application for Certification of Communications Services Database (R. 10/13 05/11)	___ 01/12
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00824)	
(4)(a) <u>DR-700016</u>	<u>Florida Communications Services Tax Return</u> (R. <u>01/14</u>)	<u>___</u>
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___)	
(a) through (kk) renumbered (b) through (ll) No change.		
(5) through (7) No change.		
(8) DR-700022	Notification of Jurisdiction Change for Local Communications Services and Local Insurance Premium Tax (R. 10/13 10/06)	___ 12/07
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___)	
(9) DR-700025	Objection to Address/Jurisdiction Database for Local Communications Services Tax and Local Insurance	

Premium Tax Service Address Assignment

(R. 10/13 ~~10/06~~) _____ ~~12/07~~

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

(10) DR-700026 Local Government Authorization for Address
Changes Described on Form DR-700025

(R. 10/13 ~~10/06~~) _____ ~~12/07~~

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

(11) DR-700027 Local Government Authorization for Omission of
Address ~~or Range~~ or Incorrect Address Identification

(R. 10/13 ~~10/06~~) _____ ~~12/07~~

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

(12) No change.

Rulemaking Authority 175.1015(5), 185.085(5), 202.151, 202.16(2), 202.22(6)(a), 202.26(3)(a),
(c), (d), (e), (j), 202.27(1), (7) FS. Law Implemented 119.071(5), 175.1015, 185.085, 202.11(3),
(10), (11), 202.12(1), (3), 202.13(2), 202.151, 202.16(2), (4), 202.17(6), 202.19(1), (7),
202.22(6), 202.27, 202.28(1), (2), 202.29, 202.30(3), 202.33, 202.34(3), (4)(c), 202.35(1), (2) FS.
History—New 4-17-03, Amended 7-31-03, 10-1-03, 9-28-04, 6-28-05, 11-14-05, 7-16-06, 4-5-07,
11-6-07, 12-20-07, 1-28-08, 1-27-09, 1-11-10, 6-28-10 (3), 6-28-10 (5), 2-7-11, 1-25-12,
1-17-13, 5-9-13, ____.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE

TAX ON MOTOR FUELS, DIESEL FUELS, ~~ALTERNATIVE FUELS,~~
AVIATION FUELS, ~~AND POLLUTANTS,~~ AND NATURAL GAS FUEL

AMENDING RULES 12B-5.020, 12B-5.060, 12B-5.080, 12B-5.090,

12B-5.130, 12B-5.140, 12B-5.150, 12B-5.200 AND 12B-5.300

CREATING RULE 12B-5.500

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12B-5.020, F.A.C. (Definitions; Specific Exemptions), update the definition of “gasohol,” removing reference to section 526.203, F.S., repealed by Chapter 2013-103, L.O.F., effective July 1, 2013.

The proposed amendments to Rule 12B-5.060, F.A.C. (Wholesalers), remove provisions regarding alternative fuels repealed by Chapter 2013-198, L.O.F., effective January 1, 2014, and remove obsolete provisions regarding the collection of tax on sales of undyed diesel fuel.

The proposed amendments to Rule 12B-5.080, F.A.C. (Exporters), Rule 12B-5.140, F.A.C. (Dyeing and Marking; Mixing), and Rule 12B-5.300, F.A.C. (Aviation Fuel Licensees), remove obsolete provisions.

The proposed amendments to Rule 12B-5.090, F.A.C. (Local Government Users), update the reporting, licensing, and bonding requirements of municipalities, counties, and school districts, as provided in Chapter 2013-142, L.O.F., and remove provisions for nonpublic schools,

which are not permitted to be licensed as a local government user.

The proposed amendments to Rule 12B-5.130, F.A.C. (Refunds): (1) provide for the sales tax exemption for dyed diesel fuel used for commercial fishing and for aquacultural purposes, as provided in Chapter 2013-82, L.O.F.; and (2) clarify that Form DR-26 (Application for Refund) is used to obtain a refund of tax paid on undyed diesel fuel used in a commercial fishing vessel or in a vessel engaged in commercial transportation.

The proposed amendments to Rule 12B-5.150, F.A.C. (Public Use Forms), adopt, by reference, updates to forms used by the Department in the administration of taxes imposed on fuels and pollutants.

The proposed repeal of Rule 12B-5.200, F.A.C. (Retailers of Alternative Fuel), removes provisions regarding the alternative fuels, as repealed by Chapter 2013-198, L.O.F., effective January 1, 2014.

The creation of Part V, Tax on Natural Gas Fuel, Rule 12B-5.500, F.A.C. (Natural Gas Fuel Retailers), provides for the annual licensing of natural gas fuel retailers, as required by Chapter 2013-198, L.O.F., beginning January 1, 2014.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Effective July 1, 2013, dyed diesel fuel used in a vessel or equipment used exclusively for commercial fishing and aquacultural purposes is exempt, as provided in Chapter 2013-82, L.O.F.

Effective July 1, 2013, Chapter 2013-103, L.O.F., repealed the Florida Renewable Fuel Standard Act (sections 526.201-526.207, F.S.).

Effective July 1, 2013, Chapter 2013-142, L.O.F., provides that municipalities, counties, and school districts that manufacture biodiesel fuel solely for their own use are exempt from the

wholesaler reporting, licensing, and bonding requirements.

Effective January 1, 2014, Chapter 2013-198, L.O.F.: (1) repeals the licensing requirements for retailers of alternative fuels; (2) repeals the requirement for purchasers of alternative fuel used in a vehicle registered in Florida to pay an annual fuel decal fee; (3) defines the term “natural gas fuel” to include those fuels previously defined as “alternative fuels”; and (4) requires any person who sells, produces, or refines natural gas fuel for use in a motor vehicle to be licensed annually as a natural gas fuel retailer effective January 1, 2014.

The proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Aviation Fuels, Pollutants, and Natural Gas Fuel) are necessary to: (1) include the provisions of Chapters 2013-82, 2013-103, 2013-142, and 2013-198, L.O.F.; (2) include these law changes in the forms used by the Department in the administration of the taxes imposed on fuels and pollutants; and (3) remove obsolete and 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

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, pp. 3825 - 3827), to advise the public of the proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Aviation Fuels, Pollutants, and Natural Gas Fuel), and to provide that, if requested in writing, a

rule development workshop would be held on August 22, 2013.

A rule development workshop was held on August 22, 2013, on the proposed amendments repealing the annual decal for alternative fuels and requiring the annual licensing of natural gas fuel retailers beginning January 1, 2014. A participant requested clarification of the law changes; however, no comments or suggested changes were received.

PARTIES ATTENDING

For the Department

of Revenue

MARK ZYCH, Director, Technical Assistance and Dispute
Resolution

RON GAY, Tax Law Specialist, Technical Assistance and Dispute
Resolution

TAMMY MILLER, Workshop Moderator, Office of the General
Counsel

Participants

EDDIE WILLIAMS, Holland & Knight

DALE CALHOUN, Florida Natural Gas Association, Florida
Propane Gas Association

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 24, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Aviation Fuels, Pollutants, and

Natural Gas Fuel). A notice for the public hearing was published in the Florida Administrative Register on September 13, 2013 (Vol. 39, No. 179, pp. 4604 - 4607).

SUMMARY OF RULE HEARING

NOVEMBER 13, 2013

The proposed amendments to Rule Chapter 12B-5, F.A.C. (Tax on Motor Fuels, Diesel Fuels, Aviation Fuels, Pollutants, and Natural Gas Fuel), were noticed for a rule hearing in the Florida Administrative Register on October 21, 2013 (Vol. 39, No. 205, pp. 5265-5269). A rule hearing was held on November 13, 2013, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one from the public was in attendance. No written comments were received by the Department.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12B-5, FLORIDA ADMINISTRATIVE CODE

TAX ON MOTOR FUELS, DIESEL FUELS, ~~ALTERNATIVE FUELS,~~
AVIATION FUELS, ~~AND POLLUTANTS,~~ AND NATURAL GAS FUEL

AMENDING RULES 12B-5.020, 12B-5.060, 12B-5.080, 12B-5.090,

12B-5.130, 12B-5.140, 12B-5.150, 12B-5.200 AND 12B-5.300

CREATING RULE 12B-5.500

12B-5.020 Definitions; Specific Exemptions.

(1) DEFINITIONS.

(a) through (e) No change.

(f) “Gasohol” means a mixture of gasoline blended with ethanol ~~or gasoline blended with an alternative fuel, as defined in Section 526.203, F.S.,~~ which contains not more than 91 percent gasoline by volume, and the ethanol ~~or alternative fuel~~ content must not be less than nine percent by volume.

(g) No change.

(h) “Licensee” means all terminal suppliers, importers, wholesalers, exporters, carriers, terminal operators, blenders, local government users, ~~or mass transit systems,~~ or natural gas fuel retailers.

(i) through (k) No change.

(2) No change.

Rulemaking Authority 206.14(1), 206.59(1), 206.62(10), 206.87(1)(e)2., 213.06(1), ~~526.206~~ FS.

Law Implemented 206.41(4)(b), 206.62, 206.874, 206.97, ~~526.203~~ FS. History–New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, 1-17-13, _____.

12B-5.060 Wholesalers.

(1) No change.

(2) LICENSING AND BONDING.

(a) No change.

~~(b) Any person who acts as a wholesaler of alternative fuel will be licensed pursuant to Section 206.89, F.S., however, a licensed wholesaler pursuant to Section 206.02, F.S., does not need a separate “Wholesaler of Alternative Fuels” license.~~

(c) through (d) Renumbered (b) through (c) No change.

~~(e) To conduct business as a retailer of alternative fuel, a bond must be posted and calculated pursuant to Section 206.90, F.S., not to exceed \$100,000. If the bond of a wholesaler of diesel fuel who sells alternative fuel is less than \$100,000, an additional bond for the retailer of alternative fuel will be calculated and added to the bond of the wholesaler of diesel fuel. The combined bond will not exceed \$100,000.~~

(3) No change.

(4) TAXABLE SALES.

(a) The taxes imposed by Section 206.41(1)(d), (e), and (f), F.S., must ~~will~~ be collected on all sales, delivery, or consignment of motor fuel to retail dealers, resellers, and end users.

~~(b) The taxes imposed by Section 206.87(1)(b), (c), and (d), F.S., will be collected on all sales of undyed diesel to retail dealers, resellers, and end users.~~

(b)~~(e)~~ No change.

(5) through (6) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 206.97, 213.06(1), 213.755(8) FS. Law Implemented 206.01(4), 206.02, 206.05, 206.404, 206.43, 206.48, 206.485, 206.86, ~~206.89~~, 206.90, 206.91, 206.9825, 213.755 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, 1-25-12, _____.

12B-5.080 Exporters.

(1) through (4) No change.

(5) REFUNDS AND CREDITS.

(a) Exporters who export fuel to other states on which Florida tax has been paid may obtain a refund of Florida taxes paid. To receive a refund of Florida tax paid, an exporter must file an Application for Refund (Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26 must be filed in accordance with the timing provisions of Section 215.26(2), F.S., and must meet the requirements of Section 213.255(2) and (3), F.S. ~~For tax paid on or after July 1, 1999~~, Form DR-26, Application for Refund, must be filed with the Department within 3 years after the date the tax was paid.

(b) through (c) No change.

(6) No change.

Rulemaking Authority 206.14(1), 206.485(1), 206.59(1), 206.87(1)(e)2., 213.06(1), 213.755(8) FS. Law Implemented 206.01(21), 206.02, 206.03, 206.04, 206.05, 206.051, 206.052, 206.41, 206.416, 206.43, 206.48, 206.485, 206.62, 206.87, 206.90, 206.91, 206.97, 206.9915, 213.755 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, 1-25-12, _____.

12B-5.090 Local Government Users.

(1) GENERAL INFORMATION.

(a) 1. through 2. No change.

3. Counties, municipalities, and school districts that manufacture biodiesel fuel solely for their own use are not required to be licensed as wholesalers.

4. Counties, municipalities, and school districts that manufacture biodiesel fuel for sale must meet all the requirements prescribed for wholesalers in Rule 12B-5.060, F.A.C.

(b) No change.

(2) LICENSING AND BONDING.

(a) Licensing.

1. All counties, municipalities, and school districts that use dyed diesel fuel in motor vehicles, and all counties, municipalities, and school districts that manufacture biodiesel fuel solely for their own use, ~~nonpublic schools seeking refunds or partial exemptions from the state~~ must be licensed as Local Government Users.

2. To obtain a license as a Local Government User of diesel fuel, a county, municipality, or school district, ~~or nonpublic school~~ must file a Florida Fuel Tax Application (Form DR-156, incorporated by reference in Rule 12B-5.150, F.A.C.) and the required attachments with the Department, as provided in the application.

3. No change.

(b) No change.

(3) through (4) No change.

Rulemaking Authority 206.14(1), 206.59(1), 206.87(1)(e)2., 213.06(1), 213.755(8) FS. Law Implemented 206.01(9), 206.41(4), 206.86(1), (9), (11), (14), (15), 206.874(4), 213.755 FS.

History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 6-1-09, 1-25-12,_____.

12B-5.130 Refunds.

(1) through (3) No change.

(4) DIESEL FUEL SOLD FOR USE IN VESSELS.

(a) Dyed Diesel Fuel

1. No change.

2. The sale of dyed diesel fuel for use in a vessel used to transport persons or property for hire in interstate or foreign commerce ~~or for use in commercial fishing vessels~~ is subject to the sales tax partial exemption provided in Section 212.08(4)(a)2., F.S., and subject to discretionary sales surtax, as provided in Section 212.054(2)(b)4., F.S. Dealers who sell dyed diesel fuel for use in such vessels are required to collect the applicable sales tax and surtax due or to obtain a certificate, as provided in Rule 12A-1.0641, F.A.C., from a qualifying purchaser stating that the fuel will be used in a vessel operated by a licensed carrier in interstate or foreign commerce ~~or used in a vessel for commercial fishing purposes.~~

3. The sale of dyed diesel fuel that is placed into the storage supply tank of a vessel or equipment used exclusively for commercial fishing and for aquacultural purposes listed in subparagraph 206.41(4)(c)3., F.S., is exempt from sales tax.

(b) No change.

(c) Undyed diesel fuel sold to a purchaser for use in a commercial fishing vessel or a vessel engaged in the business of commercial transportation of persons or property is subject to the fuel taxes imposed under Section 206.87(1), F.S. The purchaser may obtain a refund of diesel fuel tax paid as follows:

1. The purchaser must file an Application for Refund of Tax Paid (Form DR-26) ~~on Undyed Diesel Used for Off Road or Other Exempt Purposes (Form DR-309639)~~ with the Department within three years after the right to refund has accrued.

2. The purchaser is required to submit original invoices or copies of invoices showing the amount of fuel taxes paid with the application. Form DR-26 ~~DR-309639~~ must meet the requirements of Sections 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

3. No change.

(5) No change.

Rulemaking Authority 206.14(1), 206.59(1), 213.06(1) FS. Law Implemented 206.41(4), (5), 206.43(5), (6), 206.64, 206.8745, 206.97, 212.08(4), 213.255(2), (3), 215.26 FS. History—New 7-1-96, Amended 11-21-96, 10-27-98, 5-1-06, 1-27-09, 6-1-09, 7-20-11, 1-25-12, 1-17-13,_____.

12B-5.140 Dyeing and Marking; Mixing.

(1) No change.

(2)(a) No change.

(b) To obtain a refund of tax paid on diesel fuel, the terminal supplier, importer, or wholesaler holding a refund authorization number must file an Application for Refund (Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26 must be filed in accordance with the timing provisions of Section 215.26(2), F.S., and must meet the requirements of Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C. ~~For tax paid on or after July 1, 1999,~~ Form DR-26, Application for Refund, must be filed with the Department within 3 years after the date the tax was paid.

(c) No change.

Rulemaking Authority 206.14(1), 206.59(1), 206.8741(1), 213.06(1) FS. Law Implemented 206.8741, 206.8745(3) FS. History—New 7-1-96, Amended 11-21-96, 5-1-06,_____.

12B-5.150 Public Use Forms.

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

(b) No change.

Form Number	Title	Effective Date
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(2) No change.

(3) DR-156	Florida Fuel <u>or Pollutants</u> Tax Application (R. <u>10/13 05/10</u>)	___ 07/10 http://www.flrules.org/Gateway/reference.asp?No=Ref-___
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(4) DR-156R	Renewal Application for Florida Fuel/Pollutant License (R. <u>10/13 05/10</u>)	___ 07/10 http://www.flrules.org/Gateway/reference.asp?No=Ref-___
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(5) No change.

(6) DR-157	Fuel <u>or Pollutants</u> Tax Surety Bond (R. <u>10/13 05/05</u>)	___ 05/06 http://www.flrules.org/Gateway/reference.asp?No=Ref-___
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(7) No change.

(8) DR-157B	Fuel <u>or Pollutants</u> Tax Cash Bond (R. <u>10/13 08/03</u>)	___ 05/06 http://www.flrules.org/Gateway/reference.asp?No=Ref-___
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(http://www.flrules.org/Gateway/reference.asp?No=Ref-__02133)

~~(22)~~(24) No change.

~~(23)~~(25) DR-309633N Instructions for Filing Mass Transit System

Provider Fuel Tax Return (R. 01/14 01/13) ___ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-__02135)

~~(24)~~(26) DR-309634 Local Government User of Diesel Fuel Tax

Return (R. 07/13 01/13) ___ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-__02136)

~~(25)~~(27) DR-309634N Instructions for Filing Local Government User

of Diesel Fuel Tax Return (R. 07/13 01/13) ___ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-__02137)

~~(26)~~(28) DR-309635 Blender/~~Retailer~~ of Alternative Fuel Tax Return

(R. 01/14 01/13) ___ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-__02138)

~~(27)~~(29) DR-309635N Instructions for Filing Blender/~~Retailer~~ of

~~Alternative~~ Fuel Tax Return (R. 01/14 01/12) ___ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-__02139)

~~(28)~~(30) DR-309636 Terminal Operator Information Return

(R. 01/14 01/13) ___ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-__02140)

~~(29)~~(31) DR-309636N Instructions for Filing Terminal Operator

Information Return (R. 01/14 01/13) ___ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-__02141)

~~(30)~~(32) No change.

~~(31)~~(33) DR-309637N Instructions for Filing Petroleum Carrier

Information Return (R. ~~01/14~~ 01/13) _____ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02142)

~~(32)~~(34) DR-309638 Exporter Fuel Tax Return (R. ~~01/14~~ 01/13) _____ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02144)

~~(33)~~(35) DR-309638N Instructions for Filing Exporter Fuel Tax Return

(R. ~~01/14~~ 01/13) _____ 01/13

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02145)

(36) through (39) Renumbered (34) through(37) No change.

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

Law Implemented 119.071(5), 206.02, 206.021, 206.022, 206.025, 206.026, 206.027, 206.028,

206.05, 206.055, 206.06, 206.095, 206.11, 206.404, 206.41, 206.416, 206.43, 206.44, 206.485,

206.86, 206.874, 206.8745, ~~206.877~~, 206.90, 206.91, 206.92, 206.9835, 206.9865, 206.9931,

206.9942, 206.9943, 212.0501, 213.255, 213.755, ~~526.203~~ FS. History-New 11-21-96, Amended

10-27-98, 5-1-06, 4-16-07, 1-1-08, 1-27-09, 4-14-09, 6-1-09, 6-1-09(5), 1-11-10, 7-28-10, 1-12-

11, 7-20-11, 1-25-12, 1-17-13, 5-9-13,_____.

~~PART II TAX ON ALTERNATIVE FUEL~~

12B-5.200 Retailers of Alternative Fuel.

~~(1) GENERAL INFORMATION.~~

~~(a) Persons who purchase for resale, import or store alternative fuel in a facility other than at a terminal, and who place any portion of alternative fuel purchased, imported, or stored into~~

~~the fuel supply system of a motor vehicle must obtain a license as a Retailer of Alternative Fuel.~~

~~(b) Retailer of Alternative Fuel may:~~

- ~~1. Sell and place alternative fuels in the supply tanks of motor vehicles.~~
- ~~2. Sell alternative fuels to other persons for resale.~~
- ~~3. Sell alternative fuels for off road use.~~
- ~~4. Sell alternative fuels for home heating or cooking.~~
- ~~5. Purchase or receive alternative fuels in this State in bulk quantities for resale to an ultimate consumer.~~

~~(2) LICENSING AND BONDING.~~

~~(a)1. To obtain an annual license as a Retailer of Alternative Fuel, every person must file a Florida Fuel Tax Application (Form DR 156, incorporated by reference in Rule 12B 5.150, F.A.C.) and the required attachments with the Department, as provided in the application.~~

~~2. Each initial or renewal application must be accompanied by a \$5 filing fee.~~

~~(b) Persons that hold valid licenses as wholesalers pursuant to Section 206.02, F.S., are not required to obtain a separate license as a Retailer of Alternative Fuel.~~

~~(c) Bonds of Retailers of Alternative Fuel will be computed at three times the average monthly liability of fuel that is placed into the supply system of vehicles registered in a state other than Florida.~~

~~(3) FUELING OF A VEHICLE WITH FLORIDA DECAL.~~

~~(a) In lieu of paying fuel taxes on the purchase of alternative fuel that is placed into the supply tank of a vehicle registered in Florida, all owners or operators of vehicles powered by alternative fuels are required to obtain an annual Alternative Fuels Decal for each qualified vehicle. The owners or operators of qualified vehicles are required to pay an annual decal fee on~~

~~each such motor vehicle, as provided in Section 206.877, F.S.~~

~~(b) In addition to the annual alternative decal fee, the sale of alternative fuel is subject to sales tax imposed under Chapter 212, F.S. See Rule 12A-1.059, F.A.C.~~

~~(4) FUELING OF A VEHICLE WITH NO FLORIDA DECAL.~~

~~(a) It is unlawful for any person to put, or cause to be put, alternative fuel into the fuel supply tank of a motor vehicle required to have a decal affixed to such vehicle, unless the vehicle has such a decal attached to it, as required by Section 206.877, F.S.~~

~~(b) Retailers of Alternative Fuel who place alternative fuel in vehicles that are registered in a State other than Florida, are required to collect and remit all taxes imposed under Section 206.87, F.S.~~

~~(c) Decal fees include taxes imposed under s. 206.87(1)(a), (b), (c), and (d), F.S.~~

~~(5) RETURNS.~~

~~(a) Licensed Retailers of Alternative Fuel are required to file a Blender/Retailer of Alternative Fuel Tax Return (Form DR-309635, incorporated by reference in Rule 12B-5.150, F.A.C.), by the 20th day of the month following a month in which transactions of placing fuel into vehicles powered by alternative fuel occur. If the 20th day falls on a Saturday, Sunday, or legal holiday, payments accompanied by returns will be accepted as timely if postmarked or delivered to the Department on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For the purpose of this rule, 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 s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 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) Electronic filing of payments, returns, and other required information reports must be submitted to the Department, as provided in Rule Chapter 12-24, F.A.C., when:~~

- ~~1. Payment of the tax is required to be made by electronic means;~~
- ~~2. Any return for reporting tax is required to be submitted by electronic means;~~
- ~~3. No tax is due with a return for reporting tax; or~~
- ~~4. Any information report is required to be submitted by electronic means.~~

Rulemaking Authority 206.14(1), 206.59(1), 206.877, 213.06(1) FS. Law Implemented 206.485, 206.877, 206.89 FS. History—New 11-21-96, Amended 10-27-98, 5-1-06, 1-25-12, 5-9-13₂

Repealed.

12B-5.300 Aviation Fuel Licensees.

(1) through (6) No change.

(7) Refunds and Credits.

(a) No change.

(b) Any fixed base operator that sells aviation fuel to the United States government, its departments, or its agencies for use in governmental aircraft is entitled to a refund of tax paid on such fuel. To receive a refund of tax paid, the fixed base operator must file an Application for Refund (Form DR-26, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26 must be filed in accordance with the timing provisions of Section 215.26(2), F.S., and must meet the requirements of Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C. ~~For tax paid on or after July 1, 1999, Form DR-26, Application for Refund,~~ must be filed with the Department within 3 years after the date the tax was paid.

(8) through (9) No change.

Rulemaking Authority 206.14(1), 206.59(1), 206.97, 213.06(1) FS. Law Implemented 206.02, 206.03, 206.05, 206.43, 206.48, 206.485, 206.90, 206.91, 206.9825, 206.9835, 206.9865, 206.9875 FS. History—New 11-21-96, Amended 10-27-98, 5-1-06,_____.

PART V TAX ON NATURAL GAS FUEL

12B-5.500 Natural Gas Fuel Retailers.

(1) GENERAL INFORMATION.

(a) A “natural gas fuel retailer” means any person who sells, produces, or refines natural gas fuel for use in a motor vehicle as defined in Section 206.01(23), F.S.

(b)1. Individuals who use residential refueling devices located at a person’s primary residence are not required to be licensed as a natural gas fuel retailer.

2. Any person who has facilities for placing natural gas fuel into the supply system of an internal combustion engine fueled by individual portable containers of 10 gallons or less is not required to licensed as a natural gas fuel retailer.

(2) LICENSING.

(a) To obtain an annual license as a natural gas fuel retailer, every person required to obtain a license must file Form DR-156, Florida Fuel Tax Application (incorporated by reference in Rule 12B-5.150, F.A.C.), and the required attachments, with the Department, as provided in the application.

(b) Each license is required to be renewed annually by filing Form DR-156R, Renewal Application for Florida Fuel/Pollutant License (incorporated by reference in Rule 12B-5.150, F.A.C.), and the required attachments with the Department, as provided in the renewal

application.

Rulemaking Authority 206.4(1), 213.06(1) FS. Law Implemented 206.9951, 206.9952 FS.

History–New _____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULES 12B-8.0016 AND 12B-8.003

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database), adopt, by reference, updated instructions for using the Department's Address/Jurisdiction Database for assigning premiums and policies to local tax jurisdictions.

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

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The proposed amendments to Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database) and Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), are necessary to adopt, by reference, updates to the instructions for using the Department's Address/Jurisdiction Database used for assigning premiums and policies to local tax jurisdictions and updates to the tax returns.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, p. 3827), to advise the public of the proposed amendments to Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database) and Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 24, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database) and Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments). A notice for the public hearing was published in the Florida Administrative Register on September 13, 2013 (Vol. 39, No. 179, pp. 4604 - 4607).

SUMMARY OF RULE HEARING

NOVEMBER 13, 2013

The proposed amendments to Rule 12B-8.0016, F.A.C. (Department of Revenue Electronic Database) and Rule 12B-8.003, F.A.C. (Tax Statement; Overpayments), were noticed for a rule hearing in the Florida Administrative Register on October 21, 2013 (Vol. 39, No. 205, pp. 5269-5271). A rule hearing was held on November 13, 2013, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one from the public was in attendance. No written comments were received by the Department.

The amendments to Rule 12B-8.003, F.A.C., incorporate, by reference, updates to Form DR-908, Insurance Premium Taxes and Fees Return for Calendar Year 2013. A Notice of Change was published in the Florida Administrative Register on November 22, 2013 (Vol. 39, No. 228), to withdraw for further review the proposed changes to Schedule X (State Fire Marshal Regulatory Assessment Tax/Surcharge), page 6, Form DR-908.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-8, FLORIDA ADMINISTRATIVE CODE
INSURANCE PREMIUM TAXES, FEES AND SURCHARGES
AMENDING RULES 12B-8.0016 AND 12B-8.003

12B-8.0016 Department of Revenue Electronic Database.

(1) No change.

(2)(a) No change.

(b) Local taxing jurisdictions must submit information requesting changes to the database electronically following the online User's Guide for the Address/Jurisdiction Database Address Change Requests (~~October 4, 2013~~ ~~October 4, 2009~~, incorporated by reference in Rule 12A-19.071, F.A.C.). Only local taxing jurisdictions that are registered users of the Department's electronic change submission process can access the User's Guide for the Address/Jurisdiction Database Address Change Requests. Authorized local jurisdiction contact persons may access the login screen for registered users at ~~<http://geotax.state.fl.us>~~ <https://pointmatch.state.fl.us>. Local taxing jurisdictions that do not have access to computers with Internet access should contact the Department to submit changes through alternative electronic media. The information must also be submitted on Form DR-700022, Notification of Jurisdiction Change for Local Communications Services and Local Insurance Premium Tax (incorporated by reference in Rule 12A-19.100, F.A.C.), with the exception of Special Fire Control Districts, which must use Form DR-350907, Local Insurance Premium Tax Special Fire Control Districts Notification of Jurisdiction Change (R. ~~10/13~~ ~~10/06~~, hereby incorporated by reference, effective ~~___~~ ~~12/07~~).

(c) through (e) No change.

(3) through (4) No change.

Rulemaking Authority 175.1015(5), 185.085(5) FS. Law Implemented 175.1015, 185.085 FS.

History—New 12-20-07, Amended 6-28-10,_____.

12B-8.003 Tax Statement; Overpayments.

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

(2) through (3) No change.

Form Number	Title	Effective Date
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(4)(a) DR-907	Florida Insurance Premium Installment Payment (R. 01/14 <u>01/13</u>)	___ 01/13
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(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02114)

(b) DR-907N	Instructions for Filing Insurance Premium Installment Payment (Form DR-907) (R. 01/14 <u>01/13</u>)	___ 01/13
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(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02114)

(5)(a) DR-908	Insurance Premium Taxes and Fees Return for Calendar Year 2013 <u>2012</u> (R. 01/14 <u>01/13</u>)	___ 01/13
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(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02115)

(b) DR-908N	Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return (R. 01/14 <u>01/13</u>)	___ 01/13
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STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
AMENDING RULE 12C-1.051

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, changes to forms used by the Department in the administration the corporate income tax to include the increase in the exemption from \$25,000 to \$50,000.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), are necessary to adopt, by reference, changes to forms used by the Department in the administration of the corporate income tax.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, pp. 3827 - 3828), to advise the public of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 24, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule 12C-1.051, F.A.C. (Forms). A notice for the public hearing was published in the Florida Administrative Register on September 13, 2013 (Vol. 39, No. 179, pp. 4604 - 4607).

SUMMARY OF RULE HEARING

NOVEMBER 13, 2013

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), were noticed for a rule hearing in the Florida Administrative Register on October 21, 2013 (Vol. 39, No. 205, pp. 5271-5273). A rule hearing was held on November 13, 2013, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one from the public was in attendance. No written comments were received by the Department.

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

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) No change.		
(3)(a) F-1065	Florida Partnership Information Return (R. <u>01/14</u> 01/13) (http://www.flrules.org/Gateway/reference.asp?No=Ref-___02101)	___ 01/13
(b) F-1065N	Instructions for Preparing Form F-1065 Florida Partnership Information Return (R. <u>01/14</u> 01/13) (http://www.flrules.org/Gateway/reference.asp?No=Ref-___02102)	___ 01/13
(4) F-1120A	Florida Corporate Short Form Income Tax Return (R. <u>01/14</u> 01/13) (http://www.flrules.org/Gateway/reference.asp?No=Ref-___02104)	___ 01/13
(5)(a) F-1120	Florida Corporate Income/Franchise Tax Return (R. <u>01/14</u> 01/13)	___ 01/13

- (http://www.flrules.org/Gateway/reference.asp?No=Ref-___02103)
- (b) F-1120N F-1120 Instructions – Corporate Income/Franchise
Tax Return for taxable years beginning on or after
January 1, ~~2013~~ 2012 (R. 01/14 01/13) ___ 01/13
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02106)
- (6) F-1120ES Declaration/Installment of Florida Estimated
Income/Franchise Tax ~~for Taxable Year Beginning~~
~~on or after January 1, 2013~~ (R. 01/14 01/13) ___ 01/13
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02105)
- (7) through (9) No change.
- (10)(a) F-1158Z Enterprise Zone Property Tax Credit (R. 08/13 01/09) ___ 01/09
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___)
- (b) F-1158ZN Instructions for Florida Form F-1158Z Enterprise Zone
Property Tax Credit (R. 08/13 01/09) ___ 01/09
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___)
- (11) No change.
- (12) F-2220 Underpayment of Estimated Tax on Florida Corporate
Income/Franchise Tax (R. 01/14 01/13) ___ 01/13
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02111)
- (13) F-7004 Florida Tentative Income/Franchise Tax Return and
Application for Extension of Time to File Return
(R. 01/14 01/13) ___ 01/13
(http://www.flrules.org/Gateway/reference.asp?No=Ref-___02112)

Rulemaking Authority 213.06(1), 220.192(7), 220.193(4), 220.196(4), 220.51, 1002.395(13) FS.
Law Implemented 119.071(5), 212.08(5)(p), 213.755(1), 220.11, 220.12, 220.13(1), (2), ~~220.14~~,
220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1875,
220.1895, 220.1896, 220.1899, 220.19, 220.191, 220.192, 220.193, 220.194, 220.195, 220.196,
220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33,
220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801,
220.803, 220.805, 220.807, 220.809, 221.04, 624.5105, 624.51055, 1002.395 FS. History–New
9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-
92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, 3-15-04, 9-24-04, 6-28-05, 5-1-
06, 4-5-07, 1-1-08, 1-27-09, 1-11-10, 4-26-10(12)(a),(b), 4-26-10(13)(a),(b), 6-28-10, 1-12-11, 6-
6-11, 1-25-12, 1-17-13,_____.

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

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), adopts, by reference, a correction to the instructions for the tax return used to report the annual tax on governmental leasehold estates.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), are necessary to adopt, by reference, changes to the tax return used to report the annual tax on governmental leasehold estates.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, p. 3828), to advise the public of the proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 24, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule 12C-2.0115, F.A.C. (Public Use Forms). A notice for the public hearing was published in the Florida Administrative Register on September 13, 2013 (Vol. 39, No. 179, pp. 4604 - 4607).

SUMMARY OF RULE HEARING

NOVEMBER 13, 2013

The proposed amendments to Rule 12C-2.0115, F.A.C. (Public Use Forms), were noticed for a rule hearing in the Florida Administrative Register on October 21, 2013 (Vol. 39, No. 205, pp. 5273-5274). A rule hearing was held on November 13, 2013, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one from the public was in attendance. No written comments were received by the Department.

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

12C-2.0115 Public Use Forms.

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

(b) No change.

Form Number	Title	Effective Date
(2) DR-601G	Governmental Leasehold Intangible Personal Property Tax Return	
	(R. <u>01/14</u> 01/13)	___ 01/13
	(http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 02099)	

(3) No change.

Rulemaking Authority 199.202, 213.06(1) FS. Law Implemented 119.071(5), 196.199(2), 199.032 (2005), 199.042 (2005), 199.052 (2005), 199.103(7) (2005), 199.135 (2005), 199.202, 199.232, 199.282 (2005), 199.292, 213.24(3), 215.26 FS. History-New 11-21-91, Amended 1-5-94, 10-9-01, 5-4-03, 9-28-04, 6-28-05, 10-30-06, 1-28-08, 1-27-09, 1-31-10, 2-7-11, 1-29-12, 1-17-13, 5-9-13,_____.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12C-3, FLORIDA ADMINISTRATIVE CODE

ESTATE TAX

AMENDING RULES 12C-3.0015, 12C-3.008, AND 12C-3.010

REPEALING RULES 12C-3.0025, 12C-3.0035, 12C-3.0045,

12C-3.0055, 12C-3.011, AND 12C-3.012

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12C-3.0015, F.A.C. (Affidavit – No Florida Estate Tax), provide that no Florida estate tax return is required when the decedent died on or after January 1, 2005, and remove obsolete provisions.

The proposed amendments to Rule 12C-3.008, F.A.C. (Public Use Forms), update the Florida estate tax return and the Affidavit of No Florida Estate Tax Due to reflect the provisions of section 1, Chapter 2013-172, L.O.F., and to remove obsolete forms.

The proposed amendments to Rule 12C-3.010, F.A.C. (Final Certificate and Nontaxable Certificate Mailing Procedure), provide the certificate or affidavit that will allow the removal of a Florida estate tax lien on real property owned by a Florida decedent.

The proposed repeal of the following rule sections of Rule Chapter 12C-3, F.A.C. (Estate Tax), remove provisions rendered obsolete by Section 1, Chapter 2013-172, L.O.F.: Rule 12C-3.0025, F.A.C. (Jointly Owned Property), Rule 12C-3.0035, F.A.C. (Calculation of Tax upon Resident Decedent Estates), Rule 12C-3.0045, F.A.C. (Calculation of Tax upon Nonresident Decedent Estates), Rule 12C-3.0055, F.A.C. (Calculation of Tax upon Nonresident Alien

Decedent Estates), Rule 12C-3.011, F.A.C. (Tax on Generation-Skipping Transfers), and Rule 12C-3.012, F.A.C. (Releases).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

Section 1, Chapter 2013-172, L.O.F., permanently extends the elimination of the requirement for filing a Florida estate tax return for the estates of decedents dying on or after January 1, 2005. The proposed changes to Rule Chapter 12C-3, F.A.C. (Estate Tax), are necessary to remove obsolete provisions and provide representatives of Florida decedents the final certificate or affidavit that will allow the removal of a Florida estate tax lien on real property owned by the decedent.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, pp. 3828 - 3829), to advise the public of the proposed amendments to Rule Chapter 12C-3, F.A.C. (Estate Tax), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 24, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule Chapter 12C-3, F.A.C. (Estate Tax). A notice for the public hearing was published in the Florida Administrative Register on September 13, 2013 (Vol. 39, No. 179, pp. 4604 - 4607).

SUMMARY OF RULE HEARING

NOVEMBER 13, 2013

The proposed amendments to Rule Chapter 12C-3, F.A.C. (Estate Tax), were noticed for a rule hearing in the Florida Administrative Register on October 21, 2013 (Vol. 39, No. 205, pp. 5274-5276). A rule hearing was held on November 13, 2013, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one from the public was in attendance. No written comments were received by the Department.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12C-3, FLORIDA ADMINISTRATIVE CODE

ESTATE TAX

AMENDING RULES 12C-3.0015, 12C-3.008, AND 12C-3.010

REPEALING RULES 12C-3.0025, 12C-3.0035, 12C-3.0045,

12C-3.0055, 12C-3.011, AND 12C-3.012

12C-3.0015 Affidavit – No Florida Estate Tax Documents, Extensions, and Due Dates for Filing.

~~(1) Decedents who died prior to January 1, 2005, or, after December 31, 2012.~~

~~(a)1. When the decedent died prior to January 1, 2005, or after December 31, 2012, and the personal representative of an estate is required to file a federal estate tax form (Form 706 or 706 NA), the personal representative of every Florida resident, nonresident, or alien decedent whose estate includes Florida real property is required to file with the Department within nine months from the date of decedent's death:~~

~~a. A Florida Estate Tax Return (Form F-706, incorporated by reference in Rule 12C-3.008, F.A.C.);~~

~~b. A copy of the executed federal estate tax return; and~~

~~c. Any payment of the Florida estate tax due.~~

~~2. When the estate owes Florida estate tax, upon receipt of a copy of the closing letter issued by the Internal Revenue Service and the payment of any Florida estate tax, penalty, or interest due, the Department will issue a Final Certificate for Estate Tax (Form DR-304). This~~

~~certificate has the same effect as a receipt.~~

~~3. If the Internal Revenue Service determines that the estate owes no federal estate tax, a nontaxable certificate may be requested from the Department when filing Form F-706. Upon receipt of a copy of the closing letter issued by the Internal Revenue Service, the Department will issue a Nontaxable Certificate and Receipt for Estate Tax (Form DR-302).~~

~~(b) To remove any Florida estate tax lien on the decedent's Florida real property, certificates issued by the Department (Forms DR-302 and DR-304) must be filed with the clerk of the circuit court in every county where the decedent owned real property.~~

~~(2) Decedents who died on or after January 1, 2005, and prior to January 1, 2013.~~

~~(1)(a) No Florida estate tax is due and no Florida estate tax return is required to be filed by the personal representative of an estate when the decedent died on or after January 1, 2005, and prior to January 1, 2013.~~

~~(2)(a)(b) When the personal representative is not required to file a federal estate tax form (Form 706 or 706-NA), an Affidavit of No Florida Estate Tax Due (Form DR-312, incorporated by reference in Rule 12C-3.008, F.A.C.) may ~~must~~ be filed with the clerk of the circuit court in every county where the decedent owned real property to remove any Florida estate tax lien on the decedent's real property. This affidavit is admissible as evidence that no Florida estate tax is due by the estate.~~

~~(b)(e) When the personal representative is required to file a federal estate tax form (Form 706 or 706-NA) and owes no Florida estate tax, an Affidavit of No Florida Estate Tax Due When Federal Return is Required (Form DR-313, incorporated by reference in Rule 12C-3.008, F.A.C.) may ~~must~~ be filed with the clerk of the circuit court to remove any Florida estate tax lien on the decedent's real property. This affidavit is admissible as evidence that no Florida estate tax is due~~

by the estate.

~~(3) Domicile Statement—If the estate is filing as a nonresident or nonresident alien, the personal representative must file a Domicile Statement, (Form DR 310, incorporated by reference in Rule 12C-3.008, F.A.C.), with the copies of the executed Florida Form F-706 and executed federal form 706.~~

~~(4) Extensions.~~

~~(a) If an extension of time is required for filing the copy of the federal form 706 or paying the Florida estate tax, or both, the personal representative must file a copy of the federal extension request with the Department within 30 days after filing such request with the federal taxing authorities. If the federal Internal Revenue Service grants the extension, the personal representative must file a copy of the approved federal extension with the Florida Department of Revenue within 30 days of receiving the approved federal extension. The Department will grant the same extension to pay or file with Florida as granted by the federal Internal Revenue Service.~~

~~(b) An extension of time to file the copy of the federal form 706 return does not extend the time to pay the Florida estate tax, and interest will accrue on any tax due and not paid from the due date until the tax is paid, and penalties will also be assessed. If an extension of time to pay is granted on the federal extension form, only interest will be assessed during the extension period. Penalties will not be assessed.~~

~~(5) A copy of every document in regard to the federal estate tax submitted to or received from the Federal Internal Revenue Service must be sent to the Department of Revenue.~~

Rulemaking Authority 198.08, 198.32(2), 213.06(1) FS. Law Implemented 198.02, 198.03, 198.04, 198.05, 198.13, 198.14, 198.15, 198.32 FS. History—New 12-13-94, Amended 1-22-01, 4-14-09, 1-25-12,_____.

12C-3.0025 Jointly Owned Property.

~~(1) Qualified joint interests held by decedent and spouse. The full value of “qualified joint interests” shall be included in Part 1 of Schedule E of federal form 706. One half of the full value of the qualified joint interests is included in the gross estate. For purposes of this chapter, “qualified joint interests” shall mean any interest in property held by the decedent and the decedent’s spouse as tenants by the entirety or as joint tenants with right of survivorship, but only if the spouses are the only joint tenants.~~

~~(2) Other joint interests. Generally the estate must include the full value of all “other joint interests” in the gross estate. However, that part of the property that was acquired by a person other than the decedent for adequate and full consideration in money or money’s worth, or by bequest or gift from a third party is not included in the decedent’s gross estate. Consideration given by a surviving joint owner does not include money or property that was acquired from the decedent for less than a full and adequate consideration in money or money’s worth. This general rule applies to all “other joint interest” except “qualified joint interests.” For purposes of this chapter, “other joint interests” are interests in property held jointly at the time of death by the decedent and anyone who has the right of survivorship.~~

Rulemaking Authority 198.08, 213.06(1) FS. Law Implemented 198.02, 198.03, 198.04 FS.

History—New 12-13-94, Repealed_____.

12C-3.0035 Calculation of Tax upon Resident Decedent Estates.

~~(1) Calculation of Tax:~~

~~(a) Gross estate. The gross estate includes interests in property owned outside the United States.~~

~~(b) Credit for state death taxes. The credit for state death taxes as shown on the federal return is the beginning point for determination of the tax due Florida on Form F-706, Florida Estate Tax Return (incorporated by reference in Rule 12C-3.008, F.A.C.). The credit shown in Part I of this return is the amount of tax due Florida if the decedent was a Florida resident and the situs of all property in the estate was located in Florida. In the case of a resident decedent owning property with a situs in other states, a reduction against the Florida tax is allowed in Part I of the Florida return for the estate taxes properly paid to the other states *after* all refunds of state taxes are adjusted against the other state taxes paid.~~

~~(2) Limitation. The limitation on the amount of the Florida estate tax imposed on a resident decedent is the amount allowable under the applicable Federal Revenue Act as a credit for state death taxes and is not dependent on the amount actually credited or allowed by the Federal Government.~~

~~(3) Subsequent State Tax Refunds. If, after filing the Florida Estate Tax Return (form F-706) and/or a copy of the federal estate tax return (form 706), a refund of estate or inheritance tax is received from another state, this refund is owed to Florida because this amount was claimed as a reduction of the amount due Florida. If the refund is received either:~~

~~(a) Prior to or after the federal closing letter is received, or~~

~~(b) Prior to or after the Florida Final Certificate (form DR-304) is issued by the Department to the estate, the Florida form F-706 must be amended and the amount of the refund remitted to the State of Florida. If the refund is not remitted timely with the amended Florida Estate Tax Return, interest and/or penalties may be assessed.~~

~~(4) Domicile Disputes — Florida will not refund estate tax pursuant to any allegation that the decedent was a resident of another state unless Florida is a party to any compromise~~

~~agreement between the decedent's estate and the other state or unless Florida is allowed to intervene as a party in any action in the other state in which the residency of the decedent is at issue.~~

Rulemaking Authority 198.08, 213.06(1) FS. Law Implemented 198.02 FS. History—New 12-13-94, Amended 1-22-01, Repealed _____.

12C-3.0045 Calculation of Tax upon Nonresident Decedent Estates.

~~(1) If the decedent was not a resident of Florida (but was a citizen or resident of the United States) and the estate owns property, with a situs in Florida and a credit for state death taxes is taken on the federal return, estate tax will be due the State of Florida if the Florida property, in Part II of the Florida Estate Tax Return (Form F-706, incorporated by reference in Rule 12C-3.008, F.A.C.), as reduced by any related *nonrecourse* mortgage, has any value remaining after such reduction (but not below zero).~~

~~(2) To determine the amount of Florida estate tax due on Florida form F-706, divide the *gross* value (net of nonrecourse mortgages) of the Florida assets in Part II by the *gross* value (net of nonrecourse mortgages) of the entire estate (as shown on Line 1 of federal estate tax form 706, (including property located outside the United States) in Part II and multiply this number by the credit for state death taxes in Part II. The result of these calculations is the amount of estate tax due Florida in Part II, form F-706:~~

$$\text{Florida Estate Tax} = \frac{\text{Gross value of Florida Property}}{\text{Gross value of entire estate wherever situate}^*} \times \text{Federal Credit for State Death Taxes}$$

~~*The gross value of the entire estate wherever situate includes all property in which the decedent had *any* interest including property *outside* the United States.~~

~~(3) Non-recourse Mortgages or Other Debt for Which the Estate is Not Liable. If the decedent's estate is not liable for the amount of debt or mortgage on any of its Florida property (as in the case of a nonrecourse mortgage), the value of such property must be reduced (but not below zero) by any nonrecourse mortgages on the property or other debt for which the estate is not liable to determine the value of such property to be included in the taxing formula for nonresident estates.~~

~~(4) Marital Deduction Property. The gross value of marital deduction property is included in the gross value of Florida property in Part II, if such property has a Florida situs and is included in the gross value of the estate, wherever situate. As part of the gross estate, such property is included in Florida's estate tax formula in Part II of the Florida F-706 Estate Tax Return.~~

Rulemaking Authority 198.08, 213.06(1) FS. Law Implemented 198.03, 198.22 FS. History—New 12-13-94, Amended 1-22-01, Repealed_____.

12C-3.0055 Calculation of Tax upon Nonresident Alien Decedent Estates.

~~(1) The following formula shall be used in calculating the tax upon the estate of an alien decedent who was not a citizen or resident of the United States at the time of death but who owned property in Florida: The gross value of property taxable under Florida estate tax law in Part III of the Florida Estate Tax Return Form F-706 (incorporated by reference in Rule 12C-3.008, F.A.C.), as finally determined by the United States Internal Revenue Service in federal form 706-NA, multiplied by the credit allowable for state death tax in Part III, under the Federal Revenue Act, divided by the gross value of the estate taxable by the United States in Part III, or~~
~~Florida Estate Tax = Gross value of Florida Property _____ x Federal Credit for~~

Gross value of all property located in the United States—State Death Taxes

~~(2) The entire amount of the federal credit for state death taxes as shown on the executed copy of the federal form 706 NA and Part III of Florida form F-706 is the amount of tax due Florida if all the United States property owned by the nonresident alien decedent was located in Florida. A portion of this credit is due Florida in Part III if other property is owned in other states by the nonresident alien decedent. There is no Florida limitation (other than the amount of the credit for state death taxes) on the total amount of estate tax due Florida where some property is owned by the nonresident alien decedent in other states of the United States.~~

Rulemaking Authority 198.08, 213.06(1) FS. Law Implemented 198.04 FS. History—New 12-13-94, Amended 1-22-01, Repealed.

12C-3.008 Public Use Forms.

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

(b) No change.

Form Number	Title	Effective Date
(2) DR-308	Request and Certificate for Waiver and Release of Florida Estate Tax Lien	
	(R. 10/09)	06/10
(3) DR-310	Domicile Statement (R. 10/09)	06/10
(2)(4) DR-312	Affidavit of No Florida Estate Tax Due	
	(R. 08/13 06/11)	___ 01/12

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___00839)

~~(3)(5)~~ DR-313 Affidavit of No Florida Estate Tax Due
When Federal Return is ~~is~~ Required

~~(R. N. 06/11)~~

01/12

(<http://www.flrules.org/Gateway/reference.asp?No=Ref-00840>)

~~(4)(6)~~ F-706 Florida Estate Tax Return (R. ~~10/13 06/11~~) ~~___ 01/12~~

(http://www.flrules.org/Gateway/reference.asp?No=Ref-___ 00841)

Rulemaking Authority 198.08, 198.32(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 119.071(5), 198.08, 198.13, 198.22, 198.23, 198.26, 198.32(2), 198.33(1), 198.38, 198.39, 213.37, 837.06 FS. History—New 9-26-77, Formerly 12C-3.08, Amended 1-11-93, 8-25-94, 1-22-01, 5-4-03, 10-30-06, 11-6-07, 4-14-09, 6-28-10, 1-25-12,_____.

12C-3.010 Final Certificate and Nontaxable Certificate Mailing Procedure.

(1) When the decedent died prior to January 1, 2005, ~~or after December 31, 2010~~, Section 198.19, F.S., requires that a Final Certificate (~~DR-304~~) be issued to the personal representative. However, if an attorney is representing the estate and files the estate tax return, the Final Certificate will be mailed to the attorney, and a copy of the Final Certificate transmittal letter will be sent to the personal representative. Otherwise, the Final Certificate will be mailed to the personal representative. If it is determined that no estate taxes are due to the State of Florida, the Department (upon receipt of a \$5.00 fee for each certificate requested) will issue a Nontaxable Certificate to the personal representative, administrator, curator, heirs, devisees, or legatees of the decedent.

(2) For decedents who died on or after January 1, 2005, ~~and prior to January 1, 2011~~, the Department will not issue a Final Certificate or Nontaxable Certificate to the personal

representative of the estate, as defined in Section 198.01(2), F.S. The personal representative may file an Affidavit of No Florida Estate Tax Due (Form DR-312, incorporated by reference in Rule 12C-3.008, F.A.C.) or an Affidavit of No Florida Estate Tax Due When Federal Return is Required (Form DR-313, incorporated by reference in Rule 12C-3.008, F.A.C.), as provided in Rule 12C-3.0015, F.A.C., to evidence that no Florida estate tax liability is due.

Rulemaking Authority 198.08, 213.06(1) FS. Law Implemented 198.13(2), 198.19 FS. History—New 6-7-78, Formerly 12C-3.10, Amended 1-11-93, 8-25-94, 12-13-94, 4-14-09,_____.

12C-3.011 Tax on Generation-Skipping Transfers.

~~(1) If a generation skipping transfer (other than a direct skip) occurs as a result of the death of the decedent, IRC S. 2604 provides that a credit against the generation skipping transfer tax (GST) shall be allowed in an amount equal to the GST actually paid to any state in respect to any property included in the generation skipping transfer. This credit is equal to 5% of the amount of the GST.~~

~~(2) Resident Decedent. This entire credit is the amount of the GST due Florida if the decedent was a Florida resident, and the situs of all property included in the generation skipping transfer is located in Florida. In the case of a resident decedent owning property included in the generation skipping transfer with a situs in another state, a reduction against the GST otherwise due Florida is allowed for GST properly paid to the other states *after* all refunds of state taxes are adjusted against the other state taxes paid.~~

~~(3) Nonresident Decedent. If the decedent was not a resident of Florida, but was a citizen or resident of the United States, and the estate owns property included in the generation skipping transfer with a situs in Florida, the GST due Florida is calculated by subtracting from the credit~~

~~allowable under IRC S. 2604 an amount equal to the value of non-Florida transferred property divided by the value of transferred property everywhere times the credit allowable under IRC S. 2604. The result of this calculation is the amount of nonresident generation-skipping transfer tax due Florida:~~

$$\begin{array}{r}
 \text{Florida nonresident} \\
 \text{generation-skipping tax} = \text{credit} - \frac{\text{Value of non-Florida}}{\text{Value of transferred}} \times \frac{\text{transferred property}}{\text{Property everywhere}} \times \text{credit}
 \end{array}$$

Rulemaking Authority 198.08, 213.06(1) FS. Law Implemented 198.031, 198.08, 198.155 FS.
 History—New 8-25-94, Amended 12-13-94, Repealed.

~~12C-3.012 Releases. A decedent's estate being probated in this state may request a release of certain property from the estate tax lien. A release will be issued under the following conditions:~~

~~(1) Estate of Resident Decedents—~~

~~(a) Filing of a Request and Certificate for Waiver and Release of the Florida Estate Tax Lien (Form DR-308, incorporated by reference in Rule 12C-3.008, F.A.C.), together with:~~

- ~~1. Two copies of a description sufficient to identify the property to be released, and~~
- ~~2. Either payment of the full tentative tax or additional tax due Florida, or provision for the tentative tax or additional tax.~~

~~(b) If the estate is being probated or administered in another state, the procedure will be the same as for a nonresident decedent.~~

~~(2) Estates of Nonresident Decedents—The procedure is the same as in subsection (1) of~~

~~this section if the Application is for release of nonresident decedent's assets located in this state.~~

~~(3) Waiver and Release of the Florida Estate Tax Lien. When a release is requested, if it appears that a tentative tax deposit or additional tax deposit will be due this state on the basis of the information contained in the Request and Certificate for Waiver and Release of Florida Estate Tax Lien (form DR 308), the estate will be required to post such deposit in the following circumstances:~~

~~(a) Resident decedents—if the value of the real property to be released when aggregated with the value of real property previously released is greater than 50 percent of the total estimated value of Florida real property, a deposit equal to the amount by which the aggregate value of real property already released plus the value of the real property requested to be released exceeds 50 percent of the estimated total value of the Florida real property is required, unless the estate can demonstrate that a lesser amount of estate tax is due.~~

~~(b) Nonresident decedents—16 percent of the value of the property to be released, unless the estate can demonstrate that a lesser amount of estate tax is due.~~

~~(c) Once the provisions of this subsection have been met, the Request and Certificate for Waiver and Release of Florida Estate Tax Lien (form DR 308) will be issued.~~

Rulemaking Authority 198.08, 213.06(1) FS. Law Implemented 198.22 FS. History—New 8-25-94, Amended 12-13-94, 1-22-01, 5-4-03, Repealed_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-28, FLORIDA ADMINISTRATIVE CODE
REMITTANCE REQUIREMENTS FOR CLERKS OF THE COURT,
MUNICIPALITIES, AND COUNTIES
AMENDING RULE 12-28.008

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-28.008, F.A.C. (Due Date; General Provisions), provide the due dates for remittances of fines, fees, and service charges collected by the clerks of the court to the Department for disbursement, as provided in section 8, Chapter 2013-44, L.O.F.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 8, Chapter 2013-44, L.O.F., provides beginning November 1, 2013, the clerks of the court are required to remit to the Department by the 10th of each month that portion of the filing fees collected in the previous month that is in excess of one-twelfth of the clerk's total budget amount. By January 25, 2015, and each January 25th thereafter, clerks are required to remit to the Department the cumulative excess of all fines, fees, service charges, costs retained by the clerk, and funds received from the Clerks of the Court Trust Fund, that exceed the clerk's authorized budget amounts. When the Florida Clerks of Court Operations Corporation determines upon investigation that additional funds are due by the clerk to the Department, the clerk and the Department will be notified of the amount due. The clerk is required to remit the amount due by the 10th day of the month following the month of notification.

The proposed amendments to Rule 12-28.008, F.A.C. (Due Date; General Provisions), are necessary to include the remittance requirements and due dates, as provided in section 8, Chapter 2013-44, L.O.F., and to remove obsolete provisions regarding late payments. When effective, this rule will provide the statutory due dates for remittances of funds by the clerks of the court to the Department.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

AUGUST 22, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 2, 2013 (Vol. 39, No. 150, p. 3823), to advise the public of the proposed amendments to Rule 12-28.008, F.A.C. (Due Date; General Provisions), and to provide that, if requested in writing, a rule development workshop would be held on August 22, 2013. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 24, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-28.008, F.A.C. (Due Date; General Provisions). A notice for the public hearing was

published in the Florida Administrative Register on September 13, 2013 (Vol. 39, No. 179, pp. 4604 - 4607).

SUMMARY OF RULE HEARING

NOVEMBER 13, 2013

The proposed amendments to Rule 12-28.008, F.A.C. (Due Date; General Provisions), were noticed for a rule hearing in the Florida Administrative Register on October 21, 2013 (Vol. 39, No. 205, pp. 5255-5257). A rule hearing was held on November 13, 2013, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one from the public was in attendance. No written comments were received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12-28, FLORIDA ADMINISTRATIVE CODE
REMITTANCE REQUIREMENTS FOR CLERKS OF THE COURT,
MUNICIPALITIES, AND COUNTIES
AMENDING RULE 12-28.008

12-28.008 Due Date; General Provisions.

(1) Transactions to remit funds electronically must be completed so that the amount due is deposited as collected funds to the State Treasurer's account on or before the remittance due date required by applicable statute or any agency rule.

(a) through (b) No change.

(c) Monthly Remittances.

1. That portion of all court-related ~~Court-related~~ fees, ~~service services~~ charges, court costs, and fines collected by the Clerk in the previous month that is in excess of one-twelfth of the Clerk's total budget for performance of court-related functions must be remitted on a monthly basis. Additional court-related fees, service charges, court costs, and fines collected by the Clerk that are required to be disbursed to a trust fund or an agency must also be remitted on a monthly basis.

2. When notified by the Florida Clerks of Court Operations Corporation that funds are due to the Department, the funds must be remitted on or before the 10th day of the month following the month in which the Clerk was notified.

3. The Clerk must complete the transaction before 5:00 p.m., Eastern Time, on the last

working day before the 10th day of the month immediately following the month in which the moneys were collected, ~~as provided in Section 28.245, F.S.~~ If the 10th day of the month falls on a Saturday, a Sunday, a legal holiday as defined in Section 683.01, F.S., or on a legal holiday of the jurisdiction in which the Clerk's financial institution is located, the transaction must be completed on or before 5:00 p.m., Eastern Time, on the preceding business day.

(d) Annual Remittance. The cumulative excess of all court-related fees, service charges, court costs, and fines retained by the Clerk, plus any funds received by the Clerk as provided in subsection 28.36(3), F.S., that exceed the amount necessary to meet the Clerk's authorized budget amount must be remitted on an annual basis. The Clerk must complete the transaction before 5:00 p.m., Eastern Time, on the last working day before January 25th of each year, beginning in January 2015. If the 25th day of the month falls on a Saturday, a Sunday, a legal holiday as defined in Section 683.01, F.S., or on a legal holiday of the jurisdiction in which the Clerk's financial institution is located, the transaction must be completed on or before 5:00 p.m., Eastern Time, on the preceding business day.

~~(e)(d) Failure to remit the funds as provided in this subsection will constitute late payment. Late payments must be deposited on the next business day following the date that the transmission was completed.~~

(2) No change.

Rulemaking Authority 213.06(1), 213.13 FS. Law Implemented 28.241(1)(a)1., 28.245, 28.37, 34.041(1)(b), 213.13, 219.07, 316.0083, 322.20(11), 721.8561 FS. History—New 8-19-02, Amended 6-1-09, 6-6-11, _____.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12-24, FLORIDA ADMINISTRATIVE CODE

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

AMENDING RULE 12-24.023

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12-24.023, F.A.C. (Recordkeeping Requirements - General), remove of an obsolete provision regarding the substitute communications systems tax return required prior to the repeal of the tax on substitute communications systems by Chapter 2005-187, L.O.F.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Rule 12-24.023, F.A.C. (Recordkeeping Requirements - General), are necessary to remove obsolete provisions regarding the tax return previously used for reporting the communications services tax on substitute communications systems, which was repealed by Chapter 2005-187, 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

SEPTEMBER 5, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 15, 2013 (Vol. 39, No. 159, p. 4071), to advise the public of the proposed amendments to Rule 12-24.023, F.A.C. (Recordkeeping Requirements - General), and to provide that, if requested in writing, a rule development workshop would be held on September 5, 2013. No request was received by the Department. No written comments were received by the Department.

SUMMARY OF PUBLIC HEARING

HELD ON SEPTEMBER 24, 2013

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2013, and approved the publication of the Notice of Proposed Rule for changes to Rule 12-24.023, F.A.C. (Recordkeeping Requirements - General). A notice for the public hearing was published in the Florida Administrative Register on September 13, 2013 (Vol. 39, No. 179, pp. 4604 - 4607).

SUMMARY OF RULE HEARING

NOVEMBER 13, 2013

The proposed amendments to Rule 12-24.023, F.A.C. (Recordkeeping Requirements - General), were noticed for a rule hearing in the Florida Administrative Register on October 21, 2013 (Vol. 39, No. 205, pp. 5254-5255). A rule hearing was held on November 13, 2013, in Room 1220, Building One, 2450 Shumard Oak Blvd., Tallahassee, Florida. No one from the

public was in attendance. No written comments were received by the Department.

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12-24, FLORIDA ADMINISTRATIVE CODE

PAYMENT OF TAXES AND SUBMISSION OF RETURNS BY ELECTRONIC MEANS;

TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

AMENDING RULE 12-24.023

PART II TAXPAYER RECORDKEEPING AND RETENTION REQUIREMENTS

12-24.023 Recordkeeping Requirements - General.

(1) through (4) No change.

(5) Pursuant to Section 202.28(1), F.S., taxpayers who fail to properly initiate a communications services tax return ~~or a substitute communications systems tax return~~ by electronic data interchange (EDI) as required in Section 202.30(2), F.S., are not authorized to claim the collection allowance authorized by Section 202.28, F.S., for the proper filing of tax returns.

Rulemaking Authority 202.26(3)(a), 213.06(1), 443.1317 FS. Law Implemented 202.30, 213.34, 213.35, 443.1317, 443.163 FS. History—New 10-24-96, Amended 4-30-02, 10-5-03,_____.

ATTACHMENT 2



Executive
Director
Marshall Stranburg

November 26, 2013

MEMORANDUM

TO: The Honorable Rick Scott, Governor
Attention: Michael Sevi, Director of Cabinet Affairs
Karl Rasmussen, Deputy Director of Cabinet Affairs
Jacob Horner, Cabinet Aide

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

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: Vince Aldridge, Director, Legislative and Cabinet Services

SUBJECT: Requesting Adoption and Approval to File and Certify Proposed Rules

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 are not likely to have an adverse impact on small businesses, 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, Florida Statutes:

- **Chapter 12D-1, General Rules**, including the repeal of Rule 12D-1.011, and amendments to Rules 12D-1.002, 12D-1.009, and 12D-1.010, F.A.C.
- **Chapter 12D-6, Mobile Homes, Prefabricated or Modular Housing Units, Pollution Control Devices, and Fee Time-Share Developments**, including amendments to Rule 12D-6.006, F.A.C.
- **Chapter 12D-7, Exemptions**, including amendments to Rule 12D-7.0143 and the creation of Rule 12D-7.0025, F.A.C.
- **Chapter 12D-8, Assessment Roll Preparation and Approval**, including amendments to Rule 12D-8.0065, F.A.C.
- **Chapter 12D-9, Requirements for Value Adjustment Board in Administrative Reviews; Uniform Rules for Procedures for Hearings Before Value Adjustment Boards**, including amendments to Rules 12D-9.001, 12D-9.019, and 12D-9.020, F.A.C.
- **Chapter 12D-16, Administration of Forms**, including amendments to Rule 12D-16.002, F.A.C.

Rule 12D-1.002, Definitions

Why is the proposed rule necessary? The amendments to this rule implement a statutory change to the term “assessed value of property” enacted in Section 1 of Chapter 2012-193, L.O.F.

Were comments received from external parties? Yes. One comment was received, however the suggested change addressed issues that are unrelated to the purpose of the current rulemaking proceeding (went beyond implementing the law change). No changes were made.

Rule 12D-1.009, Mapping Requirements

Why is the proposed rule necessary? The amendments to this rule update and clarify a provision dealing with the property ownership maps property appraisers use to help them identify and assess parcels by removing an unnecessary limitation regarding the inclusion of recorded or unrecorded subdivisions on property ownership maps.

Were comments received from external parties? No.

Rule 12D-1.010, Reconciliation of Interim Tax Rolls – Form of Notification

Why is the proposed rule necessary? The amendments to this rule remove an obsolete form to notify property owners about the development of an interim assessment roll in their county. The form is not used.

Were comments received from external parties? Yes. Two comments were received on this proposed rule; both comments suggested changes that address issues that are unrelated to the purpose of the current rulemaking proceeding (dealt with provisions in the rule that were not being amended). No changes were made.

Rule 12D-1.011, Notification to Property Appraiser of Land Development Restriction

Why is the proposed rule necessary? This proposed repeal deletes a rule which is redundant of statutes.

Were comments received from external parties? Yes. One comment was received which requested that the Department retain this rule. Section 120.74(1)(d), F.S., requires agencies to eliminate rules which are redundant of statute. No changes were made.

Rule 12D-6.006, Fee Timeshare Developments

Why is the proposed rule necessary? The proposed amendments to this rule remove definitions that are not clearly supported by statute, and delete rule language which is redundant of statutory provisions.

Were comments received from external parties? Yes. It was suggested that the rule contained a provision that is not supported by statute. The Department agreed. A Notice of Change was published in the September 25, 2013 issue of the Florida Administrative Register to address this concern.

Rule 12D-7.0025, Application for Certain Exemptions Before Receiving Statutorily Required Documentation

Why is the proposed rule necessary? This proposed new rule implements statutory changes enacted in Sections 19, 20, 21, 22, 27, and 28 of Chapter 2012-193, Laws of Florida, that allow veterans or their surviving spouses to apply for certain property tax exemptions or discounts prior to receiving required documentation from the United States Department of Veterans Affairs, its predecessor, or the Social Security Administration.

Were comments received from external parties? Yes. One comment was received that addressed issues that are unrelated to the purpose of the current rulemaking proceeding (suggesting that a provision be added regarding refunds that is unsupported by statute). No change was made.

Rule 12D-7.0143, Additional Homestead Exemptions for Persons 65 and Older Whose Household Income Does Not Exceed \$20,000 Per Year

Why is the proposed rule necessary? The proposed amendments to this rule implement statutory changes enacted in Sections 19, 20, 21, 22, 27, and 28 of Chapter 2012-193, L.O.F., that implement a constitutional amendment allowing cities and counties to provide a property tax exemption for certain low-income seniors.

Were comments received from external parties? No.

Rule 12D-8.0065, Assessment Roll Preparation and Approval

Why is the proposed rule necessary? This proposed new rule (which replaces Emergency Rule 12DER12-08) implements the provisions of Chapter 2008-173, L.O.F., and Section 5 of Ch. 2012-193, L.O.F., relating to the transfer of homestead assessment limitation difference (portability).

Were comments received from external parties? Yes. The Department received two comments during the Emergency Rule phase and they were incorporated into the provisions of this permanent rule. Also, comments were received during the public rule hearing. Based these comments, a Notice of Change was published in the September 25, 2013 issue of the Florida Administrative Register to address concerns raised. The changes delete language which is redundant of statutory provisions.

Rule 12D-9.001, Taxpayer Rights in Value Adjustment Board Proceedings

Why is the proposed rule necessary? The proposed amendments to this rule implement statutory changes enacted in Section 2 of Chapter 2012-193, Laws of Florida, relating to value adjustment board proceedings.

Were comments received from external parties? No.

Rule 12D-9.019, Scheduling and Notice of a Hearing

Why is the proposed rule necessary? The proposed amendments to this rule implement statutory changes enacted in Sections 2, 11, and 12 of Chapter 2012-193, Laws of Florida, relating to value adjustment board proceedings.

Were comments received from external parties? Yes. The Department received comments that addressed issues that are unrelated to the purpose of the current rulemaking proceeding and are unsupported by statute. No change was made.

Rule 12D-9.020, Exchange of Evidence

Why is the proposed rule necessary? The proposed amendments to this rule implement the Administrative Law Judge's ruling in Rob Turner, Hillsborough County PA vs. DOR (DOAH Case No.: 11-677, summary Final Order dated June 22, 2011), which found the rule contradicts Section 194.011(4)(a), F.S., regarding the exchange of evidence process for VAB hearings; and, implement a change in Section 8 of Chapter 2013-109, Laws of Florida, which requires that the property appraiser, instead of the Clerk, now provide a copy of the property record card to the petitioner.

Were comments received from external parties? Yes. The Department agreed with a change recommended by the Joint Administrative Procedures Committee relating to the evidence exchange procedure in a value adjustment board proceeding. A Notice of Change was published in the September 25, 2013 issue of the Florida Administrative Register to address this comment.

Memorandum
November 26, 2013
Page 5

12D-16.002, Index to Forms

Why is the proposed rule necessary? The proposed amendments to this rule adopt revised forms based on state constitutional amendments passed in the November 2012 general election and update selected forms to reflect current statutory provisions.

Were comments received from external parties Yes. A Notice of Change was published in the September 25, 2013 issue of the Florida Administrative Register to make changes to forms related to the changes made to Rules 12D-6.006 and 12D-9.020, described above.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-1, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 12D-1.002, 12D-1.009, AND 12D-1.010
REPEALING RULE 12D-1.011

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12D-1.002, F.A.C., (Definitions) revise the definition of the term “assessed value of property” to clarify that the term means all property, not just “homestead” property; and, that the term means an annual determination of the property’s just or fair market value, as well as the value of property that is in a classified use or a fractional value.

The proposed amendments to Rule 12D-1.009, F.A.C., (Mapping Requirements) remove an unnecessary limitation regarding the inclusion of recorded or unrecorded subdivisions on property ownership maps.

The proposed amendments to Rule 12D-1.010, F.A.C., (Reconciliation of Interim Tax Rolls – Form of Notification) remove an obsolete form that is used to notify property owners about the development of an interim assessment roll in their county – the only instance of an interim assessment roll occurred in the 1980s.

The proposed repeal of Rule 12D-1.011, F.A.C., (Notification to Property Appraiser of Land Development Restriction) eliminates a rule which is redundant of statute. This rule requires state and local government entities to tell the appropriate property appraiser about any law, ordinance, resolution, regulation, executive order or proclamation that the entity adopts on topics

dealing with limiting, regulating, or putting a moratorium on the development or improvement of property.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed amendments to Rule 12D-1.002, F.A.C., (Definitions) is to implement a statutory change enacted in Section 1 of Chapter 2012-193, Laws of Florida.

The purpose of the proposed amendment to Rule 12D-1.009, F.A.C., (Mapping Requirements) is to update and clarify a provision dealing with the property ownership maps property appraisers use to help them identify, assess and value property.

The purpose of the proposed amendments to Rule 12D-1.010, F.A.C., (Reconciliation of Interim Tax Rolls – Form of Notification) is to remove a form which is not used.

The purpose of repealing Rule 12D-1.011, F.A.C., (Notification to Property Appraiser of Land Development Restriction) is to remove a rule which has language that is almost identical to the language of the statute it implements. The provisions of the statute will still apply to this topic.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Notices of Rule Development for proposed rules 12D-1.002, and 12D-1.009, F.A.C., were published twice in the Florida Administrative Register (F.A.R.), first on July 27, 2012 (Vol.

38, No. 30, pp. 3073-3074), and again on August 31, 2012 (Vol. 38, No. 35, pp. 3561-3562).

Workshops for these rules were held on August 14, 2012 and on September 19, 2012. Interested parties and county officials were invited to attend in person and through the internet using WebEx virtual meeting technology. No comments were received on either of these proposed rules.

Proposed Rule 12D-1.010, F.A.C., was published in the July 29, 2013 edition of the F.A.R. (Vol. 39, No. 146, pp. 3736-3737). The Notice of Rule Development stated that a workshop would only be held if requested. No one requested that the Department hold a workshop on either of these proposed rules.

A Notice of Rule Development for the proposed repeal of Rule 12D-1.011, F.A.C., was not published in the F.A.R., as authorized by Section 120.54(2)(a), F.S.

SUMMARY OF GOVERNOR AND CABINET PUBLIC HEARING

The Governor and Cabinet held a public hearing on September 24, 2013, at which they authorized the Department to publish a Notice of Proposed Rule for Rules 12D-1.002, 12D-1.0025, 12D-1.009, 12D-1.010, and 12D-1.011, F.A.C. Notice of this meeting of the Governor and Cabinet was published in the F.A.R. on September 16, 2013 (Vol. 39, No. 187, pp. 4828-4829).

SUMMARY OF PUBLIC RULE HEARING

Notices of Proposed Rule for the following proposed new, amended, and deleted rules were published in the September 25, 2013 edition of the F.A.R. (Vol. 39, No. 187, pp. 4821-4826). A public rule hearing was held by the Department on October 17, 2013. The following

comments were received on these rules.

Rule 12D-1.002, F.A.C. (Definitions): One comment was received on paragraph (6)(a) of this rule. No changes were made.

Rule 12D-1.0025, F.A.C. (Computation of Time; Due Dates Falling on Weekends and Holidays): This proposed new rule was withdrawn by the Department on October 25, 2013 (see Vol. 39, No. 209, p. 5367, F.A.R.). It was withdrawn because the Department determined that it would be best to address this issue in each specific rule which already had a deadline provision in it, or needed to have a provision added to it.

Rule 12D-1.009, F.A.C. (Mapping Requirements): No comments were received.

Rule 12D-1.010, F.A.C. (Reconciliation of Interim Tax Rolls – Form of Notification): Two comments were received on this proposed rule; both comments suggested changes to provisions in the rule that were not being amended. The proposed rule was not changed. (Note: this rule deals with the procedures for producing an “interim assessment roll” – the only interim assessment roll that has been produced was in the early 1980s – there is no need to make significant changes to the rule at this time.)

Rule 12D-1.011, F.A.C. (Notification to Property Appraiser of Land Development Restriction): one comment was received which disagreed with the Department’s intent to repeal this rule because it is redundant of statute. The Department is certain this rule is basically identical to the statutory provision, and intends to comply with s. 120.74(1)(d), F.S., which requires agencies to eliminate rules which are redundant of statute.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-1, FLORIDA ADMINISTRATIVE CODE
GENERAL RULES
AMENDING RULE 12D-1.002

12D-1.002 Definitions. Unless otherwise stated or unless otherwise clearly indicated by the context in which a particular term is used, all terms used in this chapter shall have the same meanings as are attributed to them in the current Florida Statutes. In this connection, reference is made to the definitions contained in Sections 192.001, 196.012, and 197.102, F.S.

(1) – (2) No change.

(3) Livestock – Animals kept or raised for use or pleasure, especially farm animals kept for use and profit. Livestock is further defined as those kinds of domestic animals and fowls which are normally susceptible to confinement within boundaries without seriously impairing their utility, and the intrusion of which ~~on upon~~ the land of others normally causes harm to land or to crops ~~on the land thereon~~.

(4) “Taxpayer” – The person or other legal entity in whose name the property is assessed. The terms “owner” and “possessor” may be used interchangeably with “taxpayer” where the context ~~so~~ indicates.

(5) No change.

(6) Assessed value of property – When applied to ~~homestead~~ property, means an annual determination of:

(a) The just or fair market value of an item or property;

(b) The assessed value of property as limited by Article VII, Section 4(d) of the State Constitution; ~~or~~

(c) The value of property in a classified use or at a fractional value if the property is assessed solely on the basis of character or use or at a specified percentage of its value under Article VII of the State Constitution.

(7) Homestead and Homestead Property – Property ~~Means that property~~ described in Article VII, Section 6(a) of the State Constitution.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 192.001, 193.085, 193.461 FS. History—New 10-12-76, Formerly 12D-1.02, Amended 12-27-94, 2-25-96, xx-xx-xx.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-1, FLORIDA ADMINISTRATIVE CODE
GENERAL RULES
AMENDING RULE 12D-1.009

12D-1.009 Mapping Requirements.

(1) Each county property appraiser ~~shall~~ must have and maintain the following:

(a) Aerial photography suitable for the needs of the appraiser's ~~his~~ office.

(b) Property ownership maps which will reflect the following:

1. Recorded subdivisions and/or unrecorded subdivisions, ~~if being used for assessing,~~ in their entirety on the property ownership maps including lot and block division and dimensions if known.

2. Dimensions and acreage, where known, on all parcels over one acre in size.

3. Parcel number corresponding to that as listed on the current county tax roll.

(2) Suggested procedures for establishing and maintaining an adequate cadastral mapping program to meet these requirements are ~~contained~~ in the mapping guidelines of the Department of Revenue's Manual of Instructions.

Rulemaking Authority 193.085(2), 195.027(1), 213.06(1) FS. Law Implemented 195.022, 195.062 FS. History-New 10-12-76, Formerly 12D-1.09, Amended, xx-xx-xx.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-1, FLORIDA ADMINISTRATIVE CODE
GENERAL RULES
AMENDING RULE 12D-1.010

12D-1.010 Reconciliation of Interim Tax Rolls – Form of Notification.

(1) ~~After~~ Upon approval of the final assessment roll by the Executive Director, the property appraiser ~~must~~ shall notify all taxpayers of their final approved assessments and of the time period for filing petitions ~~on the form provided by the Department~~. This ~~form of~~ notice must ~~shall~~ be mailed to the property owner as shown on the most recent tax roll or the name of the most recent owner as shown on the records of the property appraiser. ~~The form of the notice shall be substantially as follows:~~

~~1980 ASSESSMENT ROLL – NOTICE OF CHANGE OF ASSESSED VALUATION – REAL PROPERTY –~~
~~1980 ASSESSMENT ROLL~~
~~THIS IS NOT A BILL – DO NOT PAY~~

INTERIM OR PROVISIONAL ASSESSED VALUE	INTERIM OR PROVISIONAL TAXES	IDENTIFICATION NUMBER
FINAL ASSESSED VALUE	FINAL TAXES	
DIFFERENCE	DIFFERENCE	
EXEMPTIONS: REGULAR WIDOW DISABILITY OTHER		LEGAL DESCRIPTION

~~If you feel your final assessed value is inaccurate or does not reflect market value, contact your property appraiser at:
NAME AND ADDRESS~~

If the property appraiser's office is unable to resolve the matter as to market value, you may file a petition for adjustment with the Property Appraisal Adjustment Board. Petition forms are available at the property appraiser's office and must be filed ON OR BEFORE

DR-474R
R. 3/80

This Notice Shall Pertain Only to the 1980 Assessment Roll — See Reverse Side of Notice

SEE REVERSE

SEE REVERSE

~~THIS NOTICE SHALL PERTAIN ONLY TO THE 1980 ASSESSMENT ROLL. PROPERTY TAXES FOR 1980 WERE BASED UPON A TEMPORARY OR INTERIM ASSESSMENT ROLL. THE TEMPORARY OR INTERIM ASSESSMENT ROLL HAS BEEN FINALIZED BY COURT ORDER. THIS STATEMENT IS A RECONCILIATION SHOWING THE INTERIM OR PROVISIONAL ASSESSED VALUE, THE FINAL ASSESSED VALUE, THE INTERIM OR PROVISIONAL TAXES, THE FINAL TAXES AND THE DIFFERENCE BETWEEN THE INTERIM OR PROVISIONAL TAXES AND THE FINAL TAXES. ANY EXEMPTIONS YOU WERE AUTHORIZED FOR 1980 ARE SHOWN ON THE REVERSE. PLEASE CHECK THE EXEMPTION ALLOWED AGAINST WHAT YOU WERE AUTHORIZED.~~

NOTICE

~~PURSUANT TO THIS RECONCILIATION, NO BILL SHALL BE ISSUED AND NO REFUND SHALL BE AUTHORIZED IF THE AMOUNT THEREOF IS LESS THAN \$10.00.~~

~~THIS IS NOT A BILL — DO NOT PAY~~

(2) After certification of the final assessment roll by the value adjustment board (VAB) as provided in ~~pursuant to~~ Section 193.122(2), F.S., the property appraiser must shall, subject to the provisions of Section 193.1145, F.S., recompute each provisional millage rate of the taxing units within his or her jurisdiction, so that the total taxes levied within each taxing unit after recomputation and adjustment of the millage rate must shall be the same as the taxes which had been levied on the interim tax roll. The property appraiser must shall notify each taxing unit

~~about as to~~ the value of the recomputed or official millage rate.

(3) After the ~~VAB value adjustment board~~ has completed its hearings, or if no petitions are filed before the ~~VAB board~~, and the ~~VAB board~~ has certified to the property appraiser that no petitions were filed, the property appraiser ~~must shall~~ review the certification of the ~~VAB value adjustment board~~ reflecting all changes as made by the ~~VAB value adjustment board~~ and ~~must shall~~ extend the adjusted millage placed on ~~the such~~ roll. Provided, ~~however~~, that nothing in ~~these rules prohibits herein shall preclude~~ the property appraiser from challenging any action of the ~~VAB value adjustment board~~ as provided by law.

(4) ~~After Upon~~ recomputation, the property appraiser ~~must shall~~ extend the taxes against the approved tax roll and ~~must shall~~ prepare a reconciliation between the interim roll and the final approved roll.

(5) It ~~is shall be~~ the ~~duty and~~ responsibility of the tax collector to compile and furnish to the property appraiser a compilation of the interim or provisional taxes paid on each parcel of property as levied on the interim assessment roll. The interim roll as certified by the tax collector to the clerk of the circuit court (~~clerk~~), or a certified copy of ~~the such~~ roll, ~~must shall~~ meet the requirements of this rule. ~~This Such~~ compilation ~~must shall~~ be furnished to the property appraiser no later than the date the assessment roll is certified to the property appraiser by the ~~VAB value adjustment board~~, ~~as provided in pursuant to the provisions of~~ Section 193.122(2), F.S.

(6) The final reconciled tax roll certified by the property appraiser to the tax collector ~~must shall~~ show, at a minimum for each parcel, the:

- (a) Interim or provisional assessed value;
- (b) Final assessed value;
- (c) Difference between (a) & (b);

- (d) Exemptions;
- (e) Interim or provisional taxes paid;
- (f) Final taxes due;
- (g) Difference between (e) & (f).

(7) After extension of the adjusted tax on the final tax roll, the property appraiser ~~must~~ shall certify ~~the such~~ reconciled final tax roll to the tax collector in a format from which tax notices or refunds may be produced for collection or refunding, unless otherwise authorized as provided in ~~pursuant to~~ subsection 193.1145(8), F.S.

(8)(a) The tax collector ~~must~~ shall prepare and send ~~mail~~ to each taxpayer either supplemental bills or refunds in the form of county warrants for each parcel, except that no bill ~~must~~ shall be issued and no refund ~~must~~ shall be authorized if the amount ~~thereof~~ is less than \$10.00. The supplemental billings or refunds ~~must~~ shall be accompanied by an explanatory notice in substantially the following form:

NOTICE OF SUPPLEMENTAL BILL OR REFUND OF PROPERTY TAXES

Property taxes for ____ (year) were based on ~~upon~~ a temporary assessment roll to allow time for a more accurate determination of property values. Reassessment work has now been completed and final tax liability for ____ (year) has been recomputed for each taxpayer. **BY LAW, THE REASSESSMENT OF PROPERTY AND RECOMPUTATION OF TAXES WILL NOT INCREASE THE TOTAL AMOUNT OF TAXES COLLECTED BY EACH LOCAL GOVERNMENT.** ~~If~~ However, if your property was relatively underassessed on the temporary roll, you owe additional taxes. If your property was relatively overassessed, you will receive a partial refund of taxes. If you have questions concerning this matter, please contact your county tax collector's office at (_____).

(b) This notice ~~must~~ shall be printed on a separate sheet of paper and mailed with the supplemental billings or refunds. This notice ~~must~~ shall be furnished by the tax collector at the expense of his or her office.

(9) Tax bills ~~must~~ shall be mailed to the current owner of record as reflected by the most recent tax roll.

(10) Discounts for the reconciliation of an interim tax roll ~~must~~ shall be ~~as follows~~: Four (4) percent for the first 30 days, zero (0) percent for the next 30 days and delinquent at the expiration of the zero (0) percent discount period. Delinquent taxes ~~must~~ shall be governed by the provisions of Chapter 197, F.S., to include, but not limited to interest, advertising and sale of tax certificates.

(11) The tax collector ~~must~~ shall collect all delinquent interim taxes and interest that have accrued as provided in ~~pursuant to~~ Section 193.1145(10), F.S. Discounts will not be allowed on delinquent interim taxes or interest. Discounts ~~must~~ shall be authorized on any tax that is the result of an increase in the final assessed valuation on the final approved reconciled tax roll. Final taxes that become delinquent ~~must~~ shall be enforced as provided in ~~pursuant to the provisions of~~ Chapter 197, F.S.

(12) Refunds ~~must~~ shall be made to the person who paid the tax originally. Refunds ~~must~~ shall be processed as follows:

(a) When the final approved reconciled tax roll indicates that the owner of record is the same as the owner of record on the interim tax roll, the tax collector ~~must~~ shall forward any refund due directly to the property owner.

(b) When the owner of record on the final approved reconciled tax roll is not the owner of record who apparently paid the interim taxes, and after a diligent search the tax collector cannot

locate the interim taxpayer, the tax collector ~~must shall~~ publish a notice at least once each week for two weeks in a newspaper selected by the Board of County Commissioners. This notice must state ; that certain taxpayers may be entitled to a refund for the overpayment of interim taxes and that the taxpayer may file an application for refund with the tax collector.

(c) The size of the notice ~~must shall~~ be at least 3 × 5 inches. The content of the notice ~~must shall~~ be as prescribed by the tax collector. Advertising cost for the notice ~~must shall~~ be paid by the tax collector's office.

(d) Refunds ~~must shall~~ be paid from money collected from the final approved reconciled tax roll. If funds are not sufficient to pay all refunds, then the tax collector ~~must shall~~ bill each taxing authority for its proportionate share of any refund payable. The tax collector ~~must shall~~ commence the refund process within 90 days of the opening of the reconciled tax roll.

(e) Money collected from the final approved reconciled tax roll ~~must shall~~ not be distributed to the various taxing authorities until the tax collector ~~has shall have~~ in his or her possession adequate funds to process all refundable amounts ~~as provided by pursuant to~~ the reconciliation. Interest earned on all amounts collected on the final approved reconciled tax roll ~~must shall~~ be used by the tax collector to defray any and all costs incurred by his or her office for collecting the reconciled tax roll.

(f) One hundred and eighty (180) days after the notice was published in accordance with paragraph (b), any unclaimed refunds ~~must shall~~ be disposed of according to the disposition of abandoned or unclaimed property as required by Sections 717.113 and 717.117, F.S., as administered by the office of the Comptroller, State of Florida.

(13) Any outstanding tax ~~sale~~ certificates sold by the tax collector on delinquent interim assessments may be canceled. Tax ~~sale~~ certificates may be canceled as provided in pursuant to

Section 197.443, F.S. If tax ~~sale~~ certificates are canceled, refunds to tax ~~sale~~ certificate holders ~~must shall~~ be processed immediately and interest ~~must shall~~ be paid according to subsection 197.432(10), F.S. See subsection 193.1145(10), F.S.

(14) Delinquent interim taxes and interest ~~must shall~~ be collected or discharged as provided in pursuant to subsections 193.1145(8) and (10) ~~(10) and (8)~~, F.S.

(15) Forms, as required by this rule, ~~must shall~~ be reproduced by the property appraiser or tax collector. However, for good cause shown as provided in subsection 12D-16.001(5), F.A.C., the Department ~~must shall~~ approve a change in the format or content of any form required by this rule.

(16) If the reconciliation is to occur at or close to the time for budget hearings, the mailing of the bills, or the meeting of the VAB value adjustment board in a year subsequent to the year in which an interim roll was used, the Department may authorize re-notification and re-billing to coincide with the present year's notification and billing to reduce costs and administrative expenses, provided that no rights secured by law to property owners or taxpayers are jeopardized.

(17) Petitions to the VAB value adjustment board after reconciliation, for appeal of valuation, or classification, or denial of exemption ~~must shall~~ be filed within thirty (30) days from the date of mailing of the notice provided in this section.

(18) The provisions of Section 197.322, F.S., regarding the millage and tax statement ~~must shall~~ apply to the reconciliation of interim tax rolls.

~~(19) In cases of demonstrated hardships, the provisions of this rule may be amended, modified or set aside by a court of competent jurisdiction.~~

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 193.1145, 193.122, 197.162, 197.172, 197.322, 197.333, 197.343, 197.344, 197.432, 197.443 FS. History—New 11-23-83, Amended 12-26-85, Formerly 12D-1.10, Amended 12-3-01, 11-1-12, xx-xx-xx.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-1, FLORIDA ADMINISTRATIVE CODE
GENERAL RULES
REPEALING RULE 12D-1.011

12D-1.011 Notification to Property Appraiser of Land Development Restriction.

~~(1) The applicable governmental body or agency shall notify the property appraiser in writing of any law, ordinance, regulation, or resolution it adopts imposing any limitation, regulation, or moratorium upon development or improvement of property as otherwise authorized by applicable law.~~

~~(2) The Governor shall notify the property appraiser in writing of any development limitation or restriction due to an executive order or proclamation.~~

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 193.011 FS. History—New 12-27-94, Repealed xx-xx-xx.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-6, FLORIDA ADMINISTRATIVE CODE
MOBILE HOMES, PREFABRICATED OR MODULAR HOUSING UNITS,
POLLUTION CONTROL DEVICES, AND FEE TIME-SHARE DEVELOPMENTS
AMENDING RULE 12D-6.006

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12D-6.006, F.A.C., (Fee Timeshare Real Property) delete definitions for eight terms that were copied verbatim into this rule in 1994 from definitions in Section 721.05, F.S., one of the statutes that governs the regulation of the timeshare industry by the Florida Department of Business and Professional Regulation. These regulatory definitions do not directly apply to the ad valorem taxation of fee timeshare real property. Also, Section 721.03, F.S., states that the treatment of timeshare estates for ad valorem and special assessment purposes must be as prescribed in Chapters 192 through 200, F.S. These proposed amendments also delete provisions in the rule that are identical or substantially comparable to existing statutory provisions.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The purpose of the proposed amendments to Rule 12D-6.006, F.A.C., (Fee Timeshare Real Property) is to remove definitions in this rule that were intended by the Legislature to only be used for the regulatory purposes contained in Chapter 721, F.S. and, delete rule language

which is redundant of statutory language in Section 192.037, F.S., as required by Section 120.74(1)(d), F.S., of the Administrative Procedure Act.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Notices of Rule Development for the original draft of proposed rule 12D-6.006, F.A.C., were published twice in the Florida Administrative Register (F.A.R.), first on July 27, 2012 (Vol. 38, No. 30, pp. 3074-3075), and again on August 31, 2012 (Vol. 38, No. 35, p. 3562).

Workshops for these rules were held on August 14, 2012 and on September 19, 2012. Interested parties and county officials were invited to attend in person and through the internet using WebEx virtual meeting technology. A comment was received on the rule, and revisions were made to the rule.

A Notice of Rule Development for the revised draft of proposed Rule 12D-6.006, F.A.C. was published in the July 29, 2013 edition of the F.A.R. No request to hold a rule development workshop was received.

SUMMARY OF GOVERNOR AND CABINET PUBLIC HEARING

The Governor and Cabinet held a public hearing on September 24, 2013, at which they authorized the Department to publish a Notice of Proposed Rule for this proposed rule. Notice of this meeting of the Governor and Cabinet was published in the F.A.R. on September 16, 2013

(Vol. 39, No. 180, p. 4644).

SUMMARY OF PUBLIC RULE HEARING

A Notice of Proposed Rule for the proposed amendments to this rule was published in the September 25, 2013 edition of the F.A.R. (Vol. 39, No. 187, pp. 4826-4828). A public rule hearing was held by the Department on October 17, 2013. Prior to this public hearing an additional comment was received from the timeshare industry requesting that the Department clarify its' intent regarding whether the proposed changes were intended to raise new revenue. At the public rule hearing the Department stated for the record that the rule changes were not intended to generate additional revenues.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-6, FLORIDA ADMINISTRATIVE CODE
MOBILE HOMES, PREFABRICATED OR MODULAR HOUSING UNITS,
POLLUTION CONTROL DEVICES, AND FEE TIME-SHARE DEVELOPMENTS
AMENDING RULE 12D-6.006

12D-6.006 Fee Timeshare ~~Time Share~~ Real Property.

(1) Applicability of rule: This rule applies ~~shall apply~~ to the valuation, assessment, and listing, billing and collection for ad valorem tax purposes of all fee timeshare ~~time-share~~ real property, as defined in Section 192.001, F.S.

(2) Definitions – As used in this rule, “fee timeshare real property” and “timeshare period titleholder” have the same definitions as provided in Section 192.001, F.S. ÷

(a) ~~“Accommodations” means any apartment, condominium or cooperative unit, cabin, lodge or hotel or motel room or any other private or commercial structure which is situated on real property and designed for occupancy by one or more individuals. (Section 721.05(1), F.S.)~~

(b) ~~“Fee time share real property” means the land and buildings and other improvements to land that are subject to time share interests which are sold as a fee interest in real property. (Section 192.001(14), F.S.)~~

(c) ~~“Managing entity” means the person responsible for operating and maintaining the time share plan (Section 721.05(20), Florida Statutes.)~~

(d) ~~“Time share development” means the combined individual time share periods or time share estates of a time share property as contained in a single entry on the tax roll. (Section~~

192.037(2), F.S.)

(e) ~~“Time share estate” means a right to occupy a time share unit, coupled with a freehold estate or an estate for years with a future interest in a time share property or a specified portion thereof. (Section 721.05(28), Florida Statutes.)~~

(f) ~~“Time share instrument” means one or more documents, by whatever name denominated, creating or governing the operation of a time share plan. (Section 721.05(29), Florida Statutes.)~~

(g) ~~“Time share period” means that period of time when a purchaser of a time share plan is entitled to the possession and use the accommodations or facilities, or both, of a time share plan. (Section 721.05(31), Florida Statutes.)~~

(h) ~~“Time share period titleholder” means the purchaser of a time share period sold as a fee interest in real property, whether organized under Chapter 718 or Chapter 721, F.S. (Section 192.001(15), F.S.)~~

(i) ~~“Time share plan” means any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right to use agreement or by any other means, whereby a purchaser, in exchange for a consideration, receives ownership rights in, or a right to use, accommodations or facilities, or both, for a period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than 3 years. (Section 721.05(32), Florida Statutes.)~~

(j) ~~“Time share property” means one or more time share units subject to the same time share instrument, together with any other property or rights to property appurtenant to those units. (Section 721.05(33), Florida Statutes.)~~

(k) ~~“Time share unit” means an accommodation of a time share plan which is divided into~~

~~time share periods. (Section 721.05(34), Florida Statutes.)~~

(3) Method of Assessment and Valuation.

(a) Each fee ~~timeshare~~ ~~time share~~ development, as ~~described~~ defined in Section 192.037(2), F.S. paragraph (2)(d) of this rule, must ~~shall~~ be listed on the assessment roll as a single entry.

~~(b) The assessed value of each time share development shall be the value of the combined individual time share periods or time share estates contained therein. In determining the highest and best use to which the time share development can be expected to be put in the immediate future and the present use of the property, the property appraiser shall properly consider the terms of the time share instrument and the use of the development as divided into time share estates or periods. (Section 192.037(2), F.S.)~~

~~(b)(e)~~ Each of the eight factors set forth in subsections Sections 193.011(1)-(8) inclusive, F.S., must ~~shall~~ be considered by the property appraiser in arriving at assessed values as in the manner prescribed in paragraph (3)(a) ~~(2)(b)~~ of this rule. In these ~~such~~ considerations, the property appraiser must ~~shall~~ properly evaluate the relative merit and significance of each factor.

~~(d) Consistent with the provisions of Section 193.011(8), F.S., and when possible, resales of comparable time share developments with ownership characteristics similar to those of the subject being appraised for ad valorem assessment purposes, and resales of time share periods from time share period titleholders to subsequent time share period titleholders, shall be used as the basis for determining the extent of any deductions and allowances that may be appropriate.~~

~~(4) Listing of fee time share real property on assessment rolls.~~

~~(a) Fee time share real property shall be listed on the assessment rolls as a single entry for each time share development. (Section 192.037(2), F.S.)~~

~~(b) The assessed value listed for each time share development shall be derived by the~~

~~property appraiser in the manner prescribed in paragraph (3) of this rule.~~

~~(5) Billing and Collection.~~

~~(a) For the purposes of ad valorem taxation and special assessments, including billing and collections, the managing entity responsible for operating and maintaining fee time share real property shall be considered the taxpayer as an agent of the time share period titleholders.~~

~~(b) The property appraiser shall annually notify the managing entity of the proportions to be used by the managing entity in allocating the valuation, taxes, and special assessments on time share property among the various time share periods.~~

~~(c) The tax collector shall accept only full payment of the taxes and special assessments due on the time share development and sell tax certificates as provided in paragraph 12D-~~

~~13.051(2)(b), F.A.C., on the time share development as a whole parcel, as listed on the tax roll.~~

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 192.001, 192.037, 193.011; 721.05 FS. History—New 5-29-85, Formerly 12D-6.06, Amended 12-27-94,_____.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
CREATING RULE 12D-7.0025
AMENDING RULE 12D-7.0143

SUMMARY OF PROPOSED RULES

Proposed new Rule 12D-7.0025, F.A.C. (Application for Certain Exemptions Before Receiving Statutorily Required Documentation) lets veterans or their surviving spouses apply for exemptions or discounts in Sections 196.081, 196.082, 196.091, 196.101, 196.202, and 196.24, F.S., before receipt of documentation from the United States Department of Veterans Affairs, its predecessor, or the Social Security Administration. The proposed rule allows the property appraiser to grant the exemption or discount after reviewing the missing documentation. The proposed rule gives the applicant the option to apply for a refund of excess taxes paid.

The proposed amendments to Rule 12D-7.0143, F.A.C. (Additional Homestead Exemptions for Persons 65 and Older Whose Household Income Does Not Exceed \$20,000 Per Year) establish procedures for counties and municipalities to follow so that they can grant the two optional exemptions to qualified taxpayers aged 65 and older who meet the requirements of Section 196.075, F.S. The two exemptions are: (A) an additional exemption of up to \$50,000; and/or (B) an exemption of less than \$250,000 of the just value of their property for qualified persons who have maintained their permanent residence on a property for at least 25 years. These

two exemptions are only available in counties or municipalities that have passed a local ordinance.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of adopting proposed Rule 12D-7.0025, F.A.C., (Application for Certain Exemptions Before Receiving Statutorily Required Documentation) is to implement statutory changes enacted in Sections 19, 20, 21, 22, 27, and 28 of Chapter 2012-193, Laws of Florida.

The purpose of amending Rule 12D-7.0143, F.A.C., (Additional Homestead Exemptions for Persons 65 and Older Whose Household Income Does Not Exceed \$20,000 Per Year) is to implement Chapter 2012-57, Laws of Florida, based on the new Constitutional exemption for certain seniors that was approved by voters in the 2012 election.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOPS

Notices of Rule Development for proposed new Rule 12D-7.0025 were published twice in the Florida Administrative Register (F.A.R.), first on July 27, 2012 (Vol. 38, No. 30, pp. 3074-3075) and again on August 31, 2012 (Vol. 38, No. 35, pp. 3562-3563). Workshops for this rule were held on August 14, 2012 and on September 19, 2012. Interested parties and county officials were invited to attend in person and through the internet using WebEx virtual meeting technology.

A Notice of Rule Development for proposed Rule 12D-7.0143, F.A.C., was published in the July 29, 2013 edition of the F.A.R. (Vol. 39, No. 146, pp. 3737-3738). This notice stated that a workshop would only be held if requested by the public. No comments were received on this draft, and no one requested that a workshop be held.

SUMMARY OF GOVERNOR AND CABINET PUBLIC HEARING

The Governor and Cabinet held a public hearing on September 24, 2013, at which they authorized the Department to publish a Notice of Proposed Rule for Rules 12D-7.0025 and 12D-7.0143. Notice of this meeting of the Governor and Cabinet was published in the F.A.R. on September 16, 2013 (Vol. 39, No. 180, p. 4644).

SUMMARY OF PUBLIC RULE HEARING

A Notice of Proposed Rule for proposed new Rule 12D-7.0025 and proposed amendments to Rule 12D-7.0143, F.A.C., was published in the September 25, 2013 edition of the F.A.R. (Vol. 39, No. 187, pp. 4828-4830). A public rule hearing was held by the Department on October 17, 2013. One comment was received on proposed new Rule 12D-7.0025 suggesting that a provision be added regarding refunds. The proposed rule was not changed. No comments were received on the proposed amendments to Rule 12D-7.0143, F.A.C.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
CREATING RULE 12D-7.0025

12D-7.0025 Application for Certain Exemptions Before Receiving Statutorily Required Documentation.

(1) This rule only applies to persons who are applying for:

(a) The exemption for certain permanently and totally disabled veterans and for surviving spouses of veterans under Section 196.081, F.S., who have not yet received documentation from the United States Government or the United States Department of Veterans Affairs or its predecessor.

(b) The discount for disabled veterans under Section 196.082, F.S., who have not yet received documentation from the United States Department of Veterans Affairs or its predecessor.

(c) The exemption for disabled veterans confined to wheelchairs under Section 196.091, F.S., who have not yet received documentation from the United States Government or the United States Department of Veterans Affairs or its predecessor.

(d) The exemption for totally and permanently disabled persons under Section 196.101, F.S., who have not yet received documentation from the United States Department of Veterans Affairs or its predecessor.

(e) The exemption for property of widows, widowers, blind persons, and persons totally and permanently disabled under Section 196.202, F.S., who have not yet received documentation from the United States Department of Veterans Affairs or its predecessor or from the Social Security Administration.

(f) The exemption for disabled ex-servicemembers or surviving spouses under Section 196.24, F.S., who have not yet received documentation from the United States Government or the United States Department of Veterans Affairs or its predecessor.

(2) A person applying for an exemption or discount described in this rule may file the application for exemption or discount with the property appraiser before receiving the specified documentation.

(3) When the property appraiser receives the application, he or she must record the date the application was filed and give the applicant a receipt of the filing. The receipt must include the date of the application and the exemption applied for. The property appraiser must keep the application on file.

(4) When the property appraiser receives the required documentation which was missing at the time of the original application, the property appraiser must review the application and, if the applicant qualifies, grant the exemption or discount as of the date of the original application.

(5) The applicant may apply to the tax collector for a refund of excess taxes paid. Refunds are limited to those taxes paid during the four year period of limitation set by Section 197.182(1)(e), F.S.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 196.081, 196.082, 196.091, 196.101, 196.202, 196.24, 197.182 FS. History—New xx-xx-xx.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
AMENDING RULE 12D-7.0143

12D-7.0143 Additional Homestead Exemptions ~~Exemption Up To \$50,000~~ for Persons 65 and Older Whose Household Income Does Not Exceed \$20,000 Per Year.

(1)(a) The Florida Constitution and Section 196.075, F.S., authorize counties and municipalities to grant by local ordinance two separate additional exemptions for qualified persons who are 65 years of age and older and who meet the household adjusted gross income requirements of Section 196.075, F.S.

1. Paragraph 196.075(2)(a), F.S., authorizes an additional exemption of up to \$50,000 for persons who meet the requirements of this law.

2. Paragraph 196.075(2)(b), F.S., authorizes an additional exemption of less than \$250,000 of the just value of their property for persons who have maintained their permanent residence on this property for at least 25 years and who meet the requirements of this law.

(b) The following procedures ~~shall~~ apply in counties and municipalities that have granted one or more an additional homestead exemptions ~~exemption up to \$50,000~~ for persons 65 and older on January 1, whose household adjusted gross income for the prior year does not exceed \$20,000, adjusted beginning January 1, 2001, by the percentage change in the average cost-of-living index.

(2) A taxpayer claiming either ~~the~~ additional exemption must ~~is required to~~ submit a sworn statement of adjusted gross income of the household (Form DR-501SC, Sworn Statement of Adjusted Gross Income of Household and Return, incorporated by reference in Rule 12D-16.002, F.A.C.) to the property appraiser by March 1, including ~~comprising~~ a confidential return of household income for the specified applicant and property. The sworn statement must be supported by copies of the following documents to be submitted for review ~~inspection~~ by the property appraiser:

(a) Federal income tax returns for the prior year for each member of the household, which must ~~shall~~ include the federal income tax returns 1040, 1040A, and 1040EZ, if any; and

(b) Any request for an extension of time to file federal income tax returns; and

(c) Any wage earnings statements for each member of the household, which must ~~shall~~ include Forms W-2, RRB-1042S, SSA-1042S, 1099, 1099A, RRD-1099 and SSA-1099, if any.

(3) Proof of age is ~~shall be~~ prima facie established for persons 65 and older by submitting ~~submission of~~ one of the following: certified copy of birth certificate; driver's license or Florida identification card; passport; life insurance policy in effect for more than two years; marriage certificate; Permanent Resident Card (~~formerly known as Alien Registration Card~~); certified school records; or certified census record. If none of these forms of identification is submitted ~~In the absence of one of these forms of identification~~, the property appraiser may rely on appropriate proof.

(4)(a) When determining if the taxpayer has been a permanent resident of the property for 25 years or more, the property appraiser must consider that the residency requirement is met if the taxpayer has qualified and been receiving the homestead exemption on the property for 25 years or more.

(b) If the taxpayer has not received the homestead exemption on the property for 25 years or more, the property appraiser must look at other evidence, including but not limited to, evidence described in Section 196.015, F.S., to determine if the taxpayer has maintained their permanent residence on the property for the required period.

(c) The taxpayer did not have to receive or qualify for the homestead exemption on the property during the entire period as long as they maintained it as their permanent residence.

(d) If the taxpayer was not the owner of the property but resided on the property for at least 25 years and currently has legal and equitable title, the taxpayer qualifies for the additional homestead exemption.

(5) Unless requested by the property appraiser, supporting ~~Supporting~~ documentation does not have ~~is not required~~ to be submitted with the sworn statement for renewal of ~~the~~ an exemption, ~~unless requested by the property appraiser.~~

(6)(5) The property appraiser may not grant or renew an ~~the~~ exemption if the required documentation is not provided ~~including what is requested by the property appraiser is not provided.~~

Rulemaking Authority 195.027(1), 196.075(5), 213.06(1) FS. Law Implemented 193.074, 196.015, 196.031, 196.075, 213.05 FS. History—New 12-30-99, Amended 12-30-02, 11-1-12, xx-xx, xx-xx.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-8, FLORIDA ADMINISTRATIVE CODE
ASSESSMENT ROLL PREPARATION AND APPROVAL
CREATING RULE 12D-8.0065

SUMMARY OF PROPOSED RULE

Proposed new Rule 12D-8.0065, F.A.C., (Transfer of Homestead Assessment Difference; “Portability”; Sworn Statement Required; Denial; Late Applications) implements statutory provisions that: establish procedures for the transfer of homestead assessment limitation difference (portability); provide necessary forms to apply for portability; designate the ownership shares to be attributed to a husband and wife who abandon a homestead property for purposes of determining the assessed value of a newly established homestead under certain circumstances; and, provide instructions to property appraisers about how to handle late “Portability” applications and denials of these applications.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The purpose of creating this proposed rule (which replaces Emergency Rule 12DER12-08) is to implement the provisions of Chapter 2008-173, L.O.F., and Section 5 of Ch. 2012-193, L.O.F.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Rule Development for proposed new Rule 12D-8.0065 was published in the Florida Administrative Weekly (F.A.R.) on July 1, 2011 (Vol. 37, No. 26, pp. 1785-1792). Two public workshops were held for this proposed new rule on July 19 and 20, 2011. Interested parties and county officials were invited to attend in person and through the internet using WebEx virtual meeting technology.

A second Notice of Rule Development for this proposed new rule was published in the F.A.R. on June 22, 2012 (Vol. 38, No. 25, p. 2541), and a workshop was held for the proposed rule on August 14, 2012. Interested parties and county officials were invited to attend in person and through the internet using WebEx virtual meeting technology.

A third Notice of Rule Development for this rule was published on August 31, 2012 (Vol. 38, No. 35, p. 3563). A workshop for this rule was held on September 19, 2012. Interested parties and county officials were invited to attend in person and through the internet using WebEx virtual meeting technology.

SUMMARY OF GOVERNOR AND CABINET PUBLIC HEARING

The Governor and Cabinet held a public hearing on September 24, 2013, at which they authorized the Department to publish a Notice of Proposed Rule for this proposed new rule.

Notice of this meeting of the Governor and Cabinet was published in the F.A.R. on September 16, 2013 (Vol. 39, No. 180, p. 4644).

SUMMARY OF PUBLIC RULE HEARING

A Notice of Proposed Rule for this proposed new rule was published in the September 25, 2013 edition of the F.A.R. (Vol. 39, No. 187, pp. 4831-4834). A public rule hearing was held by the Department on October 17, 2013. The Program received two comments during the Emergency Rule phase and they were incorporated into the provisions of this permanent rule. Also, several comments were received during the public rule hearing. Based on two of the comments, the Department made changes to paragraphs (5)(b) and (6)(a) of the proposed rule.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-8, FLORIDA ADMINISTRATIVE CODE
ASSESSMENT ROLL PREPARATION AND APPROVAL
CREATING RULE 12D-8.0065

12D-8.0065 Transfer of Homestead Assessment Difference; “Portability”; Sworn Statement
Required; Denials; Late Applications.

(1) For purposes of this rule, the following definitions apply.

(a) The previous property appraiser means the property appraiser in the county where the taxpayer’s previous homestead property was located.

(b) The new property appraiser means the property appraiser in county where the taxpayer’s new homestead is located.

(c) The previous homestead means the homestead which the assessment difference is being transferred from.

(d) The new homestead means the homestead which the assessment difference is being transferred to.

(e) Assessment difference means the difference between assessed value and just value attributable to Section 193.155, F.S.

(2) Section 193.155(8), F.S., provides the procedures for the transfer of the homestead assessment difference, within stated limits, when a homestead is abandoned. This rule describes those procedures, which are an alternative to assessment at just value. The amount of the

assessment difference is transferred as a reduction to the just value of the interest owned by taxpayers that qualify and receive homestead exemption on a new homestead.

(a) This rule sets limits and requirements consistent with Section 193.155(8), F.S. A taxpayer may apply for the transfer of an assessment difference from a previous homestead property to a new homestead property if:

1. The taxpayer received a homestead exemption on the previous property on January 1 of one of the last two years before establishing the new homestead; and,

2. The previous property was abandoned as a homestead after that January 1; and,

3. The previous property was, or will be, reassessed at just value or assessed under Section 193.155(8), F.S., as of January 1 of the year after the year in which the abandonment occurred subject to Subsections 193.155(8) and 193.155(3), F.S; and

4. The taxpayer establishes a new homestead on the property by January 1 of the year they are applying for the transfer.

(b) Under Section 193.155(8), F.S., the transfer is only available from a prior homestead for which a taxpayer previously received a homestead exemption. For these rules:

1. If a husband and wife owned and resided on a previous homestead, each is considered to have received the homestead exemption, even if only one of them applied.

2. For joint tenants with rights of survivorship and for tenants in common, those who applied for, received the exemption, and resided on a previous homestead are considered to have received the exemption.

(3)(a) To apply for portability, the taxpayer must file Form DR-501T, Transfer of Homestead Assessment Difference, (incorporated by reference in Rule 12D-16.002, F.A.C.), including a sworn statement, by March 1. Form DR-501T is submitted as an attachment to Form DR-501,

Original Application for Ad Valorem Tax Exemption, (incorporated by reference in Rule 12D-16.002, F.A.C.).

(b) If the taxpayer meets the qualifications and wants to designate the ownership share of the assessment difference to be attributed to him or her as husband and wife for transfer to the new homestead, the taxpayer must also file a copy of Form DR-501TS, Designation of Ownership Shares of Abandoned Homestead (incorporated by reference in Rule 12D-16.002, F.A.C.) that was already filed with the previous property appraiser as described in subsection (5).

(4) Within the limitations for multiple owners in subsection (5), the total which may be transferred is limited as follows:

(a) Upsizing - When the just value of the new homestead equals or is greater than the just value of the previous homestead, the maximum amount that can be transferred is \$500,000.

(b) Downsizing - When the just value of the new homestead is less than the just value of the previous homestead, the maximum amount that can be transferred is \$500,000. Within that limit, the amount must be the same proportion of the new homestead's just value as the proportion of the assessment difference was of the previous homestead's just value.

(5)(a) Transferring without splitting or joining – When two or more persons jointly abandon a single homestead and jointly establish a new homestead, the provisions for splitting and joining below do not apply if no additional taxpayers are part of either homestead. The maximum amount that can be transferred is \$500,000.

(b) Splitting - When two or more people who previously shared a homestead abandon that homestead and establish separate homesteads, the maximum total amount that can be transferred is \$500,000. Within that limit, each taxpayer who received a homestead exemption and is eligible to transfer an amount is limited to a share of the previous homestead's difference

between assessed value and just value. The shares of the taxpayers that received the homestead exemption cannot total more than 100 percent.

1. For tenants in common, this share is the difference between just value and assessed value for the tenant's proportionate interest in the property. This is the just value of the taxpayer's interest minus the assessed value of the taxpayer's interest.

2. For joint tenancy with right of survivorship and for a husband and wife, the share is the assessed value of the homestead portion of the property, divided by the number of owners that received the exemption, unless another interest share is on the title. In that case, the portion of the amount that may be transferred is the difference between just value and assessed value for the stated share.

3. Subparagraphs 1. and 2. do not apply if a husband and wife abandon jointly titled property and designate their respective ownership shares by completing and filing Form DR-501TS. When a complete and valid Form DR-501TS is filed as provided in this subparagraph, the designated ownership shares are irrevocable.

If a husband and wife abandon jointly titled property and want to designate their respective ownership shares they must:

- a. Be married to each other on the date the jointly titled property is abandoned.
- b. Each execute the sworn statement designating the person's ownership share on Form DR-501TS.
- c. File a complete and valid Form DR-501TS with the previous property appraiser before either person applies for portability on Form DR-501T with the new property appraiser.
- d. Include a copy of Form DR-501TS with the homestead exemption application filed with the new property appraiser as described in subsection (3).

4. Except when a complete and valid designation form DR-501TS is filed, the shares of the assessment difference cannot be sold, transferred, or pledged to any taxpayer. For example, if a husband and wife divorce and both abandon the homestead, they each take their share of the assessment difference with them. The property appraiser cannot accept a stipulation otherwise.

(c) If two or more persons who have each received a homestead exemption as of January 1 of either of the 2 immediately preceding years and who would otherwise be eligible to have a new homestead property assessed under this subsection establish a single new homestead, the reduction from just value is limited to the higher of the difference between the just value and the assessed value of either of the prior eligible homesteads as of January 1 of the year in which either of the eligible prior homesteads was abandoned, but may not exceed \$500,000.

(6) Abandonment.

(a) To transfer an assessment difference, a homestead owner must abandon the homestead before January 1 of the year the new application is made.

(b) In the case of joint tenants with right of survivorship, if only one owner moved and the other stayed in the original homestead, the homestead would not be abandoned. The one who moved could not transfer any assessment difference.

(c) To receive an assessment reduction under Section 193.155(8), F.S., a taxpayer may abandon his or her homestead even though it remains his or her primary residence by providing written notification to the property appraiser of the county where the homestead is located. This notification must be delivered before or at the same time as the timely filing of a new application for homestead exemption on the property. This abandonment will result in reassessment at just value as provided in subparagraph (2)(a)3. of this rule.

(7) Only the difference between assessed value and just value attributable to Section 193.155, F.S., can be transferred.

(a) If a property has both the homestead exemption and an agricultural classification, a taxpayer cannot transfer the difference that results from an agricultural classification.

(b) If a homeowner has a homestead and is receiving a reduction in assessment for living quarters for parents or grandparents under Section 193.703, F.S., the reduction is not included in the transfer. When calculating the amount to be transferred, the amount of that reduction must be added back into the assessed value before calculating the difference.

(8) Procedures for property appraiser:

(a) If the previous homestead was in a different county than the new homestead, the new property appraiser must transmit a copy of the completed Form DR-501T with a completed Form DR-501 to the previous property appraiser. If the previous homesteads of taxpayers applying for transfer were in more than one county, each taxpayer from a different county must fill out a separate Form DR-501T.

1. The previous property appraiser must complete Form DR-501RVSH, Certificate for Transfer of Homestead Assessment Difference (incorporated by reference in Rule 12D-16.002, F.A.C.). By April 1 or within two weeks after receiving Form DR-501T, whichever is later, the previous property appraiser must send this form to the new property appraiser. As part of the information returned on Form DR-501RVSH, the previous property appraiser must certify that the amount transferred is part of a previous homestead that has been or will be reassessed at just value as of January 1 of the year after the year in which the abandonment occurred as described in subsection (2)(a)3. of this rule.

2. Based on the information provided on Form DR-501RVSH from the previous property appraiser, the new property appraiser calculates the amount that may be transferred and applies this amount to the January 1 assessment of the new homestead for the year applied for.

(b) If the transfer is from the same county as the new homestead, the property appraiser retains Form DR-501T. Form DR-501RVSH is not required. For a taxpayer that applied on time for the transfer of assessment difference, the property appraiser updates the ownership share information using the share methodology in this rule.

(c) The new property appraiser must record the following in the assessment roll submitted to the Department according to Section 193.1142, F.S., for the year the transfer is made to the homestead parcel:

1. Flag for current year assessment difference transfer;

2. Number of owners among whom the previous assessment difference was split. Enter 1 if previous difference was not split;

3. Assessment difference value transferred;

4. County number of previous homestead;

5. Parcel ID of previous homestead;

6. Year from which assessment difference value was transferred;

(d) Property appraisers that have information sharing agreements with the Department are authorized to share confidential tax information with each other under Section 195.084, F.S., including social security numbers and linked information on Forms DR-501, DR-501T, and DR-501RVSH.

(9) The transfer of an assessment difference is not final until all values on the assessment roll on which the transfer is based are final. If the values are final after the procedures in these rules

are exercised, the property appraiser(s) must make appropriate corrections and send a corrected assessment notice. Any values that are in administrative or judicial review must be noticed to the tribunal or court for accelerated hearing and resolution so that the intent of Section 193.155(8), F.S. may be fulfilled. This rule does not authorize the consideration or adjustment of the just, assessed, or taxable value of the previous homestead property.

(10) Additional provisions.

(a) If the information from the previous property appraiser is provided after the procedures in this section are exercised, the new property appraiser must make appropriate corrections and send a corrected assessment notice.

(b) The new property appraiser must promptly notify a taxpayer if the information received or available is insufficient to identify the previous homestead and the transferable amount. This notice must be sent by July 1.

(c) If the previous property appraiser supplies enough information to the new property appraiser, the information is considered timely if provided in time to include it on the notice of proposed property taxes sent under Sections 194.011 and 200.065(1), F.S.

(d) If the new property appraiser has not received enough information to identify the previous homestead and the transferable amount in time to include it on the notice of proposed property taxes, the taxpayer may file a petition with the value adjustment board in the county of the new homestead.

(11) Denials.

(a) If the taxpayer is not qualified for transfer of any assessment difference, the new property appraiser must send Form DR-490PORT, Notice of Denial of Transfer of Homestead

Assessment Difference, (incorporated by reference in Rule 12D-16.002, F.A.C.) to the taxpayer by July 1 and include the reasons for the denial.

(b) Any property appraiser who sent a notice of denial by July 1 because he or she did not receive sufficient information to identify the previous homestead and the amount which is transferable, may grant the transfer after receiving information from the previous property appraiser showing the taxpayer was qualified. If a petition was filed based on a timely application for the transfer of an assessment difference, the value adjustment board must refund the taxpayer the \$15.

(c) Petitions of denials may be filed with the value adjustment board as provided in Rule 12D-9.028, F.A.C.

(12) Late applications.

(a) Any taxpayer qualified to have property assessed under Section 193.155(8), F.S., who fails to file for a new homestead on time in the first year following eligibility may file in a subsequent year. The assessment reduction must be applied to assessed value in the year the transfer is first approved. A refund may not be given for previous years.

(b) Any taxpayer who is qualified to have his or her property assessed under Section 193.155(8), F.S., who fails to file an application by March 1, may file an application for assessment under that subsection and, under Section 194.011(3), F.S., may file a petition with the value adjustment board requesting the assessment be granted. The petition may be filed at any time during the taxable year by the 25th day following the mailing of the notice by the property appraiser as provided in Section 194.011(1), F.S. In spite of Section 194.013, F.S., the taxpayer must pay a nonrefundable fee of \$15 when filing the petition, as required by paragraph (j) of Section 193.155(8), F.S. After reviewing the petition, the property appraiser or the value

adjustment board may grant the assessment under Section 193.155(8), F.S., if the property appraiser or value adjustment board find the taxpayer is qualified and demonstrates particular extenuating circumstances to warrant granting the assessment.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 192.047, 193.114, 193.1142, 193.155, 193.461, 193.703, 194.011 FS. History—New xx-xx-xx.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE
ASSESSMENT ROLL PREPARATION AND APPROVAL
AMENDING RULES 12D-9.001, 12D-9.019, AND 12D-9.020

SUMMARY OF PROPOSED RULES

The proposed amendments to Rule 12D-9.001, F.A.C., implement provisions from Section 192.0105, F.S., which contains the “Florida Taxpayer’s Bill of Rights” (for property taxes and assessments), to: remove the four hour wait time; provide that the petitioner’s wait time should not exceed two hours; and, add the petitioner’s right to reschedule if the wait time exceeds two hours.

The proposed amendments to Rule 12D-9.019, F.A.C., implement provisions from Chapter 2012-193, Laws of Florida, to: require that certain information be provided with the notice provided to a petitioner concerning the time he or she is scheduled for an appearance before a VAB; provide that a petition hearing be rescheduled if the hearing is not commenced within 2 hours after the scheduled time; and, remove a requirement that the property record card be sent with the notice of hearing.

The proposed amendments to Rule 12D-9.020, F.A.C., implement the Administrative Law Judge’s ruling in Rob Turner, Hillsborough County PA vs. DOR (DOAH Case No.:11-677, summary Final Order dated June 22, 2011), which found the rule contradicts Section

194.011(4)(a), F.S., regarding the exchange of evidence process for VAB hearings; and, implement a change in Section 8 of Chapter 2013-109, Laws of Florida, which requires that the property appraiser, instead of the Clerk, now provide a copy of the property record card to the petitioner.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULES

The purpose of the proposed amendments to Rules 12D-9.001 and 12D-9.019, F.A.C., is to implement statutory changes enacted in Sections 2 and 11 of Chapter 2012-193, Laws of Florida.

The purpose of the proposed amendments to Rule 12D-9.020, F.A.C., is to implement the Administrative Law Judge's ruling in Rob Turner, Hillsborough County Property Appraiser v. Department of Revenue, DOAH Case No 11-677, Summary Final Order dated June 22, 2011. It was found that the rule contradicts Section 194.011(4)(a), F.S.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOPS

A Notice of Rule Development for proposed Rule 12D-9.020, F.A.C., was published in the March 2, 2012 edition of the Florida Administrative Weekly (F.A.W.; Vol. 38, No. 9, pp. 917-918).

Notices of Rule Development for proposed Rules 12D-9.001, 12D-9.019, and 12D-9.020,

F.A.C., were published twice in the Florida Administrative Register (F.A.R.): on July 27, 2012 (Vol. 38, No. 30, p. 3075); and, on August 31, 2012 (Vol. 38, No. 35, pp. 3563-3564).

SUMMARY OF GOVERNOR AND CABINET PUBLIC HEARING

The Governor and Cabinet held a public hearing on September 24, 2013, at which they authorized the Department to publish a Notice of Proposed Rule for Rules 12D-9.001, 12D-9.019, and 12D-9.020. Notice of this meeting of the Governor and Cabinet was published in the F.A.R. on September 16, 2013 (Vol. 39, No. 180, p. 4644).

SUMMARY OF PUBLIC RULE HEARING

A Notice of Proposed Rule for the proposed amendments to Rules 12D-9.001, 12D-9.019, and 12D-9.020, F.A.C., was published in the September 25, 2013 edition of the F.A.R. (Vol. 39, No. 187, pp. 4835-4838). A public rule hearing was held by the Department on October 17, 2013.

No comments were received on proposed Rule 12D-9.001, F.A.C. The Department received several comments on proposed Rule 12D-9.019. Two of the comments had already been the subject of revisions incorporated into the proposed rule by the Department. All other comments addressed issues that exceed the Department's statutory authority. Comments were also received on proposed Rule 12D-9.020, F.A.C., and the Department made a change recommended by the Joint Administrative Procedures Committee.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE
REQUIREMENTS FOR VALUE ADJUSTMENT BOARDS IN ADMINISTRATIVE
REVIEWS; UNIFORM RULES OF PROCEDURE FOR HEARINGS BEFORE VALUE
ADJUSTMENT BOARDS
AMENDING RULE 12D-9.001

12D-9.001 Taxpayer Rights in Value Adjustment Board Proceedings.

(1) Taxpayers are granted specific rights by Florida law concerning value adjustment board procedures.

(2) These rights include:

(a) through (d) No change.

(e) The right to be sent prior notice of the date for the hearing of the taxpayer's petition by the value adjustment board and the right to the hearing within a reasonable time of the scheduled hearing, and the right to have the hearing rescheduled if the hearing is not commenced within a reasonable time, not to exceed two hours, after the scheduled time;

(f) through (o) No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 192.0105, 193.074, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 194.301, 195.002, 195.027, 195.084, 195.096, 196.011, 196.151, 196.193, 196.194, 197.122, 213.05 FS. History—New 3-30-10, Amended xx-xx-xx.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE
REQUIREMENTS FOR VALUE ADJUSTMENT BOARDS IN ADMINISTRATIVE
REVIEWS; UNIFORM RULES OF PROCEDURE FOR HEARINGS BEFORE VALUE
ADJUSTMENT BOARDS
AMENDING RULE 12D-9.019

12D-9.019 Scheduling and Notice of a Hearing.

(1)(a) The board clerk shall prepare a schedule of appearances before the board or special magistrates based on timely filed petitions, and shall notify each petitioner of the scheduled time of appearance. The board clerk shall simultaneously notify the property appraiser or tax collector. The board clerk may electronically send this notification to the petitioner, if the petitioner indicates on his or her petition this means of communication for receiving notices, materials, and communications.

(b) When scheduling hearings, the board clerk shall consider:

1. The anticipated amount of time if indicated on the petition;
2. The experience of the petitioner;
3. The complexity of the issues or the evidence to be presented;
4. The number of petitions/parcels to be heard at a single hearing;
5. The efficiency or difficulty for the petitioner of grouping multiple hearings for a single petitioner on the same day; and

6. The likelihood of withdrawals, cancellations of hearings or failure to appear.

(c) Upon request of a party, the board clerk shall consult with the petitioner and the property appraiser or tax collector to ensure that, within the board clerk's judgment, an adequate amount of time is provided for presenting and considering evidence.

(2) No hearing shall be scheduled related to valuation issues prior to completion by the governing body of each taxing authority of the public hearing on the tentative budget and proposed millage rate.

(3)~~(a)~~ The notice of hearing before the value adjustment board shall be in writing, and shall be delivered by regular or certified U.S. mail or personal delivery, or in the manner requested by the petitioner on Form DR-486, so that the notice shall be received by the petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The Form DR-486 series is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The notice of hearing form shall meet the requirements of this section and shall be subject to approval by the department. The department provides Form DR-481 as a format for the form of such notice. Form DR-481 is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The notice shall include these elements:

1. The parcel number, account number or legal address of all properties being heard at the scheduled hearing;

2. The type of hearing scheduled;

3. The date and time of the scheduled hearing; however, if the petition has been scheduled to be heard within a block of time, the beginning and ending of that block of time shall be indicated on the notice;

4. The time reserved, or instructions on how to obtain this information;

5. The location of the hearing, including the hearing room number if known, together with board clerk contact information including office address and telephone number, for petitioners to request assistance in finding hearing rooms;

6. Instructions on how to obtain a list of the potential special magistrates for the type of petition in question;

7. A statement of the petitioner's right to participate in the exchange of evidence with the property appraiser;

8. A statement that the petitioner has the right to reschedule the hearing one time by making a written request to the board clerk at least five calendar days before the hearing;

9. Instructions on bringing copies of evidence;

10. Any information necessary to comply with federal or state disability or accessibility acts; and

11. Information regarding where the petitioner may obtain a copy of the uniform rules of procedure.

~~(b) If the petitioner has requested a copy of the property record card, it shall be sent no later than the time at which the notice of hearing is sent.~~

(4)(a) The petitioner may reschedule the hearing without good cause one time by submitting a written request to the board clerk no fewer than five (5) calendar days before the scheduled appearance. To calculate the five (5) days, the petitioner shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next previous day which is neither a Saturday, Sunday, or legal holiday.

(b) A petitioner may request a rescheduling of a hearing for good cause by submitting a written request to the board clerk before the scheduled appearance or as soon as practicable. A rescheduling for good cause shall not be treated as the one time rescheduling to which a petitioner has a right upon timely request under Section 194.032(2), F.S. Reasons for “good cause” that a board clerk or board designee may consider in providing for a rescheduling are:

1. Petitioner is scheduled for a value adjustment board hearing for the same time in another jurisdiction;
2. Illness of the petitioner or a family member;
3. Death of a family member;
4. The taxpayer’s hearing does not begin within a reasonable time of their scheduled hearing time; or
5. Other reasons beyond the control of the petitioner.

(c) The property appraiser or tax collector may submit a written request to the board clerk to reschedule the hearing, and must provide a copy of the request to the petitioner. If there is a conflict, such as the attorney or staff needs to attend two different hearings which are scheduled at the same time, the property appraiser or tax collector may request a reschedule.

(5) A request to reschedule the hearing made by the petitioner fewer than five calendar days before the scheduled hearing may be made only for an emergency when good cause is shown. Such a request shall be made to the board clerk who shall forward the request to the board or a board designee, which includes the board clerk, board legal counsel or a special magistrate.

(a) If the board or a board designee determines that the request does not show good cause, the request will be denied and the board may proceed with the hearing as scheduled.

(b) If the board or a board designee determines that the request demonstrates good cause, the

request will be granted. In that event, the board clerk will issue a notice of hearing with the new hearing date, which shall be the earliest date that is convenient for all parties.

(c) The board clerk shall give appropriate notice to the petitioner of the determination as to good cause. Form DR-485WCN is designated and may be used for this purpose. Form DR-485WCN is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The board clerk shall also appropriately notify the property appraiser or tax collector.

(d) When rescheduling hearings under this rule subsection or subsection (4) above, if the parties are unable to agree on an earlier date, the board clerk is authorized to schedule the hearing and send a notice of such hearing by regular or certified U.S. mail or personal delivery, or in the manner requested by the petitioner on the petition Form DR-486, so that the notice shall be received by the petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The board clerk is responsible for notifying the parties of any rescheduling.

(6) If a hearing is rescheduled, the deadlines for the exchange of evidence shall be computed from the new hearing date, if time permits.

(7)(a) If a petitioner's hearing does not commence as scheduled, the board clerk is authorized to determine good cause exists to reschedule a petition.

(b) In no event shall a petitioner be required to wait more than a reasonable time after from the scheduled time to be heard or, if the petition has been scheduled to be heard within a block of time, after the beginning of the block of time. ~~A reasonable time shall not exceed four hours.~~ The board clerk is authorized to find that a reasonable time has elapsed based on other commitments, appointments or hearings of the petitioner, lateness in the day, and other hearings waiting to be heard earlier than the petitioner's hearing with the board or special magistrate. If his or her

petition has not been heard within a reasonable time, the petitioner may request to be heard immediately. If the board clerk finds a reasonable time has elapsed and petitioner is not heard, the board clerk shall find good cause is present and shall reschedule the petitioner's hearing. A reasonable time must not exceed two hours. After two hours, the petitioner has the right to inform the board chairperson, or the clerk as board designee, that he or she intends to leave, but need not exercise that right. If the hearing is not commenced within two hours, and the petitioner leaves, the clerk must reschedule the hearing. A rescheduling under this paragraph is not considered to be a request to reschedule as provided in paragraph (4)(a).

(c) A petitioner is not required to wait any length of time as a prerequisite to filing an action in circuit court.

(8) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 195.022, 213.05 FS. History—New 3-30-10, Amended 9-26-11, xx-xx-xx.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE
REQUIREMENTS FOR VALUE ADJUSTMENT BOARDS IN ADMINISTRATIVE
REVIEWS; UNIFORM RULES OF PROCEDURE FOR HEARINGS BEFORE VALUE
ADJUSTMENT BOARDS
AMENDING RULE 12D-9.020

12D-9.020 Exchange of Evidence.

(1) Florida Statutes provide that at least fifteen (15) days before the hearing, the petitioner shall provide the property appraiser with a list and summary of evidence, accompanied by copies of documentation, to be presented at the hearing. ~~The petitioner has the option of participating in an exchange of evidence with the property appraiser. If the petitioner chooses not to participate in the evidence exchange, the petitioner may still present evidence for consideration by the board or the special magistrate.~~ However, as described in this section, if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and knowingly refuses to provide it to the property appraiser a reasonable time before the hearing, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. Reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. These requirements are more specifically described in subsection (8) of this rule and in paragraphs ~~Rule~~ 12D-9.025(4)(a) and (f), F.A.C.

(2)(a) ~~If the petitioner chooses to participate in an exchange of evidence with the property appraiser, at least fifteen (15) days before the hearing, the petitioner shall provide the property appraiser with a list and summary of evidence to be presented at the hearing accompanied by copies of documentation to be presented at the hearing.~~ To calculate the fifteen (15) days, the petitioner shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing.

(b) When a petitioner ~~If the petitioner chooses to participate in an exchange of evidence with the property appraiser and he or she shows good cause to the board clerk for not being able to meet the fifteen (15) day requirement and the property appraiser is unwilling to agree to a different timing of the exchange, the board clerk is authorized to reschedule the hearing to allow for the exchange of evidence to occur.~~

(c) No later than seven (7) days before the hearing, if the property appraiser receives the petitioner's documentation and if requested in writing by the petitioner, the property appraiser shall provide the petitioner with a list and summary of evidence to be presented at the hearing accompanied by copies of documentation to be presented by the property appraiser at the hearing. There is no specific form or format required for the petitioner's written request for a list of evidence with copies of all documents and a summary of the evidence to be presented by witnesses. The evidence list must contain the property record card if requested ~~provided by the board clerk~~. To calculate the seven (7) days, the property appraiser shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing.

(d) through (9) No change.

*Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
193.074, 194.011, 194.015, 194.032, 194.034, 194.035, 195.022, 195.084, 200.069, 213.05 FS.*

History—New 3-30-10, Amended xx-xx-xx.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-16, FLORIDA ADMINISTRATIVE CODE
ADMINISTRATION OF FORMS
AMENDING RULE 12D-16.002

SUMMARY OF PROPOSED RULE

The purpose of the proposed amendments to Rule 12D-16.002, F.A.C., is to adopt revised forms based on state constitutional amendments passed in the November 2012 general election and update selected forms to reflect current statutory provisions.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The purpose of the proposed amendments to Rule 12D-16.002, F.A.C., is to implement provisions from Chapter 2012-54, 2012-57, and 2012-193, Laws of Florida; Article VII, Sec. 6, and Article XII, Sec. 32, Florida Constitution; Sections 193.155 and 196.031, F.S.; and, to remove outdated forms and provide updated forms for the property appraisers, tax collectors, clerks of court, and the public.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Two public workshops were held on August 14 and September 19, 2012. Notices of Rule Development for these workshops were published in the Florida Administrative Weekly on July 27, 2012 (Volume 38, Number 30, pp. 3075-3076) and August 31, 2012 (Volume 38, Number 35, p. 3564). Interested parties and county officials were invited to attend in person and through the internet using WebEx. No comments were received on these rules.

A third Notice of Rule Development was published in the July 29, 2013, edition of the Florida Administrative Register (Volume 39, Number 146, pp. 3736-3737). This notice stated a workshop for these proposed amendments would be held only if requested by the public. No request for a workshop was received and no comments have been submitted.

SUMMARY OF GOVERNOR AND CABINET PUBLIC HEARING

The Governor and Cabinet held a public hearing on September 24, 2013, at which they authorized the Department to publish a Notice of Proposed Rule for this proposed rule. Notice of this meeting of the Governor and Cabinet was published in the F.A.R. on September 16, 2013 (Vol. 39, No. 180, p. 4644).

SUMMARY OF PUBLIC RULE HEARING

A Notice of Proposed Rule for the proposed amendments to this rule was published in the September 25, 2013 edition of the F.A.R. (Vol. 39, No. 187, pp. 4838-4841). A public rule hearing was held by the Department on October 17, 2013. Based on all comments received the Department made the following changes to the proposed forms:

DR-402, Declaration of Mobile Home as Real Property, amended to clarify instructions, update format, and apply plain language to the 1995 version.

DR-403EB, The (tax year) Ad Valorem Assessment Roll Exemption Breakdown of _____ County, Florida, amended to add the new exemption passed in Amendment 11, as approved by voters in November 2012.

DR-403PC, The Value and Number of Parcels on the Real Property Countywide Assessment Roll by Category, amended to correct line references and totals.

DR-403V, The (tax year) Revised Recapitulation of the Ad Valorem Assessment Roll Value Data, amended to add the new senior exemption passed in Amendment 11, as voted in November 2012.

DR-409, Certificate of Correction of Tax Roll, amended to add new exemptions from the approval of Amendments 3, 9, and 11.

DR-418, Economic Development Ad Valorem Property Tax Exemption, amended to remove outdated statute language based on Chapters 2010-147 and 2011-182, L.O.F., updated the format of the form, removed line numbers, and applied plain language initiatives.

DR-420S, Certification of School Taxable Value, Removed section D from line 17, taxing authorities no longer have “critical capital outlay or operating” items when calculating the school proposed tax rate. This ended in 2012.

DR-422, Certification of Final Taxable Value, amended to remove unnecessary lines for calculating the millage rate for the final taxable value based on Department of Education instruction.

DR-456, New, Rebuilt, or Expanded Property, amended form to update the statute cites, updated format and applied plain language initiatives.

DR-481, Value Adjustment Board – Notice of Hearing, amended form to remove a reference to a 15 minute wait and replaced with notice of block of time, reworded exchange of evidence instructions and removed a check box that the property record card was included with the notice from the Clerk.

DR-482, Application and Return for Agricultural Classification of Lands, amended form in series of 482's to make them consistent, updated layout and minor language changes.

DR-482HP, Application and Return for Classification or Exemption for Historic Property Used for Commercial or Certain Nonprofit Purposes, amended form in series of 482's to make them consistent, updated layout and minor language changes.

DR-482HW, Application and Return for High-Water Recharge Classification of Lands, amended form in series of 482's to make them consistent, updated layout and minor language changes.

DR-484, Budget Form for Property Appraisers, amended the Travel Worksheet for collection of information from the property appraisers for approving budgets.

DR-485D, Decision of the Value Adjustment Board – Denial for Non-Payment, amended form to revise the check boxes for reasons to appeal the decision of the VAB, also added a signature of clerk, “date of decision” space and “date mailed to parties” space.

DR-486, Petition to the Value Adjustment Board – Request for Hearing, amended form to add statute reference to the Petition Information section, add reference to form DR-485MU to instructions, add information requesting PA evidence, update language for the check box requesting a property record card, reworded a check box for reason for petition to include denial of late filing and late filing and update instructions in Exchange of Evidence.

DR-486PORT, Petition to the Value Adjustment Board – Transfer of Homestead Assessment Difference- Request for Hearing, amended form to add information on requesting property appraiser evidence, update instructions under Exchange of Evidence to include written request and minor language changes for plain language initiative.

DR-487, Certification of Compliance, amended to remove line requesting a copy of the Critical Needs Millage Resolution, ESE 524A, as instructed by the Florida Department of Education.

DR-489EB, The (tax year) Ad Valorem Assessment Rolls Exemption Breakdown of _____ County, Florida, amended to add the new exemption passed in Amendment 11 as voted in November 2012.

DR-489PC, The Value and Number of Parcels on the Real Property Countywide Assessment Roll by

Category, amended to correct line references and totals.

DR-489V, The (tax year) Preliminary Recapitulation of the Ad Valorem Assessment Roll, Value Data, amended to add the new senior exemption passed in Amendment 11 as voted in November 2012.

DR-490, Notice of Disapproval of Application for Property Tax Exemption or Classification by the County Property Appraiser, amended form to include instructions for taxpayers who have applied for an exemption and are waiting on required documentation from US Government, updated list of types of exemptions based on the Amendments from 2012, and format changes with minor language changes.

DR-501DV, Application for Homestead Tax Discount, Veterans Age 65 and Older, based on the amendment to Section 6 of Article VII of the State Constitution, removing the requirement that a veteran must have been a Florida resident when entering the military and minor language change to the questions at the top of the form, based on public comment.

DR-501SC, Adjusted Gross Household Income Sworn Statement and Return, amended form based on the changes with passage of Amendment 11, additional senior exemption. The form now allows applicants for both senior exemptions with low income to apply using this form and also made some minor language and format changes.

DR-501TS, Designation of Ownership Shares and Abandoned Homestead, this form is being created to implement provisions from section 5 of Chapter 2012-193, L.O.F., amending s. 193.155, F.S.

DR-504HA, Ad Valorem Tax Exemption Application and Return—Homes for the Aged, amended form and instructions to update language for plain language initiative, changes to layout of form originally promulgated in 2001.

DR-518, Cut Out Request, amended form and layout of form to update language for plain language initiatives from previous 1992 version.

DR-584, Budget Request for Tax Collectors, amended the Travel Worksheet for collection of information from the tax collectors for approving budgets

DR-593, Application for Special Distributions for Contested Property Taxes, amended form and instructions to update language for plain language initiative originally promulgated in 1998.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-16, FLORIDA ADMINISTRATIVE CODE
ADMINISTRATION OF FORMS
AMENDING RULE 12D-16.002

12D-16.002 Index to Forms.

(1) The following paragraphs list the forms used by the Department of Revenue. A copy of these forms may be obtained from the Department’s website at <http://dor.myflorida.com/dor/>, or by writing to: Director, Property Tax Oversight Program, Department of Revenue, Post Office Box 3000, Tallahassee, Florida 32315-3000. The Department of Revenue adopts, and incorporates by reference in this rule, the following forms and instructions:

	Form Number	Form Title	Effective Date
(2)		No change.	
(3)(a)	DR-402	Declaration of Mobile Home as Real Property (r. xx/xx)	xx/xx 6/83
(b)	through (5)(a)	No change.	
(b)	DR-403EB	The (tax year) Ad Valorem Assessment Rolls Exemption Breakdown of _____ County, Florida (r. 12/12 6/11)	xx/xx 11/12
(6)(a)	DR-403PC	The Value and Number of Parcels on the Real Property Countywide Assessment Roll by Category (r. 12/12 6/11)	xx/xx 11/12
(b)	DR-403V	The (tax year) Revised Recapitulation of the Ad Valorem Assessment Roll Value Data (r. 12/12 6/11)	xx/xx 11/12
(7)(a)	through (8)(b)	No change.	
(9)(a)	DR-409	Certificate of Correction of Tax Roll (r. 3/13 11/12)	xx/xx 11/12
(9)(b)	through (12)(b)	No change.	
(13)(a)	DR-418	Economic Development Ad Valorem Property Tax Exemption (r. xx/xx 12/99)	xx/xx 1/00
(b)	through 14(e)	No change.	
(f)	DR-420S	Certification of School Taxable Value (r. 5/13 5/11) https://www.flrules.org/Gateway/reference.asp?No=Ref-01756	xx/xx 11/12
(g)	through (15)(a)	No change.	
(b)	DR-422	Certification of Final Taxable Value (r. 5/13 5/11) https://www.flrules.org/Gateway/reference.asp?No=Ref-01759	xx/xx 11/12

(c)	through (17)(c)	No change.	
(18)	DR-456	Notice of New, Rebuilt, or Expanded Property <u>(r. xx/xx)</u>	<u>xx/xx</u> 9/84
(19)	through (20)	No change.	
(21)(-a)	DR-471	Railroad Distribution Sheet (r. 1/95)	11/12
(a) (b)	DR-474	Notice of Proposed Property Taxes (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01768	11/12
(b) (e)	DR-474M	Amended Notice of Proposed Property Taxes (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01769	11/12
(c) (d)	DR-474N	Notice of Proposed Property Taxes and Proposed or Adopted Non-Ad Valorem Assessments (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01770	11/12
(22)	DR-481	Value Adjustment Board – Notice of Hearing (r. xx/xx n. 11/12)	<u>xx/xx</u> 3/10
(23)(a)	DR-482	Application and Return for Agricultural Classification of Lands (r. xx/xx 12/00)	<u>xx/xx</u> 1/01
(b)	through (c)	No change.	
(d)	<u>DR-482HP</u>	<u>Application and Return for Classification or Exemption for Historic Property Used for Commercial or Certain Nonprofit Purposes (r. xx/xx)</u>	<u>xx/xx</u> 12/04
(e) (d)	DR-482HW	Application and Return for High-Water Recharge Classification of Lands (r. xx/xx n. 12/99)	<u>xx/xx</u> 1/00
(e)	DR-482HP	Application and Return for Classification/Exemption of Property as Historic Property Used for Commercial or Certain Nonprofit Purposes (r. 12/04)	12/04
(f)		No change.	
(24)	DR-484	Budget Request Form for Property Appraisers (r. xx/xx 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01773	<u>xx/xx</u> 11/12
(25)		485 Series:	
(a)	<u>DR-485D</u>	<u>Decision of the Value Adjustment Board Denial for Non-Payment (r. xx/xx)</u>	<u>xx/xx</u>
(b)	DR-485M	Notice of Decision of The Value Adjustment Board (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01774	11/12
(c) (b)	DR-485R	Value Adjustment Board – Remand to Property Appraiser (n. 12/09)	3/10
(d) (e)	DR-485V	Decision of The Value Adjustment Board – Value Petition (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01775	11/12
(e) (d)	DR-485WCN	Value Adjustment Board – Clerk’s Notice (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01776	11/12
(f) (e)	DR-485WI	Value Adjustment Board – Withdrawal of Petition (n. 12/09)	3/10
(g) (f)	DR-485XC	Decision of The Value Adjustment Board – Exemption, Classification, or Assessment Difference Transfer Petition (r. 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref-01777	11/12
(26)		486 Series:	
(a)	DR-486	Petition to the Value Adjustment Board – Request for Hearing	

		(r. xx/xx 12/09)	xx/xx 3/10
(b)		No change.	
(c)	DR-486PORT	Petition to the Value Adjustment Board – Transfer of Homestead Assessment Difference -- Request for Hearing (r. xx/xx 12/09)	xx/xx 3/10
(d)		No change.	
(e)	DR-487	Certification of Compliance (r. 5/13 5/11) https://www.flrules.org/Gateway/reference.asp?No=Ref 01779	xx/xx 11/12
(f)	through (28)	No change.	
(29)(a)	DR-489EB	The (tax year) Ad Valorem Assessment Rolls Exemption Breakdown of _____ County, Florida (r. 12/12 6/11) https://www.flrules.org/Gateway/reference.asp?No=Ref 01782	xx/xx 11/12
(b)	DR-489PC	The Value and Number of Parcels on the Real Property Countywide Assessment Roll by Category (r. 12/12 6/11) https://www.flrules.org/Gateway/reference.asp?No=Ref 01783	xx/xx 11/12
(c)	DR-489V	The (tax year) Preliminary Recapitulation of the Ad Valorem Assessment Roll, Value Data (r. 12/12 n-6/11) https://www.flrules.org/Gateway/reference.asp?No=Ref 01784	xx/xx 11/12
(30)(a)	DR-490	Notice of Disapproval of Application for Property Tax Exemption or Classification by The County Property Appraiser (r. xx/xx 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref 01785	xx/xx 11/12
(30)(b)	through (38)	No change.	
(39)(a)	DR-501	Original Application for Homestead and Related Tax Exemptions (r. 12/12 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref 01792	xx/xx 11/12
(b)	through (c)	No change.	
(d)	DR-501DV	Application for Homestead Tax Discount, Veterans Age 65 and Older with a Combat-Related Disability (r. 12/12 n-11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref 01795	xx/xx 11/12
(e)	through (g)	No change.	
(h)	DR-501SC	Adjusted Gross Household Income Sworn Statement and Return (r. 12/12 11/12) https://www.flrules.org/Gateway/reference.asp?No=Ref 01799	xx/xx 11/12
(i)	DR-501T	Transfer of Homestead Assessment Difference, Attachment to Original Application for Homestead Tax Exemption (r. 12/08) https://www.flrules.org/Gateway/reference.asp?No=Ref 01800	11/12
(j)	DR-501TS	Designation of Ownership Shares of Abandoned Homestead (n. xx/xx)	xx/xx
(40)(a)	through (41)(b)	No change.	
(c)	DR-504HA	Ad Valorem Tax Exemption Application and Return – Homes for the Aged (r. xx/xx n-11/01)	xx/xx 12/01
(d)	through (43)(b)	No change.	
(44)(a)	DR-507C	List of Certificates Sold for Taxes (r. 12/06)	10/07
(b)	DR-508	Application for Separate Assessment of Mineral, Oil and Other Sub-Surface Rights (r. 12/94)	12/94

(45)(a)	through (48)(e)	No change.	
(49)(a)	DR-517C	Warrant Register (continuous) (n. 9/82)	9/82
(b)	DR-517L	Execution and Warrant for Collection of Delinquent Ad Valorem Leasehold Taxes (r. 12/96)	12/96
(50)(a)	DR-518	Cut Out Request (r. xx/xx 12/92)	xx/xx 12/92
(b)	DR-520A	Tax Roll Sheet	10/94
(51)(a)	DR-521	Index Tax Roll Sheet	10/94
(a) (b)	DR-528	Notice of Ad Valorem Taxes and Non-Ad Valorem Assessments (example only) (r. 11/12)	11/12
		https://www.flrules.org/Gateway/reference.asp?No=Ref-01806	
(b) (c)	DR-529	Notice Tax Impact of Value Adjustment Board (r. 12/09)	3/10
(52)(a)	through (57)(a)	No change.	
(b)	DR-584	Budget Request Form for Tax Collectors (r. xx/xx 11/12)	xx/xx 11/12
		https://www.flrules.org/Gateway/reference.asp?No=Ref-01813	
(58)	through (60)	No change.	
(61)(a)	DR-593	Application for Section 218.66, F.S. , Special Distributions for Contested Property Taxes (r. xx/xx n. 6/98)	xx/xx 12/98
(b)		No change.	

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 92.525, 95.18, 136.03, 192.001(18), 192.0105, 193.052, 193.077, 193.085, 193.092, 193.114, 193.122, 193.155, 193.1554, 193.1555, 193.1556, 193.461, 193.501, 193.503, 193.625, 193.703, 194.011, 194.032, 194.034, 194.035, 194.037, 195.002, 195.022, 195.087, 196.011, 196.015, 196.031, 196.075, 196.081, 196.082, 196.091, 196.095, 196.101, 196.121, 196.131, 196.141, 196.151, 196.161, 196.173, 196.183, 196.193, 196.1961, 196.1983, 196.1995, 196.202, 196.24, 196.26, 197.182, 197.222, 197.2423, 197.2425, 197.3632, 197.3635, 197.414, 197.432, 197.472, 197.502, 197.512, 197.552, 200.065, 200.069, ~~213.05~~, 218.12, 218.125, 218.66, 218.67 FS. History—New 10-12-76, Amended 4-11-80, 9-17-80, 5-17-81, 1-18-82, 4-29-82, Formerly 12D-16.02, Amended 12-26-88, 1-9-92, 12-10-92, 1-11-94, 12-27-94, 12-28-95, 12-25-96, 12-30-97, 12-31-98, 2-3-00, 1-9-01, 12-27-01, 1-20-03, 1-26-04, 12-30-04, 1-16-06, 10-2-07, 3-30-10, 11-1-12, xx-xx-xx.

ATTACHMENT 3



Executive
Director
Marshall Stranburg

November 26, 2013

MEMORANDUM

TO: The Honorable Rick Scott, Governor
Attention: Michael Sevi, Director of Cabinet Affairs
Karl Rasmussen, Deputy Director of Cabinet Affairs
Jacob Horner, Cabinet Aide

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

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: Vince Aldridge, Director, Legislative and Cabinet Services

SUBJECT: Requesting Approval to Hold a Public Hearing on Proposed Rules -
Research and Development Tax Credit

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? Section 120.54(3)(a), F.S., requires the Department to obtain Cabinet approval to hold public hearings for the development of proposed rules. The Department therefore requests approval to publish a Notice of Proposed Rule in the *Florida Administrative Register* for proposed Rule 12C-1.0196 (Research and Development Tax Credit), and Rule 12C-1.051, F.A.C. (Forms).

Why is the proposed rule necessary? Section 17, Chapter 2011-76, Laws of Florida created section 220.196, F.S., which provides an annual corporate income tax credit for qualifying research and development expenses in Florida for specified target industry businesses. The credit will be equal to 10 percent of the current year's expenses that exceed the average expenses over the past four years. The amount of credits available to be awarded under the bill is \$9 million annually. The first date on which businesses could apply for this credit was March 20, 2013. The law gave the Department emergency rulemaking authority to implement the legislation. The Department exercised this authority with Emergency Rule 12CER13-07 to provide taxpayers the procedures to apply for an allocation of the annual tax credit and to claim the tax credit on their Florida corporate income tax return.

What does this proposed rule do? The proposed rule formalizes the procedures and the application used by the Department to administer the Florida research and development tax credit against Florida corporate income tax authorized by section 220.196, F.S.

What external interest is anticipated? None.

Attachments

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
CREATING RULE 12C-1.0196
AMENDING RULE 12C-1.051

SUMMARY OF PROPOSED RULE

The proposed creation of Rule 12C-1.0196, F.A.C. (Research and Development Tax Credit), provides: (1) the tax credit is available annually for tax years beginning on or after January 1, 2012; (2) that a target industry business must file an application with the Department annually to receive an allocation of the annual funds available for the tax credit; (3) that the Florida corporate income/franchise tax credit must be taken in the same tax year as the federal credit for increasing research activities is taken; (4) that a business taking the tax credit must provide a copy of the federal forms regarding the related federal tax credit with the business' Florida corporate income/franchise tax return; (5) how to calculate the Florida tax credit and examples of the calculations; (6) that the credit is limited to fifty percent of the Florida corporate income/franchise tax liability after all other tax credits are applied; (7) that any unused credit may be carried forward up to five tax years; and (8) the recordkeeping requirements for those businesses taking the tax credit.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, the application for target industry businesses to apply for an Allocation for Research and Development Tax Credit for Corporate Income/Franchise Tax (Form F-1196).

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 17, Chapter 2011-76, Laws of Florida, provides for the administration of the Florida research and development tax credit available to target industry businesses that claim and are allowed a federal credit under section 41 of the Internal Revenue Code for tax years beginning on or after January 1, 2012, as provided in section 220.196, F.S. The purpose of the proposed creation of Rule 12C-1.0196, F.A.C. (Research and Development Tax Credit), is to adopt procedures for a target industry business that claims a valid tax credit against federal corporate income tax for qualified research expenses to claim a Florida research and development tax credit against Florida corporate income/franchise tax, as provided in Section 220.196, F.S.

The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, the application for target industry businesses to apply for an Allocation for Research and Development Tax Credit for Corporate Income/Franchise Tax (Form F-1196).

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 1, 2013

A Notice of Proposed Rule Development was published in the Florida Administrative Register on September 6, 2013 (Vol. 39, No. 174, pp. 4487 - 4488), to advise the public of the proposed creation of Rule 12C-1.0196, F.A.C. (Research and Development Tax Credit), and the

amendments to Rule 12C-1.051, F.A.C. (Forms), and to provide that, if requested in writing, a rule development workshop would be held on October 1, 2013. No request was received by the Department. No written comments were received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX

RULE NO: RULE TITLE:

12C-1.0196 Research and Development Tax Credit

12C-1.051 Forms

PURPOSE AND EFFECT: Section 17, Chapter 2011-76, Laws of Florida, provides for the administration of the Florida research and development tax credit available to target industry businesses that claim and are allowed a federal credit under section 41 of the Internal Revenue Code for tax years beginning on or after January 1, 2012, as provided in section 220.196, F.S. The purpose of the proposed creation of Rule 12C-1.0196, F.A.C. (Research and Development Tax Credit), is to adopt procedures for a target industry business that claims a valid tax credit against federal corporate income tax for qualified research expenses to claim a Florida research and development tax credit against Florida corporate income/franchise tax, as provided in Section 220.196, F.S.

The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, the application for target industry businesses to apply for an Allocation for Research and Development Tax Credit for Corporate Income/Franchise Tax (Form F-1196).

SUMMARY: The proposed creation of Rule 12C-1.0196, F.A.C. (Research and Development Tax Credit), provides: (1) the tax credit is available annually for tax years beginning on or after January 1, 2012; (2) that a target industry business must file an application with the Department annually to receive an allocation of the annual funds available for the tax credit; (3) that the Florida corporate income/franchise tax credit must be taken in the same tax year as the federal

credit for increasing research activities is taken; (4) that a business taking the tax credit must provide a copy of the federal forms regarding the related federal tax credit with the business' Florida corporate income/franchise tax return; (5) how to calculate the Florida tax credit and examples of the calculations; (6) that the credit is limited to fifty percent of the Florida corporate income/franchise tax liability after all other tax credits are applied; (7) that any unused credit may be carried forward up to five tax years; and (8) the recordkeeping requirements for those businesses taking the tax credit.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, the application for target industry businesses to apply for an Allocation for Research and Development Tax Credit for Corporate Income/Franchise Tax (Form F-1196).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION: The Agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A Statement of Estimated Regulatory Cost has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Cost or if no Statement of Estimated Regulatory Cost is required, the information expressly relied upon and described herein: 1) no requirement for the Statement of Economic Regulatory Costs (SERC) was triggered under Section 120.541(1), F.S.; and 2) based on past experiences with activities for providing the public with applications for purposes of applying for a Florida corporate income/franchise tax credit and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S. Any person who

wishes to provide information regarding a Statement of Estimated Regulatory Costs, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 213.06(1), 220.196(4), 220.51 FS.

LAW IMPLEMENTED: 220.196 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: [To be determined.]

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1220, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Kim Hancock at (850) 617-8346. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jennifer Ensley, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12C-1, FLORIDA ADMINISTRATIVE CODE
CORPORATE INCOME TAX
CREATING RULE 12C-1.0196
AMENDING RULE 12C-1.051

12C-1.0196 Research and Development Tax Credit.

(1)(a)1. A research and development tax credit against Florida corporate income/franchise tax is provided in Section 220.196, F.S., to a target industry business that claims a valid research credit against federal corporate income tax for qualified research expenses as provided in section 41 of the Internal Revenue Code (26 U.S.C. s. 41). The target business enterprise must be a corporation, as defined in Section 220.03, F.S., and a target industry business, as defined in Section 288.106, F.S.

2. If the related federal corporate income tax credit for increasing research activities is not extended for a tax year, a target industry business will not be permitted to take the Florida research and development tax credit.

(b) “Qualified research expenses” include research expenses qualifying for the credit under section 41 of the Internal Revenue Code (26 U.S.C. s. 41) for in-house research expenses incurred in Florida or contract research expenses incurred in Florida. The term “qualified research expenses” does not include research conducted outside Florida or research expenses that do not qualify for a credit under 26 U.S.C. s. 41.

(c)1. The credit is available annually for tax years beginning on or after January 1, 2012.

and is based upon qualified research expenses in Florida allowed under section 41 of the Internal Revenue Code (26 U.S.C. s. 41).

2. Example: Tax credit applications approved for the 2012 calendar year were based upon qualified research expenses incurred during calendar year 2012 for tax years that began in 2012.

(2)(a) To receive an annual allocation of the annual funds available for granting tax credits to target industry businesses, an Allocation for Research and Development Tax Credit for Florida Corporate Income/Franchise Tax (Form F-1196, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department on or after March 20 of each year and on or before December 31 of that same year. The application is available on the Department's website at www.myflorida.com/dor/. Taxpayers required to file returns and remit payments by electronic means pursuant to Section 213.755, F.S., and Rule Chapter 12-24, F.A.C., must apply online using the Department's website. When the completed application is submitted online, a confirmation number will be provided to confirm receipt of the application.

(b) Businesses needing assistance with the Allocation for Research and Development Tax Credit for Florida Corporate Income/Franchise Tax may call the Department at (800) 352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time. Persons with hearing or speech impairments may call the Florida Relay Service at (800) 955-8770 (Voice) and (800) 955-8771 (TTY).

(c) Applications filed with the Department on or after March 20 of each year will be accepted by the Department until December 31 of that year, or until the annual appropriation has been completely allocated, whichever occurs first. Credits will be allocated by the Department in the order in which completed applications are received. Beginning April 1 of each year, the Department will notify eligible taxpayers by letter of the amount of credit that is allocated to

them and the tax year in which the target industry business may claim the credit on its Florida corporate income/franchise tax return.

(3) A corporation that has received a research credit against federal corporate income tax solely by virtue of its membership in a partnership that has earned a federal credit for increasing research activities may apply for the Florida research and development tax credit. For purposes of 26 U.S.C. s. 41, the research expenses are apportioned among the partners during the taxable year and are treated as paid or incurred directly by the partners rather than by the partnership.

(4) A federal research credit must be taken on the federal return filed by the target industry business for the same tax year in which the Florida research and development credit is taken. The amount taken as a Florida research and development credit must be added to taxable income prior to computing the Florida corporate income/franchise tax due. The Florida research and development credit is limited to fifty percent (50%) of the Florida corporate income/franchise tax liability after all other credits are applied in the order provided in Section 220.02(8), F.S. A copy of federal Form 6765 (Credit for Increasing Research Activities) and a copy of federal Form 3800 (General Business Credit) must be attached to the Florida corporate income/franchise tax return on which the Florida research and development credit is taken. In the case of a corporate partner of a partnership that has earned a federal credit for increasing research activities, a copy of federal Form 1065, Schedule K-1 (Partner's Share of Income, Deductions, Credits, etc.), and a copy of federal Form 3800 must be attached to the Florida corporate income/franchise tax return on which the Florida research and development credit is taken.

(5)(a) Any unused credits may be carried forward for up to five (5) tax years. Carryover credits may be used in a subsequent year when the Florida corporate income/franchise tax for such year exceeds the credit for such year after applying the other credits and unused carryovers

in the order provided in Section 220.02(8), F.S. A taxpayer may not transfer or sell its credit or its right to apply for a credit to another taxpayer.

(b) Example: A taxpayer is allocated a Florida research and development credit of \$30,000 for its tax year beginning in 2012 and all requirements of Section 220.196, F.S., are met for the taxpayer to earn the full \$30,000 allocation. Its Florida corporate income/franchise tax liability after all other applicable credits are applied is \$50,000. The \$30,000 Florida research and development credit that the taxpayer is allocated for tax year 2012 is more than 50 percent of its tax liability for tax year 2012. Therefore, the taxpayer is limited to a Florida research and development credit of \$25,000 ($\$50,000 \times .50$) for tax year 2012, and the remaining \$5,000 of Florida research and development credit may be carried forward for up to five tax years.

(6)(a)1. The Florida research and development tax credit is equal to ten percent (10%) of the amount of qualified research expenses incurred in Florida and allowed under section 41 of the Internal Revenue Code (26 U.S.C. s. 41) that exceeds the base amount. The base amount is defined as “the average of the qualified research expenses incurred in Florida for the four tax years preceding the tax year for which the credit is determined.” The four taxable years used to compute the base amount must end before the calendar year for which the qualified research expenses are determined.

2. Example: A taxpayer with a fiscal year end of June 30, 2013, that applies for the Florida research and development credit based upon the qualified research expenses incurred during calendar year 2012 will use the following taxable years for its base amount: taxable years ended June 30, 2011; June 30, 2010; June 30, 2009; and June 30, 2008.

(b)1. Target industry businesses that have not been in existence for at least four tax years prior to the tax year in which the Florida research and development credit is claimed must reduce

the amount of the credit by twenty-five percent (25%) for each year of the past four tax years that the corporation did not exist.

2. Example: A calendar year taxpayer is incorporated on January 1, 2009. The taxpayer applies for the Florida research and development credit for its tax year beginning January 1, 2012; its Florida qualified research expenses for calendar year 2012 equal \$250,000. The taxpayer's Florida qualified research expenses for its base amount are as follows:

Tax year 2008: \$0, as Taxpayer did not exist.

Tax year 2009: \$175,000

Tax year 2010: \$200,000

Tax year 2011: \$225,000

The average of the Florida qualified research expenses for the 4 taxable years preceding 2012 equals \$150,000 $((\$0 + \$175,000 + \$200,000 + \$225,000) \div 4)$. The excess Florida qualified research expenses over the base amount equal \$100,000 $(\$250,000 - \$150,000)$. The tentative Florida research and development credit is \$10,000 $(\$100,000 \times .10)$. However, since the taxpayer was not in existence for at least 4 taxable years immediately preceding tax year 2012, the Florida research and development credit is reduced by 25 percent for each taxable year the taxpayer did not exist. Therefore, the taxpayer's Florida research and development credit for tax year 2012 is reduced by 25 percent to \$7,500 $(\$10,000 - \$2,500)$.

(7) Every taxpayer claiming a Florida research and development credit must retain documentation that substantiates and supports the credit, a copy of the letter received from the Department granting the credit, and a schedule reconciling all credit carryovers until tax imposed by Chapter 220, F.S., may no longer be determined and assessed under Section 95.091(3), F.S., or under Section 220.23, F.S. Documentation to substantiate and support the credit includes

records or other evidence of the amount of qualified Florida research expenses incurred for in-house research or for contract research expenses, that those expenses qualified under 26 U.S.C. s. 41, and that the federal credit was claimed.

Rulemaking Authority 213.06(1), 220.196(4), 220.51 FS. Law Implemented 220.196 FS.

History—New _____.

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
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(2) through (11) No change.

<u>(12) F-1196</u>	<u>Allocation for Research and Development Tax Credit for Florida Corporate Income/Franchise Tax (_____)</u> <u>(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____)</u>	_____
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(12) through (13) Renumber as (13) through (14) No change.

Rulemaking Authority 213.06(1), 220.192(7), 220.193(4), 220.196(4), 220.51, 1002.395(13) FS.

Law Implemented 119.071(5), 212.08(5)(p), 213.755(1), 220.11, 220.12, 220.13(1), (2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.1875, 220.1895, 220.1896, 220.1899, 220.19, 220.191, 220.192, 220.193, 220.194, 220.195, 220.196, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801,

220.803, 220.805, 220.807, 220.809, 221.04, 624.5105, 624.51055, 1002.395 FS. History–New
9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-
92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, 3-15-04, 9-24-04, 6-28-05, 5-1-
06, 4-5-07, 1-1-08, 1-27-09, 1-11-10, 4-26-10(12)(a),(b), 4-26-10(13)(a),(b), 6-28-10, 1-12-11, 6-
6-11, 1-25-12, 1-17-13,_____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Jennifer Ensley, Senior Tax Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850) 617-8346.

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: A Notice of Proposed Rule Development was published in the Florida Administrative Register on September 6, 2013 (Vol. 39, No. 174, pp. 4487 - 4488), to advise the public of the proposed creation of Rule 12C-1.0196, F.A.C. (Research and Development Tax Credit), and the amendments to Rule 12C-1.051, F.A.C. (Forms), and to provide that, if requested in writing, a rule development workshop would be held on October 1, 2013. No request was received by the Department. No written comments were received by the Department.