

**AGENDA**  
**RULE DEVELOPMENT HEARING**  
*(If Requested in Writing)*

Hearing Material Available on the web at:  
[floridarevenue.com/rules/](http://floridarevenue.com/rules/)

**11:00 A.M., November 8, 2017**

**Contacts:**     **Brinton Hevey, Revenue Program Administrator I, (850) 717-7082**  
                  **Becky Avrett, Government Analyst I, (850) 717-6799**

**ROOM 1220, BLDG ONE**  
**2450 SHUMARD OAK BLVD**  
**TALLAHASSEE, FLORIDA**

**THIS MEETING IS OPEN TO THE PUBLIC**

**1. Call to Order:**

- (a) Introduction of Department of Revenue Staff
- (b) Opening Remarks by Department of Revenue

**2. Business: Presentation and discussion of the proposed changes to the following rule sections of the Florida Administrative Code (F.A.C.):**

**SALES AND USE TAX**  
Rule 12A-1.087, F.A.C.

**3. Closing Comments**

STATE OF FLORIDA  
DEPARTMENT OF REVENUE  
SALES AND USE TAX  
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE  
SALES AND USE TAX  
AMENDING RULE 12A-1.087

SUMMARY OF PROPOSED RULE

The proposed amendment implements the new sales and use tax exemption for certain animal and aquaculture health products.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendment incorporates legislative changes in Section 212.08(5)(a), F.S., provided by Section 26, Chapter 2017-36, Laws of Florida. The new exemption created in that section allows for the exempt sale of certain animal and aquaculture health products. The rule change provides a suggested certificate to document an exempt sale.

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 19, 2017

A Notice of Proposed Rule Development was published in the Florida Administrative Register on September 5, 2017 (Vol. 43, No. 172, pp. 3836 – 3837), to advise the public of the proposed change to Rule 12A-1.087, F.A.C., and to provide that, if requested in writing, a rule development workshop would be held on September 19, 2017. On September 5, 2017, the Department received a request to hold a workshop for rule 12A-1.087. The request was withdrawn on September 13, 2017, after the individual reviewed proposed language posted on the Department's website. No additional requests were received, and no workshop was held. No additional comments were received.

## SUMMARY OF PUBLIC HEARING

OCTOBER 17, 2017

The Governor and Cabinet, sitting as head of the Department of Revenue, met on October 17, 2017, and approved the publication of the Notice of Proposed Rule for changes to Rule 12A-1.087, F.A.C. A notice for the public hearing was published in the Florida Administrative Register on October 10, 2017 (Vol. 43, No. 196, p. 4369) .

## Notice of Proposed Rule

### DEPARTMENT OF REVENUE

#### Sales and Use Tax

RULE NO.: RULE TITLE:

12A-1.087 Exemption for Power Farm Equipment; Suggested Exemption Certificate for Items Used for Agricultural Purposes

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.087, F.A.C., is to incorporate legislative changes in Section 212.08(5)(a), F.S., provided by Section 26, Chapter 2017-36, Laws of Florida. The new exemption created in that section allows for the exempt sale of certain animal and aquaculture health products. The rule change provides a suggested certificate to document an exempt sale.

SUMMARY: The proposed amendments provide guidance for those wishing to take advantage of the new exemption for certain animal and aquaculture health products.

#### SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this 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 SERC 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 costs or if no SERC 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 regarding 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: 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(14)(c), (30), (31), (32), 212.05(1), 212.0501, 212.06(1), 212.08(3), (5)(a), (e), (7)(jjj)(kkk), 212.085 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: November 8, 2017, 11:00 a.m.

PLACE: 2450 Shumard Oak Boulevard, Building One, Room 1220, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 days before the workshop/meeting by contacting: Becky Avrett at (850)717-6799. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Brinton Hevey at (850)717-7082.

#### THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.087 Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(1) through (9) No change.

(10) Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(a) through (d) No change.

(e) Selling dealers may contact the Department at (850)488-6800, Monday through Friday (excluding holidays) ~~1(800)352-3674~~ to verify the specific exemption specified by the purchaser or lessee. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

(f) The following is a suggested format of an exemption certificate to be issued by any person purchasing or

leasing power farm equipment qualifying for exemption under Section 212.08(3), F.S., or items that qualify for exemption as items for agricultural use or items for agricultural purposes. Exemption purposes listed on the suggested format that are not relevant to the purchaser or lessee may be eliminated from the certificate. The Department does not furnish the printed exemption certificate to be executed by purchasers or lessees when purchasing tax-exempt power farm equipment or items for agricultural use or for agricultural purposes. For an aquaculture health product, the purchaser may use the suggested purchaser's exemption certificate below, or provide a copy of the aquaculture producer's Aquaculture Certification from the Florida Department of Agriculture and Consumer Services to the selling dealer.

SUGGESTED PURCHASER'S EXEMPTION CERTIFICATE  
ITEMS FOR AGRICULTURAL USE OR FOR  
AGRICULTURAL PURPOSES AND POWER FARM EQUIPMENT

This is to certify that the items identified below, purchased on or after \_\_\_\_\_ (date) from \_\_\_\_\_ (Selling Dealer's Business Name) are purchased, leased, licensed, or rented for the following purpose as checked in the space provided. This is not intended to be an exhaustive list:

- Cloth, plastic, or similar material used for shade, mulch, or protection from frost or insects on a farm.
- Fertilizers (including peat, topsoil, sand used for rooting purposes, peatmoss, compost, and manure, but not fill dirt), insecticides, fungicides, pesticides, and weed killers used for application on or in the cultivation of crops, groves, home vegetable gardens, and commercial nurseries.
- Generators purchased, rented, or leased for exclusive use on a poultry farm. See the exemption category provided for power farm equipment, as defined in Section 212.02(30), F.S., which includes generators, motors, and similar types of equipment.
- Insecticides and fungicides, including disinfectants, used in dairy barns or on poultry farms for the purpose of protecting cows or poultry or used directly on animals, as provided in Section 212.08(5)(a), F.S.
- Animal health product that are administered to, applied to, or consumed by livestock or poultry to alleviate pain or cure or prevent sickness, disease, or suffering, as provided in Section 212.08(5)(a), F.S.
- Aquaculture health product to prevent or treat fungi, bacteria, and parasitic diseases, as provided in Section 212.08(5)(a), F.S. I certify that I am engaged in the production of aquaculture products and certified under s. 597.004, F.S.
- Nets, and parts used in the repair of nets, purchased by commercial fisheries.
- Nursery stock, seedlings, cuttings, or other propagative material for growing stock.
- Portable containers, or moveable receptacles in which portable containers are placed, that are used for harvesting or processing farm products.
- Seedlings, cuttings, and plants used to produce food for human consumption.
- Stakes used to support plants during agricultural production.
- Items that are used by a farmer to contain, produce, or process an agricultural commodity, such as: glue for tin and glass for use by apiarists; containers, labels, and mailing cases for honey; wax moth control with paradichlorobenzene; cellophane wrappers; shipping cases; labels, containers, clay pots and receptacles, sacks or bags, burlap, cans, nails, and other materials used in packaging plants for sale; window cartons; baling wire and twine used for baling hay; and other packaging materials for one time use in preparing an agricultural commodity for sale.
- Liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised.
- Liquefied petroleum gas, diesel, or kerosene used to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.
- Liquefied petroleum gas, diesel, or kerosene used for agricultural purposes in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.
- Power farm equipment or irrigation equipment for exclusive use in the agricultural production of crops or products, as produced by those agricultural industries included in Section 570.02(1), F.S., or
- Power farm equipment or irrigation equipment for exclusive use in fire prevention and suppression work for such crops or products, as produced by those agricultural industries included in Section 570.02(1), F.S., or
- Repairs to, or parts and accessories for, qualifying power farm equipment or irrigation equipment for exclusive use in the agricultural production of crops or products, as produced by those agricultural industries

included in Section 570.02(1), F.S., or

( ) Repairs to, or parts and accessories for, qualifying power farm equipment or irrigation equipment for exclusive use in fire prevention and suppression work for such crops or products, as produced by those agricultural industries included in Section 570.02(1), F.S.

( ) Other (include description and statutory citation):

I understand that if I use the item for any purpose other than the one I stated, I must pay tax on the purchase or lease price of the taxable item directly to the Department of Revenue.

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

The exemption specified by the purchaser may be verified by calling 850-488-6800, Monday through Friday (excluding holidays). ~~+(800)352-3674~~.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Purchaser's Name \_\_\_\_\_

Purchaser's Address \_\_\_\_\_

Name and Title of Purchaser's Authorized Representative \_\_\_\_\_

Sales and Use Tax Certificate No. (if applicable) \_\_\_\_\_

By \_\_\_\_\_

(Signature of Purchaser or Authorized Representative)

Title \_\_\_\_\_

(Title – only if purchased by an authorized representative of a business entity)

Date \_\_\_\_\_

(g) The following is a suggested format of an exemption certificate to be issued by any person purchasing a trailer qualifying for a partial exemption under Section 212.08(3)(b), F.S. The Department does not furnish the printed exemption certificate to be executed by purchasers when purchasing trailers qualifying for the partial exemption.

**SUGGESTED EXEMPTION CERTIFICATE  
FARM TRAILERS WEIGHING  
12,000 POUNDS OR LESS**

This is to certify that the trailer described below, purchased on or after \_\_\_\_\_(date) from \_\_\_\_\_(Selling Dealer's Business Name) is purchased by a farmer in accordance with Section 212.08(3)(b), F.S., for exclusive use in agricultural production or to transport farm products from his or her farm to the place where the farmer transfers ownership of the farm products to another.

DESCRIPTION OF TRAILER INCLUDING WEIGHT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Note: Any portion of the sales price in excess of \$20,000.00 is subject to sales tax. I understand that if I use the equipment for any purpose other than the one stated, I must pay tax on the initial \$20,000 of the purchase price of the trailer directly to the Department of Revenue. I understand that if I fraudulently issue this certificate to evade the payment of sales tax, I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third-degree felony. The exemption specified by the purchaser may be verified by calling 850-488-6800, Monday through Friday (excluding holidays) ~~+(800)352-3674~~.

Purchaser's Name

\_\_\_\_\_  
Purchaser's Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name and Title of Purchaser's Authorized Representative

\_\_\_\_\_  
Name and Title of Purchaser's Authorized Representative

\_\_\_\_\_  
Sales and Use Tax Certificate No. (if applicable)

By \_\_\_\_\_

(Signature of Purchaser or Authorized Representative)

Title \_\_\_\_\_

(Title – only if purchased by an authorized representative of a business entity)

Date \_\_\_\_\_

(11) Postharvest Machinery and Equipment.

(a) through (b) No change.

(c) Suggested Exemption Certificate for Postharvest Machinery and Equipment.

1. through 3. No change.

4. Selling dealers may contact the Department at (850)488-6800, Monday through Friday (excluding holidays) ~~1(800)352-3674~~ to verify the specific exemption specified by the purchaser or lessee. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

5. No change.

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), (30), (31), (32), 212.05(1), 212.0501, 212.06(1), 212.08(3), (5)(a), (e), (7)(jjj)~~(kkk)~~, 212.085, FS. History—New 10-7-68, Amended 1-7-70, 6-16-72, 10-18-78, 7-20-82, 4-12-84, Formerly 12A-1.87, Amended 12-13-88, 3-1-00, 6-19-01, 9-15-08, 1-17-13, 1-11-16, 1-10-17,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Brinton Hevey

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 5, 2017